

STATE OF MINNESOTA

IN SUPREME COURT

A24-1908

Court of Appeals

Procaccini, J.

Ryan Grant,

Appellant,

vs.

Filed: August 19, 2026  
Office of Appellate Courts

State of Minnesota,

Respondent.

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Anders J. Erickson, Johnson Erickson Criminal Defense, Minneapolis, Minnesota, for appellant.

Keith Ellison, Attorney General, Saint Paul, Minnesota; and

Mary F. Moriarty, Hennepin County Attorney, Elizabeth Scoggin, Senior Assistant County Attorney, Minneapolis, Minnesota, for respondent.

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S Y L L A B U S

1. The reasonable-probability standard that we recently clarified in *State v. Zielinski*, 32 N.W.3d 847 (Minn. 2026), also applies to the denial of a petition to vacate a conviction under subdivision 6(e)(2) of the Act of May 19, 2023, ch. 52, art. 4, § 24, 2023 Minn. Laws 810, 864–68.

2. Because the court of appeals based its affirmance of the district court’s denial of appellant’s petition on a reasonable-probability standard that materially differs from the *Zielinski* reasonable-probability standard, we reverse and remand to the court of appeals for reconsideration in light of *Zielinski*.

Reversed and remanded.

## OPINION

PROCACCINI, Justice.

Appellant Ryan Grant appeals the district court’s denial of his petition to vacate his second-degree unintentional felony murder conviction under the Act of May 19, 2023, ch. 52, art. 4, § 24, 2023 Minn. Laws 810, 864–68 (the Act). The Act provides a path to possible relief for people convicted of certain types of felony murder under an aiding-and-abetting theory of liability. The district court denied Grant’s petition under subdivision 6(e)(2) of the Act, which allows the district court to deny a petition “if additional information or submissions establish that there is not a reasonable probability that the applicant is entitled to relief under [the Act].” The court of appeals affirmed the denial but applied a reasonable-probability standard that differs from the standard we later clarified in *State v. Zielinski*, 32 N.W.3d 847 (Minn. 2026), a case concerning the preliminary application procedure set forth in subdivision 5 of the Act. We conclude that the reasonable-probability standard from *Zielinski* also applies to a denial of a petition to vacate a conviction under subdivision 6(e)(2) of the Act. Because the standard applied by the court of appeals materially differs from the *Zielinski* reasonable-probability standard,

we reverse the decision of the court of appeals and remand for further proceedings consistent with this opinion.

## FACTS

The following factual summary is drawn from the facts alleged in Grant’s petition to vacate his conviction, the State’s response, Grant’s reply, and the documents attached to the parties’ filings.<sup>1</sup>

On the night of July 8, 2013, Grant, his friend Diamond Lee Jamal Griffin, and Griffin’s girlfriend, K.F., drove to south Minneapolis to commit robberies. *State v. Griffin (Griffin I)*, 887 N.W.2d 257, 260 (Minn. 2016). Grant testified that they selected south Minneapolis due to its Hispanic population, reasoning that Hispanic victims would be less likely to contact the police. About two weeks earlier, Grant and Griffin had jointly purchased a .22 semiautomatic pistol. *Id.* Grant testified that the pistol was fully loaded. When Grant and Griffin stepped out of K.F.’s car, Grant had the pistol in his possession. The two men “tried to rob a man who was walking down the street.” *Id.* During the robbery attempt, Grant struck the man in the head with the pistol. *Id.* The man ran away, and the robbery attempt was unsuccessful. *Id.*

After this botched robbery, Griffin and Grant continued to look for other victims in the neighborhood. They walked down a nearby alley and passed by the backyard of a

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<sup>1</sup> The documents attached to the parties’ filings included a transcript of Grant’s testimony at his plea hearing; a transcript of Grant’s testimony at the trial of Diamond Lee Jamal Griffin; and a copy of our decision affirming Griffin’s murder conviction, *State v. Griffin (Griffin I)*, 887 N.W.2d 257 (Minn. 2016). In line with our standard practice, we include only citations to *Griffin I* and do not include citations to the transcripts.

