STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0808

John Stephen Woodward, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

Filed March 7, 2022
Affirmed
Reyes, Judge

Dakota County District Court
File No. 19-K6-06-002202

Zachary A. Longsdorf, Longsdorf Law Firm, P.L.C., Inver Grove Heights, Minnesota (for appellant)

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

John J. Choi, Ramsey County Attorney, Alexandra Meyer, Assistant County Attorney, St. Paul, Minnesota (for respondent)

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

NONPRECEDENTIAL OPINION

REYES, Judge

Appellant argues on appeal that the postconviction court abused its discretion by denying his petition without an evidentiary hearing because it is procedurally barred and

statutorily time-barred. Appellant also argues that he is entitled to a new trial based on the recantation of a witness's trial testimony. We affirm.

FACTS

In 2007, a district court convicted appellant John Stephen Woodward of various controlled-substance crimes and sentenced him to 94 months in prison. Appellant's conviction came, in part, based on the testimony of one of the state's witnesses (the witness) tying appellant to the illicit drugs. Following a direct appeal, this court affirmed appellant's conviction. *State v. Woodward*, No. A08-0074, 2009 WL 66210, at *3 (Minn. App. Jan. 13, 2009), *rev. denied* (Minn. Oct. 20, 2009), *cert. denied*, 599 U.S. 1007 (Mar. 22, 2010). Appellant then filed his first petition for postconviction relief on October 19, 2011, alleging ineffective assistance of both trial and appellate counsel, and prosecutorial misconduct due to the state having reason to believe that appellant did not commit his convicted crimes. On February 2, 2012, a postconviction court held an evidentiary hearing on his petition and subsequently denied it. This court dismissed the subsequent appeal from the postconviction court's denial as untimely. *State v. Woodward*, No. A12-1093 (Minn. App. July 17, 2012) (order op.), *rev. denied* (Minn. Sept. 25, 2012).

On October 12, 2012, appellant filed a second petition for postconviction relief, challenging the reliability of test results obtained from the St. Paul Crime Lab. On November 6, 2012, a postconviction court denied his second petition as untimely, and this court affirmed the postconviction court's decision. *Woodward v. State*, No. A13-0041, 2013 WL 6389899 (Minn. App. Dec. 9, 2013), *rev. denied* (Minn. Feb. 18, 2014).

Also in 2012, a jury found appellant guilty of conspiracy to commit first-degree murder against a Dakota County attorney.[1] At that trial, appellant testified that he had hired a private investigator in 2010 to look into whether the witness would recant her 2007 trial testimony relating to his controlled-substance convictions and testify on his behalf. Appellant at that time believed that the witness had lied under oath at his 2007 trial and might consider recanting her testimony linking him to the controlled substances. However, appellant did not raise this issue in his prior appeals, postconviction proceedings, or habeas corpus proceeding.[2]

On March 8, 2021, appellant filed his third petition for postconviction relief relating to his 2007 convictions, claiming that he should be granted a new trial for the violation of his due-process rights. Appellant conceded that he did not file a timely petition but argued that he met the newly discovered-evidence and interests-of-justice exceptions under Minn. Stat. § 590.01, subd. 4 (2020), based on the witness's willingness to recant her 2007 trial testimony. The postconviction court denied appellant's third petition without a hearing

[1] Appellant also appealed his conspiracy conviction, and this court affirmed appellant's conviction. *See State v. Woodward*, No. A13-0703, 2014 WL 2921837, at *1 (Minn. App. June 30, 2014), *rev. denied* (Minn. Aug. 11, 2015); *Woodward v. State*, No. A18-0253, 2018 WL 6729761, at *1 (Minn. App. Dec. 24, 2018), *rev. denied* (Minn. Mar. 19, 2019). Recently, in *Woodward v. State*, No. A21-0234, 2021 WL 4944667 (Minn. App. Oct. 25, 2021), *rev. denied* (Minn. Jan. 18, 2022), this court affirmed a postconviction court's denial of appellant's second petition for postconviction relief without an evidentiary hearing as being procedurally barred and statutorily time-barred.

[2] Appellant also sought federal habeas corpus relief. A federal district court denied appellant's petition for a writ of habeas corpus as being procedurally barred and statutorily time-barred. *Woodward v. Grandlienard*, No. 15-CV-545 PAM/HB, 2015 WL 3539058, at *2 (D. Minn. June 4, 2015).

after determining that the claims were procedurally barred and statutorily time-barred. This appeal follows.

DECISION

Appellant argues that he meets the newly discovered-evidence and the interests-of-justice exceptions to the two-year statutory time-bar in Minn. Stat. § 590.01, subd. 4(b)(2), (5), on his untimely third petition for postconviction relief. We are not persuaded.

A petition relying on an exception to the two-year statute of limitations is subject to another limitations period, which provides that the petition "must be filed within two years of the date the claim [for the exception] arises." Minn. Stat. § 590.01, subd. 4(c); *see also Sanchez v. State*, 816 N.W.2d 550, 556-58, 560 (Minn. 2012) (holding that claim "arises" when claimant "knew or should have known that [they] had a claim"). "A postconviction petitioner is not entitled to relief or an evidentiary hearing on an untimely petition unless [they] can demonstrate that [they satisfy] one of the statutory exceptions and that application of the exception is not time-barred." *Roberts v. State*, 856 N.W.2d 287, 290 (Minn. App. 2014) (quotation omitted), *rev. denied* (Minn. Jan. 28, 2015).

