*This opinion is nonprecedential except as provided by Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA**
**IN COURT OF APPEALS**
**A23-0765**

Justin Lee Ironhawk, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed March 11, 2024**
**Affirmed**
**Smith, Tracy M., Judge**

Hennepin County District Court
File No. 27-CR-16-2763

Justin Lee Ironhawk, Faribault, Minnesota (pro se appellant)

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

Mary F. Moriarty, Hennepin County Attorney, Anna R. Light, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Considered and decided by Wheelock, Presiding Judge; Smith, Tracy M., Judge; and Bratvold, Judge.

## NONPRECEDENTIAL OPINION

**SMITH, TRACY M.**, Judge

Appellant Justin Lee Ironhawk challenges the district court's order denying his motion to correct sentence. The district court treated Ironhawk's motion as a postconviction petition and concluded that the petition was time-barred and procedurally barred. The

district court also determined that, even if Ironhawk had properly asserted a motion to correct sentence, the motion failed on its merits. Although we conclude that the district court erred by treating Ironhawk's motion to correct sentence as a postconviction petition, we agree with the district court that the motion fails on its merits. We therefore affirm.

## FACTS

After a bench trial, the district court found Ironhawk guilty of first-degree criminal sexual conduct. The district court sentenced Ironhawk to imprisonment for 276 months, an upward durational departure based on the aggravating factor of multiple forms of penetration. The district court also imposed a ten-year period of conditional release following Ironhawk's incarceration and required him to register as a predatory offender.

Ironhawk filed a direct appeal, this court affirmed his conviction, and the Minnesota Supreme Court denied review. *State v. Ironhawk*, No. A17-1739, 2018 WL 6729841, at *1 (Minn. App. Dec. 24, 2018) (*Ironhawk I*), *rev. denied* (Minn. Feb. 27, 2019). Ironhawk then petitioned for postconviction relief, claiming ineffective assistance of trial counsel. *Ironhawk v. State*, No. A20-0471, 2020 WL 7490688, at *1 (Minn. App. Dec. 21, 2020) (*Ironhawk II*). The district court denied his petition, determining that his claims failed on the merits, and this court affirmed. *Id.* Ironhawk filed a second petition for postconviction relief, arguing that he was entitled to a new trial under *State v. Khalil*, 956 N.W.2d 627 (Minn. 2021), because the victim was voluntarily intoxicated. *Ironhawk v. State*, No. A21-1259 (Minn. App. Mar. 21, 2022) (*Ironhawk III*). The district court determined that his petition was barred by *State v. Knaffla*, 243 N.W.2d 737 (Minn. 1976), and this court affirmed in an order opinion. *Id.*

In March 2023, Ironhawk filed a pro se motion for correction of sentence under Minnesota Rule of Criminal Procedure 27.03, subdivision 9. The district court treated Ironhawk's motion as a petition for postconviction relief under the postconviction act, Minnesota Statutes chapter 590 (2022), determining that his arguments "implicate more than simply [Ironhawk's] sentence." The district court denied his petition, determining that it was time-barred and *Knaffla*-barred and that, even if it were a proper motion to correct a sentence, it lacked merit.

Five days after the order was filed, the district court received a rebuttal brief from Ironhawk. The district court considered Ironhawk's arguments but reaffirmed its dismissal of his petition.

Ironhawk appeals.

## DECISION

Because Ironhawk's appellate brief is identical to his pro se rebuttal brief in the district court, it is difficult to discern precisely what his arguments are on appeal. He appears to contest the district court's decision to treat his motion to correct his sentence as a petition for postconviction relief. He also appears to argue that the district court abused its discretion by denying relief.

### I. The district court erred by treating Ironhawk's motion to correct sentence as a petition for postconviction relief.

The standard of review for a district court's decision to treat a motion to correct a sentence under rule 27.03, subdivision 9, as a postconviction petition under chapter 590 "remains an open question." *Bolstad v. State*, 966 N.W.2d 239, 242 (Minn. 2021). In

*Bolstad* and in other cases, the supreme court declined to decide the standard of review because the appellants' arguments failed under any standard. *Id.* at 242-43 (citing *Wayne v. State*, 870 N.W.2d 389, 391-92 n.2 (Minn. 2015); *Johnson v. State*, 877 N.W.2d 776, 779 n.3 (Minn. 2016)). Even though the precise standard of review is unclear, the general principles of review still apply: "[Appellate courts] review the district court's denial of a motion to correct a sentence [under rule 27.03, subdivision 9,] for an abuse of discretion. Specifically, [appellate courts] review the district court's legal conclusions de novo and its factual findings under the clearly erroneous standard." *Townsend v. State*, 834 N.W.2d 736, 738 (Minn. 2013) (citation omitted).

Individuals who challenge their sentence after a direct appeal have two potential pathways. They can petition for postconviction relief under chapter 590, or they can, at any time, ask the court to "correct a sentence not authorized by law" under rule 27.03, subdivision 9. A petition for postconviction relief is subject to procedural requirements, including a two-year time limit for filing a petition, Minn. Stat. § 590.01, subd. 4(a), and a procedural bar on bringing claims that the individual knew or should have known about at the time of an earlier appeal or postconviction petition, *Washington v. State*, 845 N.W.2d 205, 210 (Minn. App. 2014) (citing *Knaffla*, 243 N.W.2d at 741; *Quick v. State*, 757 N.W.2d 278, 280 (Minn. 2008); *Powers v. State*, 731 N.W.2d 499, 501 (Minn. 2007)). A motion to correct a sentence is not subject to the procedural requirements of a petition for postconviction relief. *Id.* at 211.

