STATE OF MINNESOTA

IN SUPREME COURT

A21-0386

Carlton County — Chutich, J.

John Steven Martin,

Appellant,

vs.

Filed: January 19, 2022
Office of Appellate Courts

State of Minnesota,

Respondent.

John Steven Martin, Rush City, Minnesota, pro se.

Keith Ellison, Attorney General, Saint Paul, Minnesota; and

Lauri A. Ketola, Carlton County Attorney, Alexander W. Saumer, Assistant Carlton County Attorney, Carlton, Minnesota, for respondent.

S Y L L A B U S

1. Appellant's claim concerning subject matter jurisdiction fails on the merits.

2. Appellant's claim concerning newly discovered evidence is time-barred.

3. Appellant's claims of prosecutorial misconduct and ineffective assistance of counsel are time-barred.

Affirmed.

Considered and decided by the court without oral argument.

O P I N I O N

CHUTICH, Justice.

Following a jury trial, appellant John Steven Martin was convicted of first-degree premeditated murder for the August 28, 1996 killing of Paul Antonich. We affirmed his conviction on direct appeal. *State v. Martin* (*Martin I*), 614 N.W.2d 214, 227 (Minn. 2000). In 2008, we affirmed the district court's summary denial of Martin's first postconviction petition. *Martin v. State* (*Martin II*), 748 N.W.2d 294, 296 (Minn. 2008). This year, Martin filed a second postconviction petition, alleging that: (1) Minnesota lacks subject matter jurisdiction to prosecute him, (2) newly discovered evidence entitles him to relief, and (3) prosecutorial misconduct and ineffective assistance of counsel entitle him to relief. The district court summarily denied the second petition as time-barred. Because we conclude that even if the facts alleged in Martin's second postconviction petition were proven at an evidentiary hearing he would not be entitled to relief, we affirm.

FACTS

Our opinion in *Martin I* fully sets forth the facts of the murder of Paul Antonich. 614 N.W.2d at 218–21. We recite only the pertinent facts here. Before trial, Martin moved to change his plea to not guilty by reason of mental illness or deficiency because of an alcohol-induced blackout. To that end, he moved in limine to admit testimony that he "was highly intoxicated to the point where he blacked out and had lost control of his mental faculties to the point where he was incapable of mustering any criminal intent," but the district court ultimately excluded that evidence. After his conviction, Martin pursued a

direct appeal based on the district court's denial of a *Schwartz* hearing,[1] as well as the district court's exclusion of the witness testimony about intoxication and the State's peremptory strike of the only African American in the jury pool. We affirmed his conviction on direct appeal. *Id.* at 227. In Martin's first postconviction petition, he alleged prosecutorial misconduct, ineffective assistance of counsel, and bias. We affirmed the denial of his first postconviction petition. *Martin II*, 748 N.W.2d at 296. In this second postconviction petition, Martin claims that the district court lacked subject matter jurisdiction to convict him and argues that he has newly discovered evidence. He also alleges prosecutorial misconduct and ineffective assistance of counsel.

ANALYSIS

We review the summary denial of a postconviction petition for an abuse of discretion. *Pearson v. State*, 891 N.W.2d 590, 596 (Minn. 2017). A district court abuses its discretion when "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." *Id.* (internal quotation marks omitted). We review legal issues de novo, but will not reverse a district court's fact findings unless they are "clearly erroneous." *Id.* A district court does not abuse its discretion when it summarily denies a postconviction petition that is time-barred. *Fort v. State*, 861 N.W.2d 674, 678 (Minn. 2015).

[1] A *Schwartz* hearing is a procedure in which a trial court may investigate alleged juror misconduct by summoning a juror for questioning about the alleged misconduct in the presence of counsel for both parties. *See Schwartz v. Minneapolis Suburban Bus Co.*, 104 N.W.2d 301, 303 (Minn. 1960).

Minnesota law permits persons convicted of a crime to seek postconviction relief when they claim the conviction violates their rights under "the Constitution or laws of the United States or of the state," or when they claim that scientific evidence unavailable at trial establishes the person's actual innocence. Minn. Stat. § 590.01, subd. 1 (2020). Petitioners may not request postconviction relief based on "grounds that could have been raised on direct appeal of the conviction or sentence." *Id.* Petitioners must file postconviction petitions within two years of their conviction or sentence, or their direct appeal's final disposition, whichever is later. *Id.*, subd. 4(a). The law, when enacted in 2005, also provided: "Any person whose conviction became final before August 1, 2005, shall have two years after [August 1, 2005] to file a petition for postconviction relief." *Miles v. State*, 800 N.W.2d 778, 781 (quoting Act of June 2, 2005, ch. 136, art. 14, § 13, 2005 Minn. Laws 1080, 1097–98) (alteration in original). For defendants like Martin, whose conviction was final before August 1, 2005, subdivision 4(a)'s two-year statute of limitations expired on July 31, 2007. *Sanchez v. State*, 816 N.W.2d 550, 555 (Minn. 2012).