home where they saw people sitting and drinking beer. *Id.* Griffin asked Grant if he wanted to rob the people in the backyard, and Grant agreed. At that time, Grant still had the pistol in his possession from the first robbery attempt. Grant then gave Griffin the pistol because Grant had “failed in the robbery that happened before.” After Griffin entered the backyard, he aimed the pistol at B.H., one of the victims, and demanded money. *Id.* Griffin hit B.H. on the head with the pistol, and another victim, L.B-H., threw a beer bottle at Griffin. *Id.* Griffin ducked out of the way, fell backward, caught himself, and then “turned around and ... fired at [L.B-H.],” shooting him in the elbow. *Id.* As L.B-H. ran to get help, B.H. grabbed Griffin’s leg, and Griffin fatally shot B.H. in the chest. *Id.* Grant and Griffin then fled to K.F.’s car. The next day, Grant sold the pistol and split the proceeds with Griffin.

Grant pleaded guilty to second-degree felony murder, in violation of Minnesota Statutes section 609.19, subdivision 2(1) (2012),<sup>2</sup> attempted second-degree murder, and first-degree aggravated robbery. Each of these convictions rested on an aiding-and-abetting theory of liability. As part of his plea negotiation, Grant agreed to testify at Griffin’s trial. Griffin was ultimately convicted of first-degree felony murder under Minnesota Statutes section 609.185(a)(3) (2012), and we affirmed Griffin’s conviction on appeal. *Griffin I*, 887 N.W.2d at 259–60.

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<sup>2</sup> For purposes of this opinion, we refer to the crime defined in Minnesota Statutes section 609.19, subdivision 2(1), as “second-degree felony murder.”

### ***The Act and Second-Degree Felony Murder***

In 2023, the Legislature made two changes related to criminal liability for aiding-and-abetting second-degree felony murder.<sup>3</sup>

First, the Legislature created an exception to the expansive liability provision in Minnesota Statutes section 609.05, subdivision 2, as applied to second-degree felony murder. Act of May 19, 2023, ch. 52, art. 4, § 3, 2023 Minn. Laws 810, 850 (the Act). The statute now provides that “[a] person may not be held criminally liable for a violation of section 609.19, subdivision 2, clause (1), for a death caused by another unless the person was a major participant in the underlying felony and acted with extreme indifference to human life.”<sup>4</sup> Minn. Stat. § 609.05, subd. 2a(b).

Second, the Legislature created a relief procedure for individuals who were convicted of second-degree felony murder under an aiding-and-abetting theory of liability before the revision to section 609.05 went into effect. *See* the Act. The relief procedure has three steps: (1) the preliminary application; (2) the petition to vacate the conviction; and (3) the evidentiary hearing. *See id.*

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<sup>3</sup> The Legislature also made similar changes related to first-degree felony murder under Minnesota Statutes section 609.185(a)(3). Act of May 19, 2023, ch. 52, art. 4, § 3, 2023 Minn. Laws 810, 850; *see* Minn. Stat. § 609.05, subd. 2a(b). Those changes are not relevant to the issues presented here.

<sup>4</sup> Relevant here, a “major participant” is a person who “provided a deadly weapon to another participant where it was reasonably foreseeable that the weapon would be used in the underlying felony.” Minn. Stat. § 609.05, subd. 2a(c)(1). The statute does not define “extreme indifference to human life.”

This case concerns the second step in the procedure—the petition. The Act explains that a petition to vacate the conviction must contain specific information identified in the Act, as well as “a statement of why the petitioner is entitled to relief.” *Id.*, subd. 6(a). The petition also “may contain any other relevant information, including police reports, trial transcripts, and plea transcripts.” *Id.* The State must respond to the petition. *Id.*, subd. 6(c). “The response may serve notice of the intent to support the petition or include a statement explaining why the petitioner is not entitled to relief along with any supporting documents.”<sup>5</sup> *Id.* The petitioner may file a reply to the State’s response. *Id.*, subd. 6(d).

