

STATE OF MINNESOTA
IN COURT OF APPEALS

A25-1532

Lannon Lavar Burdunice,

Appellant,

ORDER OPINION

vs.

Washington County District Court
File No. 82-CV-25-2729

William Bolin,

Respondent,

Keith Ellison,

Respondent.

Considered and decided by Smith, Tracy M., Presiding Judge; Connolly, Judge; and Wheelock, Judge.

BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND BECAUSE:

1. Appellant Lannon Lavar Burdunice challenges the district court's order denying his petition for a writ of habeas corpus without an evidentiary hearing. Because the district court did not err in summarily denying Burdunice's petition, we affirm.

2. After a trial, a jury found Burdunice guilty of unlawful possession of a firearm but did not reach a verdict on the first-degree murder charge. *State v. Burdunice*, No. A18-1269, 2019 WL 3000714, at *1 (Minn. App. July 8, 2019), *rev. denied* (Minn. Sept. 17, 2019). After a second trial, a jury found Burdunice guilty of second-degree intentional murder. *Id.* The district court sentenced Burdunice to 480 months'

imprisonment for second-degree intentional murder and a concurrent 60 months' imprisonment for unlawful possession of a firearm.

3. On direct appeal, we affirmed Burdunice's convictions after concluding that the district court did not err in rejecting a *Batson* challenge, excluding evidence of the victim's prior violent acts, admitting evidence of Burdunice's prior convictions for impeachment purposes, and not polling the jury. *Id.* at *1-5.

4. After the direct appeal, Burdunice filed three petitions for postconviction relief. The district court denied each of Burdunice's postconviction petitions, and we affirmed each of the denials. *Burdunice v. State*, No. A23-0670, 2024 WL 413530, at *3 (Minn. App. Jan. 26, 2024), *rev. denied* (Minn. Apr. 24, 2024); *Burdunice v. State*, No. A22-0076, 2022 WL 3581559, at *1 (Minn. App. Aug. 22, 2022), *rev. denied* (Minn. Nov. 23, 2022); *Burdunice v. State*, No. A21-0888, 2022 WL 1298118, at *1 (Minn. App. May 2, 2022), *rev. denied* (Minn. July 19, 2022).

5. In 2024, we affirmed the district court's denial of Burdunice's request to proceed in forma pauperis in filing his first petition for a writ of habeas corpus, on the ground that the district court did not abuse its discretion in determining that Burdunice failed to meet his burden to establish that his petition was not frivolous. *Burdunice v. Bosch*, No. A23-1683, 2024 WL 2891085, at *2 (Minn. App. June 5, 2024), *rev. denied* (Minn. Sept. 25, 2024).

6. In April 2025, Burdunice filed a second petition for a writ of habeas corpus. Burdunice's petition alleged that his imprisonment is unlawful because an "impermissible amendment to the indictment" during trial resulted in a structural defect, prosecutorial

misconduct occurred during trial, and he received ineffective assistance of trial and appellate counsel. Burdunice also asserted that his murder conviction violates the double-jeopardy clause and principles of due process, that cumulative errors render his murder conviction unfair, and that the interests of justice require relief.

7. The district court scheduled a hearing on Burdunice's petition, issuing a writ of habeas corpus and order for the limited purpose of Burdunice's transportation to the hearing. Respondent warden William Bolin filed a motion to cancel the hearing on the petition or to continue the hearing to allow him a reasonable opportunity to respond. The following day, the district court granted the warden's motion to cancel the hearing and ordered him to respond to the petition within 30 days.

8. The warden filed a response, arguing that the district court should deny Burdunice's petition without an evidentiary hearing because the petition was an improper attempt to collaterally attack Burdunice's conviction. Burdunice filed an objection to the warden's response as well as a motion for an evidentiary hearing.

9. The district court denied Burdunice's petition for a writ of habeas corpus and request for an evidentiary hearing, reasoning that Burdunice failed to establish a prima facie case for habeas relief and that adequate alternative remedies exist for Burdunice to pursue relief.

10. Burdunice now appeals the district court's denial of his petition for a writ of habeas corpus without an evidentiary hearing.

11. The day before this court's nonoral conference on this matter was scheduled to occur, Burdunice filed a motion for leave to amend and supplement his pleadings

pursuant to Minnesota Rules of Civil Procedure 15.01 and 15.04. In the motion, Burdunice stated that the purpose of the amendment would be “to supplement the current brief and response with supporting caselaw to make his claims more precise and more amenable to efficient solution.”

12. Because we conclude that Burdunice’s arguments have been adequately briefed and presented to this court, we deny Burdunice’s motion to amend and supplement his pleadings. *See* Minn. R. Civ. App. P. 128.02, subd. 4 (stating that further briefing is not permitted “except with leave of the appellate court”). We next consider the merits of Burdunice’s appeal.

