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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A23-1800**

State of Minnesota,
Respondent,

vs.

Terry Izeal Heggs,
Appellant.

**Filed September 2, 2025
Affirmed
Connolly, Judge**

Mower County District Court
File No. 50-CR-23-687

Keith Ellison, Attorney General, Lisa Lodin, Assistant Attorney General, St. Paul, Minnesota; and

Kristen Nelson, Mower County Attorney, Austin, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Davi E. Axelson, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Connolly, Presiding Judge; Schmidt, Judge; and Florey, Judge.*

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

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

Appellant challenges his convictions of failure to register as a predatory offender and violation of a domestic-abuse no-contact order (DANCO), arguing that the district court erred in determining that respondent's failure to disclose the source of a tip that led to his arrest was not a *Brady* violation because the information was attorney-client privileged. He further argues that the district court erred in concluding that he did not receive ineffective assistance of counsel when his attorney did not bring a motion to suppress the search warrant that was based on information that was attorney-client privileged. Appellant also filed a pro se supplemental brief. We affirm.

FACTS

In March 2023, appellant Terry Izeal Heggs was required to register as a predatory offender and was the subject of several DANCOs in effect. Appellant, aware of his registration duties to report any address where he was staying on a regular or occasional basis until 2041, verified that his address for registration purposes was in Albert Lea.

On March 31, 2023, a detective received a tip that appellant was residing at the Rodeway Inn in Austin. In reliance on this tip, combined with the detective's knowledge that appellant was required to register as a predatory offender, as well as his own research confirming that appellant had not registered at the Rodeway Inn, the detective began an investigation. The detective drove to the Rodeway Inn and conversed with the manager. The manager confirmed that appellant had been renting one of the rooms since March 18,

2023, and that a woman had been staying with him. A DANCO prohibited appellant from having contact with the woman.

After leaving the office, the detective observed the woman whom appellant was prohibited from having contact with walking away from the direction of appellant's room. The detective then knocked on the door of appellant's room, but did not receive a response. The detective subsequently left the Rodeway Inn to obtain a search warrant. The search warrant stated in part: "On March 31, 2023, your affiant learned that [appellant] had been in court earlier that day and advised he was living at the Rodeway Inn." The detective then executed the search warrant and found appellant inside, as well as evidence that he and the woman were staying together in the room.

Respondent State of Minnesota charged appellant with failure-to-register, felon-in-possession of tear gas, and violation of a DANCO. Appellant's trial counsel subsequently filed a demand for disclosure of evidence relating to the case, including any material or information within respondent's control that tends to negate or reduce guilt under *Brady*.¹ Included in respondent's disclosure was the search warrant containing the detective's statement that appellant had been "in court" on March 31, and "was living at the Rodeway Inn." Trial counsel reviewed a court transcript from the March 31, 2023 hearing, and could not find any instances of appellant mentioning that he was staying at the Rodeway Inn.

On the first day of trial, trial counsel questioned the detective regarding the source of the tip to impeach his credibility. Respondent objected to the revelation of the source.

¹ *Brady v. Maryland*, 373 U.S. 83 (1963).

The district court sustained the objection, finding that the disclosure would not “overcome what appears to be an attorney-client privilege.” Trial counsel later discovered that the source of the tip was appellant’s former defense attorney (hereinafter “former attorney”). After this revelation, trial counsel introduced the source of the tip at trial before the district court. The district court asked appellant whether he had disclosed to his former attorney that he was living at the Rodeway, to which appellant responded, “No, I never told him anything about me staying at a Rodeway Inn or anything.” The district court then determined that, since appellant never told his former attorney where he had been staying, the information was not privileged because “there’s no privilege to communications . . . never made,” and former attorney had “an obligation to update the [c]ourt as to address.” Following this determination, appellant agreed to proceed with the trial.

Appellant was found guilty of failure to register and violation of a DANCO. He was sentenced to 36 months in prison for failing to register, and 364 days to be served concurrently for violation of a DANCO. Appellant subsequently filed a notice of appeal, which was then stayed pending his petition for postconviction relief. Appellant then petitioned for postconviction relief, arguing that respondent committed a *Brady* violation by failing to disclose the source of the tip that would have led to the dismissal of appellant’s charges, and that he received ineffective assistance of counsel based on trial counsel’s failure to challenge the release of attorney-client-privileged information at trial.

