STATE OF MINNESOTA

IN SUPREME COURT

A21-1292

Hennepin County

Hudson, J.

Lincoln Lamar Caldwell,

Appellant,

vs.

Filed: June 22, 2022
Office of Appellate Courts

State of Minnesota,

Respondent.

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Zachary A. Longsdorf, Longsdorf Law Firm PLC, Inver Grove Heights, Minnesota, for appellant.

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

Michael O. Freeman, Hennepin County Attorney, Sarah J. Vokes, Assistant County Attorney, Minneapolis, Minnesota, for respondent.

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S Y L L A B U S

The district court did not abuse its discretion when it concluded that appellant's fourth petition for postconviction relief was untimely under Minnesota Statutes section 590.01, subdivision 4 (2020).

Affirmed.

## O P I N I O N

HUDSON, Justice.

In 2008, Lincoln Caldwell was convicted of aiding and abetting first-degree murder. We affirmed the conviction and upheld the district court's denial of the two postconviction petitions filed by Caldwell while his direct appeal was pending. *State v. Caldwell*, 803 N.W.2d 373 (Minn. 2011) (*Caldwell I*).

In 2012, Caldwell filed a third postconviction petition alleging that three of the State's witnesses provided false testimony during the jury trial. The district court initially summarily denied the petition, but we reversed and remanded for an evidentiary hearing. *Caldwell v. State*, 853 N.W.2d 766, 778 (Minn. 2014) (*Caldwell II*). On remand, the district court held an evidentiary hearing and subsequently denied the petition. On appeal, we affirmed. *Caldwell v. State*, 886 N.W.2d 491 (Minn. 2016) (*Caldwell III*), *cert. denied*, 137 S. Ct. 2138 (2017).

In 2020, Caldwell filed his fourth postconviction petition alleging a claim of newly discovered evidence. After an evidentiary hearing, the district court denied the petition, finding that none of the evidence presented by Caldwell qualified under the newly discovered evidence exception in Minnesota Statutes section 590.01, subdivision 4 (2020). Because we conclude that the district court did not abuse its discretion, we affirm.

## FACTS

A jury found Caldwell guilty of six counts of aiding and abetting first-degree murder in connection with the June 17, 2006 drive-by shooting death of Brian Cole at the

Juneteenth festival in North Minneapolis. The facts are set forth in greater detail in this court's opinion in *Caldwell I*, 803 N.W.2d at 377–381.

At trial, the State presented evidence suggesting that Caldwell was the driver of the vehicle with at least two passengers, Cey Barber and Kirk Harrison,[1] and multiple gunshots were fired at the victim as the vehicle drove by. The district court convicted Caldwell of first-degree murder for the benefit of a gang and sentenced him to life in prison without the possibility of release. Caldwell filed a direct appeal and then requested a stay of the appeal to pursue postconviction relief.

This appeal involves Caldwell's fourth petition for postconviction relief. But because his earlier petitions are relevant to our analysis, we begin with a summary of those proceedings. Caldwell filed two postconviction petitions that were consolidated with his direct appeal: an initial petition in June 2009, along with a pro se supplemental brief, and a second petition in March 2010. Caldwell's second petition alleged newly discovered evidence that the other passengers in the vehicle, Barber and Kirk Harrison, told a private investigator that Caldwell knew nothing about the gun inside the vehicle or a plan to shoot the victim. The district court found that Caldwell's newly discovered claim was not valid because he knew of the evidence before and during the trial.

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[1] Kirk Harrison was separately prosecuted for the death of Cole. *Caldwell I*, 803 N.W.2d at 381. After a bench trial, the district court convicted Kirk Harrison of unintentional murder in the second degree for causing death while committing the felony crime of a drive-by shooting. *Id.* However, the district court acquitted Kirk Harrison of first-degree murder because the State failed to prove that he had the requisite intent to cause the death of another, or that Harrison's alleged gang, the "LL's," met the statutory definition of a gang. *Id.*

We lifted the stay of Caldwell's direct appeal and consolidated it with the orders denying his two petitions for postconviction relief. On direct appeal, Caldwell argued: (1) that Minnesota Statutes section 609.05, subdivision 4 (2020), barred his conviction as an accomplice where the principal party who fired the shots that killed the victim was acquitted; (2) he was denied effective assistance of counsel; (3) the State did not prove beyond a reasonable doubt that Kirk Harrison had the requisite intent to commit first-degree murder, and therefore there was insufficient evidence to support Caldwell's conviction; (4) the State did not prove beyond a reasonable doubt that the "LL's" met the statutory definition of a gang; and (5) he is entitled to an evidentiary hearing on the newly discovered evidence claim.[2] *Caldwell I*, 803 N.W.2d at 381–89.

