

*This opinion is nonprecedential except as provided by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
A25-0564**

Simon Christopher Mueller, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed December 8, 2025
Affirmed
Reyes, Judge**

Goodhue County District Court
File Nos. 25-CR-11-1377; 25-CR-11-3205

Simon Christopher Mueller, Rush City, Minnesota (self-represented appellant)

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

Stephen F. O’Keefe, Goodhue County Attorney, Erin L. Kuester, Assistant County Attorney, Red Wing, Minnesota (for respondent)

Considered and decided by Reyes, Presiding Judge; Worke, Judge; and Johnson, Judge.

NONPRECEDENTIAL OPINION

REYES, Judge

Appellant challenges the postconviction court’s treatment of his sentence-correction request as a petition for postconviction relief under Minn. Stat. § 590.01 (2024), and the postconviction court’s subsequent denial because of procedural bars. Appellant argues that

he properly filed a motion for a corrected sentence under Minn. R. Crim. P. 27.03, subd. 9, which is not subject to the same procedural bars. We conclude that the postconviction court erred by construing appellant's request as a petition for postconviction relief. But because the issues raised by appellant do not provide a basis for relief, we affirm.

FACTS

In a 2012 court trial, the district court convicted appellant Simon Christopher Mueller of 12 counts of criminal sexual conduct: seven counts in the first degree in violation of Minn. Stat. § 609.342 (2008), and five counts in the second degree in violation of Minn. Stat. § 609.343 (2008). Appellant committed these offenses against three juveniles.

At the time of sentencing, appellant had a criminal-history score of zero. As a result, his presumptive sentence for first-degree criminal sexual conduct under section 609.342 was 144 months, with a range of 144 months to 172 months. *See* Minn. Sent'g Guidelines IV (Supp. 2009). Respondent State of Minnesota requested three permissive consecutive sentences of 172 months, for a total of 516 months. The state argued that the district court should sentence appellant for three of the 12 counts, "one count for each victim consecutively." Appellant requested a downward dispositional departure, a downward durational departure, or concurrent sentences totaling between 306 and 360 months.

The district court sentenced appellant to three permissive consecutive sentences of 160 months for a total of 480 months in prison. Each sentence corresponded to one conviction of first-degree criminal sexual conduct against one individual victim. In a direct appeal in 2012, appellant argued that the district court erred by admitting certain testimony

at trial. We affirmed, and the supreme court denied his petition for further review. *See State v. Mueller*, No. A12-1353, 2013 WL 3155412, at *4 (Minn. App. June 24, 2013), *rev. denied* (Minn. Sep. 17, 2013).

In 2014, appellant filed a letter with the postconviction court requesting a reduced sentence and then moved for a reduced sentence. The postconviction court denied each request. In 2023, appellant filed a petition for postconviction relief, disputing his guilt with respect to one of the victims. Despite the applicable procedural bars, appellant argued that his petition should be heard based on the “interests of justice.” The postconviction court disagreed and denied the petition as procedurally barred.

Most recently, in 2025, appellant filed what he framed as a motion for correction or reduction of sentence under Minn. R. Crim. P. 27.03, subd. 9 (the “rule 27.03 motion”). Appellant argued that his sentence was unlawful because it relied on an improper criminal-history score and inapplicable statutes.

The postconviction court interpreted appellant’s rule 27.03 motion as a “petition for post-conviction relief pursuant to Minn. Stat. § 590.01 et seq.” (the “postconviction petition”). Applying the procedural bars relevant to a postconviction petition, the postconviction court denied appellant’s request.

This appeal follows.

DECISION

I. The postconviction court erred by construing appellant’s rule 27.03 motion as a postconviction petition.

Appellant argues that his rule 27.03 motion focused solely on his sentence and the postconviction court erred by construing the motion as a postconviction petition. We agree.

“The standard for reviewing a district court’s decision to treat a motion to correct a sentence under Rule 27.03 as a postconviction petition . . . remains an open question.” *Bolstad v. State*, 966 N.W.2d 239, 242 (Minn. 2021). If the arguments on appeal require statutory interpretation, as they do here, the standard of review is de novo. *Id.* at 242-43.

Following a direct appeal, an appellant has two potential pathways for relief: a petition for postconviction relief under Minn. Stat. § 590.01 or a motion to correct or reduce sentence under Minn. R. Crim. P. 27.03, subd. 9. *See Washington v. State*, 845 N.W.2d 205, 210 (Minn. App. 2014). These pathways differ in scope and restrictions. *See id.* at 212.

