

This opinion will be unpublished and may not be cited except as provided by Minn. Stat. § 480A.08, subd. 3 (2012).

**STATE OF MINNESOTA
IN COURT OF APPEALS
A13-1049**

Jermaine Dickerson, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed January 6, 2014
Affirmed
Halbrooks, Judge**

Hennepin County District Court
File No. 27-CR-08-18437

Jermaine Dickerson, Bayport, Minnesota (pro se appellant)

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Michael O. Freeman, Hennepin County Attorney, Jean Burdorf, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Considered and decided by Halbrooks, Presiding Judge; Peterson, Judge; and Ross, Judge.

UNPUBLISHED OPINION

HALBROOKS, Judge

In this postconviction sentencing appeal, pro se appellant Jermaine Dickerson argues that his sentences for convictions of second-degree murder and terroristic threats

were based on an incorrect criminal-history score. Because Dickerson's argument is without any support in the record, we affirm.

FACTS

In 2007, Dickerson was charged by indictment with first-degree premeditated murder, first-degree murder while committing domestic abuse, and child endangerment. In exchange for the state's dismissal of the indictment, Dickerson pleaded guilty to second-degree murder and terroristic threats, agreed to upward durational sentencing departures on both offenses, and waived his right to a jury trial on aggravating factors.

The district court sentenced Dickerson to 480 months' imprisonment for second-degree murder and a consecutive sentence of 60 months' imprisonment for terroristic threats. The district court acknowledged that it was departing from the sentencing guidelines based on its finding of several aggravating factors.

In May 2013, Dickerson filed a postconviction motion for correction of sentence under Minn. R. Crim. P. 27.03, subd. 9, arguing that his sentence should have been based on a criminal-history score of zero. The postconviction court concluded that the district court correctly determined that Dickerson had accrued two criminal-history points prior to sentencing—one felony point for a prior conviction and one custody-status point because Dickerson committed the current offense while on probation. The postconviction court denied Dickerson's motion for a correction of sentence. Dickerson appeals that decision.

DECISION

A district court “may at any time correct a sentence not authorized by law.” Minn. R. Crim. P. 27.03, subd. 9. A sentence is not authorized by law if based on an incorrect criminal-history score. *State v. Maurstad*, 733 N.W.2d 141, 147 (Minn. 2007). A motion for sentence correction is committed to the district court’s discretion, and we will reverse the district court only when that discretion is not properly exercised and the sentence is unauthorized by law. *State v. Cook*, 617 N.W.2d 417, 419 (Minn. App. 2000), *review denied* (Minn. Nov. 21, 2000).

On appeal, Dickerson argues that his sentences were erroneously based on a criminal-history score of six. This argument is without merit. The district court determined the presumptive sentencing range for Dickerson’s second-degree-murder offense based on a criminal-history score of two. The district court explained that Dickerson received two additional points, based on the current murder conviction, which was used to calculate the presumptive sentencing range for Dickerson’s terroristic-threats offense. Dickerson acknowledged under oath that these presumptive sentences were based, respectively, on a criminal-history score of two and four. These calculations comply with the provisions of the sentencing guidelines. The record further reflects that the district court decided, as was within its discretion, to upwardly depart from the presumptive sentences based on several aggravating factors. The postconviction court therefore did not abuse its discretion by denying Dickerson’s motion for correction of sentence.

Affirmed.