We affirmed Caldwell's conviction and the district court's denials of his two postconviction relief petitions. *Caldwell I*, 803 N.W.2d at 377. We interpreted section 609.05, subdivision 4, and determined that the statute does not bar Caldwell's conviction even though the principal party who allegedly fired the gunshots from the vehicle (Kirk Harrison) was acquitted of first-degree murder. *Id.* at 382–83. We further determined that the evidence is sufficient to support Caldwell's conviction for aiding and abetting

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[2] In Caldwell's pro se supplemental brief, Caldwell also argued that: (1) his constitutional rights were violated when he was denied a competency hearing; (2) his constitutional rights were violated when the district court removed his mother from the courtroom before the trial and locked the courtroom doors during the jury instructions; (3) the district court abused its discretion when it allowed inadmissible hearsay into evidence; (4) the district court abused its discretion when it instructed the jury on transferred intent; (5) the district court failed to instruct the jury on accomplice testimony; (6) the district court failed to instruct the jury on the relevancy of the circumstantial-evidence instruction; and (7) the restitution award was unconstitutional. *Caldwell I*, 803 N.W.2d at 389–90.

first-degree murder for the benefit of a gang. *Id.* at 386. Finally, we upheld the district court's denial of Caldwell's requests for postconviction relief. *Id.* at 389–91. Regarding the newly discovered evidence claim in his second petition, we found that the information provided by Kirk Harrison and Barber, two of the passengers in the vehicle Caldwell was driving, was known to Caldwell at the time of the jury trial. *Id.* at 389.

Caldwell filed a third postconviction petition for relief and alleged that three of the State's witnesses—William Keith Brooks, Carnell Harrison,[3] and Shawntis Turnage—provided false material testimony at trial. The district court summarily denied the petition, but we reversed and remanded for an evidentiary hearing because the witness recantation statements were sufficiently trustworthy to justify a hearing. *Caldwell II*, 853 N.W.2d at 776. On remand, the district court determined that it would not admit the recantation statements in evidence unless the witnesses testified. During the evidentiary hearing, the district court heard testimony from two of the passengers in the vehicle at the time of the shooting (Carnell Harrison and Barber) as well as Caldwell's friend who testified during the jury trial (Turnage). After the evidentiary hearing, the district court denied the petition, finding that Turnage's testimony was properly stricken based on his invocation of his Fifth Amendment right to remain silent and that Caldwell failed to satisfy the burden of proof warranting a new trial based on witness recantation. We affirmed. *Caldwell III*, 886 N.W.2d at 494.

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[3] The evidence presented by the State suggested that Carnell Harrison, Kirk Harrison's brother, was also in the vehicle at the time of the shooting. To distinguish them, we use their first and last names.

In 2020, Caldwell filed his fourth petition for postconviction relief, the subject of the current appeal. Caldwell asserted another claim of newly discovered evidence based on three affidavits: a 2019 affidavit of Kirk Harrison, a 2020 affidavit of Samantha Taylor, and a 2020 affidavit of Christopher Bahtuoh. In his affidavit, Kirk Harrison stated that the gun used to shoot the victim belonged to him, that he made the unilateral decision to fire the shots, and that Caldwell had nothing to do with the shooting. Kirk Harrison also stated in his affidavit that he reached out to Caldwell and offered to testify to these facts at Caldwell's trial but was not called to testify. In her affidavit, Taylor stated that she witnessed an argument between Caldwell and Kirk Harrison following the shooting and believed the argument was related to Caldwell being angry with Harrison for firing gunshots out of Caldwell's vehicle. And Christopher Bahtuoh stated in his affidavit that he was standing in the area of the shooting and gunshots were fired from the crowd before shots were fired from Caldwell's vehicle.

