

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0716**

State of Minnesota,
Respondent,

vs.

Terrell Edward Trambell,
Appellant.

**Filed April 25, 2022
Affirmed
Bryan, Judge**

Hennepin County District Court
File No. 27-CR-19-2767

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Michael O. Freeman, Hennepin County Attorney, Sarah J. Vokes, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Craig E. Cascarano, Cascarano Law Office, Minneapolis, Minnesota (for appellant)

Considered and decided by Jesson, Presiding Judge; Bryan, Judge; and Wheelock, Judge.

NONPRECEDENTIAL OPINION

BRYAN, Judge

In this direct appeal from final judgments of conviction for five counts of promoting prostitution of an individual, appellant disputes the sufficiency of the circumstantial evidence presented against him and challenges the denial of his petition for postconviction

relief without an evidentiary hearing. Because we conclude that the evidence presented at trial is sufficient to sustain appellant’s convictions and that the district court did not abuse its discretion in denying his postconviction petition, we affirm.

FACTS

In January 2019, the state charged appellant Terrell Tramble¹ with five counts of promoting prostitution of an individual in violation of Minnesota Statutes section 609.322, subdivision 1a(2) (2016). Each count was with respect to a different victim. The case proceeded to a jury trial, and the jury found Tramble guilty on all five counts. The district court imposed consecutive sentences of 180 months on Count 1, 48 months on Count 2, and 48 months on Count 3, as well as concurrent sentences of 180 months each on Counts 4 and 5.

Tramble filed a direct appeal, arguing that the circumstantial evidence presented at trial was insufficient to show that he—and not someone else using a Facebook account in Tramble’s name—facilitated prostitution. Importantly, Tramble acknowledges that the evidence shows that whoever used the Facebook account in Tramble’s name facilitated prostitution. This court stayed the appeal to permit Tramble to pursue postconviction relief. Tramble filed the petition for postconviction relief in November 2020, raising a claim of ineffective assistance of trial counsel. The district court denied the petition without a hearing and this court reinstated the appeal. Given the issues raised, we summarize the

¹ The case caption spells appellant’s last name as “Trambell.” *See* Minn. R. Civ. App. P. 143.01 (directing that the title of the action not be changed on appeal). At trial, however, the district court clarified that appellant’s last name is spelled as “Tramble.” We therefore use that spelling throughout this opinion.

evidence presented at trial, Tramble's waiver of his right to testify, the district court's responses to the jury's questions, and the district court's decision to deny the petition without a hearing.

A. Evidence Presented at Trial

Among other witnesses, the state presented the testimony of a detective with the Hennepin County Sheriff's Office. The detective testified that an individual, A.W., was in custody and suspected of involvement in human trafficking crimes. Law enforcement officers obtained and listened to recorded phone calls made by A.W. while he was in jail. During one such recording, A.W. called a person he referred to as "Stixx" and "Terrell." Using state and county databases, investigating officers determined that the phone number called by A.W. was one that Tramble had identified as his phone number. Officers also used a software program that collects information from websites advertising sex trafficking or prostitution. The same phone number was linked to a prostitution advertisement. A police analyst also located a Facebook page associated with Tramble and executed a search warrant to obtain the Facebook records for that page.

A records custodian with Facebook authenticated the Facebook records for the account associated with Tramble, and the state introduced those records into evidence. The records showed that the Facebook account had been created in the name of "Terrell Tramble." The records custodian explained that the name on the account was provided by the account holder, and that the Facebook account in Tramble's name listed a birthdate, which was the same as Tramble's date of birth. The Facebook account also listed a phone number. According to the testimony of the Facebook analyst, phone numbers for an

account are provided by the account holder and verified by text message. The phone number listed for the account in Tramble's name matched the phone number that A.W. called and that officers had associated with Tramble. The Facebook records showed that Facebook had verified that phone number, meaning that Facebook had sent a text message to that number and the user had verified it. The state also introduced into evidence screenshots of photos that had been posted on the Facebook page. The Hennepin County detective identified Tramble as the person in the profile picture and other photos on the Facebook page.

The state also presented evidence of prostitution advertisements that had been posted online for three of the five victims. The advertisements were posted on websites commonly used for sex trafficking. Some of the advertisements directed potential patrons to call the phone number associated with Tramble. The Hennepin County detective testified that, based on the advertisements' provocative and sexual nature, they were consistent with prostitution advertisements.

