FILED
April 30, 2025
OFFICE OF
APPELLATE COURTS

STATE OF MINNESOTA

IN SUPREME COURT

A24-0859

State of Minnesota,

Respondent,

vs.

Diamond Lee Jamal Griffin,

Appellant.

PER CURIAM.

O R D E R

Following a jury trial in Hennepin County district court, appellant Diamond Lee Jamal Griffin was convicted of first-degree felony murder, Minn. Stat. § 609.185(a)(3) (2024), in connection with the shooting death of Francisco Benitez-Hernandez. On direct appeal, we affirmed his conviction. *State v. Griffin*, 887 N.W.2d 257, 265 (Minn. 2016). On September 25, 2023, Griffin filed a preliminary application for relief under a 2023 session law that entitles persons convicted of first- or second-degree felony murder under an aiding and abetting theory of criminal liability, who are in state custody or under court supervision, to petition to have their convictions reviewed and vacated if they can establish

certain facts, including that they "did not cause the death of a human being."[1] Act of May 19, 2023, ch. 52, art. 4, § 24, 2023 Minn. Laws 810, 864–68 (the Act).

To obtain relief under the Act, an eligible person must first file, no later than October 1, 2025, a "preliminary application" in district court. *Id.*, subd. 4. The district judge assigned to review the application then must determine whether "there is a reasonable probability that the application is entitled to relief under this section." *Id.*, subd. 5(c). If the reviewing judge determines that there is no reasonable probability the applicant is entitled to relief, the judge must "send notice" to the applicant "contain[ing] a brief statement explaining the reasons the reviewing judge concluded there is not a reasonable probability that the applicant is entitled to relief." *Id.*, subd. 5(h). If the district court judge determines that there is a reasonable probability that the applicant is entitled to relief, the applicant may then file a "petition to vacate the conviction," which can result in a full hearing on the merits of their petition, "held in open court and conducted pursuant to Minnesota Statutes, section 590.04." *Id.*, subds. 5(g), 6(a), (f).

In Griffin's case, the district court issued a seven-page written order denying his preliminary application, concluding that there was no reasonable probability that Griffin was entitled to relief under the Act. *State v. Griffin*, No. 27-CR-13-22245, Order Denying Preliminary Application at 7 (Henn. Cnty. Dist. Ct. filed Nov. 27, 2023). Griffin then filed a notice of appeal of the order denying his preliminary application. Griffin's appeal was

[1] For the purposes of this order, we assume without deciding that Griffin's conviction under Minn. Stat. § 609.185(a)(3) (2024), was based on an aiding and abetting theory of criminal liability.

initially filed with the court of appeals, which dismissed the appeal for lack of jurisdiction, concluding that because Griffin was convicted of first-degree murder, only this court could hear his appeal. *State v. Griffin*, No. A23-1910, 2024 WL 1231214, at *1 (Minn. App. Mar. 19, 2024). Griffin then filed a motion to accept an untimely notice of appeal in this court, which we granted in the interests of justice. *State v. Griffin*, No. A24-0859, Order at 4 (Minn. filed Jun. 25, 2024). Because the Act does not prescribe any type of appellate procedure, we also requested supplemental briefing from the parties on two jurisdictional questions: whether an individual may appeal a decision denying a preliminary application under the Act, and if so, what procedures govern those appeals. *State v. Griffin*, No. A24-0859, Order at 2 (Minn. filed Jul. 18, 2024).[2] On January 6, 2025, we heard oral argument on the jurisdictional questions.

Having weighed the parties' arguments we conclude that we have jurisdiction over Griffin's appeal from the denial of his preliminary application under the Act. We hold that, in first-degree murder cases, an appeal from an order or notice denying a preliminary application under the Act may be brought under Minnesota Rule of Criminal Procedure 29.02, subd. 1(b), which allows a person convicted of first-degree murder to appeal to our court from a final adverse postconviction order. For the reasons explained below, we conclude that an order denying a preliminary application of a person convicted of first-degree murder meets the necessary requirements of both finality and postconviction relief

[2] Because Griffin is arguing his appeal pro se, we appointed a member of the Minnesota State Bar Association to argue in support of the court's jurisdiction over the appeal. We appreciate the help of the Minnesota State Bar Association and appointed counsel.

to be appealable under Minnesota Rule of Criminal Procedure 29.02, subd. 1(b). An order under the Act denying a preliminary application of a person convicted of first-degree murder may thus be brought under Minnesota Rule of Criminal Procedure 29.02, subd. 1(b), and may proceed on appeal under the procedures for postconviction appeals contained within Minnesota Rule of Criminal Procedure 29.03.

A.