The district court held an evidentiary hearing, but only allowed Bahtuoh to testify.[4] Bahtuoh testified that gunshots came from behind him before gunfire came from the vehicle driven by Caldwell. Bahtuoh testified that he did not know who was firing any of the guns involved, either at Caldwell's vehicle or from Caldwell's vehicle, but he observed that the person shooting from inside Caldwell's vehicle was sitting in the front passenger

[4] There is nothing in the record indicating why the district court did not allow Kirk Harrison or Taylor to testify.

seat. Bahtuoh explained that he had a conversation with Caldwell about providing this information while they were in the same prison unit together in July 2018.[5]

The district court denied Caldwell's fourth petition for postconviction relief because none of the evidence presented by Caldwell qualified under the newly discovered evidence exception. Regarding the 2019 Harrison affidavit, the district court noted that "Caldwell presented nearly identical information from Harrison in his . . . postconviction petition filed eleven years ago in March 2010," and that Caldwell was aware of Harrison's testimony at the time of the jury trial in 2008. Regarding the 2020 Taylor affidavit, the district court found that Caldwell could have investigated and presented Taylor's testimony at the time of the jury trial. Finally, the district court found that Bahtuoh's testimony was not credible, that it was cumulative of testimony provided by Barber, and that it did not establish Caldwell's innocence. Accordingly, the district court denied the petition.

Caldwell now appeals.

## ANALYSIS

We review the denial of a petition for postconviction relief for an abuse of discretion. *Campbell v. State*, 916 N.W.2d 502, 506 (Minn. 2018). We will not reverse unless the district court erred in applying the law, made clearly erroneous factual findings, or abused its discretion. *Rossberg v. State*, 932 N.W.2d 6, 9 (Minn. 2019). We review the

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[5] Bahtuoh and Caldwell were in the Stillwater prison unit together, and Bahtuoh references the killing of corrections officer Joseph Gomm in July 2018 as the time period when he provided Caldwell with the information. *See* Mary Divine, *Stillwater prison inmate charged with murder in bludgeoning death of corrections officer*, PIONEER PRESS (Aug. 2, 2018, 3:04 p.m.), https://www.twincities.com/2018/08/02/stillwater-prison-inmate-charged-with-murder-in-bludgeoning-death-of-corrections-officer/.

district court's factual findings for clear error and its legal conclusions de novo to determine whether it abused its discretion. *Eason v. State*, 950 N.W.2d 258, 263–64 (Minn. 2020).

Minnesota Statutes section 590.01, subdivision 4, requires that, absent a listed exception, a petition for postconviction relief must be filed within 2 years after "the later of: (1) the entry of judgment of conviction or sentence if no direct appeal is filed; or (2) an appellate court's disposition of petitioner's direct appeal." Minn. Stat. § 590.01, subd. 4. It is undisputed that Caldwell filed this fourth postconviction petition more than 2 years after his conviction became final.[6] Accordingly, the proper analysis here is whether a listed exception to the statute's 2-year time limit applies. *See* Minn. Stat. § 590.01, subd. 4(b)(1) – (5).

There are five exceptions to the statutory time-bar, two of which are relevant here: (1) an exception for newly discovered evidence of innocence that could not have been ascertained by the exercise of due diligence by the petitioner or the petitioner's attorney within the 2-year time-bar, and (2) an exception in the interests of justice. Minn. Stat. § 590.01, subds. 4(b)(2), 4(b)(5). Any petition invoking one of these exceptions, however, must itself "be filed within two years of the date the claim arises." Minn. Stat. § 590.01, subd. 4(c). A claim arises on the date that the petitioner "knew or should have known of the claim" giving rise to the exception. *Sanchez v. State*, 816 N.W.2d 550, 560 (Minn.

[6] We issued our opinion in Caldwell's direct appeal on August 11, 2011, and his conviction became final on December 10, 2011. Therefore, any postconviction petitions had to be filed by December 10, 2013. Caldwell filed this postconviction petition on November 9, 2020.

2012). The knew-or-should-have-known test is an objective standard. *Wayne v. State,* 832 N.W.2d 831, 834 (Minn. 2013). Here, the district court determined that Caldwell's postconviction claims are time-barred by the two-year limitation set forth in section 590.01 because none of the three affidavits submitted with the petition satisfy the newly discovered evidence exception. However, the district court did not directly address Caldwell's interests-of-justice argument under section 590.01, subdivision 4(b)(5).[7] We analyze each exception in turn.

