

IN THE COURT OF APPEALS OF IOWA

No. 3-406 / 12-1090
Filed June 12, 2013

JARROD DALE MAJORS,
Applicant-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

Appeal from the Iowa District Court for Taylor County, David L. Christensen, Judge.

Jarrold Majors appeals from the district court order granting the State's motion for summary judgment in his second application for postconviction relief.

AFFIRMED.

Amanda Demichelis of Demichelis Law Firm, P.C., Chariton, for appellant.

Thomas J. Miller, Attorney General, Teresa Baustian, Assistant Attorney General, and Clinton L. Spurrier, County Attorney.

Considered by Doyle, P.J., and Danilson and Mullins, JJ.

MULLINS, J.

Jarrod Majors appeals from the district court order granting the State's motion for summary judgment in his second application for postconviction relief. Majors contends (1) the district erred in granting summary judgment because there was a genuine issue of material fact regarding competency and intoxication, (2) he was denied his right to effective assistance of counsel because all previous attorneys failed to investigate competency and intoxication issues, and (3) the district court erred in determining the statute of limitations barred his postconviction application. As we find Majors's claim is time-barred, we affirm.

I. Background Facts

In May 2002, Jarrod Majors broke into the family home of Jamie and Holly Peckham while they were attending a church meeting with their two young children. Armed with a loaded rifle affixed with a makeshift silencer, a large machete, and a roll of duct tape, Majors pulled a ski mask over his face and hid in a closet while he awaited the family's return. When the family returned home, Jamie settled the children in the living room and Holly walked upstairs to her bedroom.

Upon entering her bedroom, a man wearing a ski mask jumped out of a closet and pointed a loaded rifle at Holly's head. Holly screamed for her husband and ran from the room. Majors chased after Holly as she fell down a flight of stairs. Holly recovered from her fall and managed to escape the home in an effort to contact the neighbors for help.

Jamie Peckham heard the commotion from another room in the home and arrived in time to see a masked man chasing after his wife with a rifle. Jamie wrestled the gun away from the assailant and tackled him to the floor. The masked man then pulled out a machete and tried to further attack Jamie.

As Jamie struggled to subdue the assailant, Holly contacted a neighbor, Gene Ehlers, for help. She then called 911. When Gene arrived at the Peckham home, he saw Jamie on top of a masked man. The masked man was swinging a machete at Jamie. Gene wrestled the machete out of the assailant's hands and helped hold him down until the police could arrive. When the police arrived, officers handcuffed the assailant and removed the man's mask. Officers immediately identified the masked man as Jarrod Majors. Majors was seventeen years old at the time—less than one month from his eighteenth birthday.

In June 2002, while in jail, Majors made two requests for psychiatric treatment because of suicidal ideations. The district court ordered Majors to undergo psychiatric evaluation at the Iowa Medical and Classification Center. Majors reportedly admitted that he “asked to come for psychiatric evaluations so that he could get out of the jail and possibility help with his defense.” Other inmates reported to hospital staff that Majors asked them “how he could look more psychiatrically ill so that it would help with his case.” After psychiatric assessment, the staff psychiatrist reported as follows:

[Majors] is no longer exhibiting psychiatric symptoms that would require further stay. Findings during his stay indicate that he is competent to participate in judicial proceedings. Currently he does not have any medical condition which prevents him from appreciating his charge, understanding the proceedings, or assisting in his defense. A review of his history and available data

surrounding the activities in question would indicate that Mr. Majors understood the nature and quality of the behavior in which he was allegedly involved. That information would indicate that at the time he had sufficient capacity to distinguish right from wrong. It is equally this writer's opinion that at the time he had the capacity to form intent consistent with accountability.

II. Prior Proceedings

The State charged Majors with eleven criminal offenses arising from the May 2002 home invasion. The charges included: two counts of attempted murder, one count of first degree burglary while in possession of a firearm, three counts of assault while participating in first degree burglary while in possession of a firearm in a weapons free zone, three counts of going armed with intent, and two counts of criminal trespass.