The threshold question before us is whether Griffin's appeal of the denial of his preliminary application under the Act falls within this court's appellate jurisdiction—and if so, what rules govern. The Minnesota Constitution vests this court with appellate jurisdiction "in all cases." Minn. Const. art. VI, § 2. Thus, although the Act does not discuss appellate procedures of any kind, that on its own does not divest the appellate courts of jurisdiction where, as here, the Legislature has not included any language explicitly seeking to do so. *See State v. Williams*, 842 N.W.2d 308, 312 (Minn. 2014) ("If a statute does not explicitly attempt to divest the court of appeals or this court of appellate jurisdiction or restrict the issues that we or the court of appeals may review on appeal, we will not presume an intent to do so in order to avoid confronting the constitutional question such a statute would raise.") But the fact that the appellate courts have not been divested of appellate jurisdiction does not mean that all orders are immediately appealable. Criminal appeals must comply with the Minnesota Rules of Criminal Procedure, which set forth the necessary requirements as to the order's finality and type for an appeal to be brought to either the court of appeals or this court.

Accordingly, we begin here by examining whether any of the existing procedural rules we have promulgated expressly grant our court jurisdiction over an appeal from the denial of a preliminary application under the Act. Griffin argues that his appeal should proceed under Minnesota Rule of Criminal Procedure 29.02, which allows defendants and prosecutors to appeal directly to this court from an "adverse final order deciding a petition for post-conviction relief under Minnesota Statutes, chapter 590." Minn. R. Crim. P. 29.02, subd. 1(b).

To determine whether Minnesota Rule of Criminal Procedure 29.02, subdivision 1(b), applies, we must first determine whether a denial of a preliminary application under the Act is a final order.[3] Although the rule itself does not define "final order," finality is generally a fixture of an appealable order, and in other appellate contexts we have described final orders as those that "end[] the proceeding as far as the court is concerned or that 'finally determine[] some positive legal right of the appellant relating to the action.' " *In re GlaxoSmithKline PLC*, 699 N.W.2d 749, 754 (Minn. 2005) (citation omitted) (internal quotation marks omitted); *see also Antl v. State*, 19 N.W.2d 77, 81 (Minn. 1945) ("The law is, of course, that an appealable order requires final determination of the action of some positive legal right relating thereto.").

With these principles in mind, we turn to the procedural framework created by the Act. Subdivision 1 of the Act states that:

---

[3] Minnesota Rule of Criminal Procedure 29.02, subd. 1(b) refers to "adverse final orders." Because there is no dispute over whether the denial of Griffin's application is "adverse" we focus our analysis on the finality of the order.

> Any person convicted of a violation of Minnesota Statutes, section 609.185, paragraph (a), clause (3), or 609.19, subdivision 2, clause (1), under the theory of liability for crimes of another and who is in the custody of the commissioner of corrections or under court supervision is *entitled to* petition to have the person's conviction vacated pursuant to this section.

(Emphasis added.) The plain and commonly understood meaning of "entitle" is to "give (someone) a legal right or a just claim to receive or do something." *Entitle*, *New Oxford American Dictionary* 579 (3d ed. 2010); *see also Entitle*, *Black's Law Dictionary* 673 (11th ed. 2019) (defining entitle as "[t]o grant a legal right"). The Act therefore grants eligible individuals a positive legal right—the right to petition to have their convictions vacated. But under the procedural framework the Legislature created, the first step in asserting this positive legal right is the filing of a preliminary application under subdivision 4. Subdivision 5 then empowers a district court judge to deny the preliminary application if the judge concludes that there is no "reasonable probability" the person is entitled to relief under the Act. *See* the Act, subds. 4–6. Because a denial of a preliminary application under subdivision 5 precludes an eligible applicant from exercising the positive legal right created by the Act, we conclude that the denial of a preliminary application under the Act is a final order.[4]

[4] Subdivision 5(h) of the Act describes that in denying a preliminary application, the reviewing judge must send "notice" to the applicant explaining why the court determined there is not a reasonable probability that the applicant is entitled to relief under the Act. The State contends that the Legislature's use of "notice" to describe the district court decision inherently means it cannot be an appealable "order." We disagree. As we observed in *Waiters v. State*, 14 N.W.3d 279, 282 n.3 (Minn. 2024), labeling a document as a "notice" is not determinative of whether the document should be construed as an appealable final order. Moreover, as we have articulated, appellate review is vital to the "uniformity, rationality, and fairness" of our system of criminal adjudication. *Spann v. State*, 704 N.W.2d 486, 494 (Minn. 2005).

We have adopted a similar approach to the procedural framework crafted by the Legislature in the postconviction statute. Minnesota Statutes, section 590.01, subdivision 1 provides persons convicted of a crime with the right to file a petition in district court seeking to vacate their convictions in certain circumstances, but subdivision 4(a) of that statute precludes the filing of such petitions under certain time bars. Minn. Stat. § 590.01, subds. 1, 4 (2024). We have treated district court orders denying postconviction petitions at this preliminary stage based on subdivision 4(a) as appealable final adverse postconviction orders. *See*, *e.g.*, *Williams v. State*, 5 N.W.3d 399, 405 (Minn. 2024) (considering an appeal from the district court's order denying postconviction relief based on Minn. Stat. § 590.01, subd. 4(a)); *Fox v. State*, 938 N.W.2d 252, 256 (Minn. 2020) (same). Despite arguments to the contrary raised by the State, neither the fact that a person may file successive postconviction petitions, *see* Minn. Stat. § 590.04, subd. 3 (2024) (discussing successive postconviction petitions), nor the existence of the writ of mandamus statute, Minnesota Statutes section 586.01 (2024), has led us to treat orders denying postconviction relief based on the statutory time bar as a non-final order. Nothing in subdivision 5(f) of the Act, which discusses the allowance of successive applications in certain narrow circumstances, warrants a different result here. We therefore conclude that a notice denying a preliminary application under the Act is a "final order."

