

## Document: Arrington v. State, 2022 Minn. App. LEXIS 144

### ❖ **Arrington v. State, 2022 Minn. App. LEXIS 144**

Court of Appeals of Minnesota

November 14, 2022, Decided; November 14, 2022, Filed

A22-0668

#### **Reporter**

**2022 Minn. App. LEXIS 144 \*** | 2022 WL 17086662

Gideon Charles Arrington, II, petitioner, Appellant, vs. State of Minnesota, Respondent.

**Subsequent History:** Review denied by *Arrington v. State, 2023 Minn. LEXIS 30* (Minn., Jan. 25, 2023)

**Prior History:** [\*1] Anoka County District Court File No. 02-CR-13-8457.

*State v. Arrington, 2016 Minn. App. Unpub. LEXIS 25, 2016 WL 102476* (Minn. Ct. App., Jan. 11, 2016)

#### **Core Terms**

district court, sentence, postconviction, aggravating factor, law-of-the-case, motions, criminal sexual conduct, post conviction relief, first-degree, fraudulent, affirming, petitions, law of the case, case doctrine, deny a motion, unauthorized, PROCEEDINGS, relitigated, time-barred, exaggerate, departure, duration, mandamus, stages, waived

#### **Case Summary**

#### **Overview**

**HOLDINGS:** [1]-Because defendant's arguments about his sentences had been previously rejected in both the district and appellate court, the law-of-the-case-doctrine precluded defendant from relitigating his sentencing issue; [2]-Even if defendant's arguments were not barred by the law-of-case-doctrine, based

**Judges:** Considered and decided by Gaïtas, Presiding Judge; Worke, Judge; and Jesson, Judge.

**Opinion by:** Theodora Gaïtas

## Opinion

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### ORDER OPINION

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

1. Appellant Gideon Charles Arrington, II, appeals from the district court's denial of his fourth postconviction challenge to his 2014 conviction for first-degree criminal sexual conduct. We affirm.
2. In 2013, respondent State of Minnesota charged Arrington with three counts of first-degree criminal sexual conduct and one count of kidnapping. Pursuant to a plea agreement, Arrington entered an *Alford* plea [1] to one count of first-degree criminal sexual conduct and waived his right to a jury trial on the presence of aggravating factors [2]. In exchange, the state dismissed the remaining charges and agreed to pursue an aggravated sentence of no more 324 months' imprisonment. The district court sentenced Arrington to 324 months in prison.
3. Following his conviction, Arrington directly appealed to this court, challenging the duration of his sentence. We affirmed. See *State v. Arrington*, No. A14-1945, 2016 WL 102476, at \*1, \*2 (Minn. App. Jan. 11, 2016) (*Arrington I* \*1, \*2 (Minn. App. Jan. 11, 2016) (*Arrington I*) (affirming Arrington's sentence because it did not unduly exaggerate the criminality [\*2] of his conduct), *rev. denied* (Minn. Mar. 29, 2016).
4. Subsequently, Arrington sought postconviction relief on three separate occasions. The district court denied each of Arrington's petitions for postconviction relief, Arrington appealed from each denial, and this court affirmed. See *Arrington v. State*, No. A17-0695, 2018 WL 1247212, at \*2-5 (Minn. App. Mar. 12, 2018) (*Arrington II* at \*2-5 (Minn. App. Mar. 12, 2018) (*Arrington II*) (affirming district court's denial of Arrington's postconviction petition, which alleged that his plea was invalid because his trial counsel was ineffective and the plea was not accurate, voluntary, and intelligent, and declining to consider other claims that were either procedurally barred or waived), *rev. denied* (Minn. May 29, 2018); *State v. Arrington*, No. A20-1538, 2021 Minn. App. LEXIS 238 (Minn. App. June 21, 2021) (order op.) (*Arrington III*) (affirming district court's conclusion that the newly-discovered-evidence-exception did not apply to Arrington's claim that some evidence was falsified because such a claim was time-barred under Minn. Stat. § 590.01, subd. 4(c) (2020), and *Knaffla*-barred), *rev. denied* (Minn. Sept. 12, 2021); *Arrington v. State*, No. A21-1730 (Minn. App. Jan. 25, 2022) (order op.) (*Arrington IV*) (denying Arrington's petition for a writ of mandamus because the district court did not abuse its discretion by characterizing his motion to correct sentence as a postconviction petition, and by denying the motion as time-barred and *Knaffla*-barred).
5. Arrington [\*3] then filed three motions in the district court that he labeled as requests "for rule 27.03, subdivision 9," relief. These are the motions at issue here. In these three motions, Arrington argued that his sentence was unauthorized and must be corrected because the district court's finding of aggravating factors was based on "fraudulent" evidence.
6. The district court denied the motions, concluding that they involved the same issues that Arrington had unsuccessfully raised in a previous postconviction proceeding. The district court also observed that, following its denial of Arrington's previous postconviction petitions, this court had denied Arrington's request for a writ of mandamus. See *Arrington IV*, No. A21-1730 (Minn. App. Jan. 25, 2022) (order op.).
7. **HN3** "A court's prior ruling on a controlling legal issue becomes law of the case for subsequent proceedings." *State v. Larose*, 673 N.W.2d 157, 161 (Minn. App. 2003), *rev. granted* (Minn. Feb. 25, 2004) and *ord. granting rev. vacated* (Minn. Aug. 17, 2004). **HN4** The "[l]aw-of-the-case doctrine 'commonly applies to issues decided in earlier stages of the same case.'" *State v. Miller*, 849 N.W.2d 94, 98 (Minn. App. 2014) (quoting *In re Welfare of M.D.O.*, 462 N.W.2d 370, 375 (Minn. 1990)). Under this doctrine, "when a court decides upon a rule of law, that decision should continue to govern the same issues in subsequent stages in the same case." *Id.* (emphasis omitted) (quoting *Arizona v. California*, 460 U.S. 605, 618, 103 S. Ct. 1382, 75 L.