Under the plain language of the Act, if the State opposes a petition, then the district court has only two options: The district court must either “issue an order denying the petition if additional information or submissions establish that there is not a reasonable probability that the applicant is entitled to relief under this section” or “schedule the matter for a hearing.” *Id.*, subd. 6(e)(1)–(3). The Act further explains that “[t]he hearing shall be held in open court and conducted pursuant to Minnesota Statutes, section 590.04, except that the petitioner must be present at the hearing.” *Id.*, subd. 6(f).

Ultimately, a petitioner convicted of second-degree felony murder is entitled to relief if they show “by a preponderance of the evidence” that they: “(1) did not cause the

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<sup>5</sup> In Grant’s principal brief, when summarizing the petition process, he maintained that “the State is not allowed to include additional information within its response—no police reports, transcripts, or other evidence.” As Grant later conceded in his reply brief, the plain language of the Act allows the State to include “supporting documents” with its response. *See* the Act, subd. 6(c).

death of a human being; and (2) [were] not a major participant in the underlying felony *or* did not act with extreme indifference to human life.”<sup>6</sup> *Id.*, subd. 7(b), *as amended by*, Act of May 24, 2024, ch. 123, art. 4, § 20, 2024 Minn. Laws 2215, 2269 (emphasis added).

### ***Grant’s Petition***

In December 2023, Grant filed a preliminary application seeking relief from his second-degree felony murder conviction under the Act. The district court granted Grant’s preliminary application, and Grant then filed a petition to vacate his conviction. He attached several documents to that petition, including a copy of our opinion in *Griffin I*, a transcript of Grant’s plea hearing, and a transcript of his sentencing hearing. Grant argued that he was not major participant under the Act, maintaining that he did not “provide” Griffin with the pistol because Griffin already owned the pistol. Grant also argued that he did not act with “extreme indifference to human life,” contending that “there is nothing about [his] conduct of standing next to the house that suggests an extreme indifference to human life.” Grant alleged that he “was not in the backyard when the shooting took place” but instead waited by the side of the house, and that it was Griffin “who went to the backyard, on his own, with the firearm.”

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<sup>6</sup> In 2024, the Legislature amended this provision by replacing “and” with “or,” requiring a petitioner to show by a preponderance of the evidence that either they were not a major participant in the underlying felony “or” did not act with extreme indifference to human life. Act of May 24, 2024, ch. 123, art. 4, § 20, 2024 Minn. Laws 2215, 2269. Prior to amending the Act, the House and Senate Judiciary and Public Safety Committees jointly issued a letter clarifying that the inclusion of “and” was an error and did not reflect legislative intent. Letter from House and Senate Judiciary and Public Safety Committees (Aug. 18, 2023). The district court, court of appeals, and the parties have applied the amended version of the Act without dispute.

The district court denied Grant’s petition without holding an evidentiary hearing. In doing so, the district court did not explicitly cite a provision of the Act. Because the State did not support Grant’s petition, the only available path for the district court to deny the petition without an evidentiary hearing, as it did, was under subdivision 6(e)(2). *See* the Act, subd. 6(e)(1)–(3).

At the beginning of its analysis, the district court stated that Grant was entitled to relief if he showed “by a preponderance of the evidence” that he was not a “major participant in the underlying felony or did not act with extreme indifference to human life.” The court did not refer to the reasonable-probability standard set forth in subdivision 6(e)(2).

The district court found that Grant was a major participant in the underlying robbery, reasoning that Grant had admitted to handing the pistol to Griffin with the knowledge that Griffin intended to use the pistol for the robbery. Accordingly, the district court determined that it was reasonably foreseeable that the pistol would be used in the robbery. The district court reasoned that it was immaterial whether the pistol belonged to Griffin in whole or in part.

