STATE OF MINNESOTA
IN COURT OF APPEALS
A09-551

Charles Roosevelt Williams, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

Filed January 26, 2010
Affirmed
Halbrooks, Judge

Hennepin County District Court
File No. 27-CR-05-072866

Charles R. Williams, Stillwater, Minnesota (pro se appellant)

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Michael O. Freeman, Hennepin County Attorney, Michael K. Walz, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Considered and decided by Toussaint, Chief Judge; Halbrooks, Judge; and Huspeni, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

U N P U B L I S H E D O P I N I O N

HALBROOKS, Judge

Appellant challenges the district court's denial of his pro se petition for postconviction relief. *Knaffla* does not necessarily bar review in this case because appellant has never had a direct appeal from his conviction. We nevertheless reject appellant's claims because they were addressed by this court in his probation-revocation appeal, are unsupported by sufficient facts, or are raised for the first time on appeal. We therefore affirm the district court's denial of appellant's postconviction petition.

FACTS

In September 2001, when he was 16 years old, appellant Charles Roosevelt Williams shot a man in the chest. He pleaded guilty to attempted second-degree murder, received a stayed 153-month sentence, and was placed on extended jurisdiction juvenile (EJJ) probation. In November 2005, several months shy of his 21st birthday, his probation was revoked. On appeal, this court affirmed the order revoking appellant's probation. *In re Welfare of C.R.W.*, No. A06-296 (Minn. App. Sept. 12, 2006), *review denied* (Minn. Dec. 12, 2006).

Appellant filed this pro se petition for postconviction relief in December 2008. The district court denied the petition without a hearing. This appeal follows.

D E C I S I O N

I.

Appellant argues that (1) insufficient evidence was presented to support the revocation of his EJJ probation, (2) the district court based the revocation on conduct that

had been the subject of a prior revocation proceeding, and (3) the district court considered conduct not stated in the arrest-and-detention order. These issues were specifically addressed and rejected by this court in appellant's probation-revocation appeal. *See id.*

In its order denying appellant's petition for postconviction relief, the district court concluded that these claims are procedurally barred by *Knaffla*. But *Knaffla* applies only when a direct appeal has been taken, and provides that "all matters raised therein, 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); *see also* Minn. Stat. § 590.04, subd. 3 (2008) (providing that a postconviction court "may summarily deny a second or successive petition for similar relief on behalf of the same petitioner"). Here, because appellant never filed a direct appeal from his conviction and sentence, the district court abused its discretion when it denied appellant's petition based solely on the *Knaffla* procedural bar.

Nevertheless, issues identical to the ones now raised by appellant were specifically raised and rejected by this court in his probation-revocation appeal. Because appellant has had a full and fair opportunity to be heard on these claims and because there was a final judgment on the merits, he is estopped from relitigating them in this postconviction proceeding. *See State v. Lemmer*, 736 N.W.2d 650, 663 (Minn. 2007) (discussing doctrine of collateral estoppel in criminal cases); *see also* Minn. Stat. § 590.04, subd. 3 (2008) (allowing summary denial of second or successive postconviction petition for similar relief).

II.

Appellant argues that his attorney was ineffective during his EJJ probation-revocation hearing. He asserts that his attorney failed to (1) call "special witnesses requested by the petitioner [who] were important enough to change the decision of the revocation hearing" and (2) "challenge or object to the state's admitting alleged violations without giv[ing] the petitioner advanced notice, and all evidence not being disclosed to the petitioner." In its order denying postconviction relief, the district court concluded that even if appellant's claim of ineffective assistance of counsel was not procedurally barred, appellant failed to provide any factual basis to support his claim that his attorney was ineffective or that but for his attorney's alleged deficient performance, the result of his revocation hearing would have been different. We agree with the district court's assessment. Appellant has failed to provide sufficient detail and facts to support his claim of ineffective assistance of counsel. *See* Minn. Stat. § 590.02, subd. 1(1) (2008) (requiring postconviction petition to include "a statement of the facts and the grounds upon which the petition is based"); *Leake v. State*, 737 N.W.2d 531, 535 (Minn. 2007) (mere "argumentative assertions" insufficient to warrant evidentiary hearing on postconviction petition). Thus, appellant's claim of ineffective assistance of counsel must fail.

III.

Appellant argues, for the first time on appeal, that he is entitled to jail credit for time spent in a juvenile detention facility. He requests that this court grant him jail credit for time he spent in Austin, Texas at the Brown School program in 2002. Appellant

argues that he was punished more severely as an EJJ than he would have been had he been certified as an adult and therefore his constitutional right to equal protection has been violated. Because appellant raises this issue for the first time on appeal, the district court had no opportunity to address it. *See Roby v. State*, 547 N.W.2d 354, 357 (Minn. 1996) (noting that a reviewing court generally will not consider matters raised for the first time on appeal). Jail credit is an issue that can be raised "at any time" in a motion to correct a sentence under Minn. R. Crim. P. 27.03, subd. 9. *See State v. Washington*, 725 N.W.2d 125, 138 (Minn. App. 2006), *review denied* (Minn. Mar. 20, 2007); *State v. Stutelberg*, 435 N.W.2d 632, 634 (Minn. App. 1989). We therefore decline to address the issue in this postconviction appeal.

Affirmed.