The day before the jury trial was scheduled to begin, Majors, with the assistance of counsel, entered into a plea agreement with the State. Majors entered an *Alford* plea¹ to one count of attempted murder and agreed not to appeal that plea. In exchange, the State agreed to dismiss the ten remaining charges upon the expiration of the appeal deadline. Prior to the sentencing hearing, Majors submitted to a presentence investigation. During his presentence investigation, Majors reported, for the first time, that he was under the influence of methamphetamine during the home invasion and did not remember much of the incident or his motives.

In January 2003, the court held a sentencing hearing. At the sentencing hearing, Majors's attorney addressed the presentence investigation report. His

¹ An *Alford* plea allows a defendant to consent to the imposition of a sentence without admitting to participating in the crime. See *North Carolina v. Alford*, 400 U.S. 25, 37 (1970).

attorney asserted that prior to the presentence investigation Majors had not disclosed any drug use to counsel. Nor did Majors disclose any drug use to medical providers during his previous mental health evaluation—despite reportedly asking other inmates how he could appear more psychiatrically ill to help his defense. In a professional statement to the court, Majors's attorney asserted that based on his interviews with Majors and his review of all of the evidence it was impossible to raise a diminished capacity defense in this case. The court then sentenced Majors to serve no more than twenty-five years in prison, requiring that he serve a minimum of eighty-five percent before eligibility for parole.

After the court imposed its sentence, Majors orally notified the court of his intent to appeal the sentence. The State then asserted that it would prosecute the remaining ten counts against Majors pursuant to the plea agreement. After discussing his intent to appeal the sentence with both his attorney and his mother off the record, Majors withdrew his notice of appeal. In turn, the State asserted it would move to dismiss the remaining charges upon the expiration of the appeal period.

In February 2003, Majors called his attorney from the Iowa Medical and Classification Center and informed him of his intent to appeal the sentence. After his attorney informed him that the State would prosecute the remaining charges against him pursuant to the plea agreement, Majors instructed his attorney to file an appeal. The attorney complied. As a result, the State initiated prosecution on

the remaining ten counts. Majors's attorney withdrew from representation. The court appointed a new attorney to represent Majors on the remaining charges.

Majors then reached a plea agreement on the ten remaining charges. He agreed to plead guilty to the lesser included offense of second degree burglary. He also agreed to dismiss the appeal of his sentence for attempted murder. In exchange, the State agreed to dismiss the nine remaining charges. The court sentenced Majors to an indeterminate term in prison not to exceed ten years to run consecutively to the twenty-five-year attempted-murder sentence.

In December 2004, Majors filed a handwritten, pro se application for postconviction relief challenging the subject matter jurisdiction of the district court to impose judgment and sentence against him for acts he committed as a minor. A new attorney was appointed to represent Majors in the postconviction relief proceedings. That attorney subsequently withdrew and the court appointed another attorney to represent Majors. The State moved for summary judgment pursuant to Iowa Code section 232.8(1)(c) (2001), which allows minors sixteen years old or older to be tried as adults for forcible felonies. The district court granted the State's motion for summary judgment. Majors appealed. A new attorney was appointed to represent Majors on his appeal of the district court ruling. The Iowa Supreme Court dismissed the appeal as frivolous.

In January 2009, Majors filed a pro se motion to "Void / Alter Plea Agreement." Majors claimed his attorney unduly influenced him to file an appeal of the attempted murder conviction and sentence that resulted in the subsequent prosecution of the remaining charges. The district court treated this motion as a

motion in arrest of judgment and denied the motion as not timely filed. Majors filed a motion to amend or enlarge requesting the district court to reconsider its decision. The district court denied the motion to amend or enlarge. Majors then appealed to the Iowa Supreme Court. His appeal was unsuccessful.

In January 2010, Majors filed a “Petition to Void Plea” arguing again that his attorney unduly influenced him to file an appeal of his initial conviction and sentence of attempted murder. The court treated this petition as a motion in arrest of judgment and denied the motion as not timely filed.

In April 2010, Majors filed a second application for postconviction relief. He argued that a competency hearing should have been held to determine whether he was able to understand the plea and sentencing proceedings. The court appointed a new attorney to represent Majors. The attorney discussed with Majors the possibility of amending the pro se application. Majors did not want the application amended. The State filed a motion for summary judgment. The attorney discussed the preparation and filing of a resistance, but Majors decided he wanted to rely on his own resistance. Majors instructed the attorney not to file an additional or supplemental resistance. The district court found the application for postconviction relief was time-barred by the applicable statute of limitations and did not reach the merits of Majors’s argument.

