

*This opinion is nonprecedential except as provided by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
A25-1481**

Clinton Angwenyi Omuya, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed May 18, 2026
Reversed and remanded
Johnson, Judge**

Hennepin County District Court
File No. 27-CR-18-22419

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

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

Mary F. Moriarty, Hennepin County Attorney, Nicholas G. Kimball, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Considered and decided by Schmidt, Presiding Judge; Johnson, Judge; and Larson, Judge.

NONPRECEDENTIAL OPINION

JOHNSON, Judge

In 2020, Clinton Angwenyi Omuya was convicted of aiding and abetting second-degree unintentional murder. In 2025, Omuya filed a preliminary application for permission to file a petition to vacate his conviction. A reviewing judge denied the

preliminary application. We conclude that the reviewing judge erred by denying the preliminary application without considering whether Omuya acted with extreme indifference to human life. Therefore, we reverse and remand with instructions to determine whether Omuya acted with extreme indifference to human life and then determine whether there is a reasonable probability that Omuya is entitled to relief.

FACTS

In September 2018, the state charged Omuya with aiding and abetting second-degree intentional murder, in violation of Minn. Stat. § 609.19, subd. 1(1) (2016), and aiding an offender as an accomplice after the fact, in violation of Minn. Stat. § 609.495, subd. 3 (2016).

In February 2019, Omuya pleaded guilty to an amended charge of aiding and abetting second-degree unintentional murder, in violation of Minn. Stat. § 609.19, subd. 2(1). At the plea hearing, Omuya admitted that he gave a handgun to a minor, A.K., who used the handgun to shoot and kill another person, D.D. Omuya stated during the plea hearing that he told A.K. to confront D.D. and to use the handgun to pistol-whip D.D. if the confrontation escalated but that he warned A.K. not to do “anything stupid” or shoot anyone. In February 2020, the district court imposed a sentence of 180 months of imprisonment. Omuya appealed his sentence, and this court affirmed. *State v. Omuya*, No. A20-0652, 2021 WL 1604349 (Minn. App. Apr. 26, 2021), *rev. denied* (Minn. June 29, 2021).

In April 2025, Omuya filed a preliminary application for relief pursuant to an uncodified law enacted on May 19, 2023 (hereinafter the Act), which provides a means of

obtaining relief from aiding-and-abetting felony-murder convictions under certain circumstances. *See* 2023 Minn. Laws ch. 52, art. 4, § 24, at 864-68. Omuya alleges that he is entitled to relief under the Act on the grounds that he did not cause D.D.’s death and did not act with extreme indifference to human life. In July 2025, the assigned judge denied the application on the ground that Omuya was a major participant in the underlying felony. Omuya appeals.

DECISION

Omuya argues that the district court erred by denying his preliminary application based solely on a determination that he was a major participant in the underlying felony, without determining whether he acted with extreme indifference to human life.

A.

In 2023, the legislature amended the statute governing accomplice liability for first-degree and second-degree felony murder. 2023 Minn. Laws ch. 52, art. 4, § 3, at 850-51 (codified at Minn. Stat. § 609.05, subd. 2a (Supp. 2023)). The amended statute provides that a person may not be held criminally liable for aiding and abetting felony murder in certain circumstances. Minn. Stat. § 609.05, subd. 2a(a)-(b) (Supp. 2023). Specifically, a person may not be convicted of 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 indifference to human life.” *Id.*, subd. 2a(b).

The legislature also enacted an uncodified law providing that a person previously convicted of aiding and abetting felony murder may seek to have his or her conviction vacated. 2023 Minn. Laws ch. 52, art. 4, § 24, at 864-68. A person previously convicted

of aiding and abetting second-degree felony murder is entitled to relief if the person “shows by a preponderance of the evidence” that he or she “(1) did not cause the death of a human being” and “(2) 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, subd. 7(b), at 2269 (amending 2023 Minn. Laws ch. 52, art. 4, § 24, subd. 7(b), at 867-68).