An evidentiary hearing was held on appellant’s postconviction petition at which appellant’s former attorney (hereinafter “former attorney”) testified about the events preceding the disclosure of the information that led to appellant’s arrest. He testified that

appellant reached out to him over a phone call to terminate his representation. According to former attorney, appellant informed him that appellant was having “transportation issues” and that former attorney should come meet appellant in person. Former attorney testified that they agreed to meet at a gas station located on the east side of Austin, south of the Rodeway Inn. Former attorney stated that he was familiar with the gas station and that he was inside when appellant arrived to meet him. Former attorney recalled appellant coming from a different direction than that of the Rodeway Inn and that, once appellant was inside, the two discussed and signed paperwork regarding appellant’s discharge of former attorney. Former attorney further testified that “the Rodeway Inn was not part of any type of discussion or didn’t really cross my mind.”

Former attorney testified that, on March 31, 2023, while at the courthouse, he ran into the chief deputy prosecutor (hereinafter “deputy prosecutor”) of the Mower County attorney’s office. Former attorney claimed that, during a short conversation regarding a global settlement for several of appellant’s cases, he told deputy prosecutor that he had met appellant ““at a gas station out by the Rodeway Inn, and he had signed paperwork indicating he no longer wanted us to represent him.”” Deputy prosecutor testified that former attorney told her ““it took me a while to track [appellant] down,”” and that former attorney specifically “said something about the Rodeway.” She testified that she could not recall precisely what former attorney said, but was certain that her “brain heard Rodeway.” Deputy prosecutor also did not recall former attorney mentioning any transportation issues. And deputy prosecutor acknowledged that, prior to this conversation, she did not possess any information about appellant not living in Albert Lea.

Deputy prosecutor testified that, after speaking with former attorney, she spoke with an assistant prosecutor (hereinafter “assistant prosecutor”) at the office about the information regarding appellant and the Rodeway Inn. Deputy prosecutor testified that she remembered that appellant was last registered in Albert Lea and requested that assistant prosecutor reach out to a detective to investigate whether appellant was living at the Rodeway Inn. Assistant prosecutor then sent an email to the detective, asking “[h]as [appellant] registered his new address yet? His counsel stated he is residing at the Rodeway Inn.” The detective testified that, although he did not remember receiving this email, he did remember a phone conversation with assistant prosecutor, wherein the detective was told that appellant “was living at the Rodeway Inn.” This tip initialized the investigation into appellant’s residence at the Rodeway Inn, as the detective stated that, prior to receiving the tip, he had no idea that appellant was potentially staying at the Rodeway Inn.

The district court determined that, since former attorney “received no privileged communication, and he relayed no privileged information,” and because he “had no reason to believe such information was secret or detrimental to [appellant],” there was no violation of attorney-client privilege. In reliance on this determination, the district court found that a *Brady* violation did not occur, as the “source of the tip was not material to the trial,” and that, had appellant received the information earlier, “it would have had no impact on the outcome of trial.” The district court also found that appellant’s trial counsel conducted a thorough investigation, satisfying her duties to provide effective assistance of counsel. According to the district court, had trial counsel “been less diligent, the information regarding [former attorney] may never have come to light.” Therefore, the district court

denied appellant's postconviction petition, concluding that appellant "failed to meet his burden of proving he is entitled to postconviction relief for alleged violations of attorney client privilege, for sixth amendment violations, for ineffective assistance of counsel, or for the alleged *Brady* violation." This court then dissolved appellant's stay, and appellant raises issues decided in his postconviction evidentiary hearing and at the trial.

DECISION

Appellant challenges the district court's denial of his petition for postconviction relief. "When a defendant initially files a direct appeal and then moves for a stay to pursue postconviction relief, we review the postconviction court's decisions using the same standard that we apply on direct appeal." *State v. Beecroft*, 813 N.W.2d 814, 836 (Minn. 2012).

I.

Appellant argues that the district court erred in determining that respondent did not violate *Brady* when it failed to disclose information regarding the source of the tip that led to the investigation and conviction of appellant. "Whether a discovery violation occurred presents a question of law, which [appellate courts] review de novo." *State v. Colbert*, 716 N.W.2d 647, 654 (Minn. 2006). The "suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution." *Brady*, 373 U.S. at 87. To establish a *Brady* violation, three elements must be satisfied:

- (1) the evidence must be favorable to the defendant because it would have been either exculpatory or impeaching; (2) the evidence must have been suppressed by the prosecution,

intentionally or otherwise; and (3) the evidence must be material—in other words, the absence of the evidence must have caused prejudice to the defendant.

