STATE OF MINNESOTA
IN COURT OF APPEALS
A20-1490

Emmanuel Jentzen, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

Filed June 21, 2021
Affirmed
Reilly, Judge

Hennepin County District Court
File No. 27-CR-01-054850

Cathryn Middlebrook, Chief Appellate Public Defender, Chelsie M. Willett, Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

Michael O. Freeman, Hennepin County Attorney, Jonathan P. Schmidt, Assistant County Attorney, Minneapolis, Minnesota; and

James J. Thomson, Brooklyn Park City Attorney, Kennedy & Graven, Chartered, Minneapolis, Minnesota; and

Ellen A.C. LaVigne, Assistant City Attorney, Colich & Associates, Minneapolis, Minnesota (for respondent)

Considered and decided by Reilly, Presiding Judge; Slieter, Judge; and Bryan, Judge.

NONPRECEDENTIAL OPINION

REILLY, Judge

Appellant challenges the district court's denial of his petition for postconviction relief. Because the district court correctly determined that appellant was not entitled to relief on his petition, we affirm.

FACTS

Appellant Emmanuel Jentzen petitioned for postconviction relief in June 2020, seeking review of multiple convictions between 2001 and 2006. Jentzen sought relief in eight cases in which he had entered a guilty plea: misdemeanor violating an order for protection on July 5, 2001; gross misdemeanor violating an order for protection on January 22, 2003; misdemeanor theft on September 19, 2003; misdemeanor disorderly conduct on September 8, 2004; a continuance for dismissal on misdemeanor disorderly conduct on September 8, 2004; disorderly conduct on December 22, 2004; driving while impaired—test refusal on August 26, 2005; and two counts of driving while impaired on December 5, 2006.

Jentzen alleged these facts in his postconviction petition. He is a native of Liberia and came to the United States in September 1993. He became a lawful permanent resident one year later. In April 2020, the United States Department of Homeland Security initiated removal proceedings against Jentzen because of his convictions.

In his petition, Jentzen asked to withdraw his guilty pleas for his convictions. He argued that, under the United States Supreme Court's decision in *Padilla v. Kentucky*, 559 U.S. 356, 130 S. Ct. 1473 (2010), his attorneys provided ineffective assistance of counsel

by failing to advise him of the possible immigration consequences of his convictions. Jentzen maintained that he would not have pleaded guilty and "would have insisted on trial, had he been properly advi[sed] of the immigration consequences." He argued that his petition was "timely because it is not frivolous, because it is in the interest of justice and it was filed within 3 months of learning that there were immigration consequences to the plea."

The district court denied Jentzen's postconviction petition in a September 2020 order. The district court determined that Jentzen's postconviction claims were statutorily time-barred because the petition was filed more than two years after the entry of judgments of conviction. It likewise determined that no exceptions to the two-year time bar applied. The district court also rejected Jentzen's argument that he should be permitted to withdraw his guilty pleas based on *Padilla*, noting that the Minnesota Supreme Court has held that *Padilla* does not apply retroactively, and Jentzen's convictions all occurred before *Padilla* was decided. Thus, the district court determined that Jentzen was not entitled to postconviction relief.[1] This appeal follows.

DECISION

Jentzen challenges the district court's denial of his postconviction petition. We review a district court's decision denying postconviction relief for an abuse of discretion.

[1] According to the parties' agreement, the district court also vacated Jentzen's August 26, 2005 conviction for driving while impaired—test refusal, based on the United States Supreme Court's decision in *Birchfield v. North Dakota*, 136 S. Ct. 2160 (2016), which held that the state may not criminalize a person's refusal to submit to a blood or urine test without a search warrant or an exception to the warrant requirement. For that reason, that conviction is not at issue in this appeal.

Matakis v. State, 862 N.W.2d 33, 36 (Minn. 2015). But we review legal questions de novo. *Id.* We will reverse only if the district court acted arbitrarily or capriciously, based its decision on an erroneous view of the law, or clearly erred in its factual findings. *Id.*

The district court correctly determined that Jentzen's postconviction claims were statutorily time-barred. A petition for postconviction relief must be filed within two years of either "the entry of judgment of conviction or sentence if no direct appeal is filed" or "an appellate court's disposition of petitioner's direct appeal." Minn. Stat. § 590.01, subd. 4(a)(1)-(2) (2018). Jentzen did not file a direct appeal in any of his challenged convictions. All of Jentzen's convictions took place between 2001 and 2006, with the most recent occurring on December 5, 2006. Jentzen filed his postconviction petition more than a decade later, on June 4, 2020. The district court properly found that Jentzen filed his petition well outside the two-year time limitation and that he therefore was not entitled to relief on his claims.

