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**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A07-0555**

Marc J. Arens, petitioner,  
Appellant,

vs.

State of Minnesota,  
Respondent

**Filed April 15, 2008  
Affirmed  
Collins, Judge\***

Ramsey County District Court  
File No. K2-04-2602

Marc Arens, MCF Stillwater, 970 Pickett Street North, Bayport, MN 55003 (pro se appellant)

Lori Swanson, Attorney General, 1800 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101; and

Susan Gaertner, Ramsey County Attorney, Mark Lystig, Assistant County Attorney, 50 West Kellogg Boulevard, Suite 315, St. Paul, MN 55102 (for respondent)

Considered and decided by Hudson, Presiding Judge; Worke, Judge; and Collins,  
Judge.

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\* Retired judge of the district court, serving as judge of the Minnesota Court of Appeals by appointment pursuant to Minn. Const. art. VI, § 10.

## UNPUBLISHED OPINION

**COLLINS**, Judge

On appeal from the denial of postconviction relief, appellant Marc J. Arens argues that the district court abused its discretion in summarily denying his petition without an evidentiary hearing. Because appellant's claims are procedurally barred by the *Knaffla* rule, we affirm.

### DECISION

When a person convicted of a crime petitions for postconviction relief, the postconviction court must hold an evidentiary hearing unless the “files and records of the proceeding conclusively show that the petitioner is entitled to no relief.” Minn. Stat. § 590.04, subd. 1 (2002). The petitioner bears the burden of establishing by a fair preponderance of the evidence facts that warrant reopening the case. Minn. Stat. § 590.04, subd. 3 (2002). As a pro se defendant, appellant is held to the same standard as a lawyer. *State v. Larson*, 520 N.W.2d 456, 464 (Minn. App. 1994), *review denied* (Minn. Oct. 14, 1994). When reviewing a postconviction court's denial of relief, this court examines whether the findings are supported by the evidence. *Perry v. State*, 731 N.W.2d 143, 146 (Minn. 2007). The decision to grant or deny a new trial will not be disturbed absent an abuse of discretion. *Id.*

Here, the district court held that the *Knaffla* rule operates as a bar to the postconviction petition. Under this rule, postconviction courts need not consider any claims that were known or available but not raised during an earlier appeal. *State v. Knaffla*, 243 N.W.2d 737, 741, 309 Minn. 246, 252 (1976). There are two exceptions: (1) when “a

claim is so novel that the legal basis was not available on direct appeal, or (2) [when] fairness requires [that the claim be heard] and the petitioner did not ‘deliberately and inexcusably’ fail to raise the issue on appeal.” *Mckenzie v. State*, 707 N.W.2d 643, 644 (Minn. 2005) (quoting *Carney v. State*, 692 N.W.2d 888, 891 (Minn. 2005)).

The record supports the district court’s denial on this basis. Each of the claims presented by appellant could have been brought as part of his direct appeal. In fact, appellant, through his diligent pro se representation and motion practice, demonstrated an acute prior awareness of each of the issues raised in his postconviction petition. Because appellant knew of the instant claims and included many of these arguments in his first appeal on the matter, *Knaffla* bars appellant from again raising the allegations contained in the petition.

Appellant argues that each of the two exceptions to *Knaffla* ought to apply. We disagree. Appellant has not advanced any novel legal claims that were unavailable at the time of his direct appeal, and his failure to raise these claims was deliberate because he explicitly withdrew all motions and petitions in a sworn statement to the court at his plea hearing. Therefore, the district court properly applied *Knaffla* to bar appellant’s subsequent petition for postconviction relief.

We also note that, even if appellant’s petition were not barred by *Knaffla*, his claims would fail on the merits. Appellant argues that his guilty plea was not voluntary or intelligent because he (1) was not provided with adequate assistance to present a defense and (2) was not informed prior to pleading guilty to his previous impaired-driving convictions that they could later be used to enhance the current conviction to a felony.

However, appellant discharged his court-appointed attorney who would have been responsible for representing him at all stages of the proceedings, and the fact that appellant's prior convictions could later be used for sentencing enhancement purposes is a collateral consequence, which the courts were not required to explain to appellant before he pleaded guilty in those previous cases. *See United States v. Lambros*, 544 F.2d 962, 966 (8th Cir. 1976) (holding that the possibility of an enhanced sentence in a subsequent conviction is a collateral consequence of a conviction); *Kaiser v. State*, 641 N.W.2d 900, 904 (Minn. 2002) (holding that the district court does not have a duty to advise a defendant of the collateral consequences of a guilty plea).

Appellant also contends that the district court improperly denied him (1) access to hearing transcripts; (2) a ruling on a motion to dismiss; (3) an additional rule 20 examination; and (4) adequate time to review the presentence-investigation report. We disagree. With respect to the request for transcripts and motion to dismiss, appellant withdrew both motions prior to pleading guilty, and after reviewing these arguments we conclude they are without merit. Similarly, we see no error in the district court's refusal to grant an additional rule 20 examination. The district court has discretion in deciding whether to order a rule 20 evaluation and appellant has not identified any prejudice stemming from the original examination conducted by the appointed psychologist that would warrant an additional assessment by an independent examiner. *See Minn. R. Crim. P. 20.02*, subd. 1 (stating a district court *may* order a competency evaluation). Next, appellant complains that he did not receive a copy of the presentence-investigation report until ten minutes prior to being sentenced. This argument is unpersuasive because appellant

did not request additional time, and he fails to identify hardship or prejudice that resulted from the timing of his receipt of the report.

Finally, appellant challenges the constitutionality of the sentencing guidelines relating to alcohol-related offenses on various grounds. However, because these arguments are not adequately developed in appellant's brief, we consider them waived. *See State Dep't of Labor & Indus. v. Wintz Parcel Drivers, Inc.*, 558 N.W.2d 480, 480 (Minn. 1997) (declining to reach issues in the absence of adequate briefing).

**Affirmed.**