This opinion is nonprecedential except as provided by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
A24-1393

Johnny Earl Edwards, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

Filed April 21, 2025
Affirmed
Connolly, Judge

Anoka County District Court
File No. 02-CR-17-3290

Cathryn Middlebrook, Chief Appellate Public Defender, Gina D. Schulz, Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

Brad Johnson, Anoka County Attorney, Carl E. Erickson, Assistant County Attorney, Anoka, Minnesota (for respondent)

Considered and decided by Wheelock, Presiding Judge; Worke, Judge; and Connolly, Judge.

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

Appellant challenges the district court's denial of his petition for postconviction relief, arguing that his petition was not time-barred, he is entitled to resentencing, and his guilty plea was inaccurate. Because all of appellant's arguments fail, we affirm.

FACTS

In May 2017, the co-defendant of appellant Johnny Earl Edwards arranged for the two of them to buy marijuana at a certain house. Appellant, however, planned to steal the marijuana, not buy it, and took a gun to the house. When he pulled out the gun before seizing the marijuana, J.C., an adult male in the house rushed at him, and appellant shot J.C. through the heart. Appellant and the co-defendant then took the marijuana and left J.C. still moving.

Appellant was charged with one count of second-degree intentional murder. The complaint was amended to add a count of aiding and abetting second-degree unintentional murder, while committing a felony. Appellant pleaded guilty to this count and was convicted. The plea agreement called for a sentence of 276 to 363 months in prison; appellant waived a trial on the upward-departure factors. He was sentenced to 363 months in prison and ordered to pay restitution. He challenged the restitution order, which was affirmed by an order opinion of this court. *See State v. Edwards*, No. A18-1632, 2019 WL 2495738 (Minn. App. June 17, 2019).

In June 2022, appellant filed a motion to remove the sentencing judge on the ground of judicial bias and a petition for postconviction relief, seeking either to vacate his conviction because his guilty plea was not accurate or to have another sentencing hearing with a different judge. The chief judge of the district court denied appellant's motion to remove the judge, who denied appellant's petition for postconviction relief on *Knaffla* grounds. An order opinion of this court reversed and remanded the order denying relief because *Knaffla* does not apply when there has been no direct appeal. *See Edwards v.*

State, No. A22-1221, 2023 WL 3161216, *2 (Minn. App. Apr. 19, 2023). On remand, the district court denied postconviction relief, addressing the timeliness of appellant's petition, his motion to remove the district court judge for resentencing, and his motion to withdraw his guilty plea. In an order opinion, this court reversed and remanded the timeliness issue. *See Edwards v. State*, No. A23-1159, 2024 WL 2891086, *1 (Minn. App. June 4, 2024). In July 2024, the parties submitted memoranda on the timeliness issue to the district court, which issued an order again denying postconviction relief.

Appellant challenges that order, arguing that the district court abused its discretion by concluding that appellant's claims were time-barred, indicated a lack of impartiality that made the denial of postconviction relief plain error, and erred in denying appellant's motion to withdraw his guilty plea.

DECISION

I. Denial of postconviction petition as untimely

The denial of a petition for postconviction relief is reviewed for an abuse of discretion and will not be reversed absent the district court exercising discretion in an arbitrary or capricious manner, basing a ruling on an erroneous view of the law, or making clearly erroneous factual findings. *Brown v. State*, 863 N.W.2d 781, 786 (Minn. 2015). The general rule is that, when a direct appeal has not been filed, a postconviction petition must be filed within two years of the entry of the judgment of conviction or the sentence. Minn. Stat. § 590.01, subd. 4(a) (2024). Appellant invokes two exceptions to this rule: Minn. Stat. § 590.01, subd. 4(b)(1) (2024), providing that a "petitioner establishes that a physical disability or mental disease precluded a timely assertion of the claim," and Minn.

Stat. § 590.01, subd. 4(b)(5) (2024), providing that a "petitioner establishes to the satisfaction of the court that the petition is not frivolous and is in the interests of justice." Appellant argues that both exceptions are satisfied by "his medical issues."