The state also introduced into evidence Facebook messages, authenticated by a records custodian, that had been exchanged between someone using the Facebook account in Tramble's name and each of the five victims. A Minneapolis police officer, who testified as an expert in sex trafficking, said that the Facebook messages showed that the victims were engaged in prostitution at the direction of the person using Tramble's Facebook account. Based on this evidence, the expert testified that Tramble was facilitating prostitution by paying for hotel rooms that would be used for sex, transporting the women to and from "dates," and collecting the money received.

The state presented further testimony from an informant who was in custody at the time of the trial and who had pleaded guilty to two charges of promoting prostitution but had not yet been sentenced. The informant acknowledged that the state had not made any promises to him in exchange for his testimony, but he admitted that he hoped to get a lighter sentence for testifying against Tramble. The informant testified that he placed advertisements on internet services, drove women to “dates,” and provided security for those “dates” to make sure that nothing went wrong. The informant identified Tramble as “an associate from the streets” who also prostituted women. He testified that he had “been with [Tramble] on occasion” while promoting prostitution. The informant also knew Tramble by his street name, “Stixx,” and recognized the Facebook account in Tramble’s name as belonging to Tramble.

The informant also recognized Victims 1, 2, and 5 as women who were involved in prostitution. He testified that he once took Victim 2 to see Tramble in a hotel room. On that occasion, Tramble told the informant about the previous night, saying that “the ad was going crazy last night.” The informant explained that he understood Tramble to be referring to an advertisement for prostitution and saying that Tramble had made a lot of money from the prostitution of Victim 2. The informant also testified that he had seen Tramble with Victim 5 and that Tramble had asked him to put up an advertisement to help promote her as a prostitute.

B. Waiver of Right to Testify and Jury Questions

After the state presented its case in chief, Tramble’s trial counsel informed the district court that Tramble had chosen not to testify. The district court had reminded

Tramble multiple times throughout the trial that he had the right to decide whether to testify. The district court asked Tramble if he had enough time to talk with his attorney before deciding not to testify. Tramble responded that he had and reaffirmed that he wished to remain silent. The defense rested without calling any witnesses.

During jury deliberations, the jury submitted two questions to the judge. The first question was, “Is it legal to provide the hard evidence from the defendant’s call to [the suspect] in jail, (i.e. a transcript or call log)? In other words, could the [s]tate have provided that as evidence?” The second question was, “How did the defendant provide the [phone] number to the [s]tate as referenced by [the detective] in his testimony?” The judge discussed these questions with the attorneys off the record. Once they were back on the record, the district court summarized the parties’ discussion, including objections that Tramble’s counsel had made:

We talked about a couple of different ways of responding to this. I had prepared a draft response that I shared with the [attorneys] before we really talked substantively about it.
Through our discussions I amended my proposed draft to take out the first sentence at the [s]tate’s request, and the [s]tate made some further requests for additional information or different responses to which [defense counsel] had objected and I agreed with the defense in that regard.

The district court then read the proposed response and asked if counsel for either party had any additional concerns or proposals. Both attorneys responded that they had no objection to the proposed response.

The jury returned to the courtroom and the district court gave the following response to the jury’s questions:

You must make your determinations in this case based upon the evidence you have been provided. While I understand you have these questions, it would be improper for me to answer them at this time.

You must decide what the facts are from the evidence presented and apply that to the law you were provided. You must then decide if the prosecution has proven Mr. Tramble guilty of one or more of the charges beyond a reasonable doubt. You should refer to all the instruction you received to assist you in fulfilling this duty.

C. Postconviction Proceedings

Tramble's postconviction petition alleged that his trial counsel was ineffective for indirectly convincing him not to testify, failing to investigate the charges, failing to vigorously cross-examine a witness regarding Facebook, and failing to make additional objections to the district court's response to the jury's questions. The district court denied Tramble's postconviction petition without an evidentiary hearing in a May 2021 order. The district court determined that Tramble failed to make the necessary showing for a claim of ineffective assistance of counsel because his petition and accompanying memorandum provided merely "bare argument and speculative conclusions," with no factual support.

This appeal follows.

DECISION

I. Sufficiency of the Evidence

Tramble argues that there was insufficient evidence to convict him of all five counts of promoting prostitution of an individual. We conclude that the circumstances proved are consistent with guilt and inconsistent with an inference that someone other than Tramble created and used the Facebook account to facilitate prostitution.

