

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1479**

Bruce Ray Fairbanks, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed June 2, 2025
Affirmed
Frisch, Chief Judge**

Anoka County District Court
File No. 02-KX-00-007845

Bruce R. Fairbanks, Moose Lake, Minnesota (pro se appellant)

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Brad Johnson, Anoka County Attorney, Kelsey R. Kelley, Assistant County Attorney,
Anoka, Minnesota (for respondent)

Considered and decided by Slieter, Presiding Judge; Frisch, Chief Judge; and
Chutich, Judge.*

* Retired justice of the Minnesota Supreme Court, serving as judge of the Minnesota Court of Appeals by appointment pursuant to Minn. Const. art. VI, § 10, and Minn. Stat. § 2.724, subd. 3 (2024).

NONPRECEDENTIAL OPINION

FRISCH, Chief Judge

Appellant challenges the district court's order denying his motion to correct sentence. He argues that the district court (1) erred in construing his motion as a petition for postconviction relief and concluding that his claim was procedurally barred under *State v. Knaffla*, 243 N.W.2d 737, 741 (Minn. 1976); and (2) abused its discretion in determining that his sentence was authorized by law. We conclude that the district court erred in construing appellant's motion as a petition for postconviction relief. But because the issues raised in appellant's motion are barred by the law-of-the-case doctrine, we affirm.

FACTS

On March 14, 2002, following a bench trial on stipulated facts, the district court found appellant Bruce Ray Fairbanks guilty of first-degree assault against a correctional employee, in violation of Minn. Stat. § 609.221, subd. 2(a)-(b) (1998), and kidnapping while causing great bodily harm to the victim, in violation of Minn. Stat. § 609.25, subds. 1(1), 2(2) (1998). The district court sentenced Fairbanks to 240 months in prison for the assault conviction and 480 months in prison for the kidnapping conviction, to be served concurrently. The 240-month sentence represented an upward durational departure, authorized by the district court's determination that Fairbanks qualified as a dangerous offender pursuant to Minn. Stat. § 609.1095, subd. 2 (2000).

On direct appeal, Fairbanks challenged the sufficiency of the evidence to prove the assault charge and the district court's imposition of the maximum statutory sentence for the kidnapping conviction. *State v. Fairbanks*, No. C0-02-1576, 2003 WL 21911109,

at *1-2 (Minn. App. Aug. 12, 2003) (*Fairbanks I*), *rev. denied* (Minn. Oct. 21, 2003). We affirmed in part, reversed in part, and remanded for the district court to determine the presumptive sentence for the kidnapping conviction in light of the Minnesota Supreme Court's intervening decision in *Neal v. State*, 658 N.W.2d 536 (Minn. 2003). *Fairbanks I*, 2003 WL 21911109, at *5-6. On remand, the district court resentedenced Fairbanks to 240 months in prison for the assault conviction and 240 months in prison for the kidnapping conviction, to be served consecutively.

On April 8, 2004, Fairbanks filed his first petition for postconviction relief, arguing that his conviction should be reversed due to ineffective assistance of counsel. The postconviction court denied the petition, concluding that Fairbanks's ineffective-assistance claims were procedurally barred.

Fairbanks thereafter filed his second appeal. He argued that the combined upward durational departure and consecutive sentence were not sufficiently supported by severe aggravating circumstances, and that his sentence was unconstitutional under *Blakely v. Washington*, 542 U.S. 296 (2004). *State v. Fairbanks*, 688 N.W.2d 333, 334-35 (Minn. App. 2004) (*Fairbanks II*), *rev. denied* (Minn. Dec. 13, 2005). We vacated Fairbanks's sentence and remanded for resentencing, holding that the district court violated Fairbanks's Sixth Amendment rights by imposing an upward durational departure on the kidnapping sentence based on judicially found facts. *Id.* at 337.

The following week, Fairbanks filed his second postconviction petition, again alleging ineffective assistance of counsel. The postconviction court delayed ruling on the

petition pending the supreme court's decision on respondent State of Minnesota's petition for review of *Fairbanks II*.¹

On May 5, 2008, the district court resentenced Fairbanks to 240 months in prison for the assault conviction and 103 months in prison for the kidnapping conviction, to be served consecutively.