Petitioners may request postconviction relief after the two-year limitation period has expired if they satisfy one of several statutory exceptions. Minn. Stat. § 590.01, subd. 4(b). The exceptions potentially applicable to this case are as follows:

> (2) the petitioner alleges the existence of newly discovered evidence, including scientific evidence, that could not have been ascertained by the exercise of due diligence by the petitioner or petitioner's attorney within the two-year time period for filing a postconviction petition, and the evidence is not cumulative to evidence presented at trial, is not for impeachment purposes, and establishes by a clear and convincing standard that the petitioner is innocent of the offense or offenses for which the petitioner was convicted;

> (3) the petitioner asserts a new interpretation of federal or state constitutional or statutory law by either the United States Supreme Court or a Minnesota appellate court and the petitioner establishes that this interpretation is retroactively applicable to the petitioner's case;
>
> . . .
>
> (5) the petitioner establishes to the satisfaction of the court that the petition is not frivolous and is in the interests of justice.

Id. Although we need not address these exceptions if petitioners do not expressly invoke them, *Clifton v. State*, 830 N.W.2d 434, 437–38 n.2 (Minn. 2013), the postconviction statute requires us to "liberally construe" postconviction petitions and "look to the substance thereof and waive any irregularities or defects in form." Minn. Stat. § 590.03 (2020). A petition that invokes one of the exceptions must be brought within two years of when the petitioner knew or should have known of the basis for the exception. Minn. Stat. § 590.01, subd. 4(c).

I.

Martin asserts that the district court lacked subject matter jurisdiction because he is an enrolled member of the Fond du Lac Band of Lake Superior Chippewa and because he murdered Antonich on the Fond du Lac Reservation. Citing *McGirt v. Oklahoma*, ___ U.S. ___, 140 S. Ct. 2452 (2020), he contends that, as a member of that tribe, and in keeping with the 1854 Treaty of La Pointe, only the United States Government can prosecute him for his crimes. The State asserts that Martin's claim is time-barred under Minnesota Statutes section 590.01, subdivision 4(a), and procedurally barred under *State v. Knaffla*, 243 N.W.2d 737 (Minn. 1976). The State further observes that, even if not time-barred, Martin's claim fails on the merits. The district court found that Martin's subject matter

jurisdiction claim is time-barred under subdivision 4(a) because the claim was known to him at the time of his trial and direct appeal.

Although Martin's subject matter jurisdiction claim would otherwise be time-barred by subdivision 4(a), we liberally construe his petition as asserting two exceptions to the time bar: the exception for a "new interpretation of federal or state constitutional or statutory law" under Minnesota Statutes section 590.01, subdivision 4(b)(3), and the exception for petitions that are "not frivolous" and are "in the interests of justice" under Minnesota Statutes section 590.01, subdivision 4(b)(5). *Jackson v. State*, 919 N.W.2d 470, 472–73 (Minn. 2018). For the reasons that follow, we conclude that Martin's subject matter jurisdiction claim fails on the merits.

Having reviewed the relevant law and facts, we conclude that Martin's reliance on *McGirt* is misplaced. In *McGirt*, the United States Supreme Court held that much of Oklahoma was Native American reservation land where the State of Oklahoma lacked criminal jurisdiction to prosecute Native Americans. *McGirt*, 140 S. Ct. at 2478. In that case, Oklahoma generally had "no jurisdiction to try Indians for conduct committed in Indian Country" because Congress never granted Oklahoma criminal jurisdiction over Native Americans committing crimes on Native lands. *Id.* at 2459. Generally, "state law is not applicable to Indians within Indian Country without the consent of Congress." *State v. Robinson*, 572 N.W.2d 720, 722 (Minn. 1997) (citing *California v. Cabazon Band of Mission Indians*, 480 U.S. 202, 207 (1987)).

