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**STATE OF MINNESOTA
IN COURT OF APPEALS
A16-2072**

Ryan Daniel Jones-Adams,
Petitioner

vs.

State of Minnesota,
Respondent.

**Filed June 12, 2017
Affirmed
Smith, Tracy M., Judge**

Hennepin County District Court
File No. 27C-CR-10-3559

Ryan Daniel Jones-Adams, Rush City, Minnesota (pro se petitioner)

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

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

Considered and decided by Connolly, Presiding Judge; Peterson, Judge; and Smith, Tracy M., Judge.

UNPUBLISHED OPINION

SMITH, TRACY M., Judge

Appellant Ryan Daniel Jones-Adams appeals the denial of his request to correct an unlawful sentence, arguing that the district court erred in construing his request as a petition for postconviction relief and dismissing it as untimely and *Knaffla* barred. Jones-Adams

also argues that the sentencing court abused its discretion by imposing an upward durational departure from sentencing guidelines because the aggravating factor was legally inadequate and unsupported by the record, the aggravated sentence unfairly exaggerates the criminality of his conduct, and his guilty plea and *Blakely* waiver were inadequate. Because the district court properly construed the sentence-correction request as a petition for postconviction relief, the petition is untimely, and the issues Jones-Adams raises are *Knaffla* barred, we affirm.

FACTS

Jones-Adams pleaded guilty to second-degree intentional murder in October 2010. Pursuant to a plea agreement, the state dismissed more serious charges and Jones-Adams agreed to a prison sentence of 420 months, which was a 94-month upward departure from the presumptive sentence. Jones-Adams waived his right to a *Blakely* trial on aggravating factors and admitted that the crime was unusually dangerous because it occurred in a residential area where multiple bystanders were present and at risk of harm. The district court accepted the guilty plea and found that the upward durational departure was justified. Before sentencing in November 2010, Jones-Adams moved to withdraw his guilty plea because he believed that he had had insufficient time and information to fully understand the agreement. The district court denied the motion and imposed a 420-month prison sentence.

In 2012, Jones-Adams filed his first petition for postconviction relief, arguing that the sentencing court abused its discretion by imposing the aggravated sentence, which, Jones-Adams argued, unfairly exaggerated the criminality of his conduct. The

postconviction court denied the petition. On appeal, Jones-Adams reasserted that the sentence unfairly exaggerated the criminality of his conduct and also argued that he received ineffective assistance of counsel because his attorney did not ensure that he fully understood the plea agreement and *Blakely* waiver. *Jones-Adams v. State*, No. A13-0951, 2014 WL 802136, at *1 (Minn. App. Mar. 3, 2014), *review denied* (Minn. May 20, 2014). This court rejected Jones-Adams’s arguments and affirmed the denial of the postconviction petition. *Id.*

On July 27, 2016, representing himself, Jones-Adams filed a “petition for correction of unlawful sentence pursuant to Minn.R.Crim.P. 27.03 Subd.(9),” seeking to reduce his sentence to the presumptive 326 months. The district court construed the request as a petition for postconviction relief. In this petition, Jones-Adams again challenges his sentence, asserting that the aggravated sentence unfairly exaggerates the criminality of his conduct and the aggravating factor was unsupported and did not justify the departure. He also again challenges the adequacy of his guilty plea and *Blakely* waiver because he did not fully understand what he was agreeing to. The district court denied relief after concluding that the petition was untimely and the issues were barred from relitigation under *Knaffla*.

Jones-Adams appeals.

DECISION

I. The district court properly construed the request as a petition for postconviction relief.

Jones-Adams asserts that his 2016 request was a motion to correct an unlawful sentence under Minn. R. Crim. P. 27.03, subd. 9. Subdivision 9 permits a court to “at any time correct a sentence not authorized by law.” Minn. R. Crim. P. 27.03, subd. 9. However, the district court construed Jones-Adams’s request as a petition for postconviction relief under Minn. Stat. § 590.01 (2016).

In *State v. Coles*, the Minnesota Supreme Court held that a defendant who agreed to an upward durational departure in exchange for conviction of a lesser charge may not challenge his sentence on a correction motion under Minn. R. Crim. P. 27.03, subd. 9. 862 N.W.2d 477, 482 (Minn. 2015). Instead, such a challenge must be brought in a petition for postconviction relief under Minn. Stat. § 590.01, subd. 1. *Id.* In Jones-Adams’s plea agreement, like in *Coles*, the conviction component and the sentence component of the plea agreement were interrelated, with the defendant agreeing to a longer sentence in exchange for a conviction of a lesser charge. *See id.* If Jones-Adams were to successfully petition for a sentence reduction, he would retain the benefit of the reduced charge but the state would lose the benefit of the longer sentence. *See id.* Under *Coles*, therefore, because it implicates the plea, the challenge to Jones-Adams’s agreed-upon sentence must be viewed as a petition for postconviction relief rather than a petition to correct an unlawful sentence. *See id.* The district court therefore did not err by construing Jones-Adams’s request as a petition for postconviction relief.

II. The district court properly denied the petition.

We review the denial of a petition for postconviction relief for an abuse of discretion. *Swaney v. State*, 882 N.W.2d 207, 214 (Minn. 2016). We review legal issues de novo and review factual findings for clear error. *Id.*

A district court may deny a postconviction petition without a hearing if the files and records of the proceedings conclusively establish that the petitioner is not entitled to relief. *Brown v. State*, 863 N.W.2d 781, 786 (Minn. 2015); *see* Minn. Stat. § 590.04, subd. 1 (2016). In order to warrant a hearing, a petitioner's allegations must be more than argumentative assertions without factual support. *Doppler v. State*, 771 N.W.2d 867, 871 (Minn. 2009).

