STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1943

Matthew William Edwards, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

Filed January 31, 2022
Affirmed
Bratvold, Judge

Sherburne County District Court
File No. 71-CR-11-724

Cathryn Middlebrook, Chief Appellate Public Defender, Sharon E. Jacks and Chelsie Willett, Assistant Public Defenders, St. Paul, Minnesota (for appellant)

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

Kathleen A. Heaney, Sherburne County Attorney, George R. Kennedy, Assistant County Attorney, Elk River, Minnesota (for respondent)

Considered and decided by Frisch, Presiding Judge; Bjorkman, Judge; and Bratvold, Judge.

NONPRECEDENTIAL OPINION

BRATVOLD, Judge

In 2011, appellant was convicted of driving while impaired (DWI)—test refusal. In 2019, appellant petitioned for postconviction relief, seeking to vacate his conviction. Appellant's petition relied on United States Supreme Court and Minnesota Supreme Court

decisions that held a test-refusal conviction based on a warrantless blood or urine test was unconstitutional unless a valid exception to the warrant requirement applied. After the district court denied postconviction relief, appellant filed an appeal. In 2020, we ruled in appellant's favor after concluding his postconviction petition was timely and he was entitled to relief. The Minnesota Supreme Court granted the state's petition for review, stayed the appeal, and later vacated our opinion and remanded for reconsideration in light of two recent supreme court decisions. On remand, we conclude appellant's petition is untimely. For that reason, we affirm and do not reach the merits of the petition.

FACTS

In 2011, a Sherburne County deputy sheriff stopped appellant Matthew Edwards's van after the deputy saw it roll through a stop sign and cross into the opposite lane of traffic as it went around a curve. As he spoke with Edwards, the deputy noticed "a strong odor of an alcoholic beverage and the faint odor of marijuana, [Edwards's] eyes were glassy, and his speech was slurred." As Edwards exited the van, he dropped a marijuana pipe. Edwards told the deputy he consumed two-and-a-half beers about an hour before driving, he smoked marijuana the day before, and there was marijuana in the van. Edwards submitted to a preliminary breath test, which detected the presence of alcohol.

The deputy arrested Edwards and read the implied-consent advisory, and Edwards spoke with an attorney. A second deputy, who had drug-recognition certification, asked Edwards to perform additional tests. The second deputy concluded Edwards was "under the influence of cannabis" and unable to safely operate a motor vehicle. The second deputy

then asked Edwards to take a blood test, and Edwards refused. The deputy also asked Edwards to take a urine test, and Edwards refused.

The state charged Edwards with third-degree DWI—test refusal, under Minn. Stat. § 169A.20, subd. 2 (2010). Edwards pleaded guilty. On December 15, 2011, the district court convicted Edwards and sentenced him according to the plea agreement to one year in jail with 30 days stayed for four years. Edwards did not appeal his conviction. Edwards's probation was later discharged when he was sentenced to prison for another offense.

On July 26, 2019, Edwards petitioned for postconviction relief. Edwards argued his 2011 test-refusal conviction "is illegal and void because the test-refusal statute" is unconstitutional as applied to him. He reasoned that "[t]he rules in *Birchfield*, *Trahan*, and *Thompson* apply retroactively" to his 2011 conviction and prohibit the state from prosecuting him for test refusal without first obtaining a warrant for his blood and urine. Edwards also argued his petition was timely because it was filed within two years of *Johnson v. State*, 916 N.W.2d 674 (Minn. 2018) (*Johnson I*), which held the *Birchfield* rule applied retroactively to postconviction review of test-refusal convictions. Alternatively, Edwards asked the district court to hold an evidentiary hearing and determine whether the totality of the circumstances justified a warrantless search of his blood or urine.

The state opposed postconviction relief, contending Edwards's petition was untimely because it was filed more than two years after the supreme court announced the *Birchfield* rule. Alternatively, the state argued, under the controlling caselaw when Edwards's conviction was final in early 2012, the natural dissipation of alcohol or drugs was a single-factor or per se exigency that justified a warrantless search of blood or urine.

The state also contended the undisputed facts showed probable cause to believe Edwards was driving while impaired and, therefore, a single-factor exigency justified the warrantless search of Edwards's blood or urine.