I.

The first question is whether the newly discovered evidence exception found in section 590.01, subdivision 4(b)(2), permits Caldwell's untimely claims to be heard.[8] To

[7] The district court did find that Caldwell failed to satisfy the distinct interests-of-justice exception under the *Knaffla* rule. Separate from the time-bar at issue in this appeal, in *State v. Knaffla*, 243 N.W.2d 737 (Minn. 1976), we established a procedural rule barring postconviction claims that were (a) raised or (b) were known but not raised on direct appeal in a subsequent postconviction appeal. "When a claim was not previously raised, there are exceptions to the *Knaffla* bar" if a novel legal issue is presented, or the interests of justice require review. *Thoresen v. State*, 965 N.W.2d 295, 303–04 (Minn. 2021). Because we conclude that Caldwell's claims are time-barred under section 590.01, subdivision 4(b), we need not address whether Caldwell's claims are also procedurally barred under *Knaffla*.

[8] Caldwell asserts that the test articulated in *Rainer v. State*, 566 N.W.2d 692 (Minn. 1997), applies for assessing whether newly discovered evidence requires a new trial. However, the *Rainer* test is applicable to claims *timely filed* under section 590.01, subdivision 4(a), or for which an exception to the statute of limitations applies. *See Roby v. State*, 808 N.W.2d 20, 26 n.5 (Minn. 2011) (stating that the postconviction court assesses whether the claim satisfies the statutory criteria before assessing the merits under the *Rainer* test); *Henderson v. State*, 906 N.W.2d 501, 508 n.7 (Minn. 2018) (stating that an untimely petition must first satisfy a subdivision 4(b) exception for the merits of the petition to be considered). Since Caldwell's appeal is untimely, we do not analyze his claims under *Rainer*.

satisfy the exception for newly discovered evidence under subdivision 4(b)(2), the petitioner must show that the evidence:

> (1) is newly discovered; (2) could not have been ascertained by the exercise of due diligence by the petitioner or the petitioner's attorney within the 2-year time-bar for filing a petition; (3) is not cumulative to evidence presented at trial; (4) is not for impeachment purposes; and (5) establishes by the clear and convincing standard that petitioner is innocent of the offenses for which he was convicted.

*Riley v. State*, 819 N.W.2d 162, 168 (Minn. 2012); *see also* Minn. Stat. § 590.01, subd. 4(b)(2). All five elements must be met. *Riley*, 819 N.W.2d at 168; *Scott v. State*, 788 N.W.2d 497, 502 (Minn. 2010). The petitioner has the burden of presenting clear and convincing evidence of her actual innocence, meaning that the petitioner must produce unequivocal, intrinsically probable and credible, frailty-free evidence showing that it is more likely than not that no reasonable jury would decide to convict. *Riley*, 819 N.W.2d at 170.

Caldwell asserts that he presented sufficient evidence to satisfy the newly discovered evidence standard. Caldwell insists that he was not in possession of the information from Bahtuoh until July 2018, and the failure to learn of it was not a lack of due diligence. Caldwell contends that Bahtuoh's testimony is credible, material, and supports Caldwell's theory that Harrison acted on his own accord. In addition, Caldwell argues that the affidavits of Harrison and Taylor corroborate the Bahtuoh evidence because together they call into question whether he could have acted with the necessary premeditation or intent to be convicted of aiding and abetting first-degree murder and are thus material evidence that would produce a more favorable result.

The State responds that Caldwell knew about the evidence in the Harrison affidavit within the 2-year requirement in subdivision 4(b)(2) because, according to the affidavit, Caldwell learned of it before his May 2008 trial and alleged virtually the same arguments in his March 2010 postconviction petition. Regarding the Taylor affidavit, the State asserts that Caldwell failed to satisfy his burden showing that the evidence could not have been discovered with due diligence because Caldwell knew or should have known that Taylor was a potential witness, and, in any event, the evidence has no bearing on Caldwell's innocence. And regarding the Bahtuoh testimony, the State argues that the evidence does not establish Caldwell's innocence by clear and convincing evidence because Bahtuoh did not see who shot the victim. The State further argues that the district court's credibility determination was well-supported and should be given deference.