Thoresen v. State, 965 N.W.2d 295, 304 (Minn. 2021) (quotation omitted).

“Evidence is material under *Brady* if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different. A reasonable probability is one that is sufficient to undermine confidence in the outcome.” *Zornes v. State*, 903 N.W.2d 411, 418 (Minn. 2017) (quotations and citation omitted). “[A] new trial is not required simply because a defendant uncovers previously undisclosed evidence that would have been possibly useful to the defendant but unlikely to have changed the verdict.” *Walen v. State*, 777 N.W.2d 213, 216 (Minn. 2010). The district court’s determination of materiality is reviewed de novo. *Id.*

The district court found that appellant failed to demonstrate the first and third prongs of a *Brady* violation. The district court reviewed the email tip in camera and found that the email did not contain any privileged information. The district court also found that appellant was not prejudiced by respondent’s failure to disclose this information because, even if trial “counsel obtained the information earlier, it would have had no impact on the outcome of trial.” The first part of appellant’s argument focuses on whether the district court erred in finding that assistant prosecutor’s email to the detective did not violate *Brady*. This question hinges on whether the information former attorney conveyed to deputy prosecutor, that was later included in the email tip to the detective, violated the attorney-client privilege.

A. The information conveyed by former attorney did not violate attorney-client privilege.

Appellant argues that former attorney violated attorney-client privilege when he disclosed to the deputy prosecutor that he met appellant at a gas station out by the Rodeway Inn. With some exceptions, the Minnesota Rules of Professional Conduct prohibit an attorney from “knowingly reveal[ing] information relating to the representation of a client.” Minn. R. Prof. Conduct 1.6. An attorney may reveal such information when “the information is not protected by the attorney-client privilege under applicable law, the client has not requested that the information be held inviolate, and the lawyer reasonably believes the disclosure would not be embarrassing or likely detrimental to the client.” *Id.* 1.6(b)(2). An attorney shall also make “reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client.” *Id.* 1.6(c). And the rules state that a lawyer who has formerly represented a client in a matter shall not “use information relating to the representation to the disadvantage of the former client except . . . when the information has become generally known.” *Id.* 1.9(c)(1).

Minnesota considers privileged “any communication made by the client to the attorney or the attorney’s advice given thereon in the course of professional duty.” Minn. Stat. § 595.02, subd. 1(b) (2024). This privilege protects from disclosure “communications that seek to elicit legal advice from an attorney acting in that capacity, that relate to that purpose, and that are made in confidence by the client unless the privilege is waived.” *State v. Taylor*, 869 N.W.2d 1, 21 (Minn. 2015) (quotation omitted). Attorney-client privilege

does not attach to “confidences given in the presence of third parties.” *State v. Rhodes*, 627 N.W.2d 74, 85 (Minn. 2001); *see also Schwartz v. Wenger*, 124 N.W.2d 489, 492 (Minn. 1963) (holding that discussion of privileged information in a public place waives the privilege insofar as the testimony of the obvious third-party is concerned). Once waived, privilege cannot be later reasserted for the same information. *State v. McNeilly*, 6 N.W.3d 161, 186 (Minn. 2024).

We are not persuaded that the disclosure violated the attorney-client privilege because the record does not show that the communication conveyed any privileged information. The district court found that former attorney’s testimony from the evidentiary hearing was credible, and that former attorney did not tell the deputy prosecutor that appellant was staying at the Rodeway Inn. The district court further found that the record does not support that there was any mention by former attorney to the deputy prosecutor of appellant having transportation issues. Based on our review of the evidentiary hearing testimony, we cannot say that the district court’s findings are clearly erroneous. According to former attorney’s testimony, the only information that he conveyed to the deputy prosecutor was the location of the public meeting at the gas station near the Rodeway Inn. This location cannot be considered privileged, as meeting in a public space necessarily defeats the purpose of attorney-client privilege: to protect communications that are made “in confidence.” *See Taylor*, 869 N.W.2d at 21. Confidence means “made in trust and not intended for public disclosure.” *Black’s Law Dictionary* 375 (12th ed. 2024). Appellant fails to show how the location of a meeting satisfies a communication not meant for public disclosure when the location was intentionally public. Accordingly, the location of the

meeting between appellant and his former attorney was not information protected by attorney-client privilege. See *Sprader v. Muller*, 121 N.W.2d 176, 180 (Minn. 1963) (“The existence of the privilege is a question of fact which must be proved by the one asserting it.”).