Before a person may petition for relief from a conviction of aiding and abetting felony murder, the person must file a preliminary application. 2023 Minn. Laws ch. 52, art. 4, § 24, subd. 4, at 865. The preliminary application must include, among other things, a brief statement explaining why the applicant is entitled to relief. *Id.*, § 24, subd. 4(a)(6), at 865. The preliminary application must be assigned to a reviewing judge, who must determine, in the judge’s discretion, whether the applicant has shown a reasonable probability of an entitlement to relief. *Id.*, § 24, subd. 5(a), (c), at 865. In making this determination, the reviewing judge must consider the preliminary application and any attachments. *Id.*, § 24, subd. 5(d), at 866. The reviewing judge also may consider “relevant records in the possession of the judicial branch.” *Id.* If the reviewing judge denies the preliminary application, the judge must provide a brief statement explaining the reasons why there is not a reasonable probability that the applicant is entitled to relief. *Id.*, § 24, subd. 5(h), at 866.

A reviewing judge’s denial of a preliminary application is an appealable order. *State v. Griffin*, 20 N.W.3d 57, 60 (Minn. 2025) (order); *Raisch v. State*, 8 N.W.3d 237, 238, 241 (Minn. App. 2024). This court applies an abuse-of-discretion standard of review to a

reviewing judge’s denial of a preliminary application under the Act. *State v. Griffin*, 24 N.W.3d 247, 254 (Minn. 2025).

B.

Omuya argues that the reviewing judge erred by not considering a criterion relevant to whether he is entitled to relief under the Act: whether he acted with extreme indifference to human life. The state agrees. Omuya may be entitled to relief if he can prove that he either “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, subd. 7(b)(2), at 2269 (emphasis added) (amending 2023 Minn. Laws ch. 52, art. 4, § 24, subd. 7(b)(2), at 867-68). Omuya invoked only the latter alternative by alleging in his preliminary application that he did not act with extreme indifference to human life. But the reviewing judge’s written order omits any mention of whether Omuya acted with extreme indifference to human life. Instead, the reviewing judge denied Omuya’s preliminary application by determining that he was a major participant in the underlying felony. But Omuya does not allege that he was not a major participant in the underlying felony. The parties are correct that the reviewing judge erred by not considering whether Omuya acted with extreme indifference to human life.

The parties disagree about the appropriate disposition of the appeal. Omuya requests that this court remand with instructions that he be allowed to file a petition to vacate his conviction. The state argues that this court should affirm on the ground that the record “conclusively shows” that Omuya acted with extreme indifference to human life. The state argues in the alternative that, if this court were to reverse and remand, we should

instruct the reviewing judge to consider whether Omuya acted with extreme indifference to human life, rather than allow Omuya to file a petition to vacate without any determination of whether he acted with extreme indifference to human life.

Omuya is not entitled to relief under the Act unless he can prove that he did not act with extreme indifference to human life. *See id.* The Act expressly provides that “*the reviewing judge shall determine whether, in the discretion of that judge, there is a reasonable probability that the application is entitled to relief.*” 2023 Minn. Laws ch. 52, art. 4, § 24, subd. 5(c), at 865 (emphasis added). Accordingly, it is necessary for the reviewing judge to determine in the first instance whether Omuya acted with extreme indifference to human life. The reviewing judge must make that determination before determining whether there is a reasonable probability that Omuya is entitled to relief. *See Raisch*, 8 N.W.3d at 240 (explaining that “petition to vacate can be filed only if the district court makes an affirmative determination on the preliminary application”).

In sum, the reviewing judge erred by denying the preliminary application based solely on a determination that Omuya was a major participant in the underlying felony, without determining whether Omuya acted with extreme indifference to human life. Therefore, we reverse and remand to the reviewing judge with instructions to determine whether Omuya acted with extreme indifference to human life and then determine whether there is a reasonable probability that Omuya is entitled to relief under the Act.

Reversed and remanded.