In determining whether Grant acted with “extreme indifference to human life,” the district court acknowledged that neither the Act nor the aiding-and-abetting statute defines that phrase. The district court defined “extreme indifference to human life” to mean “recklessness or, at a minimum, gross negligence,” quoting our definition of the phrase in *Lussier v. State*, 821 N.W.2d 581, 590 (Minn. 2012) (defining “[e]xtreme indifference to human life” as involving “recklessness or at a minimum, gross

negligence”).<sup>7</sup> Applying that definition, the district court found that Grant’s act of giving a pistol to Griffin—with the knowledge that Griffin planned to use it in a forthcoming robbery—meant that Grant acted with extreme indifference to human life.

Grant appealed the district court’s denial of his petition to the court of appeals. *Grant v. State*, No. A24-1908, 2025 WL 2435646 (Minn. App. Aug. 25, 2025). First, he argued that the district court erred by ruling on the merits of his petition—applying the preponderance-of-the-evidence standard to determine that Grant was a major participant and acted with extreme indifference to human life—without holding an evidentiary hearing. Second, Grant maintained that he was entitled to relief under the Act, arguing that his conduct did not demonstrate an extreme indifference to human life.<sup>8</sup>

The court of appeals affirmed. *Id.* at \*1. It reasoned that the plain language of the Act allows a district court to deny a petition without holding an evidentiary hearing upon deciding that the additional submissions show that there is not a reasonable probability that the individual is entitled to relief. *Id.* at \*4. The court of appeals then defined reasonable probability as “ ‘a probability sufficient to undermine confidence in the outcome of the case.’ ” *Id.* at \*5 (quoting *State v. Mosley*, 895 N.W.2d 585, 591 (Minn. 2017)). Applying this reasonable-probability standard, the court of appeals determined

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<sup>7</sup> *Lussier* interpreted the meaning of the phrase “circumstances manifesting an extreme indifference to human life” in the domestic abuse murder provision set forth in Minnesota Statutes section 609.185(a)(6). 821 N.W.2d at 588, 590. We have not defined the meaning of “extreme indifference to human life” in the context of the Act or Minnesota Statutes section 609.05, subdivision 2a(b).

<sup>8</sup> Grant did not raise this second argument in his petition for further review.

that the record showed that Grant was a major participant and acted with extreme indifference to human life.<sup>9</sup> *Id.* at \*5–\*7. Based on its reasonable-probability analysis, and relying on case law construing chapter 590, the court of appeals held that “an evidentiary hearing was not necessary because ... Grant’s alleged entitlement to relief is refuted by the record.” *Id.* at \*5.

Grant filed a petition for further review, which we granted.

## ANALYSIS

The question before us is whether the court of appeals erred in affirming the district court’s denial of Grant’s petition under subdivision 6(e)(2). We begin by establishing that the reasonable-probability standard we recently clarified in *Zielinski* also applies to a petition to vacate a conviction under subdivision 6(e)(2) of the Act. Because we hold that the reasonable-probability standard applied by the court of appeals to affirm the district court is materially different from the *Zielinski* standard, we remand to the court of appeals for further proceedings consistent with this opinion.

### I.

We begin by determining whether we should apply the reasonable-probability standard we recently clarified in *Zielinski*—which considered a preliminary application under subdivision 5 of the Act—to a denial of a petition to vacate the conviction under subdivision 6(e)(2).

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<sup>9</sup> Because the court of appeals applied a de novo standard of review, it did not grapple with the fact that the district court applied a preponderance-of-the-evidence standard, not the reasonable-probability standard set forth in the Act.