Without the attachment of attorney-client privilege, an attorney is authorized to reveal information relating to representation if “the client has not requested that the information be held inviolate, and the lawyer reasonably believes the disclosure would not be embarrassing or likely detrimental to the client.” Minn. R. Prof. Conduct 1.6(b)(2). Here, appellant made no indication that the location of the meeting should be kept secret. Instead, appellant required that the meeting occur at a public location. A reasonable attorney would not assume that such a location ought to be protected when he had no reason to believe that his client was violating the law.

Appellant argues that a competent attorney should nonetheless know that the disclosure of the location of a public meeting, coupled with knowledge that his representation included a charge of failing to register, would be detrimental to his client. Again, we are not persuaded. Former attorney responded on cross-examination that he did not know that appellant was staying at a hotel near the meeting, or that appellant had failed to register the Rodeway Inn as a place of residence. The purpose of the meeting was to discuss the termination of former attorney’s representation.

Appellant relies on cases from other jurisdictions to support his argument that the location of the meeting was protected by attorney-client privilege. First, he cites *In re Custodian of Recs., Crim. Div. Manager*, in which the defendant sought qualification for a

public defender in response to numerous charges, including falsifying records and money laundering. 19 A.3d 1032, 1033 (N.J. Super. Ct. App. Div. 2011), *aff'd sub nom.* 68 A.3d 308 (2013). The government subsequently issued a trial subpoena to the custodian of records demanding release of the application for the public defender. *Id.* The superior court affirmed the trial court's quash of the subpoena, finding that the information was protected under attorney-client privilege, as allowing discovery on the application would "violate one of the basic purposes of the attorney-client privilege, which is to allow a person to seek legal representation without suffering any detrimental consequences." *Id.* at 1035. The New Jersey Supreme Court later affirmed the decision to quash the subpoena. *Custodian of Recs.*, 68 A.3d at 322.

Custodian of Recs. is easily distinguished. Attorney-client privilege is attached to communications that "seek to elicit legal advice from an attorney acting in that capacity, that relate to that purpose, and that are made *in confidence* by the client." *Nat'l Texture Corp. v. Hymes*, 282 N.W.2d 890, 895 (Minn. 1979) (emphasis added). The location of a public meeting is not a disclosure made in confidence, and thus, attorney-client privilege would not attach. Without this attachment, the "basic purposes of the attorney-client privilege" alluded to by the New Jersey Superior Court do not apply. *See Custodian of Recs.*, 19 A.3d at 1035. Further, the New Jersey Supreme Court did not even adopt the superior court's privilege analysis, instead finding prohibition of the disclosure on other grounds. *Custodian of Recs.*, 68 A.3d at 319. The court noted that the form that "governed defendant's disclosure unambiguously assured him that the financial information on the . . . form would not be used in a grand jury proceeding or at trial." *Id.* at 318. Here, the

record demonstrates that appellant and his former attorney had no discussion regarding the secrecy of the location of the meeting.

Appellant also relies on *In re Stolar*, in which a New York federal district court quashed a grand-jury subpoena requesting the address and telephone number of a client from his attorney. 397 F. Supp. 520, 521 (S.D.N.Y. 1975). There, the client, who was being sought by the FBI for questioning regarding information he possessed about another, disclosed his name and home address to his attorney. *Id.* The agency, after the attorney refused to supply the information, served the attorney with a grand-jury subpoena. *Id.* The *Stolar* court quashed the subpoena, finding that, because the “information sought was communicated to the attorney confidentially and solely for the purpose of receiving legal advice,” the client had “a legitimate basis to expect that such information disclosed to his attorney was made in confidence and would not be revealed.” *Id.* at 524. This case, too, is distinguishable, since in *Stolar*, the client’s purpose of seeking legal advice was to determine whether to submit to questioning by revealing his location, *id.* at 521, whereas here, appellant’s purpose for the meeting was to terminate his representation, completely unrelated to any desire of keeping his location confidential.

Lastly, appellant argues that attorney-client privilege would nonetheless apply to the location of the meeting because appellant disclosed this location within a communication to his former attorney prior to meeting him, and the original purpose of the communication of the location was to elicit legal advice. But notwithstanding whether this communication would be privileged, former attorney did not reveal anything about the telephone call between him and appellant.

