

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1908**

Ryan Grant, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed August 25, 2025
Affirmed
Worke, Judge**

Hennepin County District Court
File No. 27-CR-13-22246

Cathryn Middlebrook, Chief Appellate Public Defender, Anders J. Erickson, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Keith Ellison, Attorney General, St. Paul, Minnesota; and

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

Considered and decided by Smith, Tracy M., Presiding Judge; Worke, Judge; and Johnson, Judge.

NONPRECEDENTIAL OPINION

WORKE, Judge

Appellant challenges the district court's denial of his petition to vacate his conviction for aiding-and-abetting second-degree unintentional murder under a recent

legislative enactment, arguing that the district court erred by (1) failing to hold a hearing, and (2) concluding that appellant acted with extreme indifference to human life. We affirm.

FACTS

The following factual summary is drawn from the supreme court's opinion affirming the murder conviction of appellant Ryan Grant's accomplice, Diamond Lee Jamal Griffin. *See State v. Griffin*, 887 N.W.2d 257, 260 (Minn. 2016).

On July 8, 2013, Griffin and his childhood friend, Grant, drove to South Minneapolis. About two weeks prior, Griffin and Grant had jointly purchased a .22-caliber semiautomatic pistol. Griffin and Grant exited the car with the pistol, intending to commit a robbery. Grant hit a man in the head with the pistol, but the man ran away.

After the unsuccessful robbery, Griffin and Grant walked down an alley. They saw three men sitting at a table in a backyard. Griffin and Grant entered the backyard, and Griffin aimed the pistol at one of the men and demanded money. The man said that he had no money and Griffin hit him on the head with the pistol. A second man threw a bottle at Griffin, causing Griffin to fall backward. Griffin caught himself and fired the pistol at the man, striking his arm. The man who Griffin hit in the head with the pistol grabbed Griffin's leg and Griffin shot him in the chest, fatally wounding him. Griffin and Grant fled.

Grant testified at Griffin's jury trial. The jury found Griffin guilty of first-degree felony murder, attempted murder, and assault. The supreme court affirmed Griffin's convictions.

In April 2014, Grant pleaded guilty to aiding-and-abetting second-degree felony murder, in violation of Minn. Stat. § 609.19, subd. 2(1) (2012), aiding-and-abetting attempted second-degree murder, and aiding-and-abetting first-degree robbery. Grant provided the following factual basis to support his guilty plea.

Grant and Griffin intended to commit a robbery, and Grant gave the pistol to Griffin. Grant noticed adults and children in a backyard, and Grant and Griffin decided to rob the adults. Griffin instructed Grant to wait by the side of the house while Griffin committed the robbery. While waiting, Grant heard three gunshots. Grant then asked Griffin what happened, and Griffin replied: “[S]hut the f--k up; don’t say nothing.” Grant later learned that Griffin had shot two people, and one person had died.

In November 2014, the district court sentenced Grant in accordance with the plea agreement to concurrent prison sentences of 234 months for the felony-murder conviction, 203 months for the attempted-murder conviction, and 108 months for the robbery conviction. At the sentencing hearing, the state noted that Grant was “a much lesser participant” than Griffin, but that Griffin “most likely could not have accomplished what he did without . . . Grant’s participation.” The district court stated that Grant received the benefit of the plea agreement because he cooperated with police and testified against Griffin, which “helped a lot in convicting” Griffin.

In December 2023, Grant filed a preliminary application to vacate the murder conviction, pursuant to the Act of May 19, 2023 (the act). *See* 2023 Minn. Laws ch. 52, art. 4, § 24, at 864-68. In the preliminary application, Grant provided identifying information, such as his name and date of birth. He also provided the district court case

number under which he sought relief and the basic procedural history of the case. The district court granted Grant's preliminary application.