Ed. 2d 318 (1983)). And **[\*4]** "those issues "may not be relitigated or reexamined." *Larose*, 673 N.W.2d at 161 (quotation omitted).

8. Here, in denying Arrington's motions, the district court implicitly relied on the law-of-the-case doctrine. See *Smith v. State*, 974 N.W.2d 576, 582 (Minn. 2022) ("[A]lthough the district court did not explicitly apply the law of the case doctrine to Smith's claim that the double upward durational departure unfairly exaggerated his criminality, the doctrine plainly bars that claim as well.").

9. On appeal, Arrington does not challenge the application of the law-of-the-case doctrine. He simply restates his argument that his sentence was unauthorized because the sentencing court's finding of aggravating factors was based on "fraudulent" evidence.

10. We agree that the law-of-the-case doctrine bars the claims that Arrington raised before the district court and now raises on appeal. Because the district court and this court previously rejected Arrington's argument that his sentencing departure was unlawful because the aggravated factors were based on "fraudulent" evidence, the law-of-the case doctrine precludes Arrington from relitigating this issue.

11. Even if Arrington's arguments were not barred by the law-of-the-case doctrine, based on our careful review of **[\*5]** the record, we conclude that the issues are both barred from consideration by the two-year time limit for petitions for postconviction relief, Minn. Stat. § 590.01, subd. 4 (2020), and by *State v. Knaffla*, 309 Minn. 246, 243 N.W.2d 737, 741 (Minn. 1976).

**IT IS HEREBY ORDERED:**

1. The district court's order 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: 11/14/2022

**BY THE COURT**

/s/ Theodora Gaitas

Judge Theodora Gaitas

**Footnotes**

**1**

**HN1** An *Alford* plea allows a defendant to plead guilty while maintaining innocence of the charged offense. *State v. Goulette*, 258 N.W.2d 758, 760-61 (Minn. 1977) (discussing *North Carolina v. Alford*, 400 U.S. 25, 91 S. Ct. 160, 27 L. Ed. 2d 162 (1970)).

**2**

**HN2** In *Blakely v. Washington*, the United States Supreme Court held that a criminal defendant has a right to a jury determination on any fact that is used to aggravate the defendant's sentence. 542 U.S. 296, 301-04, 124 S. Ct. 2531, 159 L. Ed. 2d 403 (2004); see also *State v. Dettman*, 719 N.W.2d 644, 647-48 (Minn. 2006) (applying this decision in the context of Minnesota's sentencing scheme).

**Terms:** Gideon Arrington v. State of Minnesota

**Narrow By:** Sources: MN Appeals Court Cases from 1983 Content Type: Cases

**Date and Time:** Apr 21, 2023 06:54:27 p.m. CDT



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# Document: Arrington v. State, 2021 Minn. App. LEXIS 238

## ❖ **Arrington v. State, 2021 Minn. App. LEXIS 238**

Court of Appeals of Minnesota

June 21, 2021, Decided; June 21, 2021, Filed

A20-1538

### **Reporter**

**2021 Minn. App. LEXIS 238 \*** | 2021 WL 2644484

Gideon Charles Arrington, II, petitioner, Appellant, vs. State of Minnesota, Respondent.

