

*This opinion is nonprecedential except as provided by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
A24-1080**

Mark Scott Hendrickson, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed April 7, 2025
Affirmed
Harris, Judge**

Sherburne County District Court
File No. 71-CR-17-970

Mark S. Hendrickson, Faribault, Minnesota (pro se appellant)

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

Kathleen A. Heaney, Sherburne County Attorney, George R. Kennedy, Assistant County Attorney, Elk River, Minnesota (for respondent)

Considered and decided by Ede, Presiding Judge; Harris, Judge; and Florey, Judge.*

NONPRECEDENTIAL OPINION

HARRIS, Judge

Appellant Mark Scott Hendrickson challenges the district court's denial of his petition for postconviction relief. Hendrickson argues that the district court erred by

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

denying his motion to change postconviction venue and determining that he did not meet his burden to demonstrate ineffective assistance of counsel. Hendrickson also requests a writ of mandamus instructing the district court to “vacate [the] fraudulent judgment with prejudice.” Because the district court did not abuse its discretion and a writ of mandamus is outside the scope of this appeal, we affirm.

FACTS

In 2018, a jury found Hendrickson guilty of four counts of criminal sexual conduct.¹ The district court convicted Hendrickson of first-degree criminal sexual conduct and sentenced him to 172 months in prison. Hendrickson filed a direct appeal, which was stayed to allow Hendrickson to pursue postconviction relief. *See State v. Hendrickson*, No. A19-0680, 2023 WL 2564630, at *2 (Minn. App. Mar. 13, 2023), *rev. denied* (Minn. May 31, 2023).

From April 2019 to December 2021, we stayed this appeal to permit Hendrickson to pursue postconviction relief with the assistance of postconviction counsel. Hendrickson filed pro se petitions for postconviction relief separate from his counsel’s submissions, which included allegations of ineffective assistance of postconviction counsel. In 2020, the district court granted Hendrickson’s request for a postconviction relief hearing, but the proceedings were delayed by the COVID-19 pandemic.

¹ The jury found Hendrickson guilty of two counts of first-degree criminal sexual conduct, in violation of Minn. Stat. § 609.342, subd. 1(a), (h)(iii) (2008), and two counts of second-degree criminal sexual conduct, in violation of Minn. Stat. § 609.343, subd. 1(a), (h)(iii) (2008), for conduct that occurred on or about January 1, 2009, to December 31, 2014.

In July 2021, the parties appeared for a hearing. Because Hendrickson and his postconviction counsel had filed conflicting claims, the district court granted the defense permission to file an amended petition finalizing the claims for relief. In August 2021, postconviction counsel filed a summary list of the postconviction claims to be addressed at the hearing, which included a *Brady* violation and ineffective assistance of trial counsel.² In September 2021, Hendrickson’s postconviction counsel filed a motion to withdraw. In December 2021, the district court granted the motion to withdraw and continued the next hearing for at least 60 days to allow Hendrickson time to retain new counsel.

In April 2022, the Office of the Minnesota Appellate Public Defender determined that Hendrickson was eligible for their services and an appellate public defender was appointed to represent Hendrickson. Appellate counsel clarified the scope of his representation in a letter to Hendrickson, stating that he “has the authority to decide what issues or arguments to pursue on appeal,” and that he “will not assist [Hendrickson] with any pro se motions the district court allows [him] to file.” After reviewing the case, appellate counsel decided to proceed with a direct appeal rather than continue to pursue postconviction relief, and the stay of the direct appeal was dissolved.

In his direct appeal, Hendrickson argued that his conviction must be reversed and remanded for a new trial because (1) the district court committed reversible error