

STATE OF MINNESOTA
IN COURT OF APPEALS

A21-0707



Alberto Rivera, petitioner,

Appellant,

vs.

State of Minnesota,

Respondent.

ORDER OPINION

Hennepin County District Court
File No. 27-CR-08-38132

Considered and decided by Worke, Presiding Judge; Florey, Judge; and Bryan, Judge.

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

1. On January 8, 2009, appellant Alberto Rivera pleaded guilty to one count of first-degree criminal sexual conduct. The district court sentenced Rivera to 270 months in prison, which was a downward durational departure based on the parties' agreement. In the departure report, the district court noted that Rivera "must comply with statutory lifetime registration as sex offender and lifetime conditional release pursuant to Minn. Stat. § 609.3455(7)."

2. On June 9, 2009, Rivera filed a direct appeal (A09-1023). We affirmed his conviction, and the supreme court denied Rivera's petition for further review.

3. On October 10, 2012, Rivera filed his first petition for postconviction relief, arguing, among other things, that the state breached the plea agreement because he did not

agree to lifetime registration and lifetime conditional release. The district court denied Rivera's petition. Rivera appealed (A12-2081). We affirmed the district court's denial of postconviction relief, and the supreme court denied Rivera's petition for further review.

4. On May 5, 2017, Rivera filed his second petition for postconviction relief. The district court denied Rivera's petition. Rivera appealed (A17-1379). We affirmed the district court's denial of postconviction relief, and the supreme court denied Rivera's petition for further review.

5. On April 9, 2019, Rivera filed his third petition for postconviction relief, again challenging the lifetime requirements. The district court denied Rivera's petition, concluding that Rivera attempted to "resurrect substantively identical arguments that he made in his first post-conviction petition." Rivera appealed (A19-1458). We affirmed the district court's denial of postconviction relief, and the supreme court denied Rivera's petition for further review.

6. On February 4, 2021, Rivera filed his fourth petition for postconviction relief, titling it a motion to enforce the terms of his plea agreement "without the lifetime of conditional release, and the lifetime of registration." The district court denied Rivera's petition.

7. Rivera now appeals, arguing that the district court abused its discretion by denying his petition, claiming that his guilty plea was involuntary because the state failed to abide by the plea agreement when it attached the lifetime requirements.

8. When a defendant challenges a sentence imposed as part of a negotiated plea agreement, the exclusive remedy is a petition for postconviction relief. *State v. Coles*,

862 N.W.2d 477, 481-82 (Minn. 2015). Thus, the district court properly construed Rivera's motion as such. This court reviews the district court's denial of a postconviction petition for an abuse of discretion. *Pearson v. State*, 891 N.W.2d 590, 596 (Minn. 2017).

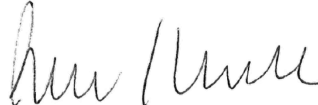
9. Rivera has previously challenged the lifetime requirements. In his last challenge, we determined that the claim was procedurally barred. Nothing has changed. Because Rivera raised this claim in two prior postconviction petitions, the district court did not abuse its discretion by denying Rivera's petition for postconviction relief. *See Walen v. State*, 777 N.W.2d 213, 215 (Minn. 2010) (stating that any claims for relief raised in an earlier postconviction petition are barred).

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: November 10, 2021

BY THE COURT



Judge Renee L. Worke