Undeterred by the district court’s thorough and well-reasoned decision, Majors appeals.

III. Analysis

We must first decide whether Majors timely filed his second postconviction relief application. We review this issue for correction of errors at law. *Harrington v. State*, 659 N.W.2d 509, 519 (Iowa 2003). Pursuant to Iowa Code section 822.3 (2009), unless an exception applies, a defendant must apply for postconviction relief within three years from the date the conviction is final. If the defendant fails to comply with the three-year statute of limitations and no exception applies, his application for postconviction relief is time-barred. See Iowa Code § 822.3.

The procedural history of this case is undisputed. In January 2003, the court entered judgment against Majors for attempted murder and sentenced him to twenty-five years in prison. In May 2003, the court entered judgment against Majors for second degree burglary and sentenced him to serve ten years in prison. Pursuant to section 822.3, the statute of limitations expired in 2006. Majors filed his second application for postconviction relief in 2010. Thus, Majors's application for postconviction relief is time-barred unless an exception applies. See *id.*

There is an exception to the three-year statute of limitations for postconviction relief based on "a ground of fact or law that could not have been raised within the applicable time period." Iowa Code § 822.3. Majors's application for postconviction relief is based on claims of incompetency and intoxication. A psychiatric evaluation found Majors competent to stand trial and opined that Majors had the capacity to distinguish rights from wrong and had the

capacity to form intent consistent with accountability at the time of the crime. Following the psychiatric evaluation, Majors alleged during the presentence investigation, for the first time, that he was high on methamphetamine at the time of the home invasion. Even if competency and capacity were viable issues in this case, competency and capacity are grounds of fact or law that could have been raised within the applicable time period. Thus, no statutory exception saves Majors's application for postconviction relief from being time-barred. See *id.*

Majors has attempted to repackage his postconviction relief claim under an ineffective-assistance-of-counsel rubric to circumvent the time bar. In essence, Majors argues trial counsel was ineffective in failing to investigate and pursue competency and intoxication issues, and all subsequent counsel were ineffective in failing to identify trial counsel's errors. As a result of such alleged ineffective assistance, Majors argues he could not have raised the grounds of incompetency and intoxication within the applicable time period. An ineffective-assistance-of-counsel claim is not an exception to the statute of limitations for postconviction relief. See *Dible v. State*, 557 N.W.2d 881, 885 (Iowa 1996) ("If the legislature had intended that ineffective assistance of counsel serve as an exception to the statute of limitations, it would have said so."), *abrogated on other grounds by Harrington*, 659 N.W.2d at 520–21. Thus, Majors's attempt to repurpose the application for postconviction relief as an ineffective-assistance-of-counsel claim to circumvent the time bar is unavailing. See *id.*; see also *Wilkins v. State*, 522 N.W.2d 822, 824 (Iowa 1994).

Finally, Majors argues the district court should have equitably tolled the statute of limitations to entertain his postconviction relief application. To seek relief from a statute of limitations under the doctrine of equitable tolling, a party must show it diligently pursued its rights and some extraordinary circumstance beyond its control prevented timely filing. See *Pace v. DiGuglielmo*, 544 U.S. 408, 418 (2005). Iowa law has never before applied the doctrine of equitable tolling to the statute of limitations contained in Iowa Code section 822.3. Even if Iowa law did recognize equitable tolling under section 822.3, Majors has not identified an extraordinary circumstance beyond his control that prevented him from filing a claim based on grounds of fact and law that could have been raised well within the statute of limitations period. Thus, Majors's equitable tolling argument fails.

IV. Conclusion

Despite overwhelming evidence of guilt and nearly a decade behind bars, Majors has yet to accept responsibility for a home invasion that terrorized a young family. His second application for postconviction relief is well beyond the statute of limitations and raises no new ground of fact or law. His attempts to circumvent the time bar are without support in Iowa law. Thus, we affirm the thorough and well-reasoned district court decision.

AFFIRMED.