The district court denied Jones-Adams's petition without a hearing because it concluded that (1) the petition was untimely under Minn. Stat. § 590.01, subd. 4, and (2) the arguments are barred from relitigation under *Knaffla*.

A. Untimeliness

With certain exceptions, “[n]o petition for postconviction relief may be filed more than two years after the later of: (1) the entry of judgment of conviction or sentence if no direct appeal is filed; or (2) an appellate court’s disposition of petitioner’s direct appeal.” Minn. Stat. § 590.01, subd. 4. Jones-Adams did not directly appeal his conviction, so his deadline to file a postconviction petition was two years after the entry of judgment of conviction or sentence. *Id.* Jones-Adams pleaded guilty in October 2010 and was sentenced in November 2010. He filed the current petition on July 27, 2016, well over two years after the entry of judgment of conviction or sentence. Jones-Adams does not argue

that any of the statutory exceptions apply to his petition. The petition for postconviction relief therefore is untimely under Minn. Stat. § 590.01, subd. 4(a)(1), and the district court did not abuse its discretion in denying the petition without a hearing.

B. *Knaffla* bar

Even if the petition were timely, all of the issues raised in Jones-Adams's postconviction petition are barred under *Knaffla*. When a petition for postconviction relief follows a prior postconviction petition, all claims that were or could have been raised in the prior petition are procedurally barred. *Doppler*, 771 N.W.2d at 873 (citing *State v. Knaffla*, 309 Minn. 246, 252, 243 N.W.2d 737, 741 (1976)).

1. Validity of the aggravated sentence

In the current petition, Jones-Adams challenges the adequacy of the aggravating factor on which the district court based the upward departure, argues that there was insufficient evidence to support the finding that he placed others at risk, and asserts that the aggravated sentence unfairly exaggerates the criminality of his conduct. These issues were litigated under Jones-Adams's 2012 petition for postconviction relief. On appeal from the order denying the first petition for postconviction relief, this court concluded that the departure ground was legally adequate, the record supported the finding that Jones-Adams placed bystanders at risk, and the district court did not abuse its discretion in imposing the 420-month sentence. *Jones-Adams*, 2014 WL 802136, at *2-3. Jones-Adams is barred from relitigating these issues. *See Knaffla*, 309 Minn. at 252, 243 N.W.2d at 741.

2. Adequacy of the guilty plea and *Blakely* waiver

Jones-Adams argues that his sentence should be reduced because he did not fully understand the plea agreement due to his young age at the time and the fact that he suffered from certain mental illnesses and “an extremely low comprehension level.” But the issue of whether Jones-Adams intelligently entered into the plea agreement was previously litigated and decided. On appeal from his 2012 petition for postconviction relief, Jones-Adams argued that he received ineffective assistance of counsel because his attorney failed to ensure that he fully understood the plea agreement. *Jones-Adams*, 2014 WL 802136, at *3. This court concluded that Jones-Adams’s trial counsel was not ineffective and that the record showed that Jones-Adams knew that his guilty plea would lead to a 420-month prison sentence and knew that this was an upward departure from the presumptive sentence. *Id.* Jones-Adams is barred from relitigating the issue of whether he intelligently entered into the plea agreement. *See Knaffla*, 309 Minn. at 252, 243 N.W.2d at 741.

Jones-Adams also argues that he did not fully understand that he was waiving his *Blakely* right to have a jury determine the existence of an aggravating factor to support the sentencing departure. *See Blakely v. Washington*, 542 U.S. 296, 124 S. Ct. 2531 (2004) (holding that the Sixth Amendment to the U.S. Constitution requires that facts supporting an enhanced sentence be found by a jury or admitted by the defendant). But this issue was previously litigated and decided. On appeal from Jones-Adams’s 2012 postconviction petition, this court concluded that the record established that Jones-Adams understood that he was waiving his right to a trial on the existence of aggravating factors and understood that he was admitting to an aggravating factor that would support an upward sentencing

departure. *Jones-Adams*, 2014 WL 802136, at *3. Jones-Adams is barred from relitigating the issue of whether he adequately understood his *Blakely* waiver. See *Knaffla*, 309 Minn. at 252, 243 N.W.2d at 741.

3. Filing of the departure report

Jones-Adams asserts that the sentencing court violated his fundamental right to fairness by failing to file the departure report with the sentencing guidelines commission. This issue arose just after sentencing in 2010 and could have been raised in Jones-Adams's 2012 postconviction petition. See Minn. R. Crim. P. 27.03, subd. 4(C) (requiring that a departure report be filed with the commission within 15 days after sentencing). This issue is therefore barred by *Knaffla*. See *Knaffla*, 309 Minn. at 252, 243 N.W.2d at 741.

Furthermore, even if this issue were not procedurally barred, Jones-Adams does not identify any evidence to support his assertion that the departure report was not properly filed. A petitioner seeking postconviction relief bears the burden of establishing by a fair preponderance of the evidence the facts alleged in his petition. Minn. Stat. § 590.04, subd. 3 (2016). Jones-Adams has not met his burden to establish a factual basis for this argument. Because this allegation is supported only by “mere argumentative assertions that lack factual support,” Jones-Adams is not entitled to postconviction relief on this ground. See *Powers v. State*, 695 N.W.2d 371, 374 (Minn. 2005).

Affirmed.