STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1410

Christopher Lee Holloway, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

Filed March 30, 2020
Affirmed
Jesson, Judge

Olmsted County District Court
File No. 55-CR-14-8517

Christopher L. Holloway, Robbinsdale, Minnesota (pro se appellant)

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

Mark A. Ostrem, Olmsted County Attorney, Jennifer D. Plante, Assistant County Attorney, Rochester, Minnesota (for respondent)

Considered and decided by Rodenberg, Presiding Judge; Jesson, Judge; and Smith, Tracy M., Judge.

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

JESSON, Judge

After having sexual contact two nights in a row with a fourteen-year-old boy he had just met on "Grindr," appellant Christopher Lee Holloway was convicted of two counts of criminal sexual conduct. In his postconviction petition, Holloway challenges the district

court's denial of his request to assert a mistake-of-age defense, arguing that the statutory age restriction of the defense is unconstitutional. And, according to Holloway, a Hennepin County District Court order from 2014 (in a different case) concluding the age restriction on the defense unconstitutional is binding statewide. Because Holloway advanced this argument in his direct appeal to the Minnesota Supreme Court, which upheld the constitutionality of the mistake-of-age defense, he is barred from raising it now. Accordingly, we affirm.

FACTS

Appellant Christopher Lee Holloway exchanged messages with a fourteen-year-old boy on the location-based social media application, "Grindr." After messaging for a short time, Holloway went to the victim's home, and the two had sexual contact. The next night, Holloway returned to the victim's home and engaged in sexual contact again, including sexual penetration. During the second encounter, the victim's mother discovered Holloway naked in bed with her son and called the police. Holloway fled but was quickly arrested. The state charged Holloway with third- and fourth-degree criminal sexual conduct.

In response to the charges, Holloway expressed his intent to present a mistake-of-age defense at trial. But, under the statutory provisions, 44-year-old Holloway was too old to do so. *See* Minn. Stat. §§ 609.344, subd. 1(a), .345, subd. 1(b) (2014) (limiting the assertion of the mistake-of-age defense *only* to defendants who are *no more than* 120 months older than the victim). For this reason, Holloway challenged the constitutionality of the statutes. Specifically, he asserted that the restriction of the

mistake-of-age defense based on age was unconstitutional. The district court found the statutes constitutional and denied Holloway's request to assert a mistake-of-age defense.

Holloway's counsel withdrew from representation ahead of trial, claiming that he and Holloway disagreed on trial strategy and that Holloway failed to make payments. Accordingly, Holloway represented himself at his jury trial. The jury found him guilty of third- and fourth-degree criminal sexual conduct.

At his sentencing hearing, Holloway was represented by counsel. On the third-degree conviction, the district court sentenced Holloway to 60 months in prison (stayed for 15 years), 240 days in county jail, supervised probation for 15 years, and lifetime conditional release. On the fourth-degree conviction, he was sentenced to 15 months in prison (stayed for 15 years), 240 days in county jail, and supervised probation for 10 years. These sentences are concurrent.

After sentencing, Holloway filed a direct appeal, challenging the constitutionality of the age limitation on the mistake-of-age defense. We upheld its constitutionality, holding the following:

> Minnesota Statutes sections 609.344, subdivision 1(b) (2014), and 609.345, subdivision 1(b) (2014), do not violate a criminal-sexual-conduct defendant's substantive due process or equal protection rights by limiting the mistake-of-age defense only to defendants who are less than 120 months older than their child-victims.

State v. Holloway, 905 N.W.2d 20, 20 (Minn. App. 2017). And the Minnesota Supreme Court affirmed. *State v. Holloway*, 916 N.W.2d 338 (Minn. 2018).

Following the resolution of his direct appeal, Holloway filed a pro se petition for postconviction relief. The postconviction court summarily denied his petition. Holloway appeals.

D E C I S I O N

Holloway asks this court, through a postconviction petition, to vacate his convictions and grant him a new trial, with permission to assert a mistake-of-age defense. Generally, Holloway argues that this relief is warranted because the district court lacked jurisdiction over his criminal case due to the statute's unconstitutionality.

The postconviction court denied Holloway's petition, concluding that his claim was procedurally barred. It reasoned that his petition was based solely on claims already raised on direct appeal to the supreme court.

We review the denial of postconviction relief for an abuse of discretion. *Reed v. State*, 925 N.W.2d 11, 18 (Minn. 2019). But we review the postconviction court's legal determinations de novo and its factual findings for clear error. *Brown v. State*, 895 N.W.2d 612, 617 (Minn. 2017).

When an individual files a petition for postconviction relief after a direct appeal is resolved, like here, "[c]laims that were raised on direct appeal, or were known or should have been known but were not raised on direct appeal, are procedurally barred." *Sontoya v. State*, 829 N.W.2d 602, 604 (Minn. 2013) (citing *State v. Knaffla*, 243 N.W.2d 737, 741 (Minn. 1976)); *see also* Minn. Stat. § 590.01, subd. 1 (2018) ("A petition for postconviction relief after a direct appeal has been completed may not be based on grounds that could have been raised on direct appeal of the conviction or sentence.").

According to Holloway, his convictions must be vacated because the district court did not have subject-matter jurisdiction because the statutes under which he was prosecuted unconstitutionally limit the mistake-of-age defense. Holloway argues that this age restriction on the mistake-of-age defense was found unconstitutional in an unrelated Hennepin County District Court order from 2014, and that the postconviction court erred in not following that order. But this is an argument he already advanced in his direct appeal to the Minnesota Supreme Court.[1] *See Holloway*, 916 N.W.2d at 344 n.4 ("Holloway also raised a novel legal argument that a 2014 order from Hennepin County became 'binding state law when Hennepin County failed to appeal,' and that it was thus error for the Olmsted County district court not to follow that 'binding' law. Because Holloway's attorney withdrew this issue at oral argument, we do not consider it here."). There, the supreme court held that the age restriction on the mistake-of-age defense was constitutional. *Id.* at 347, 350. And decisions of the Minnesota Supreme Court, including its opinion from Holloway's direct appeal, are binding precedent statewide—on the postconviction court and on this court. *State v. M.L.A.*, 785 N.W.2d 763, 767 (Minn. App. 2010), *review denied* (Minn. Sept. 21, 2010).

In sum, Holloway's postconviction petition is based on grounds that he raised in his direct appeal and that he knew about at the time of his direct appeal. His petition is

[1] We acknowledge that Holloway voluntarily withdrew this argument at oral argument before the supreme court decided its merits, but this shows that he knew about the argument at the time of the direct appeal. It is barred from being considered in a postconviction matter. *See King v. State*, 649 N.W.2d 149, 156 (Minn. 2002) ("Once a defendant directly appeals a conviction, all matters raised in that appeal or known at the time of appeal will not be considered by a postconviction court in a subsequent petition for relief.").

therefore procedurally barred.[2] Accordingly, the district court did not abuse its discretion in denying Holloway's postconviction petition.

Affirmed.

[2] Because this argument is procedurally barred, we decline to address its merits. *See King*, 649 N.W.2d at 157 ("[E]ven if appellant's claims are procedurally barred, this court may in the interest of justice address the claims on their merits.").