13. “The proper scope of habeas relief presents a question of law, which we review de novo.” *State ex rel. Ford v. Schnell*, 933 N.W.2d 393, 404 (Minn. 2019).

14. A writ of habeas corpus is a statutory civil remedy by which a petitioner may obtain relief from unlawful imprisonment or restraint. *See* Minn. Stat. § 589.01 (2024). It is an “extraordinary remedy” that is “traditionally limited to resolving jurisdictional issues and violations of constitutional rights.” *State ex rel. Young v. Schnell*, 956 N.W.2d 652, 673 (Minn. 2021) (quotation omitted). A petition for a writ of habeas corpus “may not be used as a substitute for an appeal or as a cover for a collateral attack upon a judgment of a competent tribunal which had jurisdiction of the subject matter and of the person of the defendant.” *State ex rel. Shannon v. Tahash*, 121 N.W.2d 59, 61 (Minn. 1963); *see also* Minn. Stat. § 589.01 (excepting “persons committed or detained by virtue of the final judgment of a competent tribunal of civil or criminal jurisdiction” from the class of persons who may apply for a writ of habeas corpus). A petition is properly denied where the

petitioner could have raised the underlying claims through other legal means, such as direct appeal and postconviction remedies. *Kelsey v. State*, 283 N.W.2d 892, 893-94 (Minn. 1979).

15. A district court will grant a habeas corpus petitioner's request for an evidentiary hearing "only if a factual dispute is shown by the petition." *Seifert v. Erickson*, 420 N.W.2d 917, 920 (Minn. App. 1988), *rev. denied* (Minn. May 18, 1988). A petition must set forth "sufficient facts to establish a prima facie case for [the petitioner's] discharge." *State ex rel. Fife v. Tahash*, 111 N.W.2d 619, 620 (Minn. 1961). An appellate court may affirm the denial of a habeas petition when the petition fails to present a case for issuing a writ of habeas corpus. *State ex rel. Nelson v. Rigg*, 107 N.W.2d 378, 379 (Minn. 1961).

16. Burdunice argues that the district court's denial of his petition without an evidentiary hearing violated due process and constituted an abuse of discretion. We disagree. As the district court correctly concluded, Burdunice could have raised each of his asserted claims either on direct appeal or in a petition for postconviction relief, and thus, they constitute an improper collateral attack on his murder conviction and sentence. *See* Minn. Stat. § 589.01; *Kelsey*, 283 N.W.2d at 893-94 (explaining that a petition is properly denied when the petitioner could have raised claims through other legal means); *Shannon*, 121 N.W.2d at 61 (stating that a petition for writ of habeas corpus may not be used "as a cover for a collateral attack upon a judgment of a competent tribunal"); *State ex rel. Butler v. Swenson*, 66 N.W.2d 1, 4 (Minn. 1954) ("Questions which should be

determined at the trial or in a motion for a new trial or reviewed through some other regular legal procedure have no place in a habeas corpus proceeding.”).

17. Burdunice also argues that the district court erred in denying his request for an evidentiary hearing because his “petition sets forth multiple jurisdictional and constitutional claims that, if proven, would entitle him to relief.” In support, Burdunice repeats the arguments made in his petition. But Burdunice does not identify any issues of fact raised by his petition. Rather, Burdunice makes a conclusory statement that his petition “raise[s] mixed questions of law and fact which have never been adjudicated in a full and fair hearing.” Because the district court will grant a petitioner’s request for an evidentiary hearing only if the petition identifies factual disputes—and Burdunice does not identify any factual disputes—the district court did not err in denying Burdunice’s request for an evidentiary hearing. *See Seifert*, 420 N.W.2d at 920.

18. Finally, Burdunice asserts that the district court erred in denying his petition because a writ of habeas corpus is “the only adequate remedy available” to him. But Burdunice has already unsuccessfully challenged his convictions on direct appeal and in postconviction proceedings. And the arguments raised in Burdunice’s petition—which constitute a direct attack on his underlying criminal conviction—are outside the scope of review for a writ of habeas corpus. *See State ex rel. O’Neill v. Rigg*, 98 N.W.2d 142, 144 (Minn. 1959) (stating that the “scope of review in habeas corpus proceedings is limited” and “[t]he writ may not be issued as a substitute for an appeal or motion to correct, amend, or vacate”). In short, Burdunice’s argument is without merit because habeas relief does not become available merely because all other available remedies have been exhausted.

IT IS HEREBY ORDERED:

1. The district court's order denying appellant's petition for habeas corpus is affirmed, and appellant's motion to amend and supplement his pleadings is denied.

2. Pursuant to Minn. R. Civ. App. P. 136.01, subd. 1(c), this order opinion is nonprecedential, except as law of the case, res judicata, or collateral estoppel.

Dated: April 27, 2026

BY THE COURT



Judge Sarah I. Wheelock