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**STATE OF MINNESOTA
IN COURT OF APPEALS
A12-0952**

Aaron Pantoja-Coronado, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed May 28, 2013
Affirmed
Kalitowski, Judge**

Ramsey County District Court
File No. 62-T5-05-008128

Tamara Cabán-Ramirez, Cabán-Ramirez Law Firm, LLC, Minneapolis, Minnesota (for appellant)

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

Sara R. Grewing, St. Paul City Attorney, Michael A. Seasily, Assistant City Attorney, St. Paul, Minnesota (for respondent)

Considered and decided by Schellhas, Presiding Judge; Kalitowski, Judge; and Worke, Judge.

UNPUBLISHED OPINION

KALITOWSKI, Judge

Appellant Aaron Pantoja-Coronado, a legal permanent resident of the United States, challenges the district court's denial of his petition for postconviction relief as

untimely. He argues that he is exempt from the two-year postconviction filing requirement because the Supreme Court's holding in *Padilla v. Kentucky*, 130 S. Ct. 1473, 1483 (2010), is a new rule of law that applies retroactively and he is entitled to relief in the interests of justice. We affirm.

DECISION

When reviewing a postconviction court's decisions, we review issues of law de novo, and we review factual findings to determine whether the findings are supported by sufficient evidence. *Leake v. State*, 737 N.W.2d 531, 535 (Minn. 2007). A criminal defendant may not file a petition for postconviction relief more than two years after the later "of the entry of judgment of conviction or sentence if no direct appeal is filed," unless an exception applies. Minn. Stat. § 590.01, subd. 4(a)(1), (b) (2012).

One exception is for "a new interpretation of federal or state constitutional or statutory law by either the United States Supreme Court or a Minnesota appellate court" that the petitioner establishes is "retroactively applicable" to his or her case. *Id.*, subd. 4(b)(3). A new rule applies retroactively "(1) when the rule places certain specific conduct beyond the power of the criminal law-making authority to proscribe, or (2) when the rule is a 'watershed' rule of criminal procedure, and is a rule without which the likelihood of an accurate conviction would be seriously diminished." *Danforth v. State*, 761 N.W.2d 493, 496 (Minn. 2009) (citing *Teague v. Lane*, 489 U.S. 288, 311, 109 S. Ct. 1060, 1075-76 (1989)).

Appellant argues that his petition falls within the new-interpretation-of-law exception based on the Supreme Court's holding in *Padilla*. We disagree.

In *Padilla*, the Supreme Court held that an attorney provides ineffective assistance of counsel by failing to inform a criminal defendant of the possibility of deportation resulting from a guilty plea. 130 S. Ct. at 1483. But both the United States Supreme Court and the Minnesota Supreme Court have held that *Padilla* announced a new rule of constitutional criminal procedure that does not apply retroactively. *Chaidez v. United States*, 133 S. Ct. 1103, 1113 (2013); *Campos v. State*, 816 N.W.2d 480, 499 (Minn. 2012), *cert. denied*, 133 S. Ct. 938 (2013). Thus, the district court did not err by concluding that the new-interpretation-of-law exception to the two-year postconviction filing requirement does not apply.

Another statutory exception to the two-year requirement is when “the petitioner establishes to the satisfaction of the court that the petition is not frivolous and is in the interests of justice.” Minn. Stat. § 590.01, subd. 4(b)(5). For the interests-of-justice exception to apply, the petition for postconviction relief must be filed no more than two years from the time the claim arose. *Id.*, subd. 4(c) (2012); *Sanchez v. State*, 816 N.W.2d 550, 557-58 (Minn. 2012). A claim for postconviction relief arises when the petitioner “knew or should have known that he had a claim.” *Sanchez*, 816 N.W.2d at 560. This is an objective standard; a petitioner’s subjective, actual knowledge is irrelevant. *Id.* at 558. And a claim invoking the interests-of-justice exception must relate to why the petitioner missed the primary deadline of subdivision 4(a). *Id.* at 557.

Appellant argues that his petition falls within the interests-of-justice exception. We disagree.

Here, appellant argues that an injustice occurred when he signed his plea petition on April 22, 2005. But the injustice he claims and the substance of his petition are based on events at his plea hearing. Therefore, appellant knew or should have known about his plea claim at that time; his actual, subjective knowledge is irrelevant. Because appellant did not petition for postconviction relief until February 14, 2012,—more than six years after his plea hearing—subdivision 4(c) prevents appellant from invoking the interests-of-justice exception in subdivision 4(b)(5).

Affirmed.