In his third appeal, Fairbanks argued that this sentence should be vacated because (1) severe aggravating factors were not present to justify the district court's imposition of a durational departure and consecutive sentence, and (2) the district court erred in applying a criminal-history score of one instead of zero in determining the duration of the consecutive kidnapping sentence. *State v. Fairbanks*, No. A08-1329, 2009 WL 2366091, at *1 (Minn. App. Aug. 4, 2009) (*Fairbanks III*), *rev. denied* (Minn. Oct. 20, 2009). We concluded that the severe aggravating factor of "particular cruelty" was present to justify imposition of the consecutive kidnapping sentence but reversed and remanded for the district court to resentence Fairbanks using a criminal-history score of zero. *Id.* at *3-4. On remand, the district court resentenced Fairbanks to 91 months in prison for the kidnapping conviction.

In September 2014, Fairbanks filed his first motion to correct sentence pursuant to Minn. R. Crim. P. 27.03, subd. 9, arguing that his 240-month sentence for the assault conviction was not authorized by law because a double durational departure is not

¹ Although the supreme court denied the state's petition on December 13, 2005, the postconviction court did not rule on Fairbanks's second postconviction petition until August 4, 2011. The postconviction court concluded that the second petition was procedurally barred under *Knaffla*.

permissible absent significant extenuating circumstances not already contemplated by the legislature. The district court denied the motion. It concluded that this court had considered and rejected a similar argument in *Fairbanks III* in affirming the consecutive kidnapping sentence based on the presence of a severe aggravating factor, and that “[i]dential logic” justified the imposition of a double durational departure for the assault conviction. Fairbanks did not appeal the district court’s order.

In August 2015, Fairbanks filed his second motion to correct sentence for the assault. He argued that this court had erred in *Fairbanks III* by relying on aspects of the events that were not part of the charged crime to support a durational departure, and that the district court had erred in considering the vulnerability of the victim as an aggravating factor at sentencing. The district court denied the motion, concluding that it was procedurally barred and that the sentence was otherwise authorized by law. Fairbanks did not appeal the district court’s order.

In July 2020, Fairbanks filed a third motion to correct sentence, arguing that the consecutive sentence for his kidnapping conviction was not authorized by law. The district court denied the motion because “the record reflect[ed] a legally permissible reason for the departure and consecutive sentence,” and because the motion was procedurally barred under *Knaffla*. Fairbanks did not appeal the district court’s order.

In June 2024, Fairbanks filed his fourth motion to correct sentence, which is the subject of this appeal. He argued that his “double durational departure and consecutive sentence are unauthorized by law” because the holding in *Fairbanks II* “foreclose[d]” this court’s determination in *Fairbanks III* that Fairbanks qualified as a “dangerous offender”

and that the severe aggravating factor of “particular cruelty” justified his sentence. The district court denied the motion, concluding that Fairbanks’s sentence was authorized by law and that his motion was procedurally barred under *Knaffla*. The district court observed that Fairbanks’s “current motion is nearly identical” to his third motion to correct sentence. The district court also noted that the issue raised in Fairbanks’s motion “ha[d] already been litigated, appealed, affirmed” in *Fairbanks III*, and that no compelling reason “would require this issue to be heard for a second time.”

Fairbanks appeals.

DECISION

Fairbanks challenges the district court’s order denying his motion to correct sentence pursuant to Minn. R. Crim. P. 27.03, subd. 9. Under this rule, a district court “may at any time correct a sentence not authorized by law.” A sentence is unauthorized by law if it is “contrary to law or applicable statutes.” *State v. Schnagl*, 859 N.W.2d 297, 301 (Minn. 2015). Fairbanks argues that the district court erred in concluding that his motion was procedurally barred under *Knaffla* and in determining that his sentence was authorized by law. We address each argument in turn.

I. The district court erred in concluding that Fairbanks’s motion to correct sentence was procedurally barred under *Knaffla*.

