

*This opinion is nonprecedential except as provided by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
A25-0877**

Amos Menasa Cham, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed January 26, 2026
Reversed and remanded
Harris, Judge**

Anoka County District Court
File No. 02-CR-21-4422

Anders J. Erickson, Minneapolis, Minnesota (for appellant)

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

Brad Johnson, Anoka County Attorney, Kelsey R. Kelley, Assistant County Attorney,
Anoka, Minnesota (for respondent)

Considered and decided by Slieter, Presiding Judge; Smith, Tracy M., Judge; and
Harris, Judge.

NONPRECEDENTIAL OPINION

HARRIS, Judge

In this appeal from an order denying an application for relief, appellant Amos Menasa Cham argues that the district court erred by denying his petition to vacate his aiding and abetting second-degree felony murder conviction under a new law without first holding

an evidentiary hearing. *See* 2023 Minn. Laws ch. 52, art. 4, § 24, at 864-68, *amended by* 2024 Minn. Laws. ch. 123, art. 4, §§ 19-21, at 2268-71. Although the plain language of the law does not require a hearing before a district court denies an applicant’s petition, there remains a material factual dispute that requires an evidentiary hearing under Minnesota Statutes section 590.04 (2024). We reverse and remand.

FACTS

The state charged Cham with aiding and abetting second-degree felony murder. Cham pleaded guilty. The following relevant facts stem from Cham’s plea hearing. In July 2021, Cham was with his co-defendant, I.S. That afternoon, Cham contacted the victim over Snapchat regarding a potential drug deal. Before arriving at a predetermined location, Cham and I.S. discussed a plan to rob the victim and several others so long as they were an “easy target.” Another individual, I.H., joined Cham and I.S. as they were planning the robbery. Cham testified that although he planned on stepping away from the robbery to let I.S. and another individual execute the robbery, he facilitated “getting those people to that location” for the robbery to unfold. Prior to the robbery taking place, Cham knew that I.S. had a firearm, and while there was no plan to shoot anyone, he knew that I.S. “would be brandishing it, showing it to those people, and aiding in that robbery.”

Shortly after the planning meeting, the victim and several others arrived at the meetup location in a van. Cham approached the van to discuss the drug deal, and told the van’s occupants to “get with [his] boy,” I.S. Cham then walked to a separate car parked in a nearby driveway that contained I.S., I.H., and another individual, D.W. At this point, I.S., I.H., and D.W. all approached the van. D.W. and I.S. entered the van, and I.H.

remained outside. While standing by the car in the driveway, Cham heard gunshots and witnessed I.H. in possession of the gun as the van started to speed away. Cham fled the scene.

Cham testified that he first saw the gun “[w]hen it was being let off.” When asked how I.H. came into possession of the gun, Cham stated, “I believe [I.S.] had gave it to him.” When asked again, Cham confirmed that I.S. gave I.H. the gun. Cham additionally testified that he had never seen the gun prior to the shooting that day, and that he did not know where I.S. obtained the gun to give to I.H. Cham affirmed that he, along with I.S., sought out the victim and the others in the van for a drug deal that resulted in one victim dying from his injuries stemming from the shooting.

The district court concluded that Cham provided an adequate factual basis to support his guilty plea to aiding and abetting second-degree felony murder. In May 2022, the district court sentenced Cham to 189 months’ imprisonment.

In August 2024, Cham applied to vacate his conviction under a new law, which allowed defendants who were convicted of aiding and abetting second-degree felony murder to apply to have their convictions vacated. 2023 Minn. Laws ch. 52, art. 4, § 24, at 864-68. The district court granted Cham’s preliminary application.

Cham then filed a petition to vacate his conviction under the new law, arguing that he was entitled to relief because he was not a “major participant” and did not act with extreme indifference to human life. The state opposed his petition. The state conceded that Cham did not directly cause the death of a human being but insisted that he was a “major participant” because he either “directly possessed” or “jointly possessed the gun”

with his co-defendant. The state also argued that Cham acted with “extreme indifference to human life” because he orchestrated the robbery “by securing accomplices to meet the victim at an agreeable predetermined location,” and organized it so that he would have “a firearm with a 50-bullet magazine” that he “brandished during the robbery.”

