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**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-2452**

Shawn Enoch, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed December 16, 2008
Affirmed
Johnson, Judge**

Hennepin County District Court
File Nos. 27CR9397877; 27CR93027323;
27CR933217; 27CR932866

Shawn Enoch, OID #182247, 5329 Osgood Avenue North, Stillwater, MN 55082 (pro se appellant)

Lori Swanson, Attorney General, 1800 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101-2134; and

Mike Freeman, Hennepin County Attorney, Michael K. Walz, Assistant County Attorney, C-2000 Government Center, Minneapolis, MN 55487 (for respondent)

Considered and decided by Minge, Presiding Judge; Schellhas, Judge; and Johnson, Judge.

UNPUBLISHED OPINION

JOHNSON, Judge

In 1995, a Hennepin County jury found Shawn Enoch guilty of several counts of criminal sexual conduct, burglary, and aggravated robbery. This court affirmed the conviction and sentence on direct appeal. In 2007, Enoch filed a petition for postconviction relief. The district court denied the petition. We conclude that the issues Enoch raises in his postconviction petition either were raised and decided in his direct appeal or should have been raised and decided at that time. Therefore, we affirm.

FACTS

In 1995, Enoch was convicted of eight counts of first-degree criminal sexual conduct, 12 counts of first-degree burglary, and 11 counts of aggravated robbery. His convictions were based on five separate incidents that occurred between September 1991 and December 1992. Enoch robbed a total of 11 persons at gunpoint and raped two of them. The district court imposed sentences totaling 1,198 months of imprisonment. This court affirmed. *State v. Enoch*, No. C1-95-1534, 1996 WL 278220, at *1-*4 (Minn. App. May 28, 1996), *review denied* (Minn. July 10, 1996).

In July 2007, Enoch filed a pro se petition for postconviction relief in which he raised five issues. The postconviction court denied the petition without a hearing. Enoch appeals.

DECISION

Enoch argues that the postconviction court erred by denying his postconviction petition without an evidentiary hearing. A district court may deny a petition for postconviction relief without an evidentiary hearing if “the files and records of the

proceedings conclusively show that the petitioner is entitled to no relief.” Minn. Stat. § 590.04, subd. 1 (2006); *see also Gustafson v. State*, 754 N.W.2d 343, 348 (Minn. 2008). A district court also may summarily deny a postconviction petition when it raises issues previously decided by this court or the supreme court. Minn. Stat. § 590.04, subd. 3 (2006). “[A]ll matters” raised in a direct appeal and “all claims known but not raised, will not be considered upon a subsequent petition for postconviction relief.” *State v. Knaffla*, 309 Minn. 246, 252, 243 N.W.2d 737, 741 (1976). “There are two exceptions to the *Knaffla* rule: (1) if a novel legal issue is presented or (2) if the interests of justice require review.” *Powers v. State*, 731 N.W.2d 499, 502 (Minn. 2007). A district court’s denial of postconviction relief based on the *Knaffla* procedural bar is reviewed for an abuse of discretion. *Quick v. State*, 692 N.W.2d 438, 439 (Minn. 2005).

On appeal, Enoch is pursuing only two of the five claims alleged in his petition. First, he argues that the district court erred by departing upward from the sentencing guidelines. Second, he argues that the district court erred by not conducting a *Schwartz* hearing concerning “comments and questions posed to the trial court by 3 members of the jury.”

Enoch’s first claim is similar, though not identical, to an argument that he raised on direct appeal. At that time, Enoch argued that his sentence of nearly 100 years “unfairly exaggerated the criminality of his conduct.” *Enoch*, 1996 WL 278220, at *4. In rejecting Enoch’s argument, this court noted that the district court imposed numerous consecutive sentences, which was “not a true upward departure.” *Id.* It thus would appear that Enoch has no claim of an unlawful upward departure. Regardless, Enoch’s first claim is barred

because it either was “raised” on direct appeal or was “known but not raised.” *Knaffla*, 309 Minn. at 252, 243 N.W.2d at 741.

Enoch’s second claim was raised and rejected in Enoch’s direct appeal. This court expressly considered and rejected Enoch’s argument that the district court erred by not conducting a *Schwartz* hearing “to determine if members of the jury had been exposed to extra-judicial information during its deliberations.” *Enoch*, 1996 WL 278220, at *3. Thus, Enoch’s second claim is procedurally barred. *See Knaffla*, 309 Minn. at 252, 243 N.W.2d at 741.

Enoch does not argue for an exception to the *Knaffla* rule. Nonetheless, we have reviewed his petition and appellate brief for that purpose. With respect to the first exception, his arguments are not “so novel that the legal basis was not available on direct appeal.” *McKenzie v. State*, 754 N.W.2d 366, 369 (Minn. 2008) (quotation omitted). With respect to the second exception, we do not believe that the “interests of justice require review” of any of his claims. *Powers*, 731 N.W.2d at 502. Furthermore, the record reflects that Enoch was represented by an attorney on direct appeal, which further weighs against applying either exception. *See Schleicher v. State*, 718 N.W.2d 440, 448 (Minn. 2006).

In sum, the record “conclusively show[s] that the petitioner is entitled to no relief,” *Gustafson*, 754 N.W.2d at 348 (quotation omitted), and the district court did not abuse its discretion by denying Enoch’s petition for postconviction relief without an evidentiary hearing.

Affirmed.