Despite the two-year time bar, the district court may hear a postconviction petition if it satisfies one of five statutory exceptions. *Id.*, subd. 4(b)(1)-(5) (2018). Jentzen's petition raises the interests-of-justice exception. To satisfy that exception, the petitioner must show "that the petition is not frivolous and is in the interests of justice." *Id.*, subd. 4(b)(5). The interests-of-justice exception applies "only in exceptional and extraordinary situations." *Carlton v. State*, 816 N.W.2d 590, 607 (Minn. 2012). A petition is frivolous "if it is perfectly apparent, without argument, that the claims in the petition lack an objective, good-faith basis in law or fact." *Wallace v. State*, 820 N.W.2d 843, 850 (Minn. 2012). And a claim lacks an objective, good-faith basis in law if it rests on "an

indisputably meritless legal theory" or is "contrary to directly controlling legal authority." *Id.* (quotation omitted).

Here, the district court did not err by determining that Jentzen's claims contradicted directly controlling legal authority. Jentzen sought to withdraw his guilty pleas because his attorneys provided ineffective assistance of counsel by failing to inform him of the immigration consequences of his pleas. He relied on the Supreme Court's decision in *Padilla.* In *Padilla*, the Supreme Court held that, to guarantee a criminal defendant's Sixth Amendment right to counsel, defense counsel "must inform [a] client whether his plea carries a risk of deportation." 559 U.S. at 374, 130 S. Ct. at 1486. But the Minnesota Supreme Court has held that the rule in *Padilla* does not apply retroactively to convictions that became final before *Padilla* was decided. *Campos v. State*, 816 N.W.2d 480, 499 (Minn. 2012).[2] The holding in *Campos* controls our analysis here. Jentzen's convictions all date from between 2001 and 2006, which was several years before the United States Supreme Court decided *Padilla* in 2010. As a result, the rule in *Padilla* does not apply to Jentzen's convictions. Jentzen cannot make the requisite showing for the interests-of-justice exception.

Jentzen also argues that the allegations in his petition "at the very least . . . entitled him to an evidentiary hearing where he would have the opportunity to present additional evidence." But the district court need not hold an evidentiary hearing if "the petition and

[2] The United States Supreme Court has held the same. *Chaidez v. United States*, 568 U.S. 342, 358, 133 S. Ct. 1103, 1113 (2013) (holding that *Padilla* announced a new rule and that "defendants whose convictions became final prior to *Padilla* therefore cannot benefit from its holding").

the files and records of the proceeding conclusively show that the petitioner is entitled to no relief." Minn. Stat. § 590.04, subd. 1 (2018); *see also Francis v. State*, 781 N.W.2d 892, 896 (Minn. 2010) (recognizing that an evidentiary hearing is unnecessary "if the petitioner fails to allege facts that are sufficient to entitle him to the relief requested"). Jentzen's arguments in his petition hinge on *Padilla*, and, as explained above, the rule in *Padilla* does not apply to his convictions. For that reason, Jentzen is not entitled to his requested relief.

Finally, at the end of his brief, Jentzen directly addresses the holding in *Campos*, saying that he "acknowledges the Minnesota Supreme Court's decision in *Campos*; however, he asks this Court to reconsider and apply *Padilla* to his case in the interests of justice." But Minnesota Supreme Court precedent binds this court. *State v. Curtis*, 921 N.W.2d 342, 346 (Minn. 2018). "[W]e are an error-correcting court and it is not the role of this court to abolish established judicial precedent." *State v. Adkins*, 706 N.W.2d 59, 63 (Minn. App. 2005). Because the Minnesota Supreme Court's holding in *Campos* dictates that *Padilla* is not retroactive, we are bound by that decision.

We add that, in denying Jentzen's postconviction petition, the district court seems to have treated Jentzen as favorably as it could have within the bounds of the law. The district court received letters of support from Jentzen's friends, and it relied on the letters to note that Jentzen appears to have reformed his lifestyle since his last conviction in 2006. The district court also agreed to vacate Jentzen's conviction for driving while impaired—test refusal, based on the United States Supreme Court's opinion in *Birchfield*, 136 S. Ct. 2160, to ensure that Jentzen did not retain a conviction for an act that the law did not make

criminal. We agree with the district court's consideration of these matters. But the law is clear that Jentzen has no right to relief on his postconviction claims. For this reason, the district court did not abuse its discretion by denying Jentzen's petition.

Affirmed.