At the preliminary application stage, the district court can deny the preliminary application when “there *is not* a reasonable probability that the applicant is entitled to relief,” or grant the preliminary application when “there *is* a reasonable probability that the applicant is entitled to relief.” The Act, subd. 5(g)–(h) (emphasis added). *Zielinski* clarified that there is a reasonable probability that the applicant is entitled to relief if their preliminary application “allege[s] facts that would cause a rational person to believe that at an evidentiary hearing, the applicant might be able to prove by a preponderance of the evidence that” they are entitled to relief. 32 N.W.3d at 858. We likewise explained that “there is *not* a reasonable probability that the applicant is entitled to relief if the application, materials, and relevant records would cause *no* rational person to believe that at an evidentiary hearing, the applicant might be able to prove by a preponderance of the evidence that” they are entitled to relief. *Id.* at 858–59.

We now conclude that the same reasonable-probability standard from *Zielinski* should apply to a denial of a petition under the Act. The provision governing a denial of a petition, subdivision 6(e)(2), uses the same “reasonable probability that the [applicant/petitioner] is entitled to relief” language as subdivision 5, which governs preliminary applications.<sup>10</sup> We generally give the same meaning to the same phrase in the

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<sup>10</sup> We note that the Act does not refer to the individual seeking relief consistently throughout its provisions. The preliminary application subdivision refers to the individual seeking relief as the “applicant.” The Act, subd. 5. The Act then refers to this individual as the “petitioner” once they have filed the petition. *Id.*, subd. 6. The one exception is in subdivision 6(e)(2), which states that “there is not a reasonable probability that the *applicant* is entitled to relief.” (Emphasis added.) We agree with the court of appeals that the identification of the petitioner in subdivision 6(e)(2) as the “applicant” is imprecise but that such language does not undermine the language permitting the district court to

same law. *See Auto-Owners Ins. Co. v. Second Chance Invs., LLC*, 827 N.W.2d 766, 772 (Minn. 2013) (“When the same language is used throughout a statute, we presume that it is used with the same meaning until the contrary is shown.” (citation omitted) (internal quotation marks omitted)).

We note that there is a practical difference between the application of the standard at the preliminary application stage and at the petition stage. Unlike at the preliminary application stage, at the petition stage, the court has the benefit of a response from the State, *see* the Act, subd. 6(c), and likely has a petition that is more robust than the preliminary application. And the plain language of subdivision 6(e)(2) reflects this difference, stating that a district court can “issue an order denying the petition if *additional information or submissions* establish that there is not a reasonable probability that the [petitioner] is entitled to relief.” *See id.*, subd. 6(e)(2) (emphasis added). But the difference in the information available to the district court at the petition stage does not mean that the Legislature meant for the phrase “a reasonable probability” to have a different meaning. This is especially true when the Legislature chose to use the same language in subdivisions that are part of the same act.

Because subdivision 6(e)(2) uses the same “reasonable probability” language as subdivision 5, we conclude that the reasonable-probability standard from *Zielinski* also applies to a court’s denial of a petition under subdivision 6(e)(2). And because subdivision 6(e)(2) refers to the standard only in the negative, we rephrase the standard as

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“issue an order denying the *petition*.” *Id.*, subd. 6(e)(2) (emphasis added); *Grant*, 2025 WL 2435646, at \*4 n.2.

follows: There is not a reasonable probability that the petitioner is entitled to have their conviction vacated if the additional information or submissions submitted at the petition stage would cause no rational person to believe that, at an evidentiary hearing, the petitioner might be able to prove by a preponderance of the evidence that they are entitled to relief under the Act.<sup>11</sup> We emphasize that the court must base this analysis on “additional information or submissions” received at the petition stage. *See* the Act, subd. 6(e)(2).