We begin with the Harrison affidavit. In his affidavit, Kirk Harrison stated that the gun used to shoot the victim belonged to him, that he made the unilateral decision to fire the shots, and that he offered, but was not called, to testify. Taking the affidavit at face value, Harrison states that he offered to testify at Caldwell's 2008 trial but was not called as a witness. This statement supports an inference that Caldwell knew of Harrison's information around May 2008. It does not matter whether Harrison offered this information to Caldwell's counsel or Caldwell directly. *See* Minn. Stat. § 590.01, subd. 4(b)(2) (requiring that the alleged newly discovered evidence must be such that it could not have been ascertained by due diligence by the petitioner *or petitioner's attorney*).

Moreover, in *Onyelobi v. State*, 966 N.W.2d 235, 238 (Minn. 2021), we stated that evidence cannot be unknown when the petitioner was admittedly present at the time of the

events the witness purports to describe for the purposes of the newly discovered evidence exception in subdivision 4(b)(2). Here, it is undisputed that Caldwell was present at the event because the affidavit states that Caldwell was inside the vehicle with Harrison. *See also Caldwell I*, 803 N.W.2d at 389 (stating that it is undisputed that Caldwell was with Kirk Harrison at the time of the shooting; thus, he was aware that Kirk Harrison might testify that Caldwell was unaware of the presence of the gun). Caldwell cannot now claim that he was unaware of the substance of Harrison's affidavit. Therefore, the facts in Harrison's affidavit are not newly discovered, and thus the Harrison affidavit does not satisfy the newly discovered evidence exception under subdivision 4(b)(2).

We next address the Taylor affidavit. In her affidavit, Taylor stated that she witnessed an argument between Caldwell and Kirk Harrison following the shooting and believed the argument was related to Caldwell being angry with Harrison for shooting out of Caldwell's vehicle. In *Miles v. State*, 800 N.W.2d 778, 783 (Minn. 2011), we stated that "unless the newly discovered evidence would on its face prove the petitioner's innocence by a clear and convincing standard, the petitioner has not met the requirements" of section 590.01, subdivision 4(b)(2).

Here, the Taylor affidavit would not, on its face, prove Caldwell's innocence by clear and convincing evidence because it has no bearing on Caldwell's guilt or innocence. Indeed, as the district court concluded, Taylor's belief about why Caldwell was mad says nothing about Caldwell's innocence as to the shooting. Even if such evidence is true, it would only establish Taylor's subjective understanding of an argument between Caldwell and Harrison; it does not establish that Caldwell is innocent of aiding and abetting a murder.

As such, Caldwell's claim regarding the Taylor evidence fails to satisfy the newly discovered evidence exception.

Finally, we consider the testimony from Bahtuoh. In Bahtuoh's affidavit, he stated that he was in the area where the shooting took place in 2006 and that there were eight to twelve shots fired from the crowd before shots were returned from Caldwell's vehicle. He also stated that the person shooting from Caldwell's vehicle was in the front passenger seat. Because "[t]he postconviction court is in the best position to evaluate witness credibility," *Miles v. State,* 840 N.W.2d 195, 201 (Minn. 2013), we will not disturb the postconviction court's findings of fact if "reasonable evidence" supports those findings. *State v. Evans,* 756 N.W.2d 854, 870 (Minn. 2008) (citation omitted) (internal quotation marks omitted).

Here, there is reasonable evidence to support the district court's finding that Bahtuoh's testimony was not credible. There is a 14-year gap between when Bahtuoh alleges to have witnessed the events and when he executed his affidavit for Caldwell. Not only was Bahtuoh's testimony during the evidentiary hearing about the number of shots fired inconsistent with his affidavit, but his testimony that the shooter was seated on the passenger side of the vehicle and in the front seat is inconsistent with *all* the other testimony given during the trial that the shooter—Kirk Harrison—was seated behind Caldwell on the driver's side of the vehicle. Therefore, it was not clearly erroneous for the postconviction court to conclude that Bahtuoh's testimony was not credible.