It is a crime to, “while acting other than as a prostitute or patron, intentionally . . . promote[] the prostitution of an individual.” Minn. Stat. § 609.322, subd. 1a(2). A person promotes prostitution if that person knowingly commits any of the following acts:

- (1) solicits or procures patrons for a prostitute;
- (2) provides, leases or otherwise permits premises or facilities owned or controlled by the person to aid the prostitution of an individual;
- (3) owns, manages, supervises, controls, keeps or operates, either alone or with others, a place of prostitution to aid the prostitution of an individual;
- (4) owns, manages, supervises, controls, operates, institutes, aids or facilitates, either alone or with others, a business of prostitution to aid the prostitution of an individual;
- (5) admits a patron to a place of prostitution to aid the prostitution of an individual; or
- (6) transports an individual from one point within this state to another point either within or without this state, or brings an individual into this state to aid the prostitution of the individual.

Minn. Stat. § 609.321, subd. 7 (2016).

When, as here, “the direct evidence of guilt on a particular element is not alone sufficient to sustain the verdict,” we apply the circumstantial-evidence standard of review. *Loving v. State*, 891 N.W.2d 638, 643 (Minn. 2017). Circumstantial evidence is “evidence from which the factfinder can infer whether the facts in dispute existed or did not exist.” *State v. Harris*, 895 N.W.2d 592, 599 (Minn. 2017) (quotation omitted). “[C]ircumstantial evidence always requires an inferential step to prove a fact that is not required with direct evidence.” *Id.* In assessing the sufficiency of circumstantial evidence, we conduct a two-part analysis. *State v. Andersen*, 784 N.W.2d 320, 329-30 (Minn. 2010). First, we “identify the circumstances proved,” *id.* at 329, deferring to the jury’s credibility determinations and

weighing of the evidence, *Harris*, 895 N.W.2d at 600. Second, we consider whether the circumstances proved are consistent with guilt and inconsistent with a rational hypothesis other than guilt. *Andersen*, 784 N.W.2d at 329-30. “Circumstantial evidence must form a complete chain that, in view of the evidence as a whole, leads so directly to the guilt of the defendant as to exclude beyond a reasonable doubt any reasonable inference other than guilt.” *State v. Al-Naseer*, 788 N.W.2d 469, 473 (Minn. 2010) (quotation omitted). In this second step, no deference is given to the jury’s verdict. *Loving*, 891 N.W.2d at 643.

In this case, the state proved the following circumstances. A Facebook account was opened in Tramble’s name. The Facebook account listed Tramble’s date of birth, displayed photos of Tramble, and had been verified using a phone number that Tramble had provided as his phone number, according to law enforcement databases. That phone number was the same one that A.W. dialed when he called the person he referred to as “Stixx” and “Terrell.” Further, the state’s informant testified that he was an associate of Tramble as well as Facebook friends with Tramble. The informant recognized the Facebook page as belonging to Tramble and testified that he knew Tramble went by the name “Stixx.” He also testified that he had been present at times when Tramble facilitated prostitution, including when Tramble promoted the prostitution of three of the five victims.² As noted above, Tramble acknowledges that whoever used the Facebook account in his name promoted prostitution of each of the five victims.

² We note that some of this testimony could be characterized as direct evidence. Nevertheless, we apply the circumstantial-evidence standard of review because the state relied heavily on indirect evidence and because both parties frame the convictions as based on circumstantial evidence on appeal.

We conclude that this evidence is consistent with Tramble's guilt and inconsistent with the alternative inference proposed by Tramble: that someone other than Tramble, who also goes by the nickname "Stixx," used Tramble's phone to create a Facebook account in his name and used Tramble's phone and the Facebook account to promote prostitution.³ Accordingly, there is sufficient evidence to sustain Tramble's convictions.

II. Denial of Postconviction Petition

Tramble also argues that the district court erred by denying his postconviction petition without holding an evidentiary hearing. Specifically, Tramble's postconviction petition alleged that his trial counsel was ineffective for the following four reasons: (1) trial counsel "did not want [Tramble] to testify and indirectly convinced [him] not to take the stand;" (2) trial counsel failed to adequately investigate to determine whether Tramble was the person who posted the Facebook advertisements that formed the basis for the offenses; (3) trial counsel "failed to conduct vigorous cross-examination" regarding the Facebook advertisements and messages; and (4) trial counsel failed to object to the district court's written response to a jury question during deliberations, which resulted in the response being "worded in a way which was detrimental to" Tramble. We are not convinced by these arguments and conclude that because the allegations in the petition were insufficient to support relief, the district court did not abuse its discretion when it denied the petition without a hearing.

