

**MICHAEL COLLINS IHEME
OID NUMBER 229098
1101 LINDEN LANE
FARIBAULT, MN 55021**

**THE HONORABLE JUSTICES OF:
SUPREME COURT OF THE UNITED STATES
ONE FIRST STREET NW
WASHINGTON, D. C. 20543**

REQUEST FOR DIRECTION AND EXTENSION OF TIME FOR CERTIORARI. MOTION

This is to bring to your notice that per my petition on case number A23 - 1610 to the Minnesota Supreme Court in February 2024 the Chief Justice of the court ordered the state to respond within 20 days on March 13th 2024. To date, state has not responded to the order of the court. The Chief Justice is a woman of color and her order was ignored. To date, that court has not written to me to that effect. However, on April 25, 2024, I wrote a notice and motion, see copy attached herewith, requesting the court to wholly void the conviction, state's loss of jurisdiction of defendant and subject matter due to disregard of court order, illegal and incompetent tribunal and gross irregularities in the trial and sentencing so glaring to the knowledge of even a lay person in the law in violation of every sixth and fourteenth amendments and all holdings of this court. At issues are illegal conviction, illegal imprisonment and incompetent tribunal. Petitioner illegally convicted of 2nd degree felonious murder charged since 2008 July without representation in every legal sense projection and gross conflict of interest. In Minnesota 2nd degree conviction in 2008 to 2009 with impeccable record is 120 to 230 months maximum to do 2/3 in which defendant falls into the bracket, but petitioner sentenced to 367 months without substantial and compelling reason.

Petitioner has done his time of illegal conviction 2nd degree but he is still held in prison for cover ups. Also, there is new evidence presented now but covered up in the trial about the extraneous vested interest of the Judge establishing partiality in the trial and sentencing. The DOC, working for the state has the tendency to intercept inmate's mail and answer it as if it were from the addressee as that could happen here. They also have the tendency of plotting clandestine murder and obstruction of justice which I have experienced all of them in this case in order to close it. Petitioner has been constantly held in segregation to cause dilatory tendency for certiorari to your court. After the court issued the order on March 13th 2024, the DOC confiscated all petitioner's personal record file and legal documents and property. I do not know if the Chief Justice has been threatened since the court has not responded to my motion and state's disregard to the order issued March 13th 2024, by the Chief Justice. I am therefore requesting this court for direction and extension of time to sort things out and file for certiorari. FBI protections requested against the state's threats.

Respectfully submitted, July 11, 2024

Sign Michael Collins Iheme, 7/11/24

Michael Collins Iheme.

Iheme

FILED

April 16, 2024

**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA

IN SUPREME COURT

A23-1610

Michael Collins Iheme,

Petitioner,

vs.

State of Minnesota,

Respondent.

O R D E R

Based upon all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the petition of Michael Collins Iheme for further review is denied.

Dated: April 16, 2024

BY THE COURT:

Natalie E. Hudson

Natalie E. Hudson
Chief Justice

STATE OF MINNESOTA
IN COURT OF APPEALS
A23-1610

FILED
January 31, 2024
**OFFICE OF
APPELLATE COURTS**

Michael Collins Iheme, petitioner,

Appellant,

ORDER OPINION

vs.

Hennepin County District Court
File No. 27-CR-08-37043

State of Minnesota,

Respondent.

Considered and decided by Segal, Chief Judge; Smith, Tracy M., Judge; and Bratvold, Judge.

BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND BECAUSE:

1. On April 9, 2009, the Hennepin County District Court convicted appellant Michael Collins Iheme of second-degree intentional murder and sentenced him to 367 months in prison. Appellant filed a direct appeal from the judgment of conviction, which this court affirmed on June 8, 2010. *State v. Iheme*, No. A09-1225, 2010 WL 2265667 (Minn. App. June 8, 2010), *rev. denied* (Minn. Aug. 10, 2010). Following the Minnesota Supreme Court's denial of his petition for further review in that appeal, appellant filed four separate petitions for postconviction relief, each of which the district court denied. The current appeal concerns the most recent of these orders, filed on September 5, 2023.

2. In his most recent petition for postconviction relief, appellant argues that he received ineffective assistance of trial and appellate counsel, that his trial and conviction

violated due process and other constitutional rights, that he received an unlawful upward sentencing departure, and that the judicial officer presiding over his trial and sentencing was biased.

3. In denying relief without a hearing, the district court determined that the petition was time-barred pursuant to the two-year limitation period imposed by Minn. Stat. § 590.01, subd. 4 (2022), and that the claims asserted in the petition were procedurally barred from consideration by *State v. Knaffla*, 243 N.W.2d 737 (Minn. 1976). Appellant argues generally on appeal that the district court erred in these determinations.

4. This court reviews the denial of a petition for postconviction relief for abuse of discretion. *Hannon v. State*, 957 N.W.2d 425, 432 (Minn. 2021). “A court abuses its discretion when its decision is based on an erroneous view of the law or is against logic and the facts in the record.” *Riley v. State*, 792 N.W.2d 831, 833 (Minn. 2011).

5. Minnesota Statutes section 590.01, subdivision 4, provides that a petition for postconviction relief may not be filed more than two years following the final disposition of the petitioner’s direct appeal. The final disposition of a direct appeal occurs 90 days after a decision by the Minnesota Supreme Court, once the time to petition for a writ of certiorari in the United States Supreme Court has expired. *Hannon*, 957 N.W.2d at 435. In appellant’s case, the availability of postconviction relief expired on November 8, 2012—two years and 90 days after the Minnesota Supreme Court’s order denying further review of his direct appeal. Accordingly, appellant’s petition was presumptively untimely and not properly before the district court.

