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Minn. Stat. § 480A.08, subd. 3 (2012).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A13-0994**

Michael Joseph Harasyn, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed April 7, 2014
Affirmed
Smith, Judge**

Washington County District Court
File No. 82-CR-08-8557

Cathryn Middlebrook, Chief Appellate Public Defender, Suzanne M. Senecal-Hill, Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

Peter J. Orput, Washington County Attorney, Stillwater, Minnesota; and

Anthony C. Palumbo, Anoka County Attorney, Marcy S. Crain, Assistant County Attorney, Anoka, Minnesota (for respondent)

Considered and decided by Connolly, Presiding Judge; Chutich, Judge; and Smith, Judge.

UNPUBLISHED OPINION

SMITH, Judge

We affirm the district court's denial of appellant's petition for postconviction relief because the petition was untimely.

FACTS

In 2008, respondent State of Minnesota charged appellant Michael Joseph Harasyn with one count of felony harassment. At trial, Harasyn represented himself, and the jury found Harasyn guilty as charged. On February 20, 2009, the district court adjudicated Harasyn guilty, stayed imposition of the sentence, and placed Harasyn on probation for five years.

In July 2010, Harasyn admitted violating a condition of his probation. The district court revoked the stay of imposition, imposed an 18-month prison sentence, stayed execution of the sentence, and reinstated Harasyn's probation.

On February 1, 2013, Harasyn filed a petition for postconviction relief, claiming that he had not knowingly, voluntarily, and intelligently waived his constitutional right to counsel. On February 20, Harasyn amended the petition, withdrawing his waiver-of-counsel argument and instead claiming that the state failed to prove an element of the crime beyond a reasonable doubt. Harasyn argued that, under the interests-of-justice exception, his petition was not time-barred because the district court did not inform him of the right to appeal his conviction or sentence, and the petition had substantive merit. The district court denied his petition as "without merit and frivolous."

D E C I S I O N

“We review the denial of postconviction relief for an abuse of discretion,” reviewing legal conclusions de novo and factual findings for clear error. *Greer v. State*, 836 N.W.2d 520, 522 (Minn. 2013).

When, as here, no direct appeal is filed, a person must file a petition for postconviction relief within two years of “the entry of judgment of conviction or sentence.” Minn. Stat. § 590.01, subd. 4(a) (2012). But an otherwise untimely petition may be considered if it meets one of five exceptions and is “filed within two years of the date the claim arises.” Minn. Stat. § 590.01, subd. 4(b), (c) (2012).

Acknowledging that his petition must satisfy one of the exceptions, Harasyn contends that his petition should be considered under the interests-of-justice exception.¹ Under this exception, the district court may consider an otherwise untimely petition if the petitioner establishes “that the petition is not frivolous and is in the interests of justice.” *Id.*, subd. 4(b)(5). The supreme court has “made clear” that “the interests-of-justice referred to in [this subdivision] relate to the *reason* the petition was filed after the 2-year time limit in subdivision 4(a), not the *substantive claims* in the petition.” *Sanchez v. State*, 816 N.W.2d 550, 557 (Minn. 2012).

As a threshold matter, the interests-of-justice exception only extends the filing deadline to two years from the date the claim arose. Minn. Stat. § 590.01, subd. 4(b), (c).

¹ Harasyn filed a pro se supplemental brief, contending that the district court (1) improperly set bail pending his probation violation hearing, (2) violated his Fifth Amendment right against double jeopardy, and (3) erroneously resentenced him. Harasyn failed to cite any law supporting his arguments, and they have no merit.

A petitioner's claim "arises when the petitioner knew or should have known that he had a claim." *Sanchez*, 816 N.W.2d at 560. This is an objective, rather than a "subjective, actual knowledge standard." *Id.* at 558.

Here, because the district court was required to inform Harasyn of his right to appeal at the time of sentencing, Harasyn's alleged interests-of-justice claim arose on February 20, 2009. *See* Minn. R. Crim. P. 27.03, subd. 5 ("After sentencing, the court must tell the defendant of the right to appeal both the conviction and sentence."). Because Harasyn brought his petition more than two years after this date, the petition is untimely regardless of whether it satisfies the interests-of-justice exception. *See* Minn. Stat. § 590.01, subd. 4(c). Therefore, the district court did not abuse its discretion by denying Harasyn's petition for postconviction relief.

Affirmed.