A postconviction petition challenges a conviction. *See* Minn. Stat. § 590.01, subd. 1. A statutory time bar applies, prohibiting a litigant from filing the postconviction petition after two years from when the claim arises. *Id.*, subd. 4(a). A second procedural bar also applies after a litigant makes a direct appeal, prohibiting the litigant from raising (1) issues already raised in a direct appeal, (2) any “claims known but not raised,” or (3) any claims that “*should have been known* but were not raised in the direct appeal.” *State v. Knaffla*, 243 N.W.2d 737, 741 (Minn. 1976); *Colbert v. State*, 870 N.W.2d 616, 626 (Minn. 2015).

These procedural bars do not apply to a rule 27.03 motion. *Washington*, 845 N.W.2d at 211. A rule 27.03 motion is permissible “at any time.” Minn. R. Crim. P. 27.03, subd. 9. But it is “limited to sentences”: a proper rule 27.03 motion must allege that a sentence is “contrary to law or applicable statutes.” *State v. Coles*, 862 N.W.2d 477, 480 (Minn. 2015); *State v. Schnagl*, 859 N.W.2d 297, 301 (Minn. 2015). Similarly, the postconviction court’s authority under rule 27.03 “is restricted to modifying a sentence.” *Coles*, 862 N.W.2d at 480.

To assess whether a rule 27.03 motion is properly presented, postconviction courts “look to the pleadings and the relief sought.” *Id.* If a request implicates “more than simply the sentence,” even if framed as a rule 27.03 motion, the postconviction court should treat it as a postconviction petition. *Munt v. State*, 920 N.W.2d 410, 415 (Minn. 2018) (quotation omitted). Postconviction courts treat certain types of requests in this way, including those that challenge an underlying conviction, challenge a sentence that is part of a plea agreement, or request a new trial. *See, e.g., Wayne v. State*, 870 N.W.2d 389, 392 (Minn. 2015) (treating request as postconviction petition because it “questioned the validity of [appellant’s] first-degree murder conviction” and would require “a new trial, not a reduced sentence”); *Coles*, 862 N.W.2d at 481 (discussing interrelated nature of convictions and sentences in plea agreements).

The state argues that appellant’s submission is properly treated as a postconviction petition because his claims “implicated more than the criminal sentence.” For support, the state points to appellant’s statements about ineffective assistance of trial and appellate

counsel. The state contends that including this claim transformed appellant's request from a rule 27.03 motion into a postconviction petition. We are not persuaded.

Appellant's request included pages of detailed arguments about why his sentence was unlawful under both Minnesota law and the sentencing guidelines. Appellant also included a two-sentence paragraph stating that his prior counsel was ineffective. Appellant's brief included no other statement, heading, or request for relief relating to a claim of ineffective assistance of counsel. The paragraph centered on appellant's frustration with counsel solely in the context of sentencing, providing context for his rule 27.03 motion.

Appellant's motion focused on his view that his sentence was unauthorized by law and, if the postconviction court granted the request, the relief would be a reduction in his sentence. Appellant also specifically indicated that the request "does not involve more than a simple sentence correction." When viewed as a whole, the request did not implicate anything outside of appellant's sentence. It is properly considered a rule 27.03 motion, which is not subject to the same procedural bars as a postconviction petition. *Washington*, 845 N.W.2d at 211. The postconviction court therefore erred by construing appellant's request as a postconviction petition and determining that it was procedurally barred.

II. We affirm the postconviction court's denial because appellant's claims do not provide a basis for relief.

In his rule 27.03 motion, appellant argued that his sentence relied on an improper criminal-history score and inapplicable statutory provisions. We disagree.

Appellate courts review a postconviction court’s denial of a rule 27.03 motion for an abuse of discretion,¹ reviewing legal conclusions de novo and factual findings for clear error. *Townsend v. State*, 834 N.W.2d 736, 738 (Minn. 2013). Appellant bears the burden to prove that he received an unlawful sentence. *Williams v. State*, 910 N.W.2d 736, 742-43 (Minn. 2018). We may affirm the district court’s decision “on any ground, including one not relied on by the [postconviction] court.” *State v. Fellegy*, 819 N.W.2d 700, 707 (Minn. App. 2012), *rev. denied* (Minn. Oct. 16, 2012).

A. Criminal-History Score

Appellant appears to argue that the district court improperly included prior offenses in his criminal-history score, aggravating his second and third sentences.

Appellate courts review a district court’s sentencing decision for an abuse of discretion. *See State v. Delk*, 781 N.W.2d 426, 428 (Minn. App. 2010), *rev. denied* (Minn. July 20, 2010). But “[o]nly in a rare case” will a reviewing court reverse a district court that imposes a presumptive sentence. *Id.* (quotation omitted). An unlawful sentence “must have been illegal at the time it was imposed.” *Reynolds v. State*, 888 N.W.2d 125, 133 (Minn. 2016). Whether a sentence conforms to the sentencing guidelines is a question of law that appellate courts review de novo. *See State v. Williams*, 771 N.W.2d 514, 520 (Minn. 2009).

