

*This opinion is nonprecedential except as provided by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
A24-0912**

Roosevelt Bartu, Jr., petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed February 24, 2025
Affirmed
Cochran, Judge**

Hennepin County District Court
File No. 27-CR-20-17723

Roosevelt Bartu, Jr., Elk River, Minnesota (pro se appellant)

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

Mary F. Moriarty, Hennepin County Attorney, Matthew D. Hough, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Considered and decided by Harris, Presiding Judge; Ross, Judge; and Cochran, Judge.

NONPRECEDENTIAL OPINION

COCHRAN, Judge

On appeal from the denial of his petition for postconviction relief, appellant argues that the postconviction court abused its discretion by denying his requests for relief based on an alleged *Miranda* violation and ineffective assistance of counsel. We affirm.

FACTS

Following an altercation in downtown Minneapolis, law-enforcement officers arrested appellant Roosevelt Bartu, Jr. Respondent State of Minnesota charged Bartu with first-degree aggravated robbery in violation of Minnesota Statutes section 609.245, subdivision 1 (2020), and third-degree assault in violation of Minnesota Statutes section 609.223, subdivision 1 (2020). Bartu pleaded not guilty, and the case proceeded to a jury trial.

Jury Trial

At trial, the state introduced surveillance videos of the assault, which we summarized in our decision on Bartu's direct appeal:

The surveillance videos (as evident in the recordings and as explained by the victim at Bartu's trial) depict a man walking with bags of groceries and a case of beer and then being followed by Bartu, who nabs a can of beer. The man confronts Bartu, who then opens the can and pours out its contents. The man walks away from Bartu, but Bartu follows him again, overtakes him, and begins throwing punches at him. Then others, who appear to be Bartu's companions and acting in concert with him, punch the man, strip off his coat and shirt, throw him to the sidewalk, and kick him in the head. While some beat the man, Bartu and others carry away the case of beer and some of the groceries, leaving the man shirtless on the ground, dazed.

State v. Bartu, No. A22-0527, 2023 WL 2762430, at *1 (Minn. App. Apr. 3, 2023), *rev. denied* (Minn. July 18, 2023). The jury also heard the testimony of a sergeant who interviewed Bartu after his arrest. The sergeant testified that Bartu admitted he pushed, shoved, and charged at the victim, and also "physically took [a beer from the victim] by force."

The jury found Bartu guilty of first-degree aggravated robbery, and the district court entered judgment of conviction and sentenced him to 41 months' imprisonment. Bartu filed a direct appeal and then a petition for postconviction relief.

Direct Appeal

On direct appeal, we affirmed Bartu's conviction, rejecting his argument that the state impermissibly removed a prospective juror. *Id.* at *2-3. We also noted that Bartu raised five additional issues in a supplemental brief but concluded that "none merit[ed] our consideration." *Id.* at *3. Among other issues, Bartu alleged that the sergeant "questioned him without reading the *Miranda* warning." He also raised a claim of ineffective assistance of counsel. *Id.* We declined to review the *Miranda* issue because the issue was insufficiently briefed. *Id.* We also declined to review Bartu's claim of ineffective assistance of counsel, but we "afford[ed] Bartu the opportunity to raise and properly develop facts regarding that assertion in a postconviction proceeding." *Id.*

Postconviction Proceedings

Following our decision, Bartu filed a pro se petition for postconviction relief and requested an evidentiary hearing. Bartu's petition did not raise a claim of ineffective assistance of counsel. Instead, he made several other arguments, including that he was not read his *Miranda* rights prior to being questioned by the sergeant. In response, the state argued that Bartu's postconviction claims were procedurally barred and that no evidentiary hearing was warranted. In its order granting a hearing, the postconviction court determined the hearing was appropriate because of the court's "inability to fully grasp" Bartu's

arguments and because of our opinion on Bartu's direct appeal, in which we preserved Bartu's opportunity to raise a postconviction claim for ineffective assistance of counsel.

Bartu appeared on his own behalf at the evidentiary hearing.¹ The postconviction court inquired into whether Bartu wished to raise a claim of ineffective assistance of counsel. Bartu answered affirmatively, indicating that he thought his counsel was ineffective for failing to move to suppress his statement to the sergeant. The state argued that an audio recording of Bartu's statement to the sergeant proved that Bartu was read his *Miranda* rights prior to the sergeant's questioning. The postconviction court permitted the parties to file supplemental briefing on the ineffective-assistance-of-counsel issue.

After the hearing, the state filed the recording of Bartu's statement to the sergeant and mailed a copy to Bartu. In the recording, the sergeant can be heard reading the *Miranda* warning before questioning Bartu. The postconviction court received the recording into evidence without objection. Bartu and the state then filed supplemental briefing on Bartu's claims of ineffective assistance of trial and appellate counsel for failing to argue for suppression of Bartu's statement to the sergeant.