In October 2019, the district court denied postconviction relief without an evidentiary hearing. The district court did not explicitly address the timeliness of the petition. The district court reasoned, first, that Edwards is only entitled to relief if *Missouri v. McNeely* applies retroactively because *McNeely* was decided after Edwards's conviction and held the dissipation of alcohol is not a categorical or per se exigent circumstance supporting a warrantless search. *See Missouri v. McNeely,* 569 U.S. 141, 156 (2013). Second, the district court stated, "case law is clear that *McNeely* is not to be applied retroactively." Third, the district court concluded, under caselaw released before *McNeely*, that the state "has shown that an exigent circumstance, as it was understood at the time, existed to justify the warrantless search" of Edwards's blood or urine. Edwards appealed.

In a precedential opinion, we held that Edwards's petition for postconviction relief was timely because he filed his petition within two years of the supreme court's decision in *Johnson I* that the *Birchfield* rule applies retroactively to final convictions on collateral review. *Edwards v. State*, 950 N.W.2d 309, 315, 319–20 (Minn. App. 2020), *vacated* (Minn. Sept. 21, 2021) (mem.). We therefore determined the district court erred by declining to apply *McNeely* retroactively to Edwards's test-refusal conviction. *Id.* at 320. Finally, we reversed and remanded for an evidentiary hearing where the state could show whether exigent circumstances justified a warrantless search of Edwards's blood and urine. *Id.* at 319–20.

The supreme court granted the state's petition for review and stayed proceedings pending final dispositions in related appeals. The supreme court later vacated the stay, vacated our opinion, and remanded the matter for reconsideration under *Johnson v. State*, 956 N.W.2d 618 (Minn. 2021) (*Johnson II*), and *Aili v. State*, 963 N.W.2d 442 (Minn. 2021). The parties submitted supplemental briefs.

DECISION

A district court's denial of postconviction relief is reviewed for an abuse of discretion. *Pearson v. State*, 891 N.W.2d 590, 596 (Minn. 2017). A district court abuses its discretion by exercising its discretion in an arbitrary or capricious manner, basing its decision on an erroneous view of law, or making clearly erroneous factual findings. *Id.* An appellate court reviews legal issues de novo and reviews factual issues to determine whether there is sufficient evidence in the record to sustain the district court's findings. *Id.*

Edwards makes two arguments in his supplemental brief to support reversal. First, Edwards argues that *Johnson II* "does not sink Edwards' case" because the district court "erred even under pre-*McNeely* precedent." Edwards acknowledges that *Johnson II* held *McNeely* "is not retroactive to cases on collateral review," but contends "there was no probable cause to believe . . . that he was under the influence of *alcohol*" when the deputy requested blood and urine tests from Edwards. Rather, Edwards argues the officer had probable cause to believe Edwards was under the influence of *cannabis* and "no warrant exception exists for the natural dissipation of marijuana." Second, Edwards argues the timeliness of his petition "is not before this court." We begin with Edwards's second argument because it is a threshold issue and, in this case, is dispositive.

A postconviction petition must be filed within two years of the entry of judgment of conviction or sentence if no direct appeal is filed. Minn. Stat. § 590.01, subd. 4(a)(1) (2018). Edwards was convicted and sentenced on December 15, 2011, and no direct appeal was filed. His conviction became final 90 days later on March 14, 2012, when the time for filing a direct appeal expired. *See Campos v. State*, 816 N.W.2d 480, 488 n.6 (Minn. 2012). Thus, Edwards had until March 14, 2014, to file a timely postconviction petition. Edwards filed his petition on July 26, 2019, and therefore his petition is untimely under subdivision 4(a)(1).

This does not end our analysis because Minnesota's postconviction statute recognizes five exceptions that permit a court to hear an untimely petition for postconviction relief. Minn. Stat. § 590.01, subd. 4(b) (2018). Edwards relies on one such exception: he claims his petition asserted a new interpretation of federal or state constitutional law by the United States Supreme Court or a Minnesota appellate court and he established the interpretation is retroactively applicable to his case. *Id.*, subd. 4(b)(3).