³ We note that this alternative inference conflicts with the informant's testimony. Our standard of review, however, requires us to assume that the jury found the informant to be credible and prohibits this court from making its own credibility determinations. *Harris*, 895 N.W.2d at 600; *Loving*, 891 N.W.2d at 643.

The district court may dismiss a postconviction petition without holding an evidentiary hearing if “the petition and the files and records of the proceeding conclusively show that the petitioner is entitled to no relief.” Minn. Stat. § 590.04, subd. 1 (2020). When determining whether to hold an evidentiary hearing, the district court must accept the facts alleged in the petition as true, but if these facts “are legally insufficient to grant the requested relief,” the district court may deny the petition without an evidentiary hearing. *Rhodes v. State*, 875 N.W.2d 779, 786 (Minn. 2016); *see also Thoresen v. State*, 965 N.W.2d 295, 303 (Minn. 2021) (concluding that allegations in the petition “must be more than argumentative assertions without factual support” (quotation omitted)). We review the district court’s denial of a postconviction petition, including denial without an evidentiary hearing, for an abuse of discretion. *Chavez-Nelson v. State*, 948 N.W.2d 665, 671 (Minn. 2020). A district court abuses its discretion when its decision “is against logic and the facts in the record.” *Dolo v. State*, 942 N.W.2d 357, 362 (Minn. 2020).

For a petitioner to be entitled to an evidentiary hearing on an ineffective-assistance-of-trial-counsel postconviction claim, the petitioner “must allege facts that, if proven by a fair preponderance of the evidence, would satisfy the two-prong test” articulated by the United States Supreme Court in *Strickland v. Washington*, 466 U.S. 668, 687 (1984). *Chavez-Nelson*, 948 N.W.2d at 671 (quotation omitted). Under this standard, a petitioner must show that (1) his counsel’s representation “fell below an objective standard of reasonableness,” and (2) “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Id.*

(quotations omitted). If one prong is not satisfied, we may dispose of the claim without considering the other prong. *Peltier v. State*, 946 N.W.2d 369, 372 (Minn. 2020).

In this case, Tramble’s allegations are unable to satisfy the *Strickland* test. We begin with the allegation that Tramble’s trial counsel “indirectly convinced” Tramble not to testify at trial. “[A] claim that [a defendant’s] attorneys’ actions denied him the right to testify must fail ‘absent some indication in the record that his lawyers coerced him into not testifying by applying undue pressure, using illegitimate means, or otherwise depriving him of his free will.’” *Andersen v. State*, 830 N.W.2d 1, 11 (Minn. 2013) (quoting *State v. Berkovitz*, 705 N.W.2d 399, 407 (Minn. 2005)). Here, the district court made sure that Tramble understood his right to testify, and Tramble made a valid waiver of that right. While the petition alleges that his counsel “indirectly convinced” him not to testify, and his accompanying memorandum states that counsel “persuaded” him not to testify, such allegations fall short of the coercion required by *Andersen* to succeed on a claim of ineffective assistance of counsel concerning a valid waiver of the right to testify.

We are also unpersuaded by the arguments regarding the other allegations of ineffective assistance concerning counsel’s pretrial investigation, cross-examination, and response to the jury’s questions. We conclude that the petition fails to establish the second prong of the *Strickland* test for each of these remaining allegations. For instance, although Tramble speculates that further investigation could have uncovered evidence that someone else created and used the Facebook account in his name, the petition offers no specific investigative steps or methods that counsel could have taken that would have changed the outcome of the trial. Likewise, Tramble’s petition does not explain what a more “vigorous

cross-examination” would have revealed or how those revelations would have affected the outcome of the trial. Finally, while the petition characterizes the district court’s response to the jury’s question as “detrimental” to Tramble, Tramble does not explain how the response was detrimental, what additional objection counsel could have made, and how this additional objection would have changed the outcome of the trial.

In sum, the allegations in Tramble’s petition are insufficient to show that his trial counsel was ineffective on any of the four bases raised. The district court therefore did not abuse its discretion by denying the postconviction petition without an evidentiary hearing.

Affirmed.