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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0237**

State of Minnesota,
Respondent,

vs.

Curtrez Darale Johnson,
Appellant.

**Filed June 22, 2026
Affirmed
Wheelock, Judge**

Ramsey County District Court
File No. 62-CR-22-7464

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

John J. Choi, Ramsey County Attorney, Peter R. Marker, Assistant County Attorney,
St. Paul, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Julie Loftus Nelson, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

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

NONPRECEDENTIAL OPINION

WHEELOCK, Judge

In this direct appeal stayed for postconviction proceedings, appellant challenges the district court's denial of relief based on the ineffective-assistance-of-counsel claim in his postconviction petition, arguing that, by failing to raise an alternative-perpetrator defense

and failing to offer certain evidence at trial, (1) his counsel's conduct was objectively unreasonable and (2) appellant was prejudiced as a result. In a pro se supplemental brief, appellant challenges his convictions for second-degree intentional murder and unlawful possession of a firearm and makes several additional arguments, including that the district court erred; he received ineffective assistance of counsel; there was insufficient evidence to support his convictions; his *Miranda* rights¹ were violated during the investigation; and the state committed prosecutorial misconduct. We affirm.

FACTS

In December 2022, respondent State of Minnesota charged appellant Curtrez Darale Johnson with second-degree intentional murder in violation of Minn. Stat. § 609.19, subd. 1(1) (2022); the complaint was later amended to include unlawful possession of a firearm in violation of Minn. Stat. § 624.713, subd. 1(2) (2022).

On December 19, 2022, at around 9:44 p.m., St. Paul police officers were dispatched to an address in the city in response to a shooting.² The victim was L.N., whose daughter called 911 and told dispatchers that her mother was shot in the face through the front door. Multiple witnesses testified that, when L.N. came home from work that night, her daughter, niece, son, son's girlfriend, grandchild, and a family friend were at the house playing board

¹ When a criminal suspect is subjected to custodial interrogation, the suspect must be informed of his right to remain silent and his right to counsel. *Miranda v. Arizona*, 384 U.S. 436, 473-74 (1966). A suspect may waive the Fifth Amendment privilege against self-incrimination and right to counsel only if the waiver is knowing, intelligent, and voluntary. *Id.* at 444.

² We recite the facts from the evidence presented at trial.

games. L.N. went upstairs to say hello to the children, and they all heard a loud knock on the front door. L.N. went to the door and looked out the window panel at the top of the door to see who was knocking. Someone then fired a gun through the door, shooting L.N. in the head. She was pronounced dead by first responders. L.N.'s daughter and son were standing at the top of the stairs and saw L.N. fall to the ground after she was shot. L.N.'s daughter and niece both called 911 immediately.

Officers arrived to a chaotic scene at the house. Body-worn camera (BWC) footage shows officers asking witnesses what happened and if anyone saw the shooter. Officers spoke with the family friend, who said he saw a "white GMC" but did not see who the shooter was. L.N.'s daughter was speaking to an unidentified person on the phone. At one point, she said, "Who? You're lying," to the person on the phone and then said to the family friend, "That's J.J.'s dad," to which the family friend yelled in response, "I just said that!" The officer asked if they knew who the shooter was, and the family friend said, "I don't know his name." L.N.'s daughter then explained to the officers that there was an "incident" at the house six days earlier that involved her brother, O.S., and his friend, J.J., who is Johnson's son.

During that earlier incident, police responded to L.N.'s house for a reported gunshot wound after J.J. was shot in the face. Occupants of the house said the shooting happened at a nearby recreation center; however, officers suspected that the shooting actually took place at L.N.'s house because paramedics found J.J. there when they responded to dispatch calls. Officers were unable to question J.J. about the shooting because he was in critical

condition and unable to speak. Officers believed that J.J. was shot by O.S., L.N.'s son, over an argument about O.S. robbing J.J.

After J.J. was shot, Johnson was very distraught. He was upset that people at L.N.'s house maintained that J.J. was shot at the recreation center, and he wanted somebody to be held accountable for what happened to his son. In the days after J.J.'s shooting, Johnson drove by L.N.'s house in a white sport utility vehicle (SUV) multiple times.

The family friend testified at trial that, right after L.N. was shot, he went to the window upstairs that looked out onto the street and saw a white SUV pull away and drive towards the store next door.

During their investigation, officers were looking for a white SUV in the area and learned that Johnson's girlfriend owned a white Chevrolet Tahoe. Officers located the vehicle around midnight the night of L.N.'s death parked a few houses from where Johnson's girlfriend lived. Officers found fresh tracks in the snow near the tires of the vehicle, and the windows were clear of snow, indicating that someone had recently driven it. Officers retrieved multiple surveillance videos recorded on the night of the shooting in and around L.N.'s house and Johnson's girlfriend's residence.