**Subsequent History:** Review denied by *Arrington v. State, 2021 Minn. LEXIS 513* (Minn., Sept. 21, 2021)

**Prior History:** **[\*1]** Anoka County District Court. File No. 02-CR-13-8457.

*State v. Arrington, 2016 Minn. App. Unpub. LEXIS 25, 2016 WL 102476* (Minn. Ct. App., Jan. 11, 2016)

### **Core Terms**

district court, post conviction relief, postconviction, ineffective assistance of counsel, procedurally barred, direct appeal, sentence

### **Case Summary**

#### **Overview**

**HOLDINGS:** [1]-The district court did not err when it denied inmate's second petition for postconviction relief under Minn. Stat. § 590.01, subd. 4(c) because inmate's claims were time-barred since inmate attached the documents on which he now relies to his first postconviction petition and his second appeal in which he appeared pro se; inmate filed his second postconviction petition more than two years after the date.

**Outcome**

Order affirmed.

**▼ LexisNexis® Headnotes**

Criminal Law & Procedure > ... > Entry of Pleas ▼ > Guilty Pleas ▼ >  Alford Pleas ▼

Evidence > Weight & Sufficiency ▼

**HN1  Guilty Pleas, Alford Pleas**

An Alford plea allows a defendant to plead guilty while maintaining innocence of the charged offense because there is sufficient evidence for a jury to find him guilty at trial.  More like this Headnote

*Shepardize®* - Narrow by this Headnote

Criminal Law & Procedure > Sentencing ▼ > Imposition of Sentence ▼ > Factors ▼

**HN2  Imposition of Sentence, Factors**

A defendant is entitled to a jury determination on whether there are aggravating factors warranting an upward durational sentencing departure.  More like this Headnote

*Shepardize®* - Narrow by this Headnote

Criminal Law & Procedure > ... > Reviewability ▼ > Preservation for Review ▼ > Requirements ▼

**HN3  Preservation for Review, Requirements**

An appellate court ordinarily will not consider matters raised for the first time on appeal.  More like this Headnote

*Shepardize®* - Narrow by this Headnote

Criminal Law & Procedure > Appeals ▼ > Standards of Review ▼ > Abuse of Discretion ▼

**HN4  Standards of Review, Abuse of Discretion**

A district court may summarily deny a petition when the petition, files, and records conclusively show that the petitioner is not entitled to relief. Minn. Stat. § 590.04, subd. 1 (2020). The appellate court reviews the denial of a petition for postconviction relief for an abuse of discretion. An abuse of discretion occurs when a district court's decision is based on an erroneous view of the law or is against logic and the facts in the record.  More like this Headnote

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Governments > Legislation ▾ > Statute of Limitations ▾ > Time Limitations ▾

#### **HNS Statute of Limitations, Time Limitations**

A petition for postconviction relief must be filed within two years after the entry of judgment of conviction, if no direct appeal was filed, or the final appellate disposition of the person's appeal, whichever occurs last. Minn. Stat. § 590.01, subd. 4 (2020). The time limitation bars postconviction relief unless one of five statutory exceptions can be shown. Minn. Stat. 590.01, subd. 4(b)(1)-(5).  More like this Headnote

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Evidence > Burdens of Proof ▾ > Clear & Convincing Proof ▾

Governments > Legislation ▾ > Statute of Limitations ▾ > Time Limitations ▾

Evidence > Burdens of Proof ▾ > Preponderance of Evidence ▾

#### **HN6 Burdens of Proof, Clear & Convincing Proof**

To succeed under the exception for newly discovered evidence, a petitioner must show that the evidence: (1) is newly discovered, (2) could not have been ascertained by the exercise of due diligence by the petitioner or petitioner's attorney within the two-year time period for filing a postconviction petition, (3) is not cumulative to evidence presented at trial, (4) is not for impeachment purposes, and (5) establishes by a clear and convincing standard that the petitioner is innocent of the offense for which the petitioner was convicted. Minn. Stat. § 590.01, subd. 4(b)(2). Any petition invoking the exception for newly discovered evidence must be filed within two years of the date the claim arises. Minn. Stat. § 590.01, subd. 4(c). A petitioner's claim arises under Minn. Stat. § 590.01, subd. 4(b) on the date that the petitioner knew or should have known of the claim giving rise to the exception. A petitioner bears the burden to establish by a preponderance of the evidence that facts exist that warrant postconviction relief.  More like this Headnote