Even when an exception to the two-year deadline in subdivision 4(a)(1) applies, however, "[s]ubdivision 4(c) creates the additional requirement that a petition invoking an exception provided in [4](b) must be filed within two years of the date the claim arises." *Sanchez v. State*, 816 N.W.2d 550, 556 (Minn. 2012) (quotation omitted). The two-year time limit in subdivision 4(c) applies to all subdivision 4(b) exceptions. *Id.* at 557–58 (applying subdivision 4(c) to the interests-of-justice exception). The two-year time limit under subdivision 4(c) begins to run when the petitioner "knew or should have known" that an exception applies. *Id.* at 560.

To determine when Edwards's new-interpretation-of-law claim arose, we first recognize that his claim is based on the *Birchfield* rule, which the supreme court has summarized as "in the DWI context, the State may not criminalize refusal of a blood or a urine test absent a search warrant or a showing that a valid exception to the warrant requirement applies." *Johnson I*, 916 N.W.2d at 679. The *Birchfield* rule rests on three opinions: (1) *Birchfield v. North Dakota*, 136 S. Ct. 2160, 2185–86 (2016), which held the Fourth Amendment prohibits a driver from being convicted of refusing a blood test unless the officer obtained a search warrant or exigent circumstances justified a warrantless search; (2) *State v. Trahan*, 886 N.W.2d 216, 224 (Minn. 2016), which applied *Birchfield* to conclude Trahan could not be prosecuted for refusing to submit to an unconstitutional warrantless blood test; and (3) *State v. Thompson*, 886 N.W.2d 224, 233 (Minn. 2016), which extended *Birchfield* to warrantless urine tests and concluded Thompson could not be prosecuted for refusing to submit to an unconstitutional warrantless blood or urine test.

The supreme court's remand instructions direct us to reconsider the timeliness of Edwards's petition under *Aili*, where the supreme court held a postconviction new-interpretation-of-law claim arises when the United States Supreme Court or a Minnesota appellate court announces a new interpretation of law that supports a claim that the new rule applies retroactively. 963 N.W.2d at 449. In other words, the date a claim arises under subdivision 4(c) is not when a postconviction petitioner knew or should have known that they would *prevail,* but when the petitioner knew or should have known information that would allow them to assert a claim that a subdivision 4(b) exception applied. *Id.* at 447. *Aili* also instructs that when a petitioner claims a test-refusal conviction

is unconstitutional because it is based on a warrantless blood or urine test, the decisions "that announced a new retroactive rule of law are the opinions that announced the *Birchfield* rule." *Id.* at 449.

Based on the supreme court's analysis in *Aili*, we conclude Edwards's new-interpretation-of-law claim arose no later than when the *Birchfield* rule was announced on October 12, 2016, which is the date the supreme court issued its decisions in *Thompson* and *Trahan*, and applied *Birchfield* to test-refusal convictions based on blood and urine tests. *See Aili,* 963 N.W.2d at 449 n.6 (stating the two-year time limit in subdivision 4(c) on a new-interpretation-of-law claim started running when the supreme court decided *Thompson* and *Trahan*). Thus, for his postconviction petition to be timely, Edwards had to file it no later than October 12, 2018. Edwards, however, filed his postconviction petition on July 26, 2019, well past the two-year time limit allowed for his new-interpretation-of-law claim. *See* Minn. Stat. § 590.01, subd. 4(c) (2018).

Edwards asserts the timeliness of his petition is not properly before this court because the district court did not rule on the issue when it denied relief on the merits. Edwards is correct that the district court did not consider the timeliness of his petition when it denied relief. An appellate court, however, may affirm a district court's decision on alternative grounds if "there is legal support for the arguments, and the alternative grounds would not expand the relief previously granted." *State v. Grunig*, 660 N.W.2d 134, 137 (Minn. 2003).

We conclude that affirming the district court's decision on the alternative ground that Edwards's petition is untimely does not expand the relief previously granted. The state

preserved its challenge to the timeliness of Edwards's petition because the state argued during district court and prior appellate proceedings that the petition was filed more than two years after Edward's claim arose under the *Birchfield* rule.

Thus, we determine Edwards's postconviction petition was untimely because he filed his petition more than two years after the supreme court announced the *Birchfield* rule. Because Edwards's petition is untimely, we need not decide whether the district court correctly decided the validity of the state's warrantless request for Edwards's blood or urine under pre-*McNeely* caselaw.

Affirmed.