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Minn. Stat. § 480A.08, subd. 3 (2012).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A13-1275**

Belford William Reitz, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent

**Filed May 19, 2014
Affirmed
Toussaint, Judge***

Anoka County District Court
File No. 02KX01009086

Cathryn Middlebrook, Chief Appellate Public Defender, Charles F. Clippert, Special Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

Tony Palumbo, Anoka County Attorney, Robert D. Goodell, Assistant County Attorney, Anoka, Minnesota (for respondent)

Considered and decided by Hooten, Presiding Judge; Worke, Judge; and
Toussaint, Judge.

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

TOUSSAINT, Judge

In this postconviction appeal of the district court's denial of appellant's motion to correct his sentence, appellant argues that his conditional release violates his constitutional protections against involuntary servitude. We affirm.

DECISION

We will not reverse a district court's denial of a motion to correct a sentence under Minn. R. Civ. P. 27.03, subd. 9 unless the district court abused its discretion or the original sentence is unauthorized by law. *Anderson v. State*, 794 N.W.2d 137, 139 (Minn. App. 2011), *review denied* (Minn. Apr. 27, 2011).

Reitz argues that, because his conditional release constitutes unconstitutional involuntary servitude under the United States and Minnesota Constitutions, the district court abused its discretion by denying his motion to correct his sentence. U.S. Const. amend. XIII, § 1; Minn. Const. art. I, § 2. But while Reitz did challenge his conditional release before the district court on grounds that it violates the "constitutional protections of trial by jury, due process, and separation of powers," he did not argue to the district court that it violates constitutional prohibitions on involuntary servitude. Moreover, Reitz did not provide the district court with a memorandum of law, he provided no legal support for his argument, and the district court did not address it. Generally, an appellate court will not consider matters not argued to and considered by the district court. *Roby v. State*, 547 N.W.2d 354, 357 (Minn. 1996). Reitz has waived this issue as a result.

To the extent that Reitz does raise an issue that may be considered on appeal, it has no merit. The district court dismissed Reitz's other constitutional arguments as simply recast from those he previously made in past petitions for postconviction relief and habeas corpus, both of which were denied and this court affirmed. *Reitz v. Hammer*, No. A13-0746 (Minn. App. Nov. 12, 2013); *Reitz v. State*, No. A13-0261 (Minn. App. Oct. 21, 2013), *review denied* (Minn. Dec. 31, 2013). On appeal, Reitz asserts a separation-of-powers argument, contending that the department of corrections improperly enforces the terms of conditional release by incarcerating individuals that violate the rules it imposes. But the supreme court has rejected the contention that the commissioner's authority to control conditional-release revocation usurps the judiciary's authority. *State v. Schwartz*, 628 N.W.2d 134, 140 (Minn. 2001) ("The commissioner's subsequent revocation and re-incarceration decision does not alter the sentence of the court or impose a new sentence, but merely executes a condition within the parameters set by the court."). As a result, the district court did not abuse its discretion by denying Reitz's motion to correct his sentence because the sentence is authorized by law.

Affirmed.