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Minn. Stat. § 480A.08, subd. 3 (2008).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A09-721**

Michael James Ploog, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed December 1, 2009
Affirmed
Connolly, Judge**

Hennepin County District Court
File No. 27-CR-02-004879

Michael J. Ploog, MCF – Rush City, 7600 525th Street, Rush City, MN 55069 (pro se appellant)

Lori Swanson, Attorney General, 1800 Bremer Tower, 445 Minnesota Street, Suite 1800, St. Paul, MN 55101; and

Michael O. Freeman, Hennepin County Attorney, Michael K. Walz, Assistant County Attorney, C-2000 Government Center, Minneapolis, MN 55487 (for respondent)

Considered and decided by Toussaint, Chief Judge; Connolly, Judge; and Harten,
Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

CONNOLLY, Judge

Pro se appellant challenges the district court's order denying his postconviction petition, which seeks relief from his 2003 conviction of second-degree murder. Because appellant's claims are without merit, we affirm.

FACTS

Appellant Michael James Ploog was indicted for first- and second-degree murder for the stabbing death of a man in January 2002. In March 2003, the parties entered into a plea agreement in which appellant pleaded guilty to second-degree murder and the district court could, in its discretion, impose a sentence of between 280 and 420 months.

After considering the parties' sentencing arguments, the district court concluded that appellant had treated the victim with particular cruelty and sentenced him to 420 months, which represents an upward departure from the presumptive 306-month sentence. No direct appeal was taken by appellant.

In March 2009, appellant filed a pro se motion to "dismiss for lack of subject matter jurisdiction," claiming that the district court had no subject matter jurisdiction because the statute under which he was convicted lacked an enacting clause and title. By order, the district court construed the motion as a petition for postconviction relief and directed the court administrator to transmit a copy of the motion to the state public defender's office. *See* Minn. Stat. § 590.02, subd. 1(4) (2008); *Lewis v. State*, 697 N.W.2d 624, 627-29 (Minn. App. 2005). An assistant state public defender informed the

district court that he had been in contact with appellant and that appellant had waived representation and would proceed with his postconviction petition pro se.

In its order denying appellant postconviction relief, the district court concluded that, although the petition was untimely under Minn. Stat. § 590.01, subd. 4 (2008), it would address the merits of the petition because appellant had challenged the district court's subject matter jurisdiction. The district court then concluded that the statute under which appellant was convicted, Minn. Stat. § 609.19, subd. 1(1) (2000), contains an enacting clause and a proper title. *See* 1963 Minn. Laws ch. 753 (declaring enactment of a law entitled "Relating to crimes and punishment; creating the criminal code of 1963"); 1995 Minn. Laws ch. 226 (declaring enactment of a law entitled "An act relating to . . . amending Minnesota Statute[] . . . 609.19"). The district court thus denied appellant's petition for postconviction relief.

D E C I S I O N

Appellant argues that the district court lacked jurisdiction over him because the charging instrument "failed to display upon its face an enacting clause" and that the judgment or sentence imposed on him is "void ab initio" as a result. In his reply brief, appellant adds that he is a sovereign who has not waived his inalienable rights and privileges and who is not subject to the jurisdictional authority of the United States or the State of Minnesota. He asserts that the burden is on the state to prove it has jurisdiction over him.

These and similar claims have been soundly rejected by this court. *See, e.g., Ledden v. State*, 686 N.W.2d 873, 876-77 (Minn. App. 2004) (rejecting claim of pro se

petitioner that Minnesota statutes lack enacting clauses and are thus unconstitutional), *review denied* (Minn. Dec. 22, 2004). As the district court correctly noted, the statute under which appellant was convicted, Minn. Stat. § 609.19, subd. 1(1), contains an enacting clause and a proper title. *See* 1963 Minn. Laws ch. 753; 1995 Minn. Laws ch. 226.

And appellant has not established that he is a sovereign or that state laws do not apply to him. This argument, that an individual can be a sovereign not subject to the jurisdiction of the United States, has been summarily rejected by federal courts. *See, e.g., United States v. Hilgeford*, 7 F.3d 1340, 1342 (7th Cir. 1993); *United States v. Jagim*, 978 F.2d 1032, 1036 (8th Cir. 1992). Moreover, the Minnesota Constitution provides that the “district court has original jurisdiction in all civil and criminal cases and shall have appellate jurisdiction as prescribed by law.” Minn. Const. art. VI, § 3. Under Minnesota law, a person may be convicted and sentenced under the laws of this state if that person “[c]ommits an offense in whole or in part within this state.” Minn. Stat. § 609.025(1) (2000).

We therefore affirm the district court’s order denying appellant’s petition for postconviction relief.

Affirmed.