

*This opinion will be unpublished and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
A12-0886**

Leon Henry Carter, III, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed March 18, 2013
Affirmed
Peterson, Judge**

Hennepin County District Court
File No. 27-CR-95-040246

Leon Henry Carter, III, Rush City, Minnesota (pro se appellant)

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

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

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

UNPUBLISHED OPINION

PETERSON, Judge

In this appeal from the district court's denial of his fifth postconviction petition,
appellant argues that the district court abused its discretion by rejecting his claim of

ineffective assistance of trial counsel. Because the only issue that appellant raised on appeal was not raised in or considered by the postconviction court, we affirm.

FACTS

Pro se appellant Leon Henry Carter, III, was convicted of two counts of second-degree murder in 1995. On direct appeal, this court affirmed appellant's conviction and sentence. *State v. Carter*, No. C6-96-51 (Minn. App. Sept. 3, 1996), *review denied* (Minn. Oct. 29, 1996). Appellant petitioned for postconviction relief four times. Each time, the postconviction court denied relief, and this court affirmed the postconviction court. *Carter v. State*, No. A09-1639 (Minn. App. Apr. 27, 2010), *review denied* Minn. July 20, 2010); *Carter v. State*, No. A08-2040 (Minn. App. Jan. 6, 2009); *Carter v. State*, No. A06-2412 (Minn. App. Jan. 14, 2008), *review denied* (Minn. Mar. 26, 2008); *Carter v. State*, No. C4-00-1849 (Minn. App. June 19, 2001). In affirming the postconviction court's dismissal of appellant's motion to reconsider denial of appellant's third postconviction petition, this court noted that "[a]ppellant's multiple, overlapping filings in the district court and in this court represent an abuse of the postconviction process." *Carter v. State*, No. A09-27 (Minn. App. Jan. 29, 2009).

Appellant's fifth postconviction petition asserted a sentencing issue, and the postconviction court considered and addressed only that issue in its postconviction order. Appellant's brief to this court challenging that decision addresses only a claim of ineffective assistance of counsel.

DECISION

A postconviction court may deny a postconviction petition summarily if the petition, files, and record demonstrate conclusively that no relief is warranted. Minn. Stat. § 590.04, subd. 1 (2010). This court reviews a district court's summary denial of a postconviction petition for abuse of discretion. *Lee v. State*, 717 N.W.2d 896, 897 (Minn. 2006).

An appellate court “generally will not decide issues which were not raised before the district court[.]” *Roby v. State*, 547 N.W.2d 354, 357 (Minn. 1996). When a postconviction petitioner's appellate brief does not address an issue raised in the petition for postconviction relief, that issue is deemed waived. *Azure v. State*, 700 N.W.2d 443, 447 (Minn. 2005). Because appellant's brief to this court addresses an ineffective-assistance-of-counsel claim but the issue raised in appellant's petition for postconviction relief was limited to a sentencing issue, we decline to address the ineffective-assistance-of-counsel claim.

Affirmed.