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**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A09-1825**

Jeffrey Thomas Peterson, petitioner,  
Appellant,

vs.

State of Minnesota,  
Respondent.

**Filed July 27, 2010  
Affirmed  
Hudson, Judge**

Chippewa County District Court  
File Nos. 12-CV-08-294, 12-K0-04-000380

Jeffrey Thomas Peterson, Moose Lake, Minnesota (pro se appellant)

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Dwayne N. Knutsen, Chippewa County Attorney, Montevideo, Minnesota (for respondent)

Considered and decided by Klaphake, Presiding Judge; Hudson, Judge; and Schellhas, Judge.

**UNPUBLISHED OPINION**

**HUDSON**, Judge

Appellant argues that the postconviction court erred in denying relief. Because the postconviction court properly determined that all of appellant's claims are *Knaffla*-barred, we affirm.

## FACTS

Appellant Jeffrey Thomas Peterson was convicted of first-degree criminal sexual conduct, in violation of Minn. Stat. § 609.342, subd. 1(b) (2004). He was sentenced on March 8, 2005. Appellant appealed, and this court affirmed the conviction and sentence on August 1, 2006. In June 2007, appellant filed a motion in the court of appeals to set aside his conviction, which was construed as a petition for prohibition. This court denied that petition on June 12, 2007.

On January 10, 2008, appellant filed a motion to compel disclosure of forensic testing. The postconviction court construed the motion as a petition for postconviction relief and denied it without a hearing on January 24, 2008. Appellant filed a second petition for postconviction relief on March 3, 2008, raising a *Brady* disclosure issue, among other issues. The postconviction court issued an order on April 24, 2008, finding that the issues raised in the petition were without merit and denying the petition without a hearing. Appellant then appealed the postconviction court's denial of both the first and second petitions and this court affirmed on April 14, 2009. In affirming, this court held that the issues raised by appellant were barred under *State v. Knaffla*, 309 Minn. 246, 243 N.W.2d 737 (1976), that appellant's claims were not novel, and that fairness did not require further review. The Minnesota Supreme Court denied review.

Appellant filed a third petition for postconviction relief on July 23, 2008 and a fourth petition on August 7, 2009. The postconviction court considered the two petitions together and determined that appellant had raised seven distinct issues, including: (1) public trial; (2) Confrontation Clause violations; (3) evidentiary challenges;

(4) challenges to DNA and forensic testing; (5) sentencing challenges; (6) ineffective assistance of counsel; and (7) prosecutorial misconduct. The postconviction court denied every claim as *Knaffla*-barred. This appeal follows.

## DECISION

Appellant argues that the postconviction court abused its discretion in denying appellant's claims for postconviction relief. A reviewing court will not overturn the postconviction court's decision absent an abuse of discretion. *Pippitt v. State*, 737 N.W.2d 221, 226 (Minn. 2007). We review the postconviction court's legal determinations de novo and will not set aside its factual determinations unless clearly erroneous. *Id.*

“A petition for postconviction relief is a collateral attack on a conviction that carries a presumption of regularity.” *Shoen v. State*, 648 N.W.2d 228, 231 (Minn. 2002). A postconviction petition must contain “more than argumentative assertions without factual support.” *Hodgson v. State*, 540 N.W.2d 515, 517 (Minn. 1995) (quotation omitted). A postconviction court “may summarily deny a second or successive petition for similar relief on behalf of the same petitioner and may summarily deny a petition when the issues raised in it have previously been decided by the Court of Appeals or the Supreme Court in the same case.” Minn. Stat. § 590.04, subd. 3 (2006).

All matters raised on direct appeal and all claims known but not raised “will not be considered upon a subsequent petition for postconviction relief.” *Knaffla*, 309 Minn. at 252, 243 N.W.2d at 741. Issues that should have been known at the time of the appeal are also excluded from subsequent postconviction review. *Sutherlin v. State*, 574 N.W.2d

428, 432 (Minn. 1998); *see also* Minn. Stat. § 590.01, subd. 1 (2006) (“A petition for postconviction relief after a direct appeal has been completed may not be based on grounds that could have been raised on direct appeal of the conviction or sentence.”).

An exception to the *Knaffla* rule exists when a novel legal issue is presented or when the interests of justice require review. *Powers v. State*, 731 N.W.2d 499, 502 (Minn. 2007). A novel claim is one for which a legal basis was not reasonably available at the time direct appeal was taken. *Fox v. State*, 474 N.W.2d 821, 824 (Minn. 1991). Review is required in the interests of justice if the petition demonstrates that (1) fairness requires the district court to address the issue, (2) the petitioner has not deliberately and inexcusably failed to raise the issue previously, and (3) the claim has substantive merit. *Spears v. State*, 725 N.W.2d 696, 700 (Minn. 2006).

In his latest appeal, appellant claims that (1) his sentence is unconstitutional because a specific offense date was either not established or was incorrectly established, and because the sentencing guidelines are invalid; (2) he did not receive adequate warning under *Miranda*; (3) the prosecutor committed misconduct by using certain evidence and by making certain statements during closing arguments; (4) he received ineffective assistance of counsel; and (5) the district court should have intervened to grant him a new trial.

All of appellant’s claims are barred by *Knaffla*. Appellant has already made two appeals to this court. *See Peterson v. State*, No. A08-670 (Minn. App. Apr. 14, 2009), *review denied* (Minn. Jun. 16, 2009); *State v. Peterson*, No. A05-682 (Minn. App. Aug. 1, 2006), *review denied* (Minn. Oct. 17, 2006). Every claim now raised was either

previously raised on appeal and denied, or could have been raised previously and was not. Appellant's claims are not novel because these claims were known and a legal basis to pursue them was available at the time of appellant's direct appeal. Appellant has also failed to show that the interests of justice require further review or that his claims have substantive merit. Therefore, the postconviction court did not abuse its discretion in denying appellant's petitions for postconviction relief.

**Affirmed.**