We review the denial of a postconviction petition without an evidentiary hearing for an abuse of discretion. *See Colbert v. State*, 870 N.W.2d 616, 621 (Minn. 2015). "A postconviction court does not abuse its discretion unless it has exercised its discretion in an arbitrary or capricious manner, based its ruling on an erroneous view of the law, or made clearly erroneous factual findings." *Henderson v. State*, 906 N.W.2d 501, 505 (Minn. 2018) (quotation omitted). When a petitioner seeks relief more than two years after the

claim arose, a postconviction court may, in its discretion, summarily deny the petition. *Rhodes v. State*, 875 N.W.2d 779, 787 (Minn. 2016).

The newly discovered evidence exception

A postconviction court may consider an untimely petition for relief upon the production of newly discovered evidence, which requires the petitioner to allege (1) the existence of newly discovered evidence; (2) the evidence could not have been ascertained by the petitioner's exercise of due diligence within the two-year time period for filing a postconviction petition; (3) the evidence is not cumulative of evidence presented at trial; (4) the evidence is not for impeachment purposes; and (5) the evidence is clear and convincing that the petitioner is innocent of the underlying offense. Minn. Stat. § 590.01, subd. 4(b)(2). "All five criteria must be satisfied to obtain relief." *Riley v. State*, 819 N.W.2d 162, 168 (Minn. 2012).

Here, the witness's alleged recantation of her 2007 trial testimony is not newly discovered because appellant became aware of the evidence in 2010. The postconviction court considered appellant's 2012 trial testimony during which appellant testified that he had "pursued [the witness's] recantation" in 2010 by hiring a private investigator "because he had heard rumors of her willingness to do so." The postconviction court found that, at that time, appellant "could have filed a timely claim for an evidentiary hearing in which [the witness] could have been subpoenaed to testify." Appellant contends that, although he knew of the witness's willingness to recant in 2010, he could not petition for postconviction relief on the issue "until he was able to obtain a sworn affidavit from [the witness]." But contrary to appellant's argument, a sworn affidavit from a third party other

than the recanting witness would have been sufficient to justify an evidentiary hearing. *See Caldwell v. State*, 853 N.W.2d 766, 770 (Minn. 2014). The district court thus did not abuse its discretion by determining that appellant failed to meet the newly discovered-evidence exception.[3]

The interests-of-justice exception

A second exception to the time-bar exists when "the petitioner establishes to the satisfaction of the court that the petition is not frivolous and is in the interests of justice." Minn. Stat. § 590.01, subd. 4(b)(5). The interests-of-justice exception is "implicated only in exceptional and extraordinary situations." *Carlton v. State*, 816 N.W.2d 590, 607 (Minn. 2012) (quotation omitted). A claim under the interests-of-justice exception "must relate to an injustice that delayed the filing of the petition, not to the substantive merit of the petition." *Odell v. State*, 931 N.W.2d 103, 106 (Minn. 2019) (quoting *Hooper v. State*, 888 N.W.2d 138, 142 (Minn. 2016)).

Here, the postconviction court determined that the interests-of-justice exception did not apply because appellant failed to file for postconviction relief within the statutory two-year time period after his claimed exception of when the witness's recantation arose. We agree.

Since appellant's 2007 trial, he has maintained that the witness perjured herself. At that time appellant could have filed a timely petition for an evidentiary hearing. But even

[3] We note that the record also supports the conclusion that appellant fails to meet the second element because appellant could have ascertained the evidence in 2010 by exercising due diligence when he hired a private investigator in 2010, approximately 11 years prior to filing a petition.

if we accept as true, as the postconviction court did, that appellant's claim arose in 2010 when he purportedly first heard of the witness's willingness to recant, he had until 2012 to timely file a petition for postconviction relief. We conclude that the record supports the postconviction court's determination that appellant's interests-of-justice claim is statutorily time-barred. *See Sanchez*, 816 N.W.2d at 560 ("Because Sanchez brought his petition for postconviction relief more than 2 years after his interests-of-justice claim arose, we hold that subdivision 4(c) prevents Sanchez from invoking the interests-of-justice exception in subdivision 4(b)(5).").

Appellant also argues that the postconviction court abused its discretion by determining that his petition is procedurally barred under *State v. Knaffla*, 243 N.W.2d 737, 741 (Minn. 1976), asserting that the *Knaffla* interests-of-justice exception applies. Because we have already concluded that appellant's claims are statutorily time-barred, we need not consider their merits. *Onyelobi v. State*, 966 N.W.2d 235, 239 n.5 (Minn. 2021). Nevertheless, for the reasons stated in our above statutory time-bar analysis, we also conclude after careful review that appellant's claims are procedurally barred under *Knaffla* and fail to meet an exception. Finally, because appellant is not entitled to relief on his postconviction petition, we further conclude that the postconviction court did not abuse its discretion by denying appellant's request for an evidentiary hearing. Minn. Stat. § 590.04, subd. 1 (2020).

Affirmed.