Fairbanks first contends that the district court erred in concluding that his motion to correct sentence was procedurally barred under *Knaffla*. Fairbanks’s argument implicitly challenges the district court’s decision to construe his motion to correct sentence as a petition for postconviction relief subject to the procedural requirements set forth in *Knaffla*,

243 N.W.2d at 741, and codified in the postconviction chapter, Minn. Stat. §§ 590.01-.11 (2022). “The standard for reviewing a district court’s decision to treat a motion to correct a sentence under Rule 27.03 as a postconviction petition . . . remains an open question.” *Bolstad v. State*, 966 N.W.2d 239, 242-43 (Minn. 2021) (declining to adopt a standard of review because “Bolstad’s argument fails regardless of the standard of review”). We need not resolve this question because under either a de novo standard of review or a more deferential abuse-of-discretion standard, the district court—for the reasons explained below—erred in construing Fairbanks’s motion as a petition for postconviction relief. *Reynolds v. State*, 888 N.W.2d 125, 129 (Minn. 2016).

An individual can challenge their sentence in two ways: by filing a motion to correct sentence under rule 27.03, subdivision 9, or by filing a petition for postconviction relief. *Washington v. State*, 845 N.W.2d 205, 210 (Minn. App. 2014). Postconviction petitions are subject to certain procedural requirements including the *Knaffla* rule, which “provides that when a petition for postconviction relief follows a direct appeal of a conviction, all claims raised in the direct appeal and all claims of which the defendant knew or should have known at the time of the direct appeal are procedurally barred.” *Buckingham v. State*, 799 N.W.2d 229, 231 (Minn. 2011).

A motion to correct sentence is not subject to the procedural requirements that govern postconviction petitions. *Washington*, 845 N.W.2d at 210-11. But an individual cannot avoid these procedural requirements “by simply labeling a challenge as a motion to correct sentence under rule 27.03, subdivision 9.” *Id.* at 212; *see also Bolstad*, 966 N.W.2d at 243 (“If the motion implicates more than simply the sentence, it is properly treated as a

postconviction petition.” (quotation omitted)). For instance, an individual “who brings what is, in substance, a challenge to a criminal conviction cannot use Rule 27.03, subdivision 9, to circumvent the procedural requirements” for postconviction petitions. *Wayne v. State*, 870 N.W.2d 389, 391 (Minn. 2015). Accordingly, for the current proceedings, Fairbanks may avoid the procedural requirements for postconviction petitions “only by asserting a challenge that is within the scope of the rule.” *Washington*, 845 N.W.2d at 212. By its terms, rule 27.03, subdivision 9, “is limited to sentences, and the [district] court’s authority under the rule is restricted to modifying a sentence.” *State v. Coles*, 862 N.W.2d 477, 480 (Minn. 2015). In other words, the challenge must be limited to whether the sentence was authorized by law. *Id.* As previously explained, a sentence is not authorized by law when it is “contrary to law or applicable statutes.” *Schnagl*, 859 N.W.2d at 301.

In his motion, Fairbanks argued that his “double durational departure and consecutive sentence are unauthorized by law” because *Fairbanks II* foreclosed this court’s determinations in *Fairbanks III* that Fairbanks qualified as a “dangerous offender” and that the severe aggravating factor of “particular cruelty” existed. In *Fairbanks II*, this court concluded that the district court had violated Fairbanks’s Sixth Amendment right to a jury trial by relying on judicially found facts to support its finding that Fairbanks qualified as a “dangerous offender.” 688 N.W.2d at 336-37. In essence, Fairbanks appears to argue that his sentence is unauthorized by law because it is rooted in factual determinations that were supposedly precluded by this court’s decision in *Fairbanks II*. The state argues that because Fairbanks’s motion “implicate[d] not only his sentence but also decisions from his

past appeals,” the district court properly construed his motion as a petition for postconviction relief.

We conclude that the district court erred in construing Fairbanks’s motion as a postconviction petition. The motion did not seek to overturn the underlying convictions. Rather, Fairbanks’s motion can be construed as asserting a violation of his Sixth Amendment right under *Blakely* requiring the state to submit and prove beyond a reasonable doubt the grounds for an upward departure and consecutive sentence to a factfinder. In *Reynolds*, the supreme court concluded that the defendant’s challenge to his sentence for failure to follow the procedural requirements set forth in *Blakely* was properly construed as a motion to correct sentence under rule 23.07, subdivision 9. 888 N.W.2d at 129-30. Because the substance of Fairbanks’s motion likewise asserts a *Blakely* violation and does not challenge his underlying convictions, it falls within the scope of rule 23.09, subdivision 9. *See id.*; *see also Ironhawk v. State*, No. A23-0765, 2024 WL 1039085, at *2-3 (Minn. App. Mar. 11, 2024) (concluding that the district court erred in construing motion to correct sentence as postconviction petition because defendant’s arguments—including *Blakely* claim—challenged only whether the “sentence was authorized by law, and not the underlying conviction”).² The district court therefore erred by construing Fairbanks’s motion as a postconviction petition and concluding that his motion was procedurally barred under *Knaffla*.