## II.

We next consider whether the court of appeals erred in affirming the district court’s denial of Grant’s petition under subdivision 6(e)(2). The court of appeals errs when it applies the incorrect legal standard. *State v. Manska*, 19 N.W.3d 196, 202–03 (Minn. 2025). Here, the court of appeals issued its decision before *Zielinski* and, as a result, applied a different reasonable-probability standard: “ ‘A reasonable probability is a probability sufficient to undermine confidence in the outcome of the case.’ ” *Grant*, 2025 WL 2435646, at \*5 (quoting *Mosley*, 895 N.W.2d at 591). This standard is materially different from the *Zielinski* reasonable-probability standard, under which there is a reasonable probability if a rational person would believe that, at an evidentiary hearing, the petitioner “*might be able to prove* by a preponderance of the evidence” that

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<sup>11</sup> The circumstances that a petitioner must show by a preponderance of the evidence depend on whether the petitioner is seeking relief from a first-degree or second-degree felony murder conviction. *See* the Act, subd. 7(a)–(b).

they are entitled to relief. 32 N.W.3d at 858 (emphasis added). Accordingly, we hold that the court of appeals applied the incorrect standard.<sup>12</sup>

“When the court of appeals has applied an incorrect legal standard in the past, we have remanded to the court of appeals for application of the correct legal standard.” *State v. Boettcher*, 931 N.W.2d 376, 381 (Minn. 2019). Consistent with our past practice, we reverse the decision of the court of appeals and remand to that court for further proceedings consistent with this opinion. We note that the court of appeals could elect to apply the *Zielinski* reasonable-probability standard itself or remand to the district court for it to apply that standard.<sup>13</sup>

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<sup>12</sup> We provide two additional points of clarification. First, we recently explained that a district court’s denial of a petition to vacate a conviction under subdivision 6(e)(2) of the Act is reviewed for an abuse of discretion. *See Patterson v. State*, \_\_\_ N.W.3d \_\_\_, No. A25-0541, 2026 WL 2104932, at \*6 (Minn. Jul. 22, 2026). Accordingly, the court of appeals erred by reviewing the district court’s denial under subdivision 6(e)(2) de novo. “A [district] court abuses its discretion when its decision is based on an erroneous view of the law or is against logic and the facts in the record.” *Riley v. State*, 792 N.W.2d 831, 833 (Minn. 2011). Under this standard, determinations of law are reviewed de novo and factual findings are reviewed for clear error. *Id.*

Second, to the extent the court of appeals held that chapter 590—as opposed to the plain language of the Act—determines when an evidentiary hearing is required under the Act, we disagree. As described above, the Act’s plain language makes clear that an evidentiary hearing is required unless the State supports the petition or the district court has issued an order determining that there is not a reasonable probability that the petitioner is entitled to relief. *See* the Act, subd. 6(e)(1)–(3).

<sup>13</sup> The parties dispute whether Grant forfeited his argument that he was not a “major participant in the underlying felony” under subdivision 7(b)(2) of the Act. “[I]ssues not raised in the court of appeals are forfeited before our court.” *Blakey v. Jones*, 997 N.W.2d 67, 72 (Minn. 2023). The State argues that Grant does not dispute that he was a “major participant” because, on appeal, he argues only that he did not act with “extreme indifference to human life.” Grant maintains that he has not forfeited the argument, and we agree. Grant argued to the court of appeals and to this court that the district court erred by ruling on the merits of his petition without first holding a hearing. He has

## CONCLUSION

For the foregoing reasons, we reverse the decision of the court of appeals and remand to the court of appeals for further proceedings consistent with this opinion.

Reversed and remanded.

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consistently asserted that the district court should not have determined by a preponderance of the evidence that Grant was a major participant *and* acted with extreme indifference to human life without first holding a hearing. Accordingly, Grant has not forfeited the argument that he was not a major participant.

On remand, the court applying the *Zielinski* reasonable-probability standard must evaluate whether the “additional information or submissions” received at the petition stage would cause no rational person to believe that—at an evidentiary hearing—Grant might be able to prove by a preponderance of the evidence that he was not a major participant in the underlying felony or did not act with extreme indifference to human life.