

FILED

August 11, 2020

**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA
IN SUPREME COURT

A19-1463

Steven Lynn Oppel,

Petitioner,

vs.

State of Minnesota,

Respondent.

ORDER

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

IT IS HEREBY ORDERED that the petition of Steven Lynn Oppel for further review be, and the same is, denied.

Dated: August 11, 2020

BY THE COURT:



Lorie S. Gildea
Chief Justice

APPENDIX B

FILED

STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1463

March 24, 2020

**OFFICE OF
APPELLATE COURTS**

Steven Lynn Oppel, petitioner,

Appellant,

ORDER OPINION

vs.

St. Louis County District Court
File No. 69DU-CR-10-554

State of Minnesota,

Respondent.

Considered and decided by Ross, Presiding Judge; Cochran, Judge; and Segal, Judge.

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

1. A jury found Steven Oppel guilty in 2011 of first- and second-degree criminal sexual conduct. We affirmed his convictions on appeal. *State v. Oppel*, No. A12-0875, 2013 WL 2923222, at *9 (Minn. App. June 17, 2013), *review denied* (Minn. Sept. 17, 2013). Oppel petitioned in 2016 for postconviction relief. The district court denied the petition without an evidentiary hearing, and we affirmed. *Oppel v. State*, No. A16-1035, 2017 WL 393925, at *7 (Minn. App. Jan. 30, 2017), *review denied* (Minn. May 16, 2017).

2. Oppel again petitioned for postconviction relief in March 2019. He argued that the district court denied him his right to a public defender, that the district court dismissed a juror without good reason, that other witnesses could have testified to

contradict the victim's testimony, that the prosecutor committed misconduct, and that the district court improperly admitted a video of the victim with a social worker. The district court summarily denied Oppel's petition on the basis that all the issues raised had been previously litigated. Oppel appeals again.

3. We review a district court's denial of a postconviction petition for an abuse of discretion. *Matakis v. State*, 862 N.W.2d 33, 36 (Minn. 2015). The district court need not conduct an evidentiary hearing if the petition and record conclusively show that the petitioner is not entitled to the relief requested. Minn. Stat. § 590.04, subd. 1 (2018); *Colbert v. State*, 870 N.W.2d 616, 622 (Minn. 2015). And the district court may summarily deny a petitioner's successive petition when the issues have already been decided by the court of appeals. Minn. Stat. § 590.04, subd. 3 (2018).

4. We need not consider any alleged error in the district court's basis for denying Oppel's petition, because the petition was not timely filed. *See Dukes v. State*, 718 N.W.2d 920, 921–22 (Minn. 2006) ("[W]e can affirm the denial of postconviction relief on grounds other than those on which the postconviction court relied."). A postconviction petition may not 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." Minn. Stat. § 590.01, subd. 4(a) (2018). The two-year limitations period began to run when the United States Supreme Court denied certiorari in Oppel's direct appeal. *Oppel v. Minnesota*, 134 S. Ct. 1518 (Mar. 10, 2014) (mem.). The limitations period therefore expired on March 10, 2016, three years before Oppel filed his second postconviction petition.

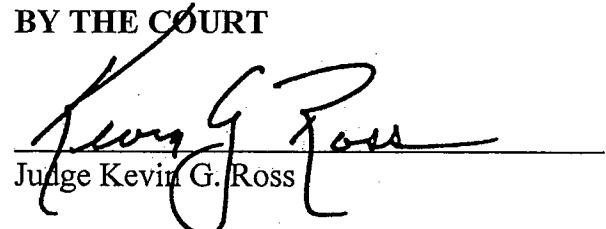
5. Several exceptions allow the district court to consider a time-barred petition. *See* Minn. Stat. § 590.01, subd. 4(b). Oppel appears to argue for the interests-of-justice exception. *Id.*, subd. 4(b)(5). This exception requires the petitioner to identify an injustice that caused him to delay filing the petition within the two-year period. *Nissalke v. State*, 920 N.W.2d 187, 194 (Minn. 2018). But Oppel's argument does not identify any injustice that delayed his petition.

IT IS HEREBY ORDERED:

1. The district court's order is affirmed.
2. Pursuant to Minn. R. Civ. App. P. 136.01, subd. 1(b), this order opinion will not be published and shall not be cited as precedent except as law of the case, res judicata, or collateral estoppel.

Dated: March 24, 2020

BY THE COURT



Judge Kevin G. Ross