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**STATE OF MINNESOTA
IN COURT OF APPEALS
A08-1985**

Stanley Wright, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed November 3, 2009
Affirmed
Johnson, Judge**

Stearns County District Court
File No. 73-K3-04-004030

Stanley Wright, 2140 Brewster Road, Indianapolis, IN 46260 (pro se appellant)

Lori Swanson, Attorney General, 1800 Bremer Tower, 445 Minnesota Street, St. Paul,
MN 55101-2134; and

Janelle P. Kendall, Stearns County Attorney, Michael J. Lieberg, Assistant County
Attorney, Administration Center, Room 448, 705 Courthouse Square, St. Cloud, MN
56303-4701 (for respondent)

Considered and decided by Johnson, Presiding Judge; Halbrooks, Judge; and
Larkin, Judge.

UNPUBLISHED OPINION

JOHNSON, Judge

Stanley Wright appeals from the district court's denial of his second request for postconviction relief. We conclude that Wright's arguments are procedurally barred and, therefore, affirm.

FACTS

In April 2005, Wright pleaded guilty to one count of making terroristic threats, in violation of Minn. Stat. § 609.713, subd. 1 (2004). The charge, along with seven others, arose from a series of events that occurred between August 29 and September 1, 2004. In addition to the terroristic-threats charge, Wright was charged with six counts of first-degree burglary and one count of false imprisonment. Pursuant to a plea agreement, the seven other charges were dismissed.

The district court sentenced Wright to 30 months in prison. During his incarceration, the Minnesota Department of Corrections (DOC) determined that, as a result of amendments to Minn. Stat. § 243.166 (Supp. 2005), Wright was required to register as a predatory offender. While he was incarcerated, Wright filed two petitions for writs of habeas corpus, challenging, among other things, the DOC's authority to order him to register. The first petition was dismissed because it was filed in the wrong county. The district court denied the second petition after considering the merits of each of Wright's arguments. Wright appealed, but the appeal was dismissed on procedural grounds.

In March 2008, Wright filed a postconviction petition in which he raised two issues. He challenged the requirement that he register as a predatory offender, and he argued that he was entitled to withdraw his guilty plea. In April 2008, the district court denied the petition after considering the merits of Wright's claims. Wright did not appeal.

In June 2008, Wright filed a motion to correct his sentence, pursuant to Minn. R. Crim. P. 27.03, subd. 9. He again challenged the requirement that he register as a predatory offender. The district court treated the motion as a postconviction petition and denied it, concluding that Wright's argument was procedurally barred by *State v. Knaffla*, 309 Minn. 246, 252, 243 N.W.2d 737, 741 (1976). The district court also reasoned that Wright's arguments failed on the merits. Wright appeals.

DECISION

Wright argues that the district court erred by denying his request for postconviction relief because (1) the requirement that he register as a predatory offender violates the *ex post facto* provisions of the United States Constitution and the Minnesota Constitution, (2) he should be permitted to withdraw his guilty plea on the ground that his plea was unintelligent because he did not know that he would be required to register as a predatory offender, and (3) the doctrine of separation of powers bars the DOC from requiring him to register as a predatory offender. Wright also argues that the district court erred by concluding that his postconviction action is barred by *Knaffla*.

We begin by analyzing whether Wright's postconviction action is procedurally barred. As an initial matter, we note that a motion to correct sentence filed pursuant to

the first sentence of rule 27.03, subdivision 9, may be treated as a postconviction action brought pursuant to chapter 590 of the Minnesota Statutes. *Powers v. State*, 731 N.W.2d 499, 501 n.2 (Minn. 2007) (stating that section 590.01 “is broad enough to encompass a motion pursuant to [rule] 27.03”); *see also Bonga v. State*, 765 N.W.2d 639, 642-43 (Minn. 2009) (noting same). In this case, the district court treated Wright’s motion to correct sentence as a postconviction action.

In a postconviction action, “all matters” raised in a 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. “Additionally, matters raised or known but not raised in an earlier petition for postconviction relief will generally not be considered in subsequent petitions for postconviction relief.” *Powers*, 731 N.W.2d at 501. There are two exceptions to the *Knaffla* rule. The first exception was announced in *Case v. State*, 364 N.W.2d 797 (Minn. 1985), in which the supreme court held that if a novel legal issue is presented, a petitioner is excused from the failure to raise it in a prior proceeding. *Id.* at 800. The second exception was fully articulated in *Fox v. State*, 474 N.W.2d 821 (Minn. 1991), in which the supreme court held that a district court may consider an issue otherwise barred by *Knaffla* when “fairness requires.” *Id.* at 825. The second exception often is restated as one that applies when “the interests of justice require review.” *Powers*, 731 N.W.2d at 502. When the facts are not in dispute, we apply a *de novo* standard of review to a district court’s application of *Knaffla*. *See Sanchez-Diaz v. State*, 758 N.W.2d 843, 846 (Minn. 2008).

The district court concluded that Wright's first argument, which challenges the registration requirement under *ex post facto* principles, is procedurally barred because Wright "inexcusably failed to raise his current claims in prior proceedings." In his first postconviction action, Wright sought to withdraw his guilty plea on the ground that the plea was not intelligently entered because he did not know that he would be required to register as a predatory offender. The registration requirement also is the factual basis of his *ex post facto* argument, which demonstrates that Wright's *ex post facto* argument was known to him at the time of his first postconviction action. Thus, Wright is barred by *Knaffla* from raising the issue in this postconviction action because it was known but not raised in his first postconviction action. *See Powers*, 731 N.W.2d at 501.

Wright's second argument -- that he should be permitted to withdraw his guilty plea on the ground that his plea was unintelligent because he did not know that he would be required to register as a predatory offender -- was raised in the district court in his first postconviction action but not in this action. The district court rejected the argument in Wright's first postconviction action by relying on *Kaiser v. State*, 641 N.W.2d 900 (Minn. 2002), in which the supreme court held that a requirement that a person register as a predatory offender is a collateral consequence of a guilty plea and, thus, does not constitute a ground for plea withdrawal, even if the person was not notified of the requirement at the time of entering a guilty plea, *id.* at 904. Wright did not appeal from the district court's denial of his first request for postconviction relief. Even if we assume that Wright had made the argument in the district court in this action, the claim would be

barred by *Knaffla* because it was raised and decided in his first postconviction action. *See Powers*, 731 N.W.2d at 501.

Wright contends that the first exception to *Knaffla* allows for a reexamination of his plea-withdrawal argument because he is raising a novel legal issue. He contends that *Kaiser* must be reconsidered in light of *State v. Jones*, 729 N.W.2d 1 (Minn. 2007), in which a plurality of the supreme court held that an enrolled tribal member who lives on an Indian reservation may be required to register with the state as a predatory offender because the statute is “criminal/prohibitory” under the *Cabazon-Stone* line of cases. *Id.* at 3, 12. But the supreme court issued its opinion in *Jones* approximately one year before Wright filed his first postconviction petition. Wright could have made the same argument in his first postconviction action. Thus, the exception does not apply. *See Case*, 364 N.W.2d at 800.

Wright’s third argument -- that the doctrine of separation of powers bars the DOC from requiring him to register as a predatory offender -- is made for the first time on this appeal. Wright has not articulated any reason why the argument should be considered despite the *Knaffla* bar. We see no basis for an exception to *Knaffla*. Thus, Wright is barred by *Knaffla* from raising the issue in this postconviction action because it was known but not raised in his first postconviction action. *See Powers*, 731 N.W.2d at 501.

In sum, the district court did not err by denying Wright’s second request for postconviction relief.

Affirmed.