The district court found that, although appellant alleged illness from late 2018 until 2021, two circumstances made this unlikely. First, in July 2019, appellant's counsel filed appellant's pro se petition for review (PFR) of this court's June 2019 order opinion with the Minnesota Supreme Court, in which appellant cited case law and made cogent arguments, "clearly demonstrating that he had the full ability to research and write the PFR." Second, the affidavit supporting appellant's argument that he could not proceed due to illness was dated June 6, 2021, a year before he sought postconviction relief in June 2022, and he does not mention having any illness between June 2021 and June 2022. The district court found "there is no support for the argument that [appellant] was unable to file his postconviction petition within the [two] year time requirement and the petition is time barred."

Appellant had his gall bladder removed in February 2019. His ability to oppose the restitution order during 2018 and 2019 demonstrates that, between his sentencing in February 2018 and two years later in February 2020, he was not prevented by illness from filing a petition for postconviction relief. The district court did not abuse its discretion in finding that his petition was untimely.

II. Denial of motion to remove the district court judge

When there has been no objection to a judge's allegedly erroneous conduct at the time, the standard of review is plain error. *State v. Schlienz*, 774 N.W.2d 361, 365 (Minn.

2009). In *Schlienz*, the judge had engaged in ex-parte communication with the prosecutor. *Id.* The state argued that the defendant waived the right to have another judge hear a motion to withdraw his guilty plea because the communication and the judge's alleged partiality were not objected to at the time the motion to withdraw was heard; the defendant argued that the presence of a judge who was not impartial was structural error that could not be waived. *Id.* The supreme court determined that it "need not decide whether there was structural error or whether the error was waived because, even if we assume that the error was waived, the unobjected-to error may be reviewed for plain error." *Id.* A plain-error review requires (1) an error, that (2) is plain, and that (3) affected the defendant's substantial rights; if these criteria are met, the reviewing court considers whether the error must be addressed to ensure the fairness and integrity of the judicial proceeding. *State v. Griller*, 583 N.W.2d 736, 740 (Minn. 1998).

Appellant argues that the judge's refusal to recuse herself because she had cried was plain error, but he provides neither any evidence that the judge did in fact cry nor any legal support for the view that a judge's crying is plain error. Inadequately briefed issues are not properly before an appellate court and are forfeited. *Melina v. Chaplin*, 327 N.W.2d 19, 20 (Minn. 1982). But, in the interests of completeness, we address the issue.

Appellant submitted an affidavit asserting that his sentence might have been less if the sentencing judge "wasn't emotionally tied to the case" and had not "show[ed] emotions by crying . . . for the victim." The sentencing judge denied the motion to remove, writing that she "d[id] not recall crying at the sentencing and ha[d] confirmed that there [was] no indication [of her crying] in the recorded or written record." The sentencing-hearing

transcript gives no indication whatever of the judge's crying or emotional activity or of any pause in the hearing that would have been caused by such activity.

The transcript includes only two references to crying. One came from the victim's mother, who said, near the end of her speech, "I didn't mean to cry"; the judge told her, "You do not have to apologize." The other came from a letter sent by the victim's sister, which the judge read aloud. It said "I cry for two reasons. One, for the loss of my brother and how he was taken, and a second because there are two more African-American males who will spend their lives in prison not being able to fulfill their purpose and destiny. I pray God will heal their minds and have mercy on them." The judge responded by saying, "It's amazing to me when families can think beyond themselves and think of the others that are touched." Neither reference provides any support for appellant's claim that the judge cried during the hearing.

On appeal, appellant relies on an online petition for the removal of another judge who, in a separate widely publicized case, started crying while sentencing the defendant, which one signer of the petition said was "remarkably unprofessional." But an online petition calling for a judge's removal is not legal authority, and in any event, the judge who cried was not removed from that case.

Here, the judge imposed a sentence to which appellant had previously agreed in his plea, having considered eight victim-impact statements, the speeches of three victims, and a lengthy letter from appellant. The judge noted that this was appellant's fourth sentence for a violent crime, that he was on supervised release for first-degree criminal sexual conduct when he committed this crime, and that the remaining sentence for that crime

would be concurrent with the sentence she was imposing. The judge was not prejudiced against appellant, and the sentence imposed reflected both the plea agreement and appellant's history. Appellant's argument that he received a longer sentence because the judge was emotionally involved in the case fails.