Some of the retrieved video footage was from cameras located at residences to the west of L.N.'s house and shows a white SUV driving down the street at the time of the shooting. This video footage shows a white SUV drive past and stop near L.N.'s house, where the driver honks the horn multiple times. Then the sound of a car door shutting and a single gunshot are heard.

Officers also obtained surveillance footage from two businesses, traffic cameras, and doorbell cameras. In the surveillance footage, a white SUV is seen driving away from L.N.'s neighborhood and ultimately traveling to a street near Johnson's girlfriend's residence. Using the footage gathered, officers identified the route they believed the suspect SUV took after the shooting occurred.

Based on that evidence, officers obtained a search warrant for Johnson's phone records, including the location of his cell phone, from his cellular service provider.³ The information officers received in response to the warrant showed that, on December 19, the location of Johnson's phone corresponded to areas near L.N.'s home at the time of the shooting and to the same areas and times as those of the suspect SUV that were captured on surveillance footage.

On December 27, officers followed Johnson to a store; he initially fled but was eventually apprehended. Officers took Johnson to the police station, informed him of his *Miranda* rights, obtained a waiver of those rights, and questioned him.

During questioning, Johnson expressed anger and frustration about the shooting of his son but denied that he shot L.N. He said he tried to talk to the residents of L.N.'s house after J.J. was shot and that he drove by the house frequently "to get answers." Johnson told officers that he and his girlfriend were the only people who drove her white Tahoe. Johnson said he pressed the vehicle's horn when driving by L.N.'s house and that he had

³ Cell-site location information (CSLI) is the data collected when a cell phone connects to nearby towers. *State v. Berry*, 982 N.W.2d 746, 751 n.2 (Minn. 2022). CSLI from towers can be used to approximate the cell phone's location using triangulation—an analysis of the phone's location based on the towers to which it connected. *Id.*

driven by earlier on the night of L.N.'s shooting. Eventually, he admitted that he was in front of the house at the time of the shooting but asserted he did not hear any gun shots. When presented with information about the video footage the officers had, Johnson said, "[Y]ou didn't get it wrong man," that recently he had been "outside of [his] body" and "outside of [his] mind," and that "[he] ain't right[,] right now." After his arrest, Johnson was charged with second-degree intentional murder; the complaint was later amended to include a charge for unlawful possession of a firearm. Johnson entered a not-guilty plea.

At the jury trial, the state requested, and the district court admitted, numerous exhibits, including video footage of Johnson driving past L.N.'s house multiple times on December 15 and honking the vehicle's horn multiple times on one occasion. Johnson's girlfriend testified and confirmed that Johnson had a spare set of keys and access to her white SUV. She also testified that she had been with him earlier in the evening of L.N.'s shooting. She said that she and Johnson went to a store and a gas station that night, but he left without her at some point that night to pick up his mom from work. Johnson's girlfriend testified during cross-examination that Johnson returned to her residence later that night; however, on direct examination, she had testified that she did not know when he came back to her residence and did not remember if he was with her the rest of the night.

Some of the video footage shown to the jury and Johnson's phone records confirmed Johnson's girlfriend's testimony that Johnson was at the store and gas station at the times she indicated. In the footage, Johnson enters the gas station wearing light-wash jeans with yellow patches and a black sweatshirt with a white symbol on the front with the hood up and a red bandana over his face.

The state offered, and the district court admitted, a map of the route of the suspect SUV—an exhibit investigators prepared based on the collected video footage. Johnson’s phone records were also admitted into evidence and placed him in the same general areas at the same time as the suspect SUV the night of the shooting: near L.N.’s house at the time of the murder and moving east away from L.N.’s house after the murder. Johnson’s phone was then turned off from 9:49 to 10:24 p.m. Later, when his phone was turned on again, it was located at Johnson’s mother’s apartment.

One of the sergeants involved with the investigation testified about how the map was created, explaining that officers were able to piece together the route the suspect SUV took after L.N. was shot using surveillance videos from locations near L.N.’s house that picked up images of the SUV at the time of the shooting. The sergeant testified that, when the officers mapped the locations of Johnson’s phone, the locations and corresponding times matched the suspect SUV’s route. The state also used a demonstrative exhibit to show how the evidence obtained from video footage lined up with Johnson’s phone records. The exhibit was a screen recording of the map showing the suspect SUV’s route with time stamps for each location overlaid with Johnson’s phone’s locations and associated time stamps. The exhibit was not received as substantive evidence.

