

*This opinion will be unpublished and
may not be cited except as provided by
Minn. Stat. § 480A.08, subd. 3 (2006).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-1970**

Wendell Dwayne O'Neal, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed June 24, 2008
Affirmed
Johnson, Judge**

Ramsey County District Court
File No. T5-05-194701

Wendell Dwayne O'Neal, 202 Honorway, Madison, AL 35758 (pro se appellant)

Lori Swanson, Attorney General, 1800 Bremer Tower, 445 Minnesota Street, St. Paul,
MN 55101-2134; and

John J. Choi, St. Paul City Attorney, Jessica S. McConaughy, Assistant City Attorney,
15 West Kellogg Boulevard, 500 City Hall and Courthouse, St. Paul, MN 55102 (for
respondent)

Considered and decided by Halbrooks, Presiding Judge; Willis, Judge; and
Johnson, Judge.

UNPUBLISHED OPINION

JOHNSON, Judge

Wendell Dwayne O'Neal appeals from the summary denial of his second petition for postconviction relief. O'Neal argues that the district court erred by concluding that his claims are procedurally barred. We conclude that O'Neal's claims were raised and considered in his first postconviction proceeding or were not raised despite being known to O'Neal at the time of his first postconviction proceeding. Thus, we affirm.

FACTS

In the early morning hours of August 15, 2005, an employee of the Radisson Hotel in downtown St. Paul called 911 to complain that O'Neal had been inside the hotel lobby for more than two hours, was not a guest, would not heed requests to leave the hotel, and had "yelled profanities" at the hotel employee. O'Neal was arrested and charged with the petty-misdemeanor offense of trespassing, in violation of Minn. Stat. § 609.605, subd. 1(b)(3) (2004). He entered a plea of guilty that same day. The district court imposed a sentence of a \$50 fine. O'Neal did not pursue a direct appeal.

On September 26, 2005, O'Neal filed a postconviction petition in the district court in which he sought to withdraw his guilty plea. He argued that his guilty plea was invalid because he did not actually appear before the district court and because he was threatened with a disorderly conduct charge if he did not plead guilty. The district court denied the petition, and this court affirmed. *O'Neal v. State*, A05-2330, 2006 WL 2947470 (Minn. App. Oct. 17, 2006), *review denied* (Minn. Dec. 20, 2006.)

On August 21, 2007, O’Neal filed a second postconviction petition in which he again sought to withdraw his guilty plea. The district court summarily denied O’Neal’s petition on the ground that his claims are procedurally barred. O’Neal appeals.

DECISION

A district court may summarily deny a second or subsequent petition for postconviction relief. Minn. Stat. § 590.04, subd. 3 (2006). A district court also may summarily deny a postconviction petition when it raises issues previously decided by this court or the supreme court. *Id.* “[A]ll matters” raised in a direct appeal and “all claims known but not raised, will not be considered upon a subsequent petition for postconviction relief.” *State v. Knaffla*, 309 Minn. 246, 252, 243 N.W.2d 737, 741 (1976). “Additionally, matters raised or known but not raised in an earlier petition for postconviction relief will generally not be considered in subsequent petitions for postconviction relief.” *Powers v. State*, 731 N.W.2d 499, 501 (Minn. 2007). “There are two exceptions to the *Knaffla* rule: (1) if a novel legal issue is presented or (2) if the interests of justice require review.” *Id.* at 502. A district court’s denial of postconviction relief based on the *Knaffla* procedural bar is reviewed for an abuse of discretion. *Quick v. State*, 692 N.W.2d 438, 439 (Minn. 2005).

In his pro se brief, O’Neal argues that his guilty plea was invalid because (1) he was not present when his administrative guilty plea was entered, (2) he never received a citation, and (3) he was not arraigned. The first of these claims was previously raised and rejected in O’Neal’s first postconviction petition. *O’Neal*, 2006 WL 2947470 at *1-2. Thus, the first claim is barred. *Powers*, 731 N.W.2d at 501. The second and third claims

were not previously raised, either on direct appeal or in the first postconviction petition. Given the nature of those claims, O’Neal must have been aware of the facts on which they are based when he filed his first postconviction petition. Thus, the second and third claims also are barred. *Id.*

O’Neal does not argue for an exception to the *Knaffla* rule. Nonetheless, we have reviewed his petition and appellate brief for that purpose. We do not perceive a novel legal issue, and we do not believe that the “interests of justice require review” of any of O’Neal’s claims. *Id.* at 502.

In sum, the district court did not abuse its discretion by summarily denying O’Neal’s second postconviction petition.

Affirmed.