III. Plea withdrawal

The validity of a guilty plea is a question of law subject to de novo review. *Nelson v. State*, 880 N.W.2d 852, 855 (Minn. 2016). A district court's denial of a petition for postconviction relief is reviewed for an abuse of discretion. *Pearson v. State*, 891 N.W.2d 590, 596 (Minn. 2017). After sentencing, a defendant may withdraw a guilty plea only if withdrawal is necessary to correct a manifest injustice. Minn. R. Crim. P. 15.05, subd. 1. The factual basis for a plea is sufficient if the defendant's guilt can reasonably be inferred from the facts admitted by the defendant. *Rosendahl v. State*, 955 N.W.2d 294, 299 (Minn. App. 2021). A plea must be accurate, voluntary, and intelligent to be constitutionally valid; accuracy ensures that a defendant is actually guilty of the offense of which he is convicted and is not pleading guilty to a more serious offense than the offense of which he could have been convicted after a trial. *State v. Raleigh*, 778 N.W.2d 90, 94 (Minn. 2010). For aiding and abetting offenses, "[a] person . . . may be charged with and convicted of the crime although the person who directly committed it has not been convicted, or has been convicted of some other degree of the crime or of some other crime based on the same act." Minn. Stat. § 609.05, subd. 4 (2024).

The district court found that appellant's plea was accurate because:

> [he] admits shooting the victim while committing an armed robbery. Immediately after [appellant] shot the victim, he grabbed the marijuana. [His co-defendant] saw him grab the marijuana and [appellant] told [the co-defendant] to "come on" and "grab my crutches." [Appellant's] inclusion of [his co-defendant] in his plan to go to the victim's home to commit the crime of obtaining marijuana coupled with [the co-defendant's] compliance with [appellant's] directive to get [appellant's] crutches after he'd shot the victim and stole[n] the marijuana all support the plea.

Appellant now argues that he cannot be guilty of being an accomplice because there was no principal. This court addressed that argument in a nonprecedential case, *State v. Martynyuk*, A18-0397, 2018 WL 6273099 (Minn. App. Dec. 3, 2018), *rev. denied* (Minn. Feb. 28, 2019).[1] Martynyuk had filled out and submitted timesheets indicating that her stepson, V.N., had provided personal care services to Martynyuk's father, S.M., during a period when S.M. was in Russia. 2018 WL 6273099, at *1. Martynyuk was initially charged with one count of theft by swindle and one count of theft by false representation, which the state later amended to one count of aiding and abetting theft by swindle. *Id.* When V.N., who had reached a plea agreement, did not appear for Martynyuk's trial, a warrant was issued for his arrest. *Id.*

Martynyuk argued that "the evidence was insufficient to prove that she aided V.N. to commit a theft by swindle because the state did not prove that V.N. committed a theft by swindle." *Id.* at *3. But this argument

> presumes that a person cannot be convicted of aiding another to commit a crime unless the state proves that the other person is guilty of the crime. That premise is false. . . . We do not see why an aiding-and-abetting conviction cannot be sustained in

[1] While this case is nonprecedential, we find its reasoning persuasive.

> a case in which the state chose to rely on an aiding-and-abetting theory but established, beyond a reasonable doubt, the defendant's commission of the underlying substantive offense.

Id. at *3, *5. Here, appellant committed the underlying substantive offense, i.e., second-degree murder, without intent, while committing a felony. He admitted this at the plea hearing and admits it on appeal.[2]

Moreover, contrary to appellant's assertion that his co-defendant was involved only after the shooting, appellant actually testified that: (1) the co-defendant "told me he knew where he can get some [marijuana] and he told me the price and I said okay"; (2) they drove together from Minneapolis to a house in Fridley to get the marijuana; (3) in appellant's opinion, the co-defendant was "the person who set up the deal"; (4) when they arrived, appellant sent the co-defendant inside to look at the marijuana; (5) when the co-defendant came back, appellant told him to return to the house with a scale to weigh the marijuana and said he would "be in there in a second"; (6) the co-defendant grabbed a scale before he went in back into the house; and (7) appellant went into the house "a couple seconds behind him." Thus, appellant himself testified to the co-defendant's extensive involvement in the crime prior to the shooting. There is no basis to allow appellant to withdraw his guilty plea.

Affirmed.

[2] The fact that the state chose to charge appellant with aiding and abetting instead of charging him with the offense itself is not a reason to allow him to withdraw his guilty plea; such a withdrawal would produce, not correct, a manifest injustice. *See* Minn. R. Crim. P. 15.05, subd. 1.