The state also offered, and the district court admitted, copies of texts from Johnson to J.J. sent in the six days between when J.J. was shot and L.N. was shot. In these messages, it appears that Johnson is expressing his anger about the people responsible for J.J.’s shooting: “ima come get u no mask ima pop u at the police station ima try 2 kill yo momm

n sum mo sh** get yo mind right cuz it's dangerous outside,” and “Nobody got 2 talk f*** talk we pass Dat I want all u dead hoes to.”

The family friend initially told officers he did not see who the shooter was but testified that he saw the shooter pull his hoodie down when getting in the vehicle and that the family friend saw “25%” of his face and was “100% sure” it was Johnson. The family friend told officers on the night of the shooting that the shooter appeared to be about 5’6” with a beer belly and was wearing all black.

Johnson’s counsel objected to several of the exhibits for lack of foundation and reliability and attacked the interview methods of the officers on the scene of L.N.’s shooting, suggesting that there was witness contamination because witnesses were not interviewed separately. Johnson’s counsel also questioned the family friend’s recollection of the night of the shooting because the family friend first told officers he did not know who the shooter was and described a 5’6” tall man with a beer belly wearing all black but Johnson is a slender 6’1” tall man and was seen wearing light-wash jeans and a red bandana the night of the shooting. In his closing argument, Johnson’s counsel reiterated these points and urged the jury to find that Johnson was incorrectly identified as a suspect.

At the conclusion of trial, the jury found Johnson guilty of both charges, and the district court sentenced Johnson to 420 months’ imprisonment for the murder conviction and 60 months’ imprisonment for the unlawful-possession conviction, to run concurrently. Johnson filed a direct appeal of his convictions, then filed a motion to stay his appeal and remand to the district court to allow him to pursue postconviction relief. We granted the stay, and Johnson filed a petition for postconviction relief.

In the postconviction proceedings, Johnson argued that he received ineffective assistance of counsel because his trial attorney did not raise an alternative-perpetrator defense. Johnson claimed that there was evidence of another potential shooter, J.J.'s stepfather. Johnson pointed out that, during the investigation, J.J.'s stepfather was identified as a potential alternative perpetrator because, three months after L.N. was killed, the stepfather posted a photograph on social media standing in front of a white SUV and wearing dark clothing similar to what the family friend initially described the shooter as wearing. Johnson also argued that the stepfather had a similar build to Johnson, that video surveillance from that night showed multiple white SUVs in the area, and that this evidence should have been presented at trial.

On April 24, 2025, the district court held an evidentiary hearing. The defense investigator testified that, at the beginning of the case, he investigated J.J.'s stepfather as a suspect in L.N.'s shooting. The investigator said that, during the investigation, Johnson told him that the stepfather had rented a white SUV for a funeral in Chicago, but Johnson would not tell the investigator the source of the information and never identified the rental company. When the investigator searched vehicles registered to the stepfather, he was able to find only a red Jaguar and no white SUVs. The investigator also drove past the stepfather's house multiple times and never saw a white SUV. Although he found the social-media post with a photograph of J.J.'s stepfather standing in front of a white SUV, it did not show the location or date of the photograph. The investigator was not sure if the stepfather was even in Minnesota on the night of the shooting. The investigator stated that he discussed options for continuing the investigation with Johnson's trial counsel, but

without information about the rental company, he was unable to pursue the investigation of the stepfather further. Johnson's trial counsel then told the investigator not to continue to look into the stepfather.

During the investigator's testimony, Johnson's appellate counsel introduced a video as an exhibit that showed a second white SUV driving north past the suspect SUV after the shooting. The investigator said that he had seen this video and discussed it with Johnson's trial counsel at the time. He also agreed that another exhibit of surveillance footage showed a second white SUV and that the vehicle in J.J.'s stepfather's photograph could have matched the suspect SUV.

Johnson's trial counsel also testified at the hearing. He stated that his decision not to investigate J.J.'s stepfather further was based on trial strategy and that he determined there was not enough evidence to adequately present an alternative-perpetrator defense to the jury. Johnson's trial counsel said that he wanted to focus the defense on showing that the state had insufficient evidence and attacking the reliability of the video surveillance, phone records, and eyewitness testimony. He explained his concerns that introducing evidence of other SUVs in the area would lend credibility to the prosecution's focus on Johnson driving a white SUV in the area of L.N.'s house at that time and that offering J.J.'s stepfather as an alternative perpetrator would lend credibility to the idea that a parent would kill someone in seeking revenge for the shooting of their child. Johnson's trial counsel stated that his decision was "an analytical strategic decision."