The district court denied Cham’s petition for relief. It concluded that Cham could not prove by a preponderance of the evidence that he was not a “major participant” in the robbery or that he did not act with “extreme indifference to human life.”

Cham appeals.

DECISION

Cham argues that the district court “violated the plain language of the law” because it did not hold an evidentiary hearing before denying his application for relief. According to Cham, “[t]he Act requires that the district court hold a hearing in every case before determining whether the petitioner met his burden of establishing by a preponderance of the evidence that he is entitled to relief.”

We begin with a discussion of the relevant law. At the time of Cham’s offense, under Minnesota’s aiding and abetting statute, “[a] person is criminally liable for a crime committed by another if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures the other to commit the crime.” Minn. Stat. § 609.05, subd. 1 (2020). A person may be subject to “expansive liability” “for any other crime committed in pursuance of the intended crime if reasonably foreseeable by the person as a probable consequence of committing or attempting to commit the crime intended. *Id.*, subd. 2 (2020).

But in 2023, the legislature narrowed the scope of liability for aiding and abetting second-degree felony murder. Under the new law, defendants who were previously convicted of first- or second-degree felony murder under the aiding and abetting theory of liability could file a petition to vacate their convictions. 2023 Minn. Laws ch. 52, art. 4, § 24, at 864-68. To vacate their conviction, the applicant must show, by a preponderance of the evidence, that they (1) “did not cause the 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.” *Id.*, § 24, at 867.¹ The legislature intended this amendment to apply retroactively to crimes committed before August 1, 2023. *Id.*, § 24, at 866.

There are two steps to obtain relief. First, the applicant must submit a preliminary application, containing certain information about the applicant and a statement explaining why they are entitled to relief. *Id.*, § 24, at 865 (outlining requirements for preliminary application). After receiving the preliminary application, the district court must determine whether “there is a reasonable probability that the [applicant] is entitled to relief under this section.” *Id.* “If the reviewing judge determines that there *is* a reasonable probability that the applicant is entitled to relief,” the judge must notify the applicant, his attorney, and the prosecuting authority. *Id.*, § 24, at 866 (emphasis added). Once the preliminary application is approved, the applicant proceeds to step two, which requires filing a petition for relief in the district court where the conviction was entered. *Id.* (outlining requirements for

¹ The 2024 legislation amended subdivision 7 to require that a petitioner need only show by a preponderance of the evidence that they either were not a “major participant” in the underlying felony *or* “did not act with extreme indifference to human life.” *See* 2024 Minn. Laws ch. 123, art. 4, § 20, at 2269.

petition). This petition must contain the same information under subdivision 4(a) and may include additional information, such as “police reports, trial transcripts, and plea transcripts involving the petitioner or any other person investigated for, charged with, or convicted of a crime arising out of the same set of circumstances for which the petitioner was convicted.” *Id.*, § 24, at 866-67.

After receiving the petition for relief, the state must respond to the petition, and the applicant may submit a reply brief. *Id.*, § 24, at 867. The district court then has three options: (1) if the state supports the petition to vacate, the district court must “issue an order and schedule the matter for sentencing or resentencing,” (2) if the district court determines “that there is not a reasonable probability that the applicant is entitled to relief,” it must deny the petition and include a memorandum explaining why it concluded the applicant was not entitled to relief, or (3) the district court must “schedule the matter for a hearing and issue any appropriate order regarding submission of evidence or identification of witnesses.” *Id.*, § 24, at 867. “Th[is] hearing shall be held in open court and conducted pursuant to Minnesota Statutes, section 590.04.”² *Id.*, § 24, at 867.

Cham argues that the district court was required to hold a hearing before determining whether he met his burden to establish by a preponderance of the evidence that he was entitled to relief. He adds that even if the district court was not required to hold

² Section 590.04, subdivision 1, in turn, provides that “[u]nless the petition and the files and records of the proceeding *conclusively show that the petitioner is entitled to no relief*, the [district] court shall promptly set an early hearing on the petition.” (Emphasis added). Conversely, when the record evidence is not conclusive, the district court must hold a hearing on the petition.

a hearing before making its determination, it nevertheless abused its discretion by denying his petition because he was prepared to present evidence showing he was not a “major participant.”