Grant then filed a petition to vacate his conviction pursuant to the act, arguing that he was entitled to relief because he was not a major participant in the underlying felony offense and he did not act with extreme indifference to human life. In his filing, Grant provided a copy of the factual basis supporting his guilty plea and the facts found in *Griffin*. Grant claimed that his filings showed that "Griffin . . . went to the backyard, on his own, with the firearm. . . . [Therefore,] Grant's conduct of standing by the side of the house . . . cannot be considered as extreme indifference to human life."

Respondent State of Minnesota opposed Grant's petition. The state argued that Grant was a major participant under the plain language of the act because he "provided a deadly weapon" to Griffin. The state also argued that Grant acted with extreme indifference to human life "by consciously disregarding the substantial and unjustifiable risks of giving the pistol to Griffin to commit a robbery, where it was reasonably foreseeable that death or great bodily harm would result."

The state provided a portion of the transcript of Grant's testimony from Griffin's jury trial. The transcript shows that, when he testified, Grant admitted that, after he was arrested, he did not tell the police everything he knew about the shooting because he "tried to deny [his] involvement." He also admitted that he originally lied to the police about knowing that Griffin had a gun, and admitted that he gave the gun to Griffin and that he and Griffin had purchased the gun together.

Grant testified that he and Griffin chose to commit a robbery in South Minneapolis because it is “a highly populated area of Hispanics.” They targeted Hispanics because they assumed that Hispanics have “[n]o green card, [they] carry cash, and they won’t go to the police.” Grant testified that he and Griffin saw “kids and a couple guys” in a backyard and decided to rob them. Grant gave the gun to Griffin because, when he had the gun during the earlier robbery attempt, the robbery was unsuccessful. While Griffin was in the backyard, Grant saw Griffin hit a man over the head. Grant saw a second man throw a beer bottle at Griffin and then the first man grab Griffin’s leg causing Griffin to fall. As Griffin was getting up, Grant heard three gunshots. Grant stated that one of the men in the yard ran toward him “screaming.” The next day, Grant sold the gun and split the money with Griffin.

On October 8, 2024, the district court filed an order denying Grant’s petition for relief. The district court determined that Grant was a major participant in the robbery because he gave the pistol to Griffin knowing that Griffin was going to commit a robbery. The district court also determined that Grant acted with extreme indifference to human life, stating:

Grant handed . . . Griffin the pistol—a weapon that can, and in this case did, cause death—moments before it was used in the robbery. As the [s]tate argues, this act not only demonstrates . . . Grant’s practical participation in the robbery, but an extreme indifference to human life as it was reasonably foreseeable death or great bodily harm would result. Simply put, the [c]ourt agrees with this analysis based on the record before it. Accordingly, the [c]ourt finds that . . . Grant acted with an extreme indifference to human life.

This appeal followed.

DECISION

Hearing

Grant argues that the district court erred by denying his petition without first holding a hearing. An appellate court reviews de novo whether a petitioner is entitled to an evidentiary hearing. *See Bobo v. State*, 820 N.W.2d 511, 516 (Minn. 2012) (applying de novo review to district court’s legal determination to hold postconviction evidentiary hearing); *State v. Griffin*, 20 N.W.3d 57, 60-61 (Minn. 2025) (mem.) (applying postconviction-statutory framework in analyzing provisions under the act).

To determine whether Grant was entitled to an evidentiary hearing, we must first review the legislation under which he claims entitlement to a hearing.¹ *See State v. Hayes*, 826 N.W.2d 799, 804 (Minn. 2013) (stating that appellate courts apply plain meaning of statute that is unambiguous). Under the act, an individual first files a “preliminary application” for relief. 2023 Minn. Laws ch. 52, art. 4 § 24, subd. 4. The preliminary application must contain: the applicant’s name, the applicant’s date of birth, the relevant district court case number, whether the applicant was convicted following a trial or pursuant to a plea, whether the applicant filed a direct appeal or a postconviction-relief petition, a brief statement explaining why the applicant is entitled to relief, and the applicant’s attorney’s information. *Id.* The preliminary application is then reviewed by a

¹ The state asserts that Grant’s argument fails because he did not request a hearing. But we conclude that Grant did not need to explicitly request an evidentiary hearing because the possibility of a hearing is implied when the petition is filed. *See* 2023 Minn. Laws ch. 52, art. 4 § 24, subd. 6(e)(3).

district court judge or a special master appointed to review preliminary applications. *Id.*, subd. 5(a)-(b). The reviewing judge or special master uses discretion to determine whether “there is a reasonable probability that the application is entitled to relief.” *Id.*, subd. 5(c).

