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Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A11-1814**

Hugo Beltran-Aragon, a/k/a Hugo Gustavo-Beltran,  
a/k/a Gustavo Hugo Beltran-Aragon, petitioner,  
Appellant,

vs.

State of Minnesota,  
Respondent

**Filed August 6, 2012  
Affirmed  
Muehlberg, Judge\***

Hennepin County District Court  
File No. 27-CR-03-048241

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

Michael O. Freeman, Hennepin County Attorney, Elizabeth Johnston, Assistant County  
Attorney, Minneapolis, Minnesota (for respondent)

Charles L. Hawkins, Minneapolis, Minnesota (for appellant)

Considered and decided by Hudson, Presiding Judge; Peterson, Judge; and  
Muehlberg, Judge.

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

## UNPUBLISHED OPINION

**MUEHLBERG**, Judge

Appellant challenges the postconviction court's order denying his petition for postconviction relief, arguing that it abused its discretion when it denied his petition for relief on the basis that it is time-barred and does not satisfy the interests-of-justice exception outlined in Minn. Stat. § 590.01, subd. 4(b)(5) (2010), and that the convicting court lacked subject-matter jurisdiction. Because appellant's claims are time-barred, we affirm.

### FACTS

On July 15, 2003, appellant Hugo Beltran-Aragon, aka Hugo Gustavo-Beltran, aka Gustavo Hugo Beltran-Aragon, was arrested for having sex with a 14-year-old coworker. Beltran claimed, at that time, that he was 19 years old and provided documents that showed his birth date to be September 9, 1983. Beltran was charged on July 16, 2003, with third-degree criminal sexual conduct in violation of Minn. Stat. § 609.344 (2002). Beltran maintained throughout his first appearance, in his guilty-plea petition, at the plea hearing, in his presentence investigation, and with his counsel and the district court that September 9, 1983 was his correct date of birth.

On September 29, 2003, Beltran was sentenced to 18 months incarceration. Execution of the sentence was stayed and he was placed on probation for three years. A condition of Beltran's probation was that he not return to the United States illegally<sup>1</sup>. In June 2010, Beltran was arrested in Brooklyn Park, had his probation revoked, and was

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<sup>1</sup> Beltran was deported to Mexico as a result of the 2003 conviction.

committed to the Department of Corrections to serve the balance of his original sentence. After completion of his sentence, Beltran was released into federal custody where he currently faces charges for illegal re-entry by a felon under 8 U.S.C. §§ 1326(a), (b)(1)-(2), a federal crime which carries a maximum prison sentence of 10 years.

On April 25, 2011, Beltran filed a Petition for Postconviction Relief, a motion for an evidentiary hearing, and a motion to withdraw his guilty plea claiming that his true birth date is September 9, 1985, that he was a juvenile at the time of the offense and first proceeding, and thus he should have been prosecuted in juvenile court because the district could lack jurisdiction. Along with his postconviction petition Beltran submitted a certified copy of a birth certificate in the name of Guztavo<sup>2</sup> Hugo Beltran Aragon with a birth date of September 9, 1985 and a letter from the Mexican Consulate authenticating the birth certificate.

An evidentiary hearing was held on July 29, 2011. At the evidentiary hearing Beltran's ex-girlfriend testified that they have a daughter who was born on August 25, 2001, that she met appellant in 2000, and that he told her at that time that he was 16 years old. A booking clerk from the Hennepin County jail testified that all booking sheets pertaining to Beltran provide that his date of birth is September 9, 1983, and that on one occasion she personally booked Beltran into jail and when asked he gave his date of birth as September 9, 1983. On September 23, 2011, the district court denied Beltran's motion for postconviction relief concluding that it was procedurally barred under Minn. Stat.

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<sup>2</sup> The birth certificate spells Beltran's first name as Guztavo instead of Gustavo.

§ 590.01, that no exception applied, and that the court's jurisdiction was proper. This appeal followed.

## D E C I S I O N

When reviewing the decision of the postconviction court, we review questions of law de novo. *Arredondo v. State*, 754 N.W.2d 566, 570 (Minn. 2008). Our review of factual findings is limited to determining whether there is sufficient evidence in the record to support the findings of the postconviction court. *Leake v. State*, 737 N.W.2d 531, 535 (Minn. 2007). The decisions of a postconviction court will not be disturbed unless the court abused its discretion. *Perry v. State*, 595 N.W.2d 197, 200 (Minn. 1999).

The postconviction court correctly concluded that Beltran's petition is time-barred. A petition for postconviction relief is subject to a two-year statute of limitations. Minn. Stat. § 590.01, subd. 4(a) (2010). ("No petition for postconviction relief may be filed more than two 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."). If the two-year time-bar has expired, a postconviction court may hear a petition for postconviction relief only if one of the five exceptions listed under Minn. Stat. § 590.01, subd. 4(b) is satisfied and the petition is filed "within two years of the date the claim arises." Minn. Stat. § 590.01, subd. 4(c); *see also Rickert v. State*, 795 N.W.2d 236, 242 (Minn. 2011) (applying subdivision 4(c)'s time limitation to a petition invoking the subdivision 4(b)(5) exception). "Claim," under the statute, refers to an event that supports a right to relief under the asserted exception. *Richert*, 795 N.W.2d at 242. The date the claim arises in interests-of-justice cases is "the date of an event that

establishes a right to relief in the interests of justice.” *Yang v. State*, 805 N.W.2d 921, 925, (Minn. App. 2011), *review granted* (Minn. Jan. 17, 2012) *and stay granted* (Minn. Jan. 17, 2012).

It is undisputed that Beltran’s postconviction petition was not filed within two years of his sentencing, as required under Minn. Stat. § 590.01, subd. 4(a), but Beltran argues that the interests-of-justice exception in Minn. Stat. § 590.01, subd. 4(b)(5), allows the court to hear his petition because his claim arose “upon discovery of [his] true date of birth” at his pretrial and first appearance hearings in U.S. District Court on February 23, 2011. But Beltran also asserts, in an affidavit submitted with his postconviction petition, that he “did not advise [his] lawyer or the Court of the error because [he] believed [he] would get [his] employer, McDonald’s in trouble for hiring [him] before [he] was of age,” implying that he knew his correct date of birth and did not more recently “discover” the true date when he received a copy of his birth certificate.

There is sufficient evidence to support the postconviction court’s finding that appellant’s claim arose “when he was charged because he knew his age and birth date at that time.” Because he did not file his postconviction petition within two years of when his claim arose, the postconviction court did not err by concluding that Beltran is time-barred from seeking relief under Minn. Stat. § 590.01, subd. 4(c).

**Affirmed.**