The district court denied Johnson's petition, concluding that Johnson's trial counsel "reviewed and considered the evidence related to the alternative perpetrator and had a clear

and well-reasoned strategic purpose for not pursuing it further.” The district court found Johnson’s trial counsel’s testimony credible and persuasive and determined that his performance did not fall below an objective standard of reasonableness.

We dissolved the stay and reinstated the appeal.

DECISION

Johnson makes several arguments in a counseled brief and a pro se supplemental brief. In his counseled brief, Johnson argues that the postconviction court erred by denying his claim for ineffective assistance of counsel because his trial attorney’s performance fell below an objective standard of reasonableness when he failed to raise an alternative-perpetrator defense and seek the admission of evidence of other white SUVs in the area of L.N.’s house at the time of the shooting. In his pro se supplemental brief, Johnson makes 11 additional arguments. We address the arguments in the order presented by Johnson, beginning with those in his counseled brief.

I. Ineffective Assistance of Counsel

A person charged with a crime is entitled to the assistance of counsel. U.S. Const. amend. VI; Minn. Const. art. I, § 6. We review claims of ineffective assistance of counsel de novo. *Taylor v. State*, 887 N.W.2d 821, 823 (Minn. 2016). To determine whether counsel was ineffective, we apply a two-prong test set forth in *Strickland v. Washington*, 466 U.S. 668, 688, 694 (1984). The test requires a defendant to demonstrate that (1) 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.” *Zumberge v. State*, 937 N.W.2d 406, 413

(Minn. 2019) (quotations omitted). If a claim does not satisfy one of the *Strickland* prongs, the claim fails and the analysis ends. *Swaney v. State*, 882 N.W.2d 207, 217 (Minn. 2016).

Appellate courts review a denial of a petition for postconviction relief for an abuse of discretion. *Davis v. State*, 784 N.W.2d 387, 390 (Minn. 2010). “A postconviction court abuses its discretion when its decision is based on an erroneous view of the law or is against logic and the facts in the record.” *Riley v. State*, 819 N.W.2d 162, 167 (Minn. 2012) (quotation omitted). “The scope of our review of factual matters is to determine whether there is sufficient support in the record to sustain the postconviction court’s findings.” *State v. Nicks*, 831 N.W.2d 493, 503 (Minn. 2013). “Because claims of ineffective assistance of counsel are mixed questions of law and fact, we review the postconviction court’s legal conclusions on such questions de novo.” *Id.* (first citing *Opsahl v. State*, 677 N.W.2d 414, 420 (Minn. 2004); and then citing *State v. Rhodes*, 657 N.W.2d 823, 842 (Minn. 2003)). In sum, when we review a district court’s denial of postconviction relief on a claim of ineffective assistance of counsel, “we will consider the court’s factual findings that are supported in the record, conduct a de novo review of the legal implication of those facts on the ineffective assistance claim, and either affirm the court’s decision or conclude that the court abused its discretion because postconviction relief is warranted.” *Id.* at 503-04.

Johnson argues that it was objectively unreasonable for his trial counsel to decide not to raise an alternative-perpetrator defense at trial and to not introduce evidence of other white SUVs near L.N.’s house at the time she was shot and killed. Johnson asserts that these two decisions were not based on reasoned strategy but rather on his trial counsel’s

incorrect belief that “such a defense is never a good idea in any case,” that his trial counsel was not aware of video evidence of other white SUVs in the area, and that his trial counsel’s testimony during the postconviction evidentiary hearing was not credible.

Pursuant to the first prong of the *Strickland* test, there is a “strong presumption that counsel’s performance was reasonable.” *Andersen v. State*, 830 N.W.2d 1, 10 (Minn. 2013). The burden of proof on this prong rests with the appellant, who must overcome the “strong presumption that counsel’s performance fell within a wide range of reasonable assistance.” *Gail v. State*, 732 N.W.2d 243, 248 (Minn. 2007); *see Strickland*, 466 U.S. at 689 (noting that judicial review should be “highly deferential” to counsel’s performance). An attorney’s performance is objectively unreasonable when they fail to apply the skills and diligence that a reasonably competent attorney would in the same circumstance. *Leake v. State*, 737 N.W.2d 531, 536 (Minn. 2007). Matters of trial strategy “lie within the discretion of trial counsel.” *Id.* And we will generally not review a claim for ineffective assistance of counsel if it is based on counsel’s trial strategy. *State v. Vang*, 847 N.W.2d 248, 267 (Minn. 2014).