After reviewing the parties' supplemental briefing, the district court filed a written order denying the petition for postconviction relief. It determined that Bartu's *Miranda* claim was procedurally barred and, in the alternative, fails on its merits. The court also

¹ Bartu did not order a transcript of the postconviction evidentiary hearing, and so that transcript is not part of the record on appeal. See Minn. R. Civ. App. P. 110.02, subd. 1 (providing that it is the appellant's duty to supplement the record with transcripts of proceedings that are relevant). We therefore rely on the postconviction court's order and the parties' supplemental briefing below to restate the facts of the evidentiary hearing.

rejected Bartu’s claims of ineffective assistance of trial and appellate counsel, concluding that Bartu could demonstrate neither prejudice nor that counsel’s performance fell below an objective standard of reasonableness.

Bartu appeals.

DECISION

Bartu challenges the district court’s denial of his petition for postconviction relief. A person convicted of a crime may seek postconviction relief by filing a petition alleging that the conviction “violated the person’s rights under the Constitution or laws of the United States or of the state.” Minn. Stat. § 590.01, subd. 1(1) (2024). We review the denial of a petition for postconviction relief for an abuse of discretion. *Erickson v. State*, 842 N.W.2d 314, 318 (Minn. 2014). A postconviction court abuses its discretion when it exercises its discretion arbitrarily or capriciously, erroneously applies the law, or makes clearly erroneous factual findings. *Pearson v. State*, 891 N.W.2d 590, 596 (Minn. 2017).

Bartu, who is self-represented, asserts that the district court abused its discretion by denying his postconviction claims based on *Miranda* and ineffective assistance of counsel. We address each claim in turn and conclude that the district court did not abuse its discretion in either regard.

I. Bartu’s *Miranda* claim is *Knaffla* barred.

Bartu first asserts that the postconviction court abused its discretion by denying his *Miranda* claim as procedurally barred. We disagree.

It is well settled that, after a direct appeal has been taken, “all matters raised therein, and all claims known but not raised, will not be considered upon a subsequent petition for

postconviction relief.” *State v. Knaffla*, 243 N.W.2d 737, 741 (Minn. 1976). There are two exceptions to the *Knaffla* bar: “(1) if a novel legal issue is presented; or (2) if the interests of justice require review.” *Gilbert v. State*, 2 N.W.3d 483, 487 (Minn. 2024).

The postconviction court determined that Bartu’s *Miranda* argument is *Knaffla*-barred because Bartu raised it on direct appeal. The postconviction court further determined that neither exception to the *Knaffla* bar applied.

We agree with the postconviction court that Bartu’s *Miranda*-violation claim is *Knaffla*-barred because it is undisputed that Bartu raised his *Miranda*-violation argument on direct appeal.² This court declined to review the merits of Bartu’s *Miranda*-violation argument on direct appeal due to inadequate briefing. Bartu’s failure to adequately brief the issue during his prior appeal does not revive the argument for purposes of a postconviction proceeding. In fact, had Bartu not raised the issue on direct appeal at all, it would still be *Knaffla*-barred at the postconviction proceeding. *See Buckingham v. State*, 799 N.W.2d 229, 232 (Minn. 2011) (holding that appellant’s postconviction-relief claim asserting a *Miranda* violation was *Knaffla*-barred because it turned on “facts that were known or should have been known to him at the time of his direct appeal”). Bartu’s *Miranda*-violation claim centers on facts surrounding his interview with the sergeant—

² To the extent that Bartu is arguing for the first time on appeal that his *waiver* of his *Miranda* rights was ineffective (as opposed to his argument below that he did not receive a proper *Miranda* warning), that argument was not raised before the postconviction court and is therefore forfeited on appeal. *See State v. Roby*, 547 N.W.2d 354, 357 (Minn. 1996) (holding that appellate courts “generally will not decide issues which were not raised before the district court”).

facts that Bartu knew of at the time of direct appeal. Accordingly, the postconviction court did not abuse its discretion by denying Bartu's *Miranda* claim as procedurally barred.

Bartu makes several arguments to persuade us otherwise. First, he argues that his *Miranda* challenge should not be *Knaffla*-barred because his argument "is so novel that the legal basis was not available in other proceedings." But suppression of a statement based on *Miranda* is not a novel legal issue. The United States Supreme Court decided *Miranda* in 1966. *Miranda v. Arizona*, 384 U.S. 436 (1966). As the postconviction court observed, "[Bartu's] claim[] regarding . . . his *Miranda* rights [is] well established" and is the type of challenge that is "frequently raised." Because Bartu could have moved to suppress his statement based on *Miranda* prior to trial, his *Miranda* challenge does not present a novel legal issue exempt from *Knaffla*'s procedural bar. Next, Bartu asserts that his claim should not be barred because "*Miranda* is a constitutional issue that everyone in the United States is afforded." But the *Knaffla* bar "applies even in postconviction proceedings raising constitutional issues of criminal procedure." *Lynch v. State*, 749 N.W.2d 318, 321 (Minn. 2008) (quotations omitted). Lastly, Bartu argues that he "was not as educated as [he is] now and did not approach [his supplemental] brief on the correct merits." We acknowledge that it can be challenging for a defendant who is not an attorney to file a supplemental brief, but a postconviction petitioner's belief that "an argument actually raised on direct appeal could have been more complete" does not satisfy an exception to the *Knaffla* bar. *Reed v. State*, 793 N.W.2d 725, 730 (Minn. 2010).

