

*This opinion will be unpublished and may not be cited except as provided by Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A11-1758**

Antonio Romero Williams, petitioner,  
Appellant,

vs.

State of Minnesota,  
Respondent.

**Filed June 25, 2012  
Affirmed  
Bjorkman, Judge**

Hennepin County District Court  
File No. 27-CR-03-061045

Antonio R. Williams, Rush City, Minnesota (pro se appellant)

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

Michael O. Freeman, Hennepin County Attorney, Thomas A. Weist, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Considered and decided by Worke, Presiding Judge; Halbrooks, Judge; and Bjorkman, Judge.

**UNPUBLISHED OPINION**

**BJORKMAN**, Judge

Appellant challenges the district court's denial of postconviction relief, arguing that the district court abused its discretion by not correcting his supervised-release and sentence-expiration dates. We affirm.

## FACTS

In early 2004, appellant Antonio Williams was convicted of first-degree burglary, two counts of kidnapping, second-degree assault, and unlawful possession of a firearm. We affirmed his convictions but reversed his aggravated sentence. *State v. Williams*, No. A04-1586 (Minn. App. Nov. 1, 2005), *review denied* (Minn. Jan. 25, 2006). On remand, the district court imposed a sentence of 111 months for the burglary conviction, consecutive 21-month terms for the two kidnapping convictions, and concurrent terms of 60 months and 21 months for the firearm and assault convictions, respectively. We affirmed. *State v. Williams*, No. A07-2038 (Minn. App. Jan. 20, 2009), *review denied* (Minn. Mar. 31, 2009).

The Minnesota Department of Corrections (DOC) subsequently aggregated Williams's consecutive sentences into one 153-month sentence to determine his supervised-release and sentence-expiration dates. After accounting for jail credit, the DOC determined that Williams would be eligible for supervised release on March 12, 2012, and that his aggregate sentence would expire on May 24, 2016. Williams petitioned for postconviction relief, arguing that the DOC had improperly aggregated his three consecutive sentences and requesting correction of his supervised-release and sentence-expiration dates. The district court denied Williams's petition. This appeal follows.

## DECISION

On appeal from a postconviction order, we review issues of law de novo but examine the district court's findings to determine if they are supported by sufficient

evidence. *Leake v. State*, 737 N.W.2d 531, 535 (Minn. 2007). We will reverse the denial of postconviction relief only if the district court has abused its discretion. *Id.*

The baseline for determining supervised release and sentence expiration is the sentence imposed by the district court. The sentence defines the term for which an offender is committed to the custody of the commissioner of corrections. *See State v. Schwartz*, 628 N.W.2d 134, 140 (Minn. 2001). When the district court imposes multiple consecutive sentences, the term of commitment is the total length of the consecutive sentences. *See* Minn. Stat. § 244.101, subd. 2 (2002) (requiring district court to explain “the total length of the executed sentence” to the defendant); *State v. Ferguson*, 808 N.W.2d 586, 589 (Minn. 2012) (considering aggregate of consecutive sentences). The offender must serve a minimum of two-thirds of that total term in prison, after which he may be eligible for supervised release for the remaining one-third, depending on his conduct while in prison. Minn. Stat. §§ 244.05, subd. 1b, .101, subds. 1, 3 (2002); *see Kachina v. State*, 744 N.W.2d 407, 409 (Minn. App. 2008) (stating that “the sentence imposed by the district court determines the maximum length of the supervised release period”); *see also State ex rel. Peterson v. Fabian*, 784 N.W.2d 843, 845 (Minn. App. 2010) (stating that supervised release is “included *within* the sentence duration pronounced”).

Williams agrees that his three consecutive sentences require him to serve a minimum of 102 months in prison, making him eligible for supervised release on March 12, 2012. But he contends that the supervised-release terms for each of his first and second sentences should run concurrently with the subsequent prison terms. According

to Williams, each sentence should expire upon the end of the concurrent supervised-release term, such that he will serve only seven months on supervised release and his final sentence will expire on October 9, 2012. He argues that the DOC's determination that he must serve 51 months on supervised release improperly modified the district court's sentence and subjected him to cruel and unusual punishment. We disagree.

The sentencing guidelines expressly permit the DOC to aggregate consecutive sentences. The offender serves one aggregate term of imprisonment, with the prison term for second and subsequent sentences beginning upon completion of the prison term for the preceding sentence. *See* Minn. Sent. Guidelines II.F (stating that a consecutive stayed sentence “begins when the offender completes the term of imprisonment and is placed on supervised release”), cmt. II.F.02 (“The service of the consecutive sentence begins at the end of any incarceration arising from the first sentence.”) (2002). The supervised-release term for each sentence does not run during the prison term for the subsequent sentence but is aggregated with the other supervised-release terms, to be served upon completion of the aggregate prison term. Minn. Sent. Guidelines cmt. II.F.02. Failure to follow this procedure would impermissibly transform consecutive sentences to partially concurrent sentences and shorten the total sentence term. *See State v. Ford*, 539 N.W.2d 214, 230 (Minn. 1995) (stating that discretionary determination whether multiple sentences should run concurrently or consecutively may not be delegated to the DOC).

The DOC's determination of Williams's supervised-release and sentence-expiration dates accurately administers Williams's lawful sentence—a total term of 153 months in the custody of the commissioner of corrections with at least 102 of those

months in prison—and does not subject him to cruel and unusual punishment. On this record, we conclude that the district court did not abuse its discretion in denying Williams’s request to alter the DOC’s determination of his supervised-release and sentence-expiration dates.

**Affirmed.**