

IN THE SUPREME COURT
STATE OF NORTH DAKOTA

2024 ND 11

Michaelson Plaisimond,

Petitioner and Appellant

v.

State of North Dakota,

Respondent and Appellee

No. 20230252

Appeal from the District Court of Burleigh County, South Central Judicial District, the Honorable Bonnie L. Storbakken, Judge.

AFFIRMED.

Per Curiam.

Justin M. Balzer, Bismarck, ND, for petitioner and appellant; submitted on brief.

Julie A. Lawyer, State's Attorney, Bismarck, ND, for respondent and appellee; submitted on brief.

Plaisimond v. State
No. 20230252

Per Curiam.

[¶1] Michaelson Plaisimond appeals from an order denying his second application for postconviction relief after the district court found his application to be a misuse of process. Under N.D.C.C. § 29-32.1-12(2)(a), a court may deny postconviction relief as a misuse of process when the applicant “[p]resents a claim for relief which the applicant inexcusably failed to raise either in a proceeding leading to judgment of conviction and sentence or in a previous postconviction proceeding.” *State v. Atkins*, 2019 ND 145, ¶ 13, 928 N.W.2d 441. The court found the claims raised by Plaisimond in his second postconviction relief were discoverable to him prior to his first application and he inexcusably failed to raise the claims at that time. The court’s dismissal of Plaisimond’s application for misuse of process was not clearly erroneous. We summarily affirm under N.D.R.App.P. 35.1(a)(2), (4), and (7).

[¶2] Jon J. Jensen, C.J.
Daniel J. Crothers
Lisa Fair McEvers
Jerod E. Tufte
Douglas A. Bahr