A reviewing judge or special master may summarily deny an application under certain circumstances. *Id.*, subd. 5(e). A preliminary application may be summarily denied when the application does not include all required information, the applicant is not in custody, the applicant was not convicted of the requisite offense, the issues in the application are not relevant to the relief available, or it is a successive preliminary application and relief had previously been denied. *Id.*, subd. 5(e)-(f). If the reviewing judge determines that there is a reasonable probability that the applicant is entitled to relief, the judge will notify the applicant, and the applicant may “file and serve a petition to vacate the conviction,” *id.*, subds. 5(g), 6(a), “*which can* result in a full hearing on the merits of their petition, held in open court and conducted pursuant to Minnesota Statutes, section 590.04.” *Griffin*, 20 N.W.3d at 58 (emphasis added) (quotation omitted).

In addition to the information required in the preliminary application, the petition must include “a statement of why the petitioner is entitled to relief.” 2023 Minn. Laws ch. 52, art. 4 § 24, subd. 6(a). The petitioner may file other relevant information, such as police reports and trial transcripts. *Id.* The state is then afforded an opportunity to object to the petition and may provide documents supporting the objection. *Id.*, subd. 6(c).

The district court must then:

- (1) issue an order and schedule the matter for sentencing or resentencing pursuant to subdivision 7 if the county attorney indicates an intent to support the petition;

(2) 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 and include a memorandum identifying the additional information or submissions and explaining the reasons why the court concluded that there is not a reasonable probability that the applicant is entitled to relief; or

(3) schedule the matter for a hearing and issue any appropriate order regarding submission of evidence or identification of witnesses.

Id., subd. 6(e).

Here, Grant argues that he was entitled to a hearing under subdivision 6(e)(3). He claims that a district court may issue an order denying the petition, under subdivision 6(e)(2), only when the additional information submitted shows that the preliminary application should have been denied. We disagree and conclude that a district court may summarily deny a *petition* for relief after deciding that the additional submissions show that there is not a reasonable probability that the individual is entitled to the relief requested in the petition. *See Bobo*, 820 N.W.2d at 516 (stating district court need not hold evidentiary hearing when postconviction petitioner alleges facts that, if true, are legally insufficient to entitle him to relief requested). In other words, the district court's decision on whether to hold a hearing on the *petition* is not a second look at whether the individual met the threshold preliminary-application requirements of eligibility to file a petition.

The preliminary application, discussed in subdivisions 4 and 5, is treated differently from the petition for relief discussed in subdivision 6. Specifically, subdivision 6(e)(2)

states that a district court may deny “the *petition*” without reference to the preliminary application.²

Additionally, subdivision 6(f) directs that a hearing be conducted pursuant to Minn. Stat. § 590.04 (2024), which is under the postconviction-relief chapter. In *Griffin*, in deciding that a district court’s denial of a preliminary application under the act is a final order, the supreme court again applied the framework of the postconviction-relief chapter. 20 N.W.3d at 60-61 (concluding that denial of preliminary application under the act is final order for purposes of appellate review of order denying postconviction relief). The reference to and reliance upon the postconviction-relief chapter leads us to also find guidance in the postconviction-relief chapter, which permits summary denial of a petition.