But even if the district court had found Bahtuoh's testimony to be credible, it does not substantially contradict the State's other evidence against Caldwell that suggested that Caldwell was the driver of the vehicle with at least two passengers and that multiple shots

were fired from the vehicle as it drove by, killing the victim. In addition, Bahtuoh's statements are cumulative of the evidence presented at trial about where the shots originated. Ultimately, Bahtuoh's testimony would not have produced "unequivocal, intrinsically probable and credible," frailty-free evidence that "renders it more likely than not that no reasonable jury would convict," and therefore this testimony failed to satisfy the newly discovered evidence exception requirements. *See Riley*, 819 N.W.2d at 168–70 (finding that the affidavits defendant presented were not sufficient to counter extensive evidence establishing defendant's presence at the scene and participation in the crime); *see also Scott*, 788 N.W.2d at 502.[9]

Consequently, we conclude that the district court did not abuse its discretion in finding that Caldwell's claims do not satisfy the newly discovered evidence exception under section 590.01, subdivision 4(b)(2).

II.

The second question presented by this postconviction petition is whether the interests-of-justice exception found in Minnesota Statutes section 590.01, subdivision 4(b)(5), permits Caldwell's untimely claims to be heard. The interests-of-justice exception requires the petitioner to establish "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). A

[9] Even if we were to find that the Bahtuoh evidence qualifies as newly discovered, subdivision 4(c) requires that the petition must be filed within 2 years of the date that the claim arises. Minn. Stat. § 590.01, subd. 4(c). Bahtuoh's testimony establishes that he made Caldwell aware of the information he knew about the shooting and offered to provide this information in July 2018. Thus, Caldwell's petition, filed 2 years and 3 months later, would still be untimely under the time-bar.

postconviction petition is frivolous if it is "perfectly apparent, without argument," that the petition is without merit. *Wallace v. State*, 820 N.W.2d 843, 850 (Minn. 2012). The interests-of-justice exception is "triggered by an injustice that *caused* the petitioner to miss the primary deadline in subdivision 4(a)" and "not the *substantive claims* in the petition." *Sanchez*, 816 N.W.2d at 557.

Caldwell asserts that the interests-of-justice exception is satisfied here because his claims have substantive merit that negate the requisite intent for his conviction of aiding and abetting first-degree murder. He contends that he did not deliberately and inexcusably fail to raise the issues, especially because his prior attorneys ignored his insistence that they contact Taylor. Moreover, when he was made aware of the possible Bahtuoh evidence, he hired an investigator to find out what Bahtuoh knew and would say if called to testify.

The State counters that the interests of justice do not require consideration of Caldwell's postconviction claims because the interests-of-justice exception must relate to an injustice that delayed the filing of the postconviction petition, not the substantive merit of the claim itself. The State contends that Caldwell has failed to satisfy his burden to demonstrate that an injustice delayed the filing of his fourth petition.

We have "long held that the interests of justice are implicated only in exceptional and extraordinary situations." *Carlton v. State*, 816 N.W.2d 590, 607 (Minn. 2012) (citation omitted) (internal quotation marks omitted). Further, as the State rightly contends, we made clear in *Sanchez* that "the interests-of-justice referred to in subdivision 4(b)(5) relate to the *reason* the petition was filed after the 2-year time limit in subdivision 4(a), not the *substantive claims* in the petition." *Sanchez*, 816 N.W.2d at 557.

Here, Caldwell was aware of the facts described in the Harrison and Taylor affidavits, as well as the testimony and affidavit of Bahtuoh, more than 2 years before he filed his November 2020 postconviction petition. Regarding the facts described in the affidavits of Harrison and Taylor, Caldwell was personally present during the events in question, which predated his May 2008 trial. As to the facts described in Bahtuoh's testimony and affidavit, Caldwell personally discussed those facts with Bahtuoh in July 2018. Because Caldwell has not alleged an injustice that prevented him from filing a postconviction petition within 2 years of his awareness of the facts described by Harrison, Taylor, and Bahtuoh, his reliance on the interests-of-justice exception in subdivision 4(b)(5) is misplaced. We therefore conclude that the district court did not abuse its discretion when it concluded that Caldwell's fourth petition for postconviction relief was untimely.

## CONCLUSION

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

Affirmed.