An individual cannot "avoid the requirements of the postconviction act by simply labeling a challenge as a motion to correct sentence under rule 27.03, subdivision 9." *Id.* at

212. Rather, the individual may avoid the requirements of the postconviction act "only by asserting a challenge that is within the scope of the rule." *Id.* The scope of the rule is limited to situations in which a sentence "is 'unauthorized by law' in the sense that the sentence is contrary to an applicable statute or other applicable law." *Id.* at 214. The rule does not include within its scope a challenge to the individual's underlying conviction. *Id.* at 213.

In his motion in the district court, Ironhawk's arguments were occasionally difficult to discern. But, upon our review, we conclude that Ironhawk's motion appeared to raise two challenges to the lawfulness of his sentence alone.

First, Ironhawk argued that he did not intelligently waive his rights under *Blakely v. Washington*, 542 U.S. 296 (2004), to have a jury determine the facts used for an upward sentencing departure. Under *Blakely*, "[a] court exceeds its authority when it imposes a sentence that the jury's verdict alone does not allow." *Reynolds v. State*, 888 N.W.2d 125, 130 (Minn. 2016) (quotations omitted); *see Blakely*, 542 U.S. at 304. Thus, an upward departure, like the one Ironhawk received, implicates *Blakely* because it requires proof of additional facts beyond the elements of a crime. Ironhawk's *Blakely* challenge affected only his sentence, not the underlying conviction.

Second, Ironhawk appeared to argue that the imposition of conditional release after his incarceration violated his rights under *Blakely* to have a jury determine whether he was subject to the conditional-release requirement. Setting aside the fact that first-degree criminal sexual conduct has a mandatory period of conditional release without additional facts that need to be found, this, too, is not an attack on his underlying conviction and instead is a challenge to his sentence alone.

Because these arguments challenged only whether Ironhawk's sentence was authorized by law, and not his underlying conviction, it was error for the district court to treat Ironhawk's motion as a petition for postconviction relief.[1]

## II. The district court properly denied Ironhawk's request for relief.

We turn to the merits of Ironhawk's motion. Appellate courts review a district court's denial of a motion to correct a sentence under rule 27.03, subdivision 9, for an abuse of discretion. *Townsend*, 834 N.W.2d at 738. Legal conclusions are reviewed de novo and factual findings are reviewed for clear error. *Id.*

The district court determined that, even if Ironhawk had properly asserted a motion to correct his sentence, the motion would fail on the merits.

First, the district court ruled that the upward departure was authorized by law. As the district court noted, the transcript clearly shows that Ironhawk waived his *Blakely* rights. Ironhawk argued that he could not have validly waived his *Blakely* rights because he was not informed that a bench trial has a lower standard of proof than a jury trial. But his belief that a bench trial has a lower standard of proof is incorrect. *See State v. Townsend*, 925 N.W.2d 280, 283 (Minn. App. 2019) (stating that in a criminal case, proof must be "beyond a reasonable doubt"), *aff'd*, 941 N.W.2d 108 (Minn. 2020). Ironhawk also argued

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[1] Ironhawk also argued that he should not have been required to register as a predatory offender. But this argument does not provide a basis for a motion to correct sentence because the registration obligation is not part of his sentence—it arises by operation of statute due to his conviction. *See Kaiser v. State*, 641 N.W.2d 900, 907 (Minn. 2002) (concluding that the duty to register as a predatory offender is not punitive, but instead is a regulatory, collateral consequence); Minn. Stat. § 243.166, subd. 1b(a)(1)(iii) (2014) (requiring registration for felony criminal sexual conduct).

that multiple forms of penetration is an element of first-degree criminal sexual conduct, so it could not be a basis for the upward durational departure at sentencing. The district court, however, correctly observed that multiple forms of penetration is not an element of first-degree criminal sexual conduct under Minnesota Statutes section 609.342, subdivision 1 (2014), and therefore is a valid aggravating factor to support the upward departure.

Second, the district court determined that the conditional release term was authorized by law. Minnesota law provides that

> [n]otwithstanding the statutory maximum sentence otherwise applicable to the offense . . . , when a court commits an offender to the custody of the commissioner of corrections for a violation of section 609.342, . . . the court shall provide that, after the offender has been released from prison, the commissioner shall place the offender on conditional release for ten years.

Minn. Stat. § 609.3455, subd. 6 (2014). The Minnesota Supreme Court has noted that "conditional release is a *mandatory* aspect of the sentence to be imposed by the district court on statutorily designated sex offenders." *State v. Schwartz*, 628 N.W.2d 134, 139 (Minn. 2001) (emphasis added). In short, without any further factual findings, the district court was required to sentence Ironhawk to ten years of conditional release after his incarceration. His conditional release term was therefore authorized by law.

The district court did not err when it rejected Ironhawk's arguments that his sentence was not authorized by law. It therefore acted within its discretion by denying Ironhawk's motion.

**Affirmed.**