In sum, Bartu's *Miranda*-violation claim was raised on direct appeal, and he has demonstrated no circumstances exempting him from *Knaffla*'s procedural bar. We

therefore conclude that the postconviction court did not abuse its discretion by determining that Bartu's *Miranda*-violation claim is procedurally barred. As a result, we need not consider the merits of Bartu's *Miranda* argument.

II. The postconviction court did not abuse its discretion by denying Bartu relief on his claims for ineffective assistance of counsel.

Bartu next challenges the postconviction court's denial of his claims for ineffective assistance of counsel. We again conclude that the postconviction court did not abuse its discretion.

Criminal defendants are guaranteed the right to assistance of counsel. U.S. Const. amend. VI; Minn. Const. art. I, § 6. "The right to counsel includes the right to effective assistance of counsel." *State v. Paige*, 765 N.W.2d 134, 140 (Minn. 2009). To prevail on a claim for ineffective assistance of counsel, a postconviction petitioner must "allege facts that, if proven by a fair preponderance of the evidence, would satisfy the two prongs of the test announced in" *Strickland v. Washington*, 466 U.S. 668 (1984). *Zumberge v. State*, 937 N.W.2d 406, 413 (Minn. 2019). Under *Strickland*, the petitioner must show 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." *Id.* (quoting *Strickland*, 466 U.S. at 688, 694). If the petitioner does not satisfy one prong, the reviewing court "need not consider both prongs in determining that the claim fails." *Swaney v. State*, 882 N.W.2d 207, 217 (Minn. 2016). This court reviews a postconviction claim for ineffective assistance of counsel de novo. *Taylor v. State*, 887 N.W.2d 821, 823 (Minn. 2016).

Bartu contends that both his trial and appellate counsel were ineffective for failing to challenge the admission of his statement to the sergeant under *Miranda*. The postconviction court rejected Bartu's claims, concluding that he could not establish that his attorneys' performances were objectively unreasonable nor that his attorneys' failures to raise the *Miranda* issue affected the outcome of the proceeding. We agree with the postconviction court's conclusions.

First, Bartu cannot establish that his attorneys' performances fell below an objective standard of reasonableness. When we evaluate a claim for ineffective assistance of counsel, "there is a strong presumption that counsel's performance was reasonable." *Andersen v. State*, 830 N.W.2d 1, 10 (Minn. 2013); *see also Zumberge*, 937 N.W.2d at 413 (applying the same principle to review of appellate counsel's performance). "An attorney's performance falls below an objective standard of reasonableness when they fail to exercise the skills and diligence of a reasonably competent attorney under the circumstances." *Allwine v. State*, 994 N.W.2d 528, 536 (Minn. 2023).

Bartu alleges that both trial and appellate counsel were ineffective because they "never challenged the interrogation nor the waiver of *Miranda*." This argument is not persuasive. The recording of Bartu's statement shows that the sergeant advised Bartu of his rights, and repeatedly ensured that Bartu affirmatively exercised or waived those rights with a "yes or no" before proceeding with questioning. And, although Bartu's responses are largely indiscernible in the recording because of poor audio quality, nothing in the recording supports Bartu's assertion in his brief that "it is obvious that [he] was not coherent and could not give an affirmative answer." Thus, trial counsel could have

reasonably concluded that Bartu received a proper *Miranda* warning and waived his rights, therefore obviating the need for a suppression motion. Bartu cannot overcome the strong presumption that trial counsel's performance was objectively reasonable.

Nor was it objectively unreasonable for appellate counsel to not raise the *Miranda* issue on direct appeal. "Appellate counsel does not have a duty to raise all possible issues, and may choose to present only the most meritorious claims." *Zumberge*, 937 N.W.2d at 413 (quotation omitted). Because nothing in the record supports Bartu's claim that he did not receive a *Miranda* warning, Bartu's *Miranda* claim was unlikely to be successful. Therefore, appellate counsel's decision to not raise the issue was objectively reasonable. Because Bartu cannot meet *Strickland*'s first prong with regard to either trial counsel or appellate counsel, his claims of ineffective assistance of counsel fail. *Swaney*, 882 N.W.2d at 217.

Even if Bartu could demonstrate that his attorneys' performances fell below the threshold of objective reasonableness, Bartu fails to explain how the outcome of the proceedings would have differed had his attorneys raised the issue. Bartu merely asserts that his statement should not have been admitted. But had Bartu's statement been suppressed, the jury still would have seen the surveillance videos depicting everything that Bartu admitted to during his interview with the sergeant. Given the strength of the state's other evidence, the jury likely would have found Bartu guilty even if his statement to the sergeant had been suppressed. For the same reason, this court likely would not have granted Bartu relief on his *Miranda* claim had it been raised by appellate counsel on direct appeal. Accordingly, Bartu cannot meet the second prong of *Strickland*.

In conclusion, we agree with the postconviction court that Bartu cannot establish either prong under *Strickland*. Thus, the postconviction court did not abuse its discretion by denying Bartu's petition for postconviction relief.

Affirmed.