NEWS > CRIME & PUBLIC SAFETY

# Stillwater prison inmate charged with murder in bludgeoning death of corrections officer

By MARY DIVINE | mdivine@pioneerpress.com | Pioneer Press
PUBLISHED: August 2, 2018 at 3:04 p.m. | UPDATED: August 13, 2018 at 6:06 p.m.

A Stillwater inmate used a prison-issued hammer and two improvised knives to kill a corrections officer last month, according to murder charges filed Thursday.

Edward Muhammad Johnson, 42, had checked out the hammer from the industry building at Minnesota Correctional Facility-Stillwater before fatally bludgeoning officer Joseph Gomm on July 18, charges say.

Washington County prosecutors charged him Thursday with second-degree intentional murder and second-degree assault.

Johnson was already serving a 29-year prison term for the 2002 murder of his girlfriend, Brooke Elizabeth Thompson.

According to the criminal complaint, Johnson used a hammer to beat and kill Gomm on the third floor of a vocational building at the prison, causing "substantial injuries to his head and face." Johnson also used a "homemade knife" to twice stab Gomm in the chest, the complaint states.


Edward Muhammad Johnson

After Gomm's death, Johnson was moved to the Minnesota Correctional Facility-Oak Park Heights, where he remains. His first court appearance is scheduled for 10 a.m. Friday.

The shop foreman at the prison told investigators that a prison inmate approached him and told him that Gomm needed help. When the foreman went into the M Shop, he saw Johnson striking Gomm in the head with a hammer, the complaint states.

The foreman ordered Johnson to stop and called for help on his portable radio. He told investigators that Johnson then stopped striking Gomm and swung the hammer at him.

"Fearing for his life, (he) retreated from the shop to a nearby stairwell," the complaint states. "Johnson then shut the door leading from the stairwell into the shop and barricaded it shut."

When correctional officers arrived at the M Shop, they had to go back down the stairs to the second floor and come up a different stairwell and enter through a different door.

Several inmates told investigators they saw Johnson running around shirtless; correctional officers said inmates often remove their shirts when "they are involved in a fight or other aggressive or assaultive conduct," the complaint states. Inmates also reported that Johnson told them that they were going to be "fine," which they interpreted to mean that Johnson did not intend to harm them, according to the complaint.

When the correctional officers confronted Johnson, he put up his hands and surrendered, the complaint states.

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When the correctional officers confronted Johnson, he put up his hands and surrendered, the complaint states.

"Investigators learned that a hammer had been checked out to Johnson when he reported for work that afternoon," the complaint states. "On the floor, not far from where Officer Gomm was found, investigators located a bloody hammer matching that which had been checked out to Johnson and that which (the foreman) saw Johnson use to repeatedly strike Officer Gomm in the head. Investigators also located two homemade 'knives,' one or both of which were used to stab Officer Gomm."

The complaint does not indicate what precipitated the attack.

Gomm was a 16-year veteran of the Department of Corrections. Thousands of corrections officers from around the U.S. and Canada came to Minnesota to attend his July 26 funeral at North Heights Lutheran Church in Arden Hills.

While in custody at the Hennepin County jail after killing Thompson, Johnson punched a detention deputy in the eye after the deputy told him to stay away from a certain area of the jail, according to court documents.

Johnson pleaded guilty to fourth-degree assault in that case and was sentenced to 13 months in prison.

Incarcerated at Stillwater since 2003, Johnson was scheduled to be released Dec. 12, 2022.

As a child, Johnson witnessed his father shoot his mother six times before turning the gun on himself.

Joseph Gomm. (Courtesy of the Minnesota Department of Corrections)

On Wednesday, union leaders representing corrections staff called for more prison officers and changes to inmate discipline rules. Representatives of AFSCME Council 5 say state prisons are understaffed and officers are not properly equipped for the job.

Sarah Fitzgerald, a spokeswoman for the Department of Corrections, said a review indicates the need for 150 additional officers at state prisons and the agency backs the union's push for more money from the Legislature.

If convicted on both counts, Johnson could face an additional 47 years in prison.

Washington County Attorney Pete Orput did not return a phone call seeking comment; he said in a news release that he would address the media after Johnson's court appearance.

In Minnesota, a grand jury indictment is required for any crimes carrying a sentence of life imprisonment.