² We cite nonprecedential authority for its persuasive value. *See* Minn. R. Civ. App. P. 136.01, subd. 1(c).

II. The district court did not abuse its discretion in denying Fairbanks's motion to correct sentence.

We next consider whether the district court abused its discretion in denying Fairbanks's fourth motion to correct sentence. We review a district court's denial of a motion to correct sentence under rule 27.03, subdivision 9, for an abuse of discretion.³ *Evans v. State*, 880 N.W.2d 357, 359 (Minn. 2016). We review the district court's legal conclusions de novo and its factual findings for clear error. *Townsend v. State*, 834 N.W.2d 736, 738 (Minn. 2013). Fairbanks bears the burden to prove that his sentence was unlawful under rule 27.03, subdivision 9. *Williams v. State*, 910 N.W.2d 736, 742-43 (Minn. 2018). Fairbanks argues that his upward durational departure and consecutive sentence were not authorized by law pursuant to rule 27.03, subdivision 9. The state argues that the district court acted within its discretion in concluding that the record reflected legally permissible reasons for the departure and consecutive sentence, and that Fairbanks's claims are also barred by the law-of-the-case doctrine. We agree with the state.⁴

The law-of-the-case doctrine provides that “when a court decides upon a rule of law, that decision should continue to govern the same issues in subsequent stages in the same

³ Because the Minnesota Rules of Criminal Procedure do not expressly authorize an appeal from an order denying a motion to correct sentence pursuant to rule 27.03, subdivision 9, we “treat[] such appeals as appeals from postconviction orders if the motion was filed beyond the time for a direct appeal.” *Washington*, 845 N.W.2d at 211 n.1.

⁴ Although the district court did not invoke the law-of-the-case doctrine as a basis to deny Fairbanks's motion, “[w]e may affirm the district court on any ground, including one not relied on by the district court.” *State v. Fellegly*, 819 N.W.2d 700, 707 (Minn. App. 2012), *rev. denied* (Minn. Oct. 16, 2012).

case.” *Townsend v. State*, 3 N.W.3d 13, 16 (Minn. 2024) (quotations omitted). The doctrine “functions to bar issues that were previously considered and denied in the same case,” and applies to a motion to correct sentence, “when the claim underlying the motion was previously denied on direct appeal.” *Smith v. State*, 974 N.W.2d 576, 581-82 (Minn. 2022) (concluding that law-of-the-case doctrine barred defendant’s challenges to his consecutive sentences and upward durational departure). Additionally, the doctrine bars relitigating a previously decided issue “even if the issue presented is not precisely the same in all its details.” *Townsend*, 3 N.W.3d at 17.

We considered and denied the underlying claim set forth in Fairbanks’s fourth motion to correct sentence in *Fairbanks III*. 2009 WL 2366091, at *1-3. After we vacated Fairbanks’s sentence in *Fairbanks II*, the district court resentenced Fairbanks to 240 months in prison for the assault conviction and 103 months in prison for the kidnapping conviction, to be served consecutively. On appeal, Fairbanks argued that his sentence was unlawful because severe aggravating factors were not present to justify the district court’s imposition of a consecutive sentence and an upward durational departure. *Id.* at *1. We rejected Fairbanks’s argument, concluding that both the dangerous-offender aggravating factor and the severe aggravating factor of particular cruelty were “present to support imposition of the consecutive kidnapping sentence.” *Id.* at *3. In his present motion to correct sentence, Fairbanks again argues, in substance, that the upward durational departure and consecutive sentence are unlawful for lack of legitimate findings on the aggravating factors needed to support the sentence. Because this claim was previously considered, fully

litigated, and denied on direct appeal, it is barred by the law-of-the-case doctrine. *See Smith*, 974 N.W.2d at 581-82.

Affirmed.