

STATE OF MINNESOTA
IN COURT OF APPEALS

A23-1468



Kevin Donovan Raker, petitioner,

Appellant,

vs.

State of Minnesota,

Respondent.

ORDER OPINION

Mower County District Court
File No. 50-CR-19-306

Considered and decided by Worke, Presiding Judge; Schmidt, Judge; and Harris, Judge.

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

1. In this appeal from the district court's order denying his motion for sentence correction, appellant Kevin Donovan Raker argues that the district court erred in denying his request to reduce his lifetime conditional-release term to ten years because he did not meet the requirements for lifetime conditional release, and he should have been prosecuted by indictment rather than by complaint if he was going to be subject to de facto "life-imprisonment."

2. In July 2019, Raker appeared for a plea hearing to resolve multiple files, only two of which are relevant to this appeal. The district court addressed the matters sequentially. First, Raker pleaded guilty to third-degree criminal sexual conduct in file number 50-CR-19-50. The district court found that there was a factual basis for the charge

and accepted the guilty plea. Then, Raker pleaded guilty to third-degree criminal sexual conduct in file number 50-CR-19-306. The district court found that there was a factual basis for the charge and accepted the guilty plea.

3. In January 2020, Raker appeared for a sentencing hearing and the district court placed Raker on lifetime conditional release following his release from prison. Raker moved the district court to correct his sentence. In denying the motion, the court reasoned that Raker qualified for lifetime conditional release based on his prior conviction entered by the court.

4. Raker argues that his conditional release should be corrected under *State v. Brown*, 937 N.W.2d 146, 160 (Minn. App. 2019) (reversing a lifetime conditional-release term because defendant's convictions were entered simultaneously rather than sequentially). But the record reflects that the district court received the factual basis for each case and accepted Raker's pleas sequentially.

5. Raker's conviction of the sex offense in file number 50-CR-19-50 was a "prior sex offense" at the time of his conviction of the sex offense in file number 50-CR-19-306. *See State v. Nodes*, 863 N.W.2d 77, 81-82 (Minn. 2015) (noting that a defendant is convicted when a guilty plea or guilty verdict is accepted and recorded by the district court and "as long as one offense is entered before the second, it is a prior conviction"). Therefore, because of Raker's prior sex-offense conviction, the law required the district court to order that he be placed on conditional release for the remainder of his lifetime. *See Minn. Stat. § 609.3455, subd. 7(b)* (2018).

6. Alternatively, Raker argues that his lifetime conditional release should be corrected under Minn. R. Crim. P. 17.01, subd. 1 (requiring prosecution by indictment for an offense punishable by life imprisonment). However, while this appeal was pending, the Minnesota Supreme Court affirmed this court's decision in *Snyder*, which held that a lifetime conditional-release term does not implicate the indictment requirement. *State v. Snyder*, 984 N.W.2d 590, 595 (Minn. App. 2023), *aff'd*, 2 N.W.3d 302 (Minn. 2024).

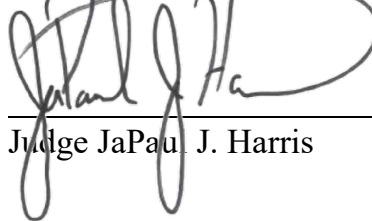
7. We conclude that the district court did not abuse its discretion by denying Raker's motion to correct his sentence because it was obligated to impose lifetime conditional release based on his prior conviction under Minn. Stat. § 609.3455 (2018). And a lifetime conditional-release term does not trigger the indictment requirement. Minn. R. Crim. P. 17.01, subd. 1.

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: May 1, 2024

BY THE COURT

A handwritten signature in black ink, appearing to read "JaPaul J. Harris", written over a horizontal line.

Judge JaPaul J. Harris