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Criminal Law & Procedure > Appeals ▾ > Right to Appeal ▾ > Defendants ▾

#### **HN7 Right to Appeal, Defendants**

After a direct appeal has been taken, all claims raised on appeal and all claims known at the time of the appeal will not be considered upon a subsequent petition for postconviction relief. The procedural bar also applies to claims that were raised, or could have been raised, in previous petitions for postconviction relief. Claims that are otherwise State v. Knaffla-barred may be considered (1) if a novel legal issue is presented, or (2) if the interests of justice require review. The second exception may be applied if fairness requires it and the petitioner did not deliberately and inexcusably fail to raise the issue on direct appeal.  More like this Headnote

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**Judges:** Considered and decided by Reilly, Presiding Judge; Slieter, Judge; and Bryan, Judge.

**Opinion by:** Jeffrey M. Bryan

**Opinion**

**ORDER OPINION****BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND BECAUSE:**

1. On December 12, 2013, respondent State of Minnesota charged appellant Gideon Charles Arrington II with three counts of first-degree criminal sexual conduct and one count of kidnapping. Arrington entered an *Alford* plea **1** to one count of first-degree criminal sexual conduct and waived his right to a *Blakely* jury trial **2** on the state's request for an upward sentencing departure in exchange for a maximum executed sentence of 324 months and dismissal of the remaining counts. The district court sentenced Arrington to a 324-month term of imprisonment.
2. Arrington appealed, challenging his sentence as unduly exaggerating the criminality of his conduct and seeking to withdraw his plea due to ineffective assistance of counsel. *State v. Arrington*, No. A14-1945, 2016 Minn. App. Unpub. LEXIS 25, 2016 WL 102476, at \*1, \*3 (Minn. App. Jan. 11, 2016) (*Arrington I*), review denied (Minn. Mar. 29, 2016). This court affirmed Arrington's sentence, but because the record was insufficient to determine whether the plea was invalid based on ineffective assistance of counsel, this court preserved that issue **[\*2]** for postconviction proceedings. 2016 Minn. App. Unpub. LEXIS 25, [WL] at \*3.
3. On August 1, 2016, Arrington petitioned for postconviction relief, seeking to withdraw his plea due to ineffective assistance of counsel. In his exhibit list filed October 27, 2016, Arrington included a portion of the sexual assault nurse examiner (SANE) report and a portion of a signed search warrant. Following an evidentiary hearing, the district court denied the petition.
4. On May 2, 2017, Arrington filed a notice of appeal. In his pro se brief filed September 7, 2017, Arrington claimed that he received ineffective assistance of counsel; that his plea was not accurate, voluntary, or intelligent; and that he was otherwise entitled to relief based on prosecutorial misconduct and false statements by witnesses. *Arrington v. State*, No. A17-0695, 2018 Minn. App. Unpub. LEXIS 197, 2018 WL 1247212, at \*2-5 (Minn. App. Mar. 12, 2018) (*Arrington II*), review denied (Minn. May 29, 2018). In support of his third claim, Arrington included in his addendum a portion of the SANE report and a portion of the search warrant, both of which contained Arrington's handwritten notes.
5. On March 12, 2018, this court affirmed the district court's denial of Arrington's petition for postconviction relief. 2018 Minn. App. Unpub. LEXIS 197, [WL] at \*1. This court first determined that the district court did not clearly err in concluding **[\*3]** that Arrington's plea was not invalid based on ineffective assistance of counsel. 2018 Minn. App. Unpub. LEXIS 197, [WL] at \*3. Second, this court determined that the district court properly determined that Arrington's plea was accurate, voluntary, and intelligent, and noted that this argument exceeded "the scope of issues that this court preserved for postconviction review on Arrington's direct appeal." 2018 Minn. App. Unpub. LEXIS 197, [WL] at \*4 n.3.
6. Last, this court declined to address Arrington's remaining claims because they were raised for the first time on appeal and because they were procedurally barred:

Arrington asserts, for the first time, claims involving prosecutorial misconduct and false statements by witnesses in the case. **HN3** We ordinarily will not consider matters raised for the first time on appeal. . . . Moreover, these claims are procedurally barred since Arrington should have known of these issues at the time of his direct appeal, yet he failed to raise them. As these claims are not properly before us, we decline to address them further:

2018 Minn. App. Unpub. LEXIS 197, [WL] at \*5 (citations omitted). After the Minnesota Supreme Court denied review, this court entered final judgment on May 31, 2018.

