**STATE OF MINNESOTA**

**IN COURT OF APPEALS**

**A24-0053**

---

Raymond Joseph Traylor, petitioner,

Appellant,

vs.

State of Minnesota,

Respondent.

---

**ORDER OPINION**

Ramsey County District Court
File No. 62-CR-14-3082

Considered and decided by Segal, Chief Judge; Smith, Tracy M., Judge; and Slieter, Judge.

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

1. On November 7, 2014, appellant Raymond Joseph Traylor was convicted of two counts of first-degree criminal sexual conduct following a jury trial. *State v. Traylor*, No. A15-0029, 2016 WL 854578, at *1 (Minn. App. Mar. 7, 2016). Traylor filed a direct appeal, and this court affirmed the convictions. *Id*. at *2-11.

2. On June 7, 2023, this court issued an order opinion affirming the district court's denial of Traylor's seventh petition for postconviction relief, concluding that the district court did not err in determining that appellant's claims were time-barred and procedurally barred. *Traylor v. State*, No. A22-1801 (Minn. App. June 7, 2023), *rev. denied* (Minn. Aug. 22, 2023).

3. On September 8, 2023, Traylor filed his eighth petition for postconviction relief in district court, asserting the existence of newly discovered evidence in the form of a supplemental police report that respondent State of Minnesota had allegedly not previously disclosed and which entitles him to relief on the grounds of ineffective assistance of counsel, fraud, malicious prosecution, and the absence of probable cause. On November 29, 2023, the district court denied Traylor's petition, concluding that the police report did not constitute newly discovered evidence and so his claims were time-barred and procedurally barred. Traylor appeals.

4. "We review the denial of a petition for postconviction relief, including the petitioner's request for an evidentiary hearing, for an abuse of discretion." *Campbell v. State*, 916 N.W.2d 502, 506 (Minn. 2018). "A postconviction court abuses its discretion when its decision is based on an erroneous view of the law or is against logic and the facts in the record." *Riley v. State*, 819 N.W.2d 162, 167 (Minn. 2012) (quotation omitted).

5. A person convicted of a crime who claims that a conviction or sentence violated his rights may petition for postconviction relief. Minn. Stat. § 590.01, subd. 1(1) (2022). "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." *Id.*, subd. 4(a) (2022). There are five exceptions to the two-year statute of limitations. *Id.*, subd. 4(b) (2022). And a petitioner bears the burden of establishing that an exception applies. *Brocks v. State*, 883 N.W.2d 602, 604 (Minn. 2016).

6. The exception relevant to Traylor's petition provides that a district court may hear an otherwise untimely petition for postconviction relief if

> the petitioner alleges the existence of newly discovered evidence . . . that 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, and the evidence is not cumulative to evidence presented at trial, is not for impeachment purposes, and establishes by a clear and convincing standard that the petitioner is innocent of the offense or offenses for which the petitioner was convicted.

Minn. Stat. § 590.01, subd. 4(b)(2).

7. In its order denying postconviction relief, the district court concluded that the supplemental police report did not constitute newly discovered evidence because the report was disclosed to Traylor by the state prior to trial in July 2014. We agree.

8. In his petition for postconviction relief, Traylor referenced—and included a copy of—an incident report created by St. Paul Police Sergeant Jason Urbanski on July 10, 2014, and timestamped at 14:17, which Traylor claims to have first been discovered in March 2023. As noted by the district court, the record on appeal contains a supplemental discovery disclosure document filed by the state on July 11, 2014, which lists among the items intended to be offered at trial "Supplemental Report Urbanski 7/10/14 14:17." Based on this document, the district court's finding that "[t]he defense had the report well before trial" is not clearly erroneous.

9. To obtain a new trial on the ground of newly discovered evidence, a petitioner must show:

> (1) that the evidence was not known to the defendant or his/her counsel at the time of trial; (2) that the evidence could not have been discovered through due diligence before trial; (3) that the evidence is not cumulative, impeaching, or doubtful; and (4) that the evidence would probably produce an acquittal or a more favorable result.

*State v. Caldwell*, 803 N.W.2d 373, 388-89 (Minn. 2011) (footnote omitted).

10. Here, it is clear from the record that Traylor and his counsel at the time were made aware of the report no later than the date of the state's disclosure of its existence on July 11, 2014. Accordingly, the evidence was "known to the defendant or his/her counsel at the time of trial," or at the very least "could . . . have been discovered through due diligence before trial." *Id.*

11. In his petition for postconviction relief, Traylor claims that the police report at issue demonstrates that the government induced the victims to fabricate their claims that Traylor's penis was not erect at the time of the sexual assaults, which, he argues, establishes his actual innocence of the offenses. Based upon our independent review of the report submitted as an exhibit with Traylor's petition, we concur with the district court's conclusion that it is "at most, only relevant to the victims' credibility on a small detail that is not . . . relevant to Traylor's actual guilt." We therefore similarly conclude that the report does not qualify as "newly discovered evidence" because it is merely impeaching and would not "probably produce an acquittal or a more favorable result" in the event of a retrial. *Id.* at 389.

12. In light of the foregoing, we hold that the district court did not err in concluding that the report did not constitute newly discovered evidence. And because there

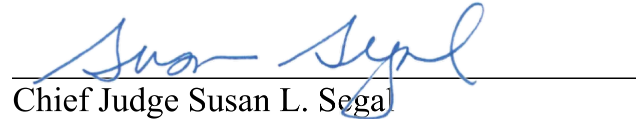
is no dispute that more than two years have elapsed since the judgment in this matter became final, the district court did not err in denying Traylor's petition as time-barred.

**IT IS HEREBY ORDERED:**

1. The district court's order denying postconviction relief 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: 4/29/24 **BY THE COURT**



Chief Judge Susan L. Segal