To reiterate, the disclosure by former attorney to deputy prosecutor does not fall within information protected by attorney-client privilege.²

B. Respondent did not violate Brady because the information was not favorable, and the absence of the evidence did not cause prejudice.

Appellant next argues that the district court erred in determining that respondent did not violate *Brady* when it failed to disclose the assistant prosecutor's email containing the statement that appellant was residing at the Rodeway Inn, and when it failed to provide discovery regarding the information that the source of the tip was from appellant's former attorney. We are not persuaded.

In his petition for postconviction relief, appellant argued that all three elements of *Brady* were met. Appellant claimed that the email was favorable because it established that former attorney "had disclosed attorney-client privileged information." Appellant argues that, had respondent not failed to provide discovery on the source of the tip, he "could have challenged [former attorney's] attorney-client privilege violation prior to trial," resulting in the dismissal of both convicted charges.

The district court did not find that the evidence was favorable, concluding that, even if trial "counsel obtained the information earlier, it would have had no impact on the outcome of the trial." The district court noted that respondent "proved the counts

² Appellant repeatedly states that former attorney told deputy prosecutor that he was having trouble locating appellant, arguing that this disclosure, in combination with the location of the meeting, creates a violation of attorney-client privilege or is "detrimental to the client." This fact is unsupported by the record. While deputy prosecutor testified that former attorney told her "it took me a while to track him down," former attorney made no mention of that in his testimony and was never questioned about it.

...beyond a reasonable doubt without reliance on the source of the tip.” Appellant’s conclusion that the evidence is favorable because it reveals attorney-client-privileged information fails here because the email does not contain evidence of a violation of attorney-client privilege. Without a showing of a violation of attorney-client privilege, appellant’s argument about an alleged *Brady* violation fails. The remaining evidence—the source of the tip leading to the eventual investigation and conviction of appellant—has no exculpatory value because it does not tend to reduce or negate appellant’s guilt.

Finally, the evidence of the source of the tip was not material. Appellant was able to use the erroneous information of the tip that was on the warrant to impeach the detective. Knowing the source of the tip earlier would not have changed the outcome of the trial because the information was not attorney-client privileged and, as the district court found, the “resulting evidence would not have been suppressed.” The district court found that respondent “proved the counts for which [appellant] was found guilty beyond a reasonable doubt without reliance on the source of the tip.” Thus, since there is no reasonable possibility that the outcome of the case would have been different, appellant has suffered no prejudice. *See Strickler v. Greene*, 527 U.S. 263, 289 (1999).

Appellant fails to meet his burden of showing that the evidence was favorable to him, as he could not show that it was either exculpatory or impeaching, nor can he demonstrate that he suffered prejudice from any suppression by respondent. Thus, respondent did not violate *Brady*, as appellant failed to prove the first and third prongs of

his claim.³ Accordingly, appellant has not met his burden in showing that the district court erred in determining that respondent did not commit a *Brady* violation.⁴

II.

Appellant next argues that he was denied effective assistance of counsel due to his trial counsel failing to properly investigate a false statement that formed the basis for the search warrant, and for failing to bring a claim for suppression of evidence relating to the information he claims is attorney-client privileged. This court reviews the decision of whether a defendant received ineffective assistance of counsel de novo, as it involves a mixed question of law and fact. *State v. Mosley*, 895 N.W.2d 585, 591 (Minn. 2017).

An ineffective-assistance-of-counsel claim is examined under the two-prong test set forth in *Strickland v. Washington*, 466 U.S. 668, 687 (1984). See *State v. Andersen*, 830 N.W.2d 1, 10 (Minn. 2013). “The appellant must prove that (1) counsel’s performance ‘fell below an objective standard of reasonableness,’ and (2) but for counsel’s error, the outcome of the proceeding would have been different.” *State v. Smith*, 9 N.W.3d 543, 556

³ Appellant also claims that respondent violated Minnesota discovery rules. See Minn. R. Crim. P. 9.01 subd. 1(3), (6) (providing that when requested, the state must disclose “[m]aterial or information in the prosecutor’s possession and control that tends to negate or reduce the defendant’s guilt”). According to appellant, this claim succeeds because, had “the e-mail been provided to [trial] counsel earlier, a successful motion to suppress would have been filed prior to trial.” We do not agree. Even assuming that respondent failed to disclose information in violation of rule 9, any error that may have occurred was harmless. A motion to suppress would not have been successful, as there was no violation of attorney-client privilege.