7. On July 29, 2020, Arrington filed his second petition for postconviction relief. Arrington argued **[\*4]** that he had newly discovered evidence demonstrating that the SANE report was falsified and that police searched his residence without a valid search warrant. In support, Arrington included the following attachments: (1) pages 4-7 of the SANE report containing his handwritten notes; (2) one page of an online Facebook profile for the alleged SANE and one page printed from an online "Board of Nursing" website licensee search page listing results for the alleged SANE; (3) one page printed from a website titled "RAINN" describing a SANE; (4) a document titled "Vaginal Tears" with unknown source and unknown author describing various injuries; (5) two pages of what Arrington alleges is a warrant and which contains a signature page signed on December 13, 2013; and (6) a blank form titled "Sexual Assault Exam Report."
8. On October 9, 2020, the district court denied Arrington's second petition without a hearing. The district court found that the petition was untimely and that the newly-discovered-evidence exception did not apply. Specifically, the district court concluded that the alleged evidence was discoverable before trial and Arrington

failed to explain why the evidence could not have been [\*5] discovered through due diligence prior to trial. In addition, the district court concluded that Arrington's petition was procedurally barred because Arrington did not explain why his claims were previously unknown and not included in his two prior appeals. Arrington now appeals the denial of his second petition.

9. Arrington argues that the district court erred when it denied his second petition for postconviction relief. **HN4** A district court may summarily deny a petition when the petition, files, and records conclusively show that the petitioner is not entitled to relief. Minn. Stat. § 590.04, subd. 1 (2020). This court reviews the denial of a petition for postconviction relief for an abuse of discretion. *Riley v. State*, 819 N.W.2d 162, 167 (Minn. 2012). An abuse of discretion occurs when a district court's decision is based on an erroneous view of the law or is against logic and the facts in the record. *Id.*

10. **HN5** A petition for postconviction relief must be filed within two years after the entry of judgment of conviction (if no direct appeal was filed), or the final appellate disposition of the person's appeal, whichever occurs last. Minn. Stat. § 590.01, subd. 4 (2020). This time limitation bars postconviction relief unless one of five statutory exceptions can be shown. *Id.*, subd. 4(b)(1)-(5).

11. The statutory [\*6] exception for newly discovered evidence is at issue in this case. **HN6** To succeed under this exception, the petitioner must show that the evidence:

(1) is "newly discovered," (2) "could not have been ascertained by the exercise of due diligence by the petitioner or petitioner's attorney within the two-year time period for filing a postconviction petition," (3) "is not cumulative to evidence presented at trial," (4) "is not for impeachment purposes," and (5) "establishes by a clear and convincing standard that the petitioner is innocent of the offense . . . for which the petitioner was convicted."

*Andersen v. State*, 913 N.W.2d 417, 425 (Minn. 2018) (quoting Minn. Stat. § 590.01, subd. 4(b)(2)). Any petition invoking this exception "must be filed within two years of the date the claim arises." *Sanchez v. State*, 816 N.W.2d 550, 556 (Minn. 2012) (quoting Minn. Stat. § 590.01, subd. 4(c)). A petitioner's claim arises under subdivision 4(b) "on the date that the petitioner 'knew or should have known of the claim' giving rise to the exception." *Henderson v. State*, 906 N.W.2d 501, 506 (Minn. 2018) (quoting *Sanchez*, 816 N.W.2d at 560). "A petitioner bears the burden to establish by a preponderance of the evidence that facts exist that warrant postconviction relief." *Tscheu v. State*, 829 N.W.2d 400, 403 (Minn. 2013).

12. In this case, the district court concluded that the newly-discovered-evidence exception did not apply because the alleged evidence was discoverable before Arrington's *Alford* plea and Arrington [\*7] failed to explain why the evidence could not have been discovered through due diligence prior to his plea. Arrington argues that this conclusion is in error because it was his counsel's job, not his, to know about the false SANE report or the illegal search warrant. This argument is unavailing. Arrington attached the documents on which he now relies to his first postconviction petition and his second appeal in which he appeared pro se. Arrington filed his second postconviction petition more than two years after this date. Thus, even assuming the newly-discovered-evidence exception applies, Arrington's claims are time-barred under Minnesota Statutes section 590.01, subdivision 4(c).