B.

Having decided the denial of a preliminary application under subdivision 5 of the Act is a final order for purposes of appellate review of an order denying postconviction relief under Rule 29.02, subd. 1(b), we must decide whether that provision governs

Griffin's appeal, even though the Act is not codified in Minnesota Statutes, chapter 590.[5] We have previously held that Minnesota Statutes, section 590.01, which allows a convicted person to petition to vacate their conviction or sentence on the grounds that it violates their constitutional or legal rights, is "broad enough to encompass" a motion seeking the same relief under a different rule. *Powers v. State*, 731 N.W.2d 499, 501 n.2 (Minn. 2007). In *Powers*, we determined that a motion to correct a sentence under Minn. R. Crim. P. 27.03, subd. 9, which allows a court to correct an unlawful sentence at any time, could be treated as a petition for postconviction relief, despite that motion not arising directly from chapter 590. *Id.* Our analysis in *Powers* applies with equal force in the context of the Act. Because the Act allows a person to petition to vacate the specified convictions, we conclude that the language of section 590.01, which allows a person convicted of a crime to file a petition seeking to vacate their conviction on the grounds that it "violated the person's rights under the Constitution or laws of the United States or of the state," is broad enough to encompass an appeal from the denial of a preliminary application under the Act. Thus we conclude that Minnesota Rule of Criminal Procedure 29.02, subdivision 1(b) governs Griffin's right to appeal.

C.

Lastly, having determined that the denial of Griffin's preliminary application under the Act regarding his first-degree murder conviction is an appealable order under

[5] Minnesota Rule of Criminal Procedure 29.02, subdivision 1(b), provides, in full, that "[e]ither the defendant or the prosecutor may appeal as of right from the district court to the Supreme Court, in a first-degree murder case, from an adverse final order deciding a petition for postconviction relief under Minn. Stat. ch. 590."

Minnesota Rule of Criminal Procedure 29.02, subdivision 1(b), we address what rules further govern that appeal. Because Rule 29.02, subd. 1(b) provides a right to appeal specific to postconviction relief, the governing procedures for Griffin's appeal are those applicable to appeals for postconviction relief under Minnesota Rule of Criminal Procedure 29.03.[6]

* * *

For all these reasons, we conclude that we possess appellate jurisdiction over Griffin's appeal from the denial of his preliminary application under the Act. The district court's written determination that there is no reasonable probability that the applicant is entitled to relief under the Act is a "final order," and the postconviction remedy provided in Minnesota Statutes section 590.01, subdivision 1, is broad enough to encompass the remedy authorized by the Act. Accordingly, we direct Griffin's appeal to proceed under Minnesota Rule of Criminal Procedure 29.02, subdivision 1(b), and the provisions of Minnesota Rule of Criminal Procedure 29.03 applicable to appeals for postconviction relief.

---

[6] Minnesota Rule of Criminal Procedure 29.03, subdivision 3, provides that "[a]n appeal by a defendant from an adverse final order in a postconviction proceeding in a first-degree murder case must be filed within 60 days after its entry," subject to a 30-day extension for good cause shown. Minn. R. Crim. P. 29.03, subd. 3(d), (f). Although Griffin's notice of appeal did not meet those filing requirements, as we explained in our prior order, we permitted Griffin's appeal to proceed in the interests of justice, given that Griffin promptly filed his initial notice of appeal with the court of appeals and the question of timeliness here involved a recent change in the law and interpretation issues. *State v. Griffin,* No. A24-0859, Order at 4 (Minn. filed Jun. 25, 2024) (citing *In re Welfare of J.R., Jr.*, 655 N.W.2d 1, 3 (Minn. 2003), *Ruberg v. Skelly Oil Co.*, 297 N.W.2d 746, 749 (Minn. 1980), *Krug v. Indep. Sch. Dist. No. 16*, 293 N.W.2d 26, 29 (Minn. 1980), and *E.C.I. Corp. v. G.G.C. Co.*, 237 N.W.2d 627, 629 (Minn. 1976)).

Based upon all the files, records, and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. Jurisdiction over appellant Diamond Lee Jamal Griffin's appeal from the district court's order denying his preliminary application is accepted, and the appeal may proceed pursuant to Minnesota Rule of Criminal Procedure 29.02, subdivision 1(b), and the provisions of Minnesota Rule of Criminal Procedure 29.03 applicable to appeals for postconviction relief.

2. Because the merits of Griffin's appeal have already been briefed by the parties, this case will be scheduled for nonoral consideration on the next available argument calendar.

Dated: April 30, 2025