⁴ Appellant also claims that respondent violated his Sixth Amendment rights in intruding upon a confidential relationship and that the subsequent investigation following the tip was the fruit of illegality. But at oral arguments, appellant conceded that all these residual arguments fail if a violation of attorney-client privilege is not proved.

(Minn. 2024) (quoting *Strickland*, 466 U.S. at 688). A court need not address both prongs of the test if either one is determinative. *Id.*

The first prong of the *Strickland* test defines the objective standard of reasonableness as “representation by an attorney exercising the customary skills and diligence that a reasonably competent attorney would perform under similar circumstances.” *State v. Jones*, 977 N.W.2d 177, 193 (Minn. 2022) (quotation omitted). This court applies “a strong presumption that counsel’s performance was reasonable,” and generally does not “review matters of trial strategy or the particular tactics used by counsel.” *Id.* (quoting *State v. Hokanson*, 821 N.W.2d 340, 358 (Minn. 2012)). “[J]udicial scrutiny of counsel’s performance must be highly deferential.” *State v. Rhodes*, 657 N.W.2d 823, 844 (Minn. 2003) (quoting *Strickland*, 466 U.S. at 689).

Appellant argues that his trial counsel failed to satisfy the first prong of *Strickland* because an attorney exercising the customary skills and diligence that a reasonably competent attorney would perform would have discovered the disclosure of privileged information earlier into the trial and would have brought a motion to suppress. He argues that trial counsel’s investigation into the detective’s claims was incomplete because she failed to inquire as to the source of the detective’s tip, despite possessing knowledge that it was false. He also argues that trial counsel’s subsequent failure to bring a motion to suppress was the result of her unfamiliarity with the issues and failure to inform herself of the relevant caselaw.

The district court found that trial counsel represented appellant “in a manner that did not fall below an objective standard of reasonableness.” We agree. Trial counsel

performed her duties well within the reasonableness standard provided by *Strickland*, demonstrated by the fact that, after filing a request for disclosure and receiving the information in the search warrant, she diligently reviewed the March 31 transcript to confirm that appellant had not disclosed his location while in court. Armed with this fact, she reasonably inquired of the detective and attempted to use the information to impeach his credibility. According to the district court, “[i]f [trial counsel] had been less diligent, the information regarding [former attorney] may never have come to light.”

Appellant nonetheless argues that a competent attorney should have instead investigated the statement before trial. But this goes to the heart of trial counsel’s trial strategy of impeachment and concerns of a speedy trial, both of which fall entirely within her discretion and are not reviewable. See *Leake v. State*, 737 N.W.2d 531, 536 (Minn. 2007) (stating that appellate courts typically will not “second-guess[]” matters of trial strategy, which “lie within the discretion of trial counsel”).

Lastly, appellant argues that trial counsel provided ineffective assistance by failing to bring a suppression motion regarding the disclosure of attorney-client privileged information. Appellant asserts that, had this motion been brought, “the motion should have been granted and the charges dismissed.” Appellant relies on *Kimmelman v. Morrison*, in which the Supreme Court noted that “[n]o reasonable lawyer would forego competent litigation of meritorious, possibly decisive claims.” 477 U.S. 384, 382 n.7 (1986). This argument fails. The district court noted that “such a motion would have been denied for the reasons expressed in the trial.” Without a showing that the information the detective relied on was protected by attorney-client privilege, a suppression motion would never

have succeeded. Thus, trial counsel did not provide ineffective assistance by not bringing a motion that would have failed.

Because appellant cannot satisfy his burden of proving the first prong of *Strickland*, we need not consider the other prong. See *Mosley*, 895 N.W.2d at 591. Accordingly, appellant is unable to show that the district court erred in determining that he was deprived of effective assistance of counsel.

III.

Appellant filed a pro se supplemental brief in which he reiterates arguments contained in appellant's principal brief, restates the facts, and raises only one new argument relating to a police officer purportedly lying in the application for the search warrant. But these arguments fail to contain a citation to any legal authority. Appellate courts "will not consider pro se claims on appeal that are unsupported by either arguments or citations to legal authority." *State v. Reek*, 942 N.W.2d 148, 165 (Minn. 2020) (quotation omitted). As such, we do not consider appellant's arguments in his pro se supplemental brief because they are not properly before us.⁵

Affirmed.

⁵ We also note that the record does not support any allegation of perjury by the police officer.