An evidentiary hearing is required only when “material facts are in dispute which have not been resolved in the proceedings resulting in conviction and which must be resolved in order to determine the issues raised on the merits.” *Riley v. State*, 819 N.W.2d 162, 167 (Minn. 2012) (quoting *State ex rel. Roy v. Tahash*, 152 N.W.2d 301, 305 (Minn. 1967)). An evidentiary hearing is not required unless facts are alleged which, if proven, would entitle a petitioner to the requested relief. *Fratzke v. State*, 450 N.W.2d 101, 102 (Minn. 1990).

Here, the record was sufficient for the district court to determine whether Grant was entitled to relief, including the trial transcript of Grant’s testimony at Griffin’s trial, Grant’s

² We note that the identification of the petitioner in subdivision 6(e)(2) as the “applicant” is inartful but does not alter the language permitting the district court to “issue an order denying the *petition*.” (Emphasis added.)

guilty-plea transcript, and the facts from Griffin’s direct appeal. Therefore, we conclude that an evidentiary hearing was not necessary because, as discussed below, Grant’s alleged entitlement to relief is refuted by the record. *See Williams v. State*, 760 N.W.2d 8, 14 (Minn. App. 2009) (stating that postconviction petitioner not entitled to hearing if allegations lack factual support and are refuted by the record), *rev. denied* (Minn. Apr. 21, 2009); Minn. Stat. § 590.04, subd. 1 (stating that postconviction court must hold evidentiary hearing on issues raised in petition “[u]nless the petition and the files and records of the proceeding conclusively show that the petitioner is entitled to no relief”).

Relief under the act

Under subdivision 6(e)(2), a district court may deny a petition if additional information establishes that “there is not a reasonable probability” entitling the individual to the requested relief. Appellate courts review de novo whether a reasonable probability exists. *See Strickland v. Washington*, 466 U.S. 668, 694-98 (1984) (treating “reasonable probability” in reviewing ineffective-assistance-of-counsel claim as mixed question of law and fact); *State v. Mosley*, 895 N.W.2d 585, 591 (Minn. 2017) (stating that appellate courts review district court’s application of *Strickland*’s reasonable-probability test de novo because it involves mixed question of law and fact). “A reasonable probability is a probability sufficient to undermine confidence in the outcome of the case.” *Id.* (quotation omitted).

Here, the district court determined that Grant was not entitled to have his felony-murder conviction vacated because he failed to show that he was not a major participant in

the underlying felony or that he did not act with extreme indifference to human life. We agree.

Grant pleaded guilty to aiding-and-abetting second-degree felony murder. *See* Minn. Stat. § 609.19, subd. 2(1). Under section 609.19, subdivision 2(1), a person is guilty of second-degree unintentional murder if he causes the death of another while committing a felony offense. Under Minn. Stat. § 609.05, subd. 1 (2012), a person is criminally liable for a crime committed by another if he intentionally aided in the commission of the crime. Here, Grant intentionally aided Griffin in the robbery that resulted in a death.

Recent legislation provides an exception to accomplice liability for second-degree murder. The amendment to the aiding-and-abetting statute provides that “[a] person may not be held criminally liable for [second-degree felony murder] for a death caused by another unless the person was a major participant in the underlying felony and acted with extreme difference to human life.” 2023 Minn. Laws ch. 52, art. 4, § 3, subd. 2a(b).³

Grant focuses solely on the argument that he did not act with extreme indifference to human life. He argues that the district court erred because it denied relief based on the sole fact that Grant provided the firearm to Griffin to conclude that Grant was both a major participant and acted with extreme indifference to human life.

Issues of statutory interpretation are reviewed de novo. *State v. Boss*, 959 N.W.2d 198, 203 (Minn. 2021). This court interprets a statute to determine the legislative intent,

³ The retroactivity provision was amended by replacing “and” with “or” so that the provision requires the petitioner to show 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. 2024 Minn. Laws, ch. 123, art. 4, § 20.

which is derived from the statute’s language if it is unambiguous. *State v. Wiltgen*, 737 N.W.2d 561, 570-71 (Minn. 2007).

Grant does not contest the district court’s determination that he was a major participant in the underlying robbery. A “major participant” is defined by statute and includes 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) (2024).