13. The district court also determined that Arrington's claims were procedurally barred for a second, independent reason pursuant to *State v. Knaffla*, 309 Minn. 246, 243 N.W.2d 737, 741 (Minn. 1976). In that case, the supreme court held that **HN7** after a direct appeal has been taken, all claims raised on appeal and all claims known at the time of the appeal "will not be considered upon a subsequent petition for postconviction relief." *Id.* This procedural bar also applies to claims that were raised, or could have been raised, in previous petitions for postconviction relief. *Schleicher v. State*, 718 N.W.2d 440, 449 (Minn. 2006). Claims that are otherwise *Knaffla*-barred may be considered [\*8] "(1) if a novel legal issue is presented, or (2) if the interests of justice require review." *Taylor v. State*, 691 N.W.2d 78, 79 (Minn. 2005). "The second exception may be applied if fairness requires it and the petitioner did not 'deliberately and inexcusably' fail to raise the issue on direct appeal." *Id.* (quoting *Fox v. State*, 474 N.W.2d 821, 825 (Minn. 1991)).

14. Arrington argues that his claims are not procedurally barred because he did not deliberately and inexcusably fail to raise them. We disagree. Again, Arrington attached the documents on which he now relies to his first postconviction petition and his second appeal, and this court has already concluded that Arrington's claims should have been raised in his first direct appeal. *Arrington II*, 2018 Minn. App. Unpub. LEXIS 197, [WL] at \*5. We decline to address them further.

15. Because Arrington's claims are both time-barred and *Knaffla*-barred, we affirm the district court's decision to deny the petition without a hearing.

**IT IS HEREBY ORDERED:**

1. The district court's order of trial 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: June 21, 2021

**BY THE COURT**

/s/ Jeffrey M. Bryan

Judge Jeffrey M. Bryan

**Footnotes****1**

**HN1** An *Alford* plea allows a defendant to plead guilty while maintaining innocence of the charged offense because there is sufficient evidence for a jury to find him guilty at trial. *State v. Goulette*, 258 N.W.2d 758, 760-61 (Minn. 1977) (discussing *North Carolina v. Alford*, 400 U.S. 25, 91 S. Ct. 160, 27 L. Ed. 2d 162 (1970)).

**2**

*Blakely v. Washington*, 542 U.S. 296, 301-04, 124 S. Ct. 2531, 2536-37, 159 L. Ed. 2d 403 (2004), holds that **HN2** a defendant is entitled to a jury determination on whether there are aggravating factors warranting an upward durational sentencing departure. *State v. Dettman*, 719 N.W.2d 644, 647 (Minn. 2006).

**Content Type:** Cases

**Terms:** Gideon Arrington v. State of Minnesota

**Narrow By:** Sources: MN Appeals Court Cases from 1983 **Content Type:** Cases

**Date and Time:** Apr 21, 2023 07:04:36 p.m. CDT

## APPENDIX B



STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF ANOKA

TENTH JUDICIAL DISTRICT

Ct. File No. 02-CR-13-8457

State of Minnesota,

Plaintiff,

v.

Gideon Charles Arrington, II,

**ORDER DENYING MOTIONS  
FOR RULE 27 CORRECTION  
OF SENTENCE**

Defendant.

The above-entitled matter came on without a hearing before the Honorable Dyanna L. Street, Judge of District Court, pursuant to Defendant's three motions filed February 4 and 8, 2022, all of which are entitled Motion For Rule 27.03, Subd. 9 to correct a sentence not authorized by law.

The issue raised in Defendant's motions was addressed by this Court's November 19 and December 7, 2021 Orders Denying Petition For Rule 27 Correction of Sentence. Thereafter, the Court of Appeals denied Defendant's Petition for a Writ of Mandamus on January 25, 2022.

Defendant's current motions are simply new versions of his October 14, 2021, and December 7, 2021, motions. As stated in the January 25, 2022 Court of Appeals Order:

Petitioner's motion was, therefore, not properly within the scope of rule 27.03, subdivision 9. Consequently, the district court did not abuse its discretion by characterizing petitioner's motion to correct sentence as an untimely and procedurally barred petition for postconviction relief.

Based on the records, files, and proceedings, and the arguments of counsel, the Court makes the following:

**ORDER**

1. Defendant's February 4, 2022 "Motion For Rule 27.03, Subd. 9 to correct a sentence not authorized by law" is **DENIED without a hearing**.



2. Defendant's February 8, 2022 "Motion For Rule 27.03, subd. 9, to correct a sentence not authorized by law" is **DENIED without a hearing**.

3. Defendant's February 8, 2022 "Motion For Rule 27.03, subd. 9 to correct an unauthorized sentence by law" is **DENIED without a hearing**.