A “major participant” is defined as someone who

(1) used a deadly weapon during the commission of the underlying felony or provided a deadly weapon to another participant where it was reasonably foreseeable that the weapon would be used in the underlying felony;

(2) caused substantial bodily harm to another during the commission of the underlying felony;

(3) coerced or hired a participant to undertake actions in furtherance of the underlying felony that proximately caused the death, and where it was reasonably foreseeable that such actions would cause death or great bodily harm; or

(4) impeded another person from preventing the death either by physical action or by threat of physical action where it was reasonably foreseeable that death or great bodily harm would result.

Minn. Stat. § 609.05, subd. 2a(c) (2024).

Relying on the first definition of “major participant,” the district court determined that Cham could not prove by a preponderance of the evidence that he was not a “major participant.” The district court based its determination on the fact that Cham and his co-defendant—who is also seeking retroactive relief under the new law—each testified during their respective plea hearings “that the other [person] provided the 9 mm firearm used to shoot and kill the victim.” And based on the presentence investigation, Cham reported to probation that he purchased the firearm several weeks prior to the shooting to “feel cool.” Cham additionally told probation that he and his friends have a history of robbing people during drug deals but clarified that he typically “steals the drugs and then runs off.” These

facts led the district court to conclude that Cham could not prove by a preponderance of the evidence that he was not a major participant.

There are two problems with the district court's order. First, the district court's conclusion rests on contradictory testimony by Cham and his co-defendant, I.S., who both blame one another. During I.S.'s plea hearing, the state indicated that I.S.'s testimony conflicted with his prior statements to police. I.S. testified that "[Cham] already had [the firearm]," but I.S. previously told police that he (I.S.), "got the gun." When asked how the firearm got to I.H., the shooter, I.S. answered, "I guess [Cham] gave it to him." In contrast, Cham testified during his plea hearing that "[I.S.] gave [I.H.] the gun." The district court even acknowledged that there was "contradictory, sworn testimony" on whether Cham or his co-defendant provided the firearm to the individual who shot and killed the victim.

These contradictory statements regarding who provided the gun create a credibility issue that must be resolved at an evidentiary hearing. Because there remains a disputed material fact, a district court must hold an evidentiary hearing. *Riley v. State*, 819 N.W.2d 162, 167 (Minn. 2012) ("An evidentiary hearing on a petition is mandated whenever 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." (quotation omitted)).

The second problem is that the district court applied the preponderance-of-the-evidence standard when determining whether to grant an evidentiary hearing instead of the reasonable-probability standard that applies at that step. Subdivision 6(e)(2) of the 2023 amendment states that a district court must "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.” 2023 Minn. Laws ch. 52, art. 4, § 24, at 867 (emphasis added). “A ‘reasonable probability’ means ‘a probability sufficient to undermine confidence in the outcome.’” *State v. Rhodes*, 657 N.W.2d 823, 842 (Minn. 2003) (quoting *Strickland v. Washington*, 466 U.S. 668, 694 (1984)). Here, the conflicting testimony by Cham and his co-defendant creates a probability of relief that is sufficient to undermine our confidence in the district court’s conclusion. As a result, the district court must hold an evidentiary hearing, at which point Cham would be required to establish by a preponderance of the evidence that he was not a major participant. 2023 Minn. Laws ch. 52, art. 4, § 24, subd. 6(e)(3).

To obtain relief, Cham needed to show that he was not a “major participant” in the underlying felony *or* “did not act with extreme indifference to human life.” 2023 Minn. Laws ch. 52, art. 4, § 24, at 867-68; *see also Grant v. State*, No. A24-1908, 2025 WL 2435646, at *5 n.3 (Minn. App. Aug. 25, 2025), *rev. granted* (Minn. Dec. 17, 2025). As such, he only needed to show one of the two. *See State v. Abdus-Salam*, 1 N.W.3d 871, 878 (Minn. 2024) (explaining that the legislature’s unambiguous use of the word “or” signals a disjunctive reading, under which the statute is satisfied by the presence of only one of the listed factual situations). And because there is a factual issue regarding whether

he was a major participant under the new law, the district court erred by denying his petition without holding an evidentiary hearing.³

Reversed and remanded.

³ Cham also argues that he did not “act with extreme indifference to human life.” However, we refrain from addressing this argument because our resolution on the “major participant” prong is dispositive of this appeal.