6. An otherwise untimely petition may nevertheless be considered by the district court if the petitioner establishes that one of the statutory exceptions to the time-bar applies. Minn. Stat. § 590.01, subd. 4(b). Appellant, however, does not argue on appeal that any such exception is applicable to his case, and our independent review satisfies us that none in fact do. Accordingly, the district court did not abuse its discretion in determining that appellant’s petition for postconviction relief was time-barred.

7. “[O]nce a direct appeal has been taken, all claims raised in that appeal, known at the time of appeal, or that should have been known at the time of appeal will not be considered in a subsequent petition for postconviction relief.” *Allwine v. State*, 994 N.W.2d 528, 536 (Minn. 2023) (citing *Knaffla*, 243 N.W.2d at 741). And any “claims asserted in a second or subsequent postconviction petition are procedurally barred if they could have been raised on direct appeal or in the first postconviction petition.” *Schleicher v. State*, 718 N.W.2d 440, 449 (Minn. 2006).

8. Minnesota recognizes two exceptions to the application of this prohibition, however: “(1) a novel legal issue is presented that was unavailable at the time of the direct appeal; or (2) the interest of justice requires review.” *Chavez-Nelson v. State*, 948 N.W.2d 665, 673 (Minn. 2020). In this context, “[t]he interests-of-justice exception applies only when the claim has substantive merit and the petitioner did not deliberately and inexcusably fail to raise the claim” in previous proceedings. *Thoresen v. State*, 965 N.W.2d 295, 304 (Minn. 2021) (quotations omitted).

9. As to appellant’s claims that he received ineffective assistance of trial and appellate counsel, that his trial violated constitutional protections, and that the presiding

judicial officer was biased, they all were either raised or could have been raised in prior postconviction proceedings. And because appellant does not argue that his claims are novel and could not have been raised earlier, or that he did not deliberately or inexcusably fail to raise them earlier, consideration of these claims was barred by *Knaffla*. We thus discern no abuse of discretion by the district court in denying relief on this basis.

10. Appellant, however, also appears to argue for the first time in his most recent petition for postconviction relief that his sentence constituted an unlawful upward durational departure. Because a district court may correct an unlawful sentence “at any time,” Minn. R. Crim. P. 27.03. subd. 9, this claim may not be subject to application of the statutory time-bar of section 590.01, *Reynolds v. State*, 888 N.W.2d 125, 133 (Minn. 2016), and is not forfeited by a defendant’s failure to raise it in a prior proceeding, *State v. Pugh*, 753 N.W.2d 308, 311 (Minn. App. 2008), *rev. denied* (Minn. Sept. 23, 2008).

11. The district court sentenced appellant to 367 months for his conviction for second-degree intentional murder. Based upon the sentencing guidelines applicable to appellant’s offense, the presumptive sentencing range for this offense and for a defendant with a criminal-history score of zero is between 261 and 367 months. Minn. Sent’g Guidelines IV, VI (Supp. 2007). Because appellant received a sentence within the presumptive range prescribed by the guidelines, his sentence did not constitute a departure and so was not unlawful for this reason.

12. Because we conclude that appellant would not have been entitled to relief on his sentencing claim had it been considered by the district court, and because the remainder of appellant’s claims were time-barred and *Knaffla*-barred, the district court did not abuse

its discretion in denying appellant's petition for postconviction relief without a hearing. *See Blanche v. State*, 988 N.W.2d 486, 491 (Minn. 2023) ("A district court need not hold an evidentiary hearing if the alleged facts, when viewed in a light most favorable to the petitioner, together with the arguments of the parties, conclusively show that the petitioner is not entitled to relief." (quotation omitted)).

IT IS HEREBY ORDERED:

1. The postconviction court's order denying postconviction relief is affirmed.
2. Pursuant to Minn. R. Civ. App. P. 136.01, subd. 1(c), this order opinion is nonprecedential, except as law of the case, res judicata, or collateral estoppel.

Dated: 1/31/24

BY THE COURT



Chief Judge Susan L. Segal

CERTIFICATE OF SERVICE BY MAIL

CASE NUMBER: MINNESOTA APPELLATE COURT # A23-1610

I Michael Collins Itheme OID # 229098 hereby certify under oath and state that on July 11, 2024
I served the following documents LETTER AND MOTION TO SUPREME COURT OF THE UNITED STATES FOR DIRECTION AND EXTENSION OF TIME FOR CERTIORARI AND COPY OF MOTION TO MINNESOTA SUPREME COURT TO DISMISS CONVICTION DATED APRIL 25, 2024

on the following persons and or institutions MARY F. MORIARTY HENNING COUNTY ATTORNEY C-2000 GOVERNMENT CENTER MC 501, 300 SOUTH 6TH STREET MPLS, MN 55484

delivering the documents copies by first class mail, postage paid (by U.S. Mail Postal Services).
I further certify under oath that I SENT COPY OF THE ABOVE DOCUMENTS TO THE PERSON OR INSTITUTION STATED ABOVE AND INFORMATION ON THE DOCUMENTS ARE ACCURATE AND TRUTHFUL TO THE BEST OF MY KNOWLEDGE AND THAT THIS IS A MOTION OF THIS CASE TO THIS COURT.

Date July 11, 2024

Sign *Michael Collins Itheme*
Michael Collins Itheme
OID # 229098