¹ Because the Minnesota Rules of Criminal Procedure do not expressly authorize an appeal from an order denying a rule 27.03 motion, we “treat[] such appeals as appeals from postconviction orders if the motion was filed beyond the time for a direct appeal.” *Washington*, 845 N.W.2d at 211 n.1.

The Minnesota Sentencing Guidelines include grids with presumptive sentence lengths based on the severity level of an offense and a person's criminal-history score. *See, e.g.,* Minn. Sent'g Guidelines IV. Each cell in a grid "denote[s] the range within which a judge may sentence." *Id.* Any number within the range is an acceptable sentence. *See State v. Jackson*, 749 N.W.2d 353, 359 n.2 (Minn. 2008).

The district court imposed consecutive sentences for appellant's three convictions of first-degree criminal sexual conduct, 160 months per conviction. Each of appellant's 160-month sentences falls within the acceptable sentencing range for an offense of first-degree criminal sexual conduct with a criminal-history score of zero. *See* Minn. Sent'g Guidelines IV (providing acceptable sentence range of 144 to 172 months). Appellant points to no evidence that the district court used another criminal-history score to calculate any of his sentences.

The district court sentenced appellant to serve these sentences consecutively. The guidelines permit consecutive sentencing when there are "[m]ultiple current felony convictions" based on certain eligible offenses. Minn. Sent'g Guidelines II.F.2.b (Supp. 2009). First-degree criminal sexual conduct is one of the eligible offenses. *See* Minn. Sent'g Guidelines VI (Supp. 2009). The district court could therefore impose appellant's sentences consecutively. *See* Minn. Sent'g Guidelines II.F.2 & cmt. II.F.202 (Supp. 2009). Because the district court sentenced appellant within the guidelines, we conclude that it did not abuse its discretion. *See Delk*, 781 N.W.2d at 428.

B. Statutory Provisions

Appellant appears to argue that his total sentence exceeds the statutory maximum set out in Minn. Stat. § 609.342, so the district court must have relied on another, incorrect statute for sentencing. Appellant assumes that this other statute is Minn. Stat. § 609.3455 (2008), and he disputes its relevance based on statutory language.

A rule 27.03 motion may challenge a sentence as “unauthorized by law.” *State v. Cook*, 617 N.W.2d 417, 419 (Minn. App. 2000), *rev. denied* (Minn. Nov. 21, 2000). A sentence is “unauthorized by law” when it does not meet the requirements of the applicable sentencing statute. *Id.* Interpretation of sentencing statutes is a question of law subject to de novo review. *State v. Amundson*, 828 N.W.2d 747, 752 (Minn. App. 2013).

Although appellant argues that the district court sentenced him based on Minn. Stat. § 609.3455, he points to no evidence to support this claim. We are not persuaded that the district court considered the provisions appellant cites, which impose mandatory sentences of life or double a presumptive sentence, to impose appellant’s 160-month sentences here. *See* Minn. Stat. § 609.3455, subds. 3, 3a.

Rather, Minn. Stat. § 609.342 sets out the definition, penalties, and staying procedures for first-degree criminal sexual conduct. The penalty section states, in part: “(a) *Except as otherwise provided in section 609.3455; or Minnesota Statutes 2004, section 609.109, a person convicted under subdivision 1 may be sentenced to imprisonment for not more than 30 years or to a payment of a fine of not more than \$40,000, or both.*” Minn. Stat. § 609.342, subd. 2(a) (emphasis added).

In his rule 27.03 motion, appellant emphasizes the phrase “not more than 30 years.” Appellant appears to argue that his total sentence of 480 months exceeds this statutory maximum.

As discussed, the district court sentenced appellant to three 160-month sentences, each based on one conviction of first-degree criminal sexual conduct against one individual victim. The 30-year maximum penalty in section 609.342 applies to each sentenced offense individually, not the three sentences taken together. *See State v. Senske*, 692 N.W.2d 743, 746 (Minn. App. 2005) (“Consecutive sentencing concerns the relationship between two sentences, separately imposed for different offenses.”), *rev. denied* (Minn. May 17, 2005); Minn. Sent’g Guidelines II.H (Supp. 2009) (comparing statutory maximum with acceptable sentencing range for one offense). We conclude that, for each of the three sentences, the district court applied the appropriate statute and did not exceed the statutory maximum. We therefore affirm the postconviction court’s decision to deny relief, although on different grounds.

Affirmed.