Johnson argues that the decision not to raise an alternative-perpetrator defense was unreasonable; however, it is well established under Minnesota law that the decision whether to pursue an alternative-perpetrator defense falls within trial strategy. *See State v. Allwine*, 963 N.W.2d 178, 190 n.19 (Minn. 2021) (“Under well-established law, the decision to pursue alternative perpetrators is a matter of trial strategy that we do not scrutinize.”); *Opsahl*, 677 N.W.2d at 421 (concluding that failure to investigate two alternative suspects and pursue tire-track evidence was not sufficient for an

ineffective-assistance-of-counsel claim because it reflected “counsel’s strategy rather than . . . performance”).

At the postconviction evidentiary hearing, Johnson’s trial counsel testified that he did not raise an alternative-perpetrator defense because he determined that the alternative-perpetrator theory was not viable based on the evidence produced during the investigator’s inquiry into J.J.’s stepfather. Johnson’s trial counsel also testified that he was worried that presenting J.J.’s stepfather as the potential shooter would provide credibility to the motive the state was presenting for its case against Johnson—that the shooting was done to avenge J.J. Trial counsel’s decision to focus on attacking the state’s evidence was a strategic decision within his discretion, and it was reasonable for him to consider the evidence in front of him and determine that it would not support a successful alternative-perpetrator defense and that presenting it may confuse the jury or negatively affect his strategy to attack the sufficiency of the evidence.

Johnson also argues that his trial counsel’s failure to present evidence of multiple white SUVs in the area near L.N.’s house during the time of the shooting was unreasonable. However, decisions as to what evidence to present at trial are also questions of trial strategy that rest soundly in the discretion of counsel. *Sanchez-Diaz v. State*, 758 N.W.2d 843, 848 (Minn. 2008); *see also Leake*, 737 N.W.2d at 539; *Opsahl*, 677 N.W.2d at 421 (concluding that counsel’s decision to pursue certain evidence and not other evidence fell within the realm of defense strategy).

Johnson’s trial counsel stated he was aware of video footage that showed at least one other white SUV in the area; however, he explained that he elected not to admit

evidence of other white SUVs in the area because of his concern that arguing that Johnson may have been in the area in a different white SUV would give some credibility to the cell-phone records he was disputing. Again, this was a matter of trial strategy. Johnson's trial counsel evaluated the options available and chose to focus on arguing that the evidence the state had was unreliable and insufficient, given his concerns about other theories that, he determined, risked confusing the jury or adding credibility to evidence he was trying to dispute. We conclude that Johnson has not shown that his trial counsel's performance was objectively unreasonable.

Because his counsel's performance was not unreasonable and Johnson cannot meet the first prong of the *Strickland* test, his claim of ineffective assistance of trial counsel fails and we need not address the second prong. *See Swaney*, 882 N.W.2d at 217. The district court did not abuse its discretion in denying postconviction relief.

II. The remaining arguments are forfeited.

In his pro se supplemental brief, Johnson raises multiple arguments, including the following: (1) the district court erred by denying his request for a speedy trial; (2) the evidence was not sufficient to support his convictions; (3) his *Miranda* rights were violated during the investigation; (4) there was jury misconduct, jury bias, and jury tampering at trial; (5) the prosecutor violated discovery rules; (6) the district court committed reversible error by instructing the jury to work through an impasse during deliberations; (7) and the state committed prosecutorial misconduct by violating court orders and withholding evidence.

Assertions of error on appeal must be supported by argument or citation to legal authority, or we will not consider them. *State v. Bartylla*, 755 N.W.2d 8, 22 (Minn. 2008). Further, a party forfeits an argument when, on appeal, they do not adequately argue or explain the argument or they assign error without authority. *State v. Myhre*, 875 N.W.2d 799, 806 & n.5 (Minn. 2016). “An assignment of error based on mere assertion and not supported by any argument or authorities in appellant’s brief . . . will not be considered on appeal unless prejudicial error is obvious on mere inspection.” *Louden v. Louden*, 22 N.W.2d 164, 166 (Minn. 1946); *see also State v. Fleming*, 869 N.W.2d 319, 329 (Minn. App. 2015) (citing *Loth v. Loth*, 35 N.W.2d 542, 546 (Minn. 1949)) (explaining that we do not presume error on appeal), *aff’d*, 883 N.W.2d 790 (Minn. 2016).

We conclude that Johnson has forfeited his remaining arguments because they are not adequately supported by argument and citation to legal authority and no prejudicial error is obvious.

Affirmed.