Unlike Oklahoma, Congress endowed Minnesota with "jurisdiction over offenses committed by or against Indians in . . . [a]ll Indian country within the state"[2] when it passed Public Law 280. 18 U.S.C. § 1162(a) (2020). *See also State v. Stone*, 572 N.W.2d 725, 728 (Minn. 1997) ("In Public Law 280, Congress granted Minnesota broad criminal . . . jurisdiction over all Indian country within the state, with the exception of Red Lake Reservation."). We have consequently held that Minnesota has the power to "enforce the same criminal laws within tribal boundaries as would be enforced elsewhere in the state." *State v. Manypenny*, 682 N.W.2d 143, 149 (Minn. 2004). Because the rule announced in *McGirt* is not applicable to Martin's case, his subject matter jurisdiction claim fails on the merits.

II.

Martin's second argument invokes the newly discovered evidence exception and claims that an examination by a neuropsychologist would lead to evidence showing that he was incapable of premeditation at the time of the murder because of past head trauma and an alcohol-induced blackout. The State argues that Martin was aware of the potential effect of alcohol intoxication at the time of his direct appeal and urges us to affirm the district court's determination that Martin's newly discovered evidence claim is time-barred. The district court found that, because the defense of intoxication was "known to [Martin] . . . at

[2] The law excepts the Red Lake Reservation. Further, Minnesota retroceded criminal jurisdiction for the Bois Forte Indian Reservation according to the authority contained in 25 U.S.C. § 1323. *See* Act of May 23, 1973, ch. 625, § 3, 1973 Minn. Laws 1500, 1501.

the time of his direct appeal," it is not newly discovered evidence and is therefore time-barred by Minnesota Statutes section § 590.01, subdivision 4(a).[3]

Because Martin's newly discovered evidence claim is based on evidence that is not actually newly discovered, the claim is time-barred. Martin has repeatedly argued that he was too intoxicated to form the necessary criminal intent for his crimes. He sought to make that argument at trial, successfully secured state funding for one of two desired expert witnesses, and even secured a medical opinion *explicitly* saying that his intoxication precluded criminal intent. The evidence that he offers as "newly discovered" has been in his possession for over two decades. Although he now labels the evidence as neuropsychological, its substance has not changed. When a defendant knows of the expected testimony at the time of trial, the testimony fails the legal test for newly discovered evidence. *State v. Hawes*, 801 N.W.2d 659, 675–76 (Minn. 2011). Martin's proffered evidence, therefore, does not fall under the newly discovered evidence exception to the two-year limitation. Because Martin brings this petition after July 31, 2007, and because his reliance on the newly discovered evidence exception is misplaced, the district court did not abuse its discretion when it summarily denied his second postconviction petition.[4]

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[3] Even if Martin had fulfilled a 4(b) exception to the two-year limitation in subdivision 4(a), the postconviction statute would still require him to request relief under an exception within two years of the date upon which the claimed exception arose. *See* Minn. Stat. § 590.01, subd. 4(c). The district court, however, did not rely upon this provision of the statute, and therefore we do not address it here.

[4] Martin also requests an evidentiary hearing on this claim. We have held, however, that a district court need not grant an evidentiary hearing if "the petition and the files and

III.

Finally, Martin raises claims of prosecutorial misconduct and ineffective assistance of counsel. According to Martin, the prosecutors committed misconduct by sparking racist bias against him during trial, forcing him to wear chains and a shock belt at trial, permitting an accomplice to be sent out of state, seeking a conviction from jurors who had read news coverage of the underlying murder, and interfering with his counsel's ability to mount a defense. He also claims that his counsel failed to exhaust all avenues of relief, conceded his guilt against his wishes, and failed to investigate claims of prosecutorial and juror misconduct. The State asserts that, because Martin knew of these arguments at the time of trial, his direct appeal, and his first postconviction relief petition, this claim is time-barred. The district court found that, because all of the issues Martin cites were "known at the time of Petitioner's direct appeal," they are time-barred.

We conclude that Martin's claims of prosecutorial misconduct and ineffective assistance of counsel are time-barred. He knew of all the facts comprising the alleged prosecutorial misconduct at the time of his trial and discretionary appeal. In fact, in his first petition for postconviction relief, he asserted prosecutorial misconduct and many of the same arguments alleging ineffective assistance of counsel that he advances now. Because Martin filed this appeal more than two years after July 31, 2007, and he knew or should have known of the conduct of the prosecutor and his own counsel more than two

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records of the proceeding conclusively show that the petitioner is entitled to no relief." *Wayne v. State*, 866 N.W.2d 917, 919 (Minn. 2015). Because this claim is time-barred, the district court did not abuse its discretion in denying Martin an evidentiary hearing.

years ago, his argument is time-barred under subsection 4(a). *See Sanchez*, 816 N.W.2d at 555–63; Minn. Stat. § 590.01, subd. 4(a).

CONCLUSION

For the foregoing reasons, we affirm the decision of the district court.

Affirmed.