The record shows that Grant and Griffin acquired the gun together two weeks before the robbery and murder. Grant and Griffin attempted a robbery at which Grant hit a man in the head with the gun, but the man ran away. After the unsuccessful robbery attempt, Grant gave Griffin the gun to use in the second robbery. The record therefore shows that Grant was a major participant because he “provided a deadly weapon [(gun)] to [Griffin] where it was reasonably foreseeable that the [gun] would be used in the [robbery].” *See id.*

Grant claims that he is entitled to relief because he did not act with “extreme indifference to human life.” He argues that, while providing the gun to Griffin could establish that he was a major participant, it does not also establish that he acted with extreme indifference to human life. He claims that the district court erroneously used the providing-the-gun fact to conclude both that he was a major participant and a person who acted with extreme indifference to human life.

Here, the district court understood that it was required to resolve both issues—whether Grant “was a major participant in the commission of the robbery *or* acted with an

extreme indifference to the lives of [the victims].” (Emphasis added.) The district court stated:

Grant handed . . . Griffin the pistol—a weapon that can, and in this case did, cause death—moments before it was used in the robbery. . . . [T]his act not only demonstrates . . . Grant’s practical participation in the robbery, but an extreme indifference to human life as it was reasonably foreseeable death or great bodily harm would result.

While the statute defines “major participant,” it does not define “extreme indifference to human life.” The parties agree that the definition used by the district court is the correct definition of “extreme indifference to human life.” Extreme indifference to human life involves “recklessness or at minimum, gross negligence.” *State v. Bird*, 734 N.W.2d 664, 677 (Minn. 2007). “[O]ne acts recklessly by creating a substantial and unjustifiable risk that one is aware of and disregards.” *State v. Engle*, 743 N.W.2d 592, 595 (Minn. 2008) (defining reckless for the purpose of statute criminalizing reckless discharge of firearm within municipality).

Grant argues that he did not exhibit “recklessness” or “gross negligence” because he stood next to the house and did not go into the backyard during the shooting. The state counters that several facts show that Grant acted recklessly—he targeted a marginalized group, he saw that children were present, he gave Griffin the gun because he had been unsuccessful in using it during the first robbery attempt, he ran away, he sold the gun, and he lied to the police. We agree.

Grant gave Griffin the gun knowing that the gun would be used to commit a crime, and he should have known that committing a robbery with a loaded gun could lead to injury

or death. The record, also, does not show any facts mitigating Grant's conduct of providing Griffin a loaded firearm to use in the commission of a robbery. Therefore, the district court did not err by denying relief relying on the fact that Grant provided the gun to Griffin to commit the robbery.

As the state suggests, there are several additional facts in the record that show that Grant exhibited indifference. *See State v. Schmitz*, 559 N.W.2d 701, 704 (Minn. App. 1997) (stating that "indifference suggests a lack of concern and is related to negligence or recklessness"), *rev. denied* (Minn. Apr. 15, 1997). He targeted a marginalized group because he believed that he would not be reported and would not be prosecuted. He saw children in the backyard and still gave Griffin the gun to use during the robbery. *See State v. Profit*, 323 N.W.2d 34, 36 (Minn. 1982) (stating that committing offense in front of children is "particularly outrageous," and that, even if children who are present are not "technically victims of the crime, they [are] victims in another sense"). He lied to the police to distance himself from the robbery. He immediately fled even after he heard the gunshots and saw a victim running toward him screaming. *See State v. Caine*, 746 N.W.2d 339, 356 (Minn. 2008) (stating that fleeing crime scene evidences "consciousness of guilt"); *Tucker v. State*, 799 N.W.2d 583, 587 (Minn. 2011) (stating that failure to aid may be relevant in determining whether person convicted of a crime acted with particular cruelty). And he sold the gun and shared the profits with Griffin after he knew that Griffin shot two men with it, killing one. We conclude that the record shows that Grant lacked concern for human life and displayed extreme indifference to human life.

Affirmed.