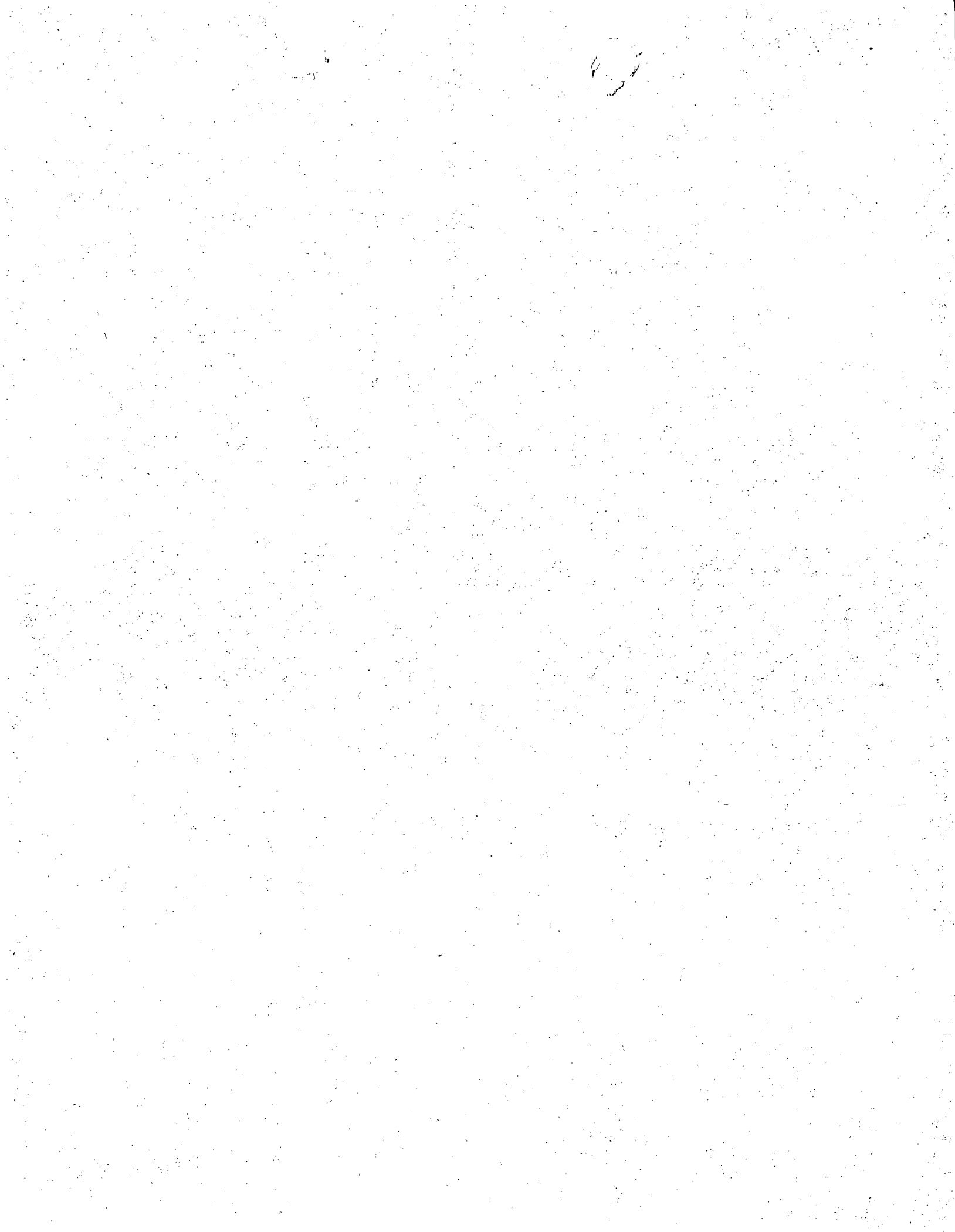
SO ORDERED

LET JUDGMENT BE ENTERED ACCORDINGLY

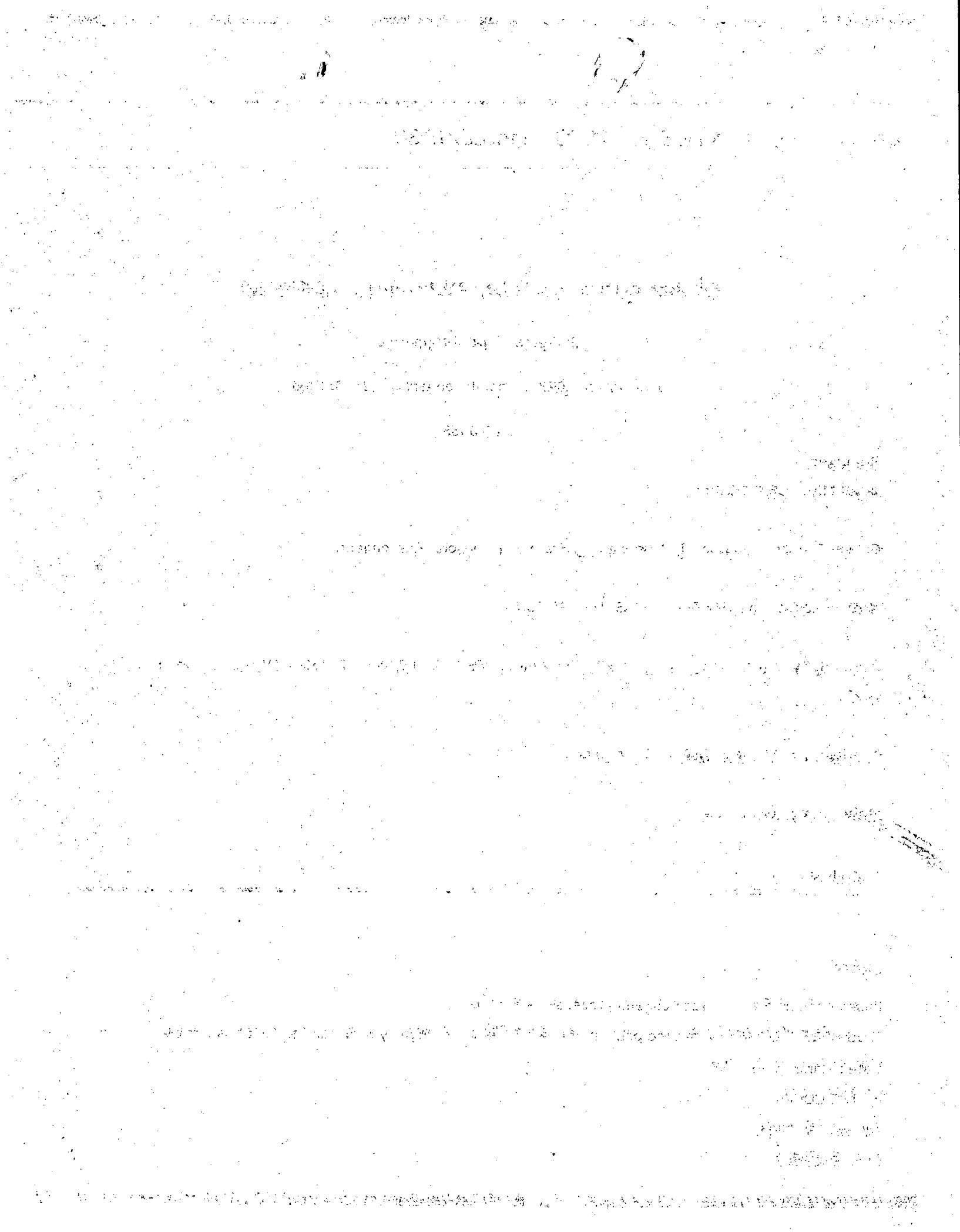
BY THE COURT:

The Honorable Dyanna L. Street  
JUDGE OF DISTRICT COURT

3/18/22



## APPENDIX C



# Document: Arrington v. State, 2023 Minn. LEXIS 30

## **A Arrington v. State, 2023 Minn. LEXIS 30**

Supreme Court of Minnesota

January 25, 2023, Decided; January 25, 2023, Filed

A22-0668

**Reporter**

**2023 Minn. LEXIS 30 \***

Gideon Charles Arrington, II, Petitioner, vs. State of Minnesota, Respondent.

**Notice: DECISION WITHOUT PUBLISHED OPINION**

**Prior History:** Arrington v. State, 2022 Minn. App. LEXIS 144, 2022 WL 17086662 (Minn. Ct. App., Nov. 14, 2022)

**Judges:** [\*1] Lorie S. Gildea, Chief Justice.

**Opinion by:** Lorie S. Gildea

### Opinion

#### ORDER

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

IT IS HEREBY ORDERED that the petition of Gideon Charles Arrington, II for further review is denied.

Dated: January 25, 2023

BY THE COURT:

/s/ Lorie S. Gildea

Lorie S. Gildea

**Content Type:** Cases

**Terms:** Arrington v. State of Minnesota

**Narrow By:** Sources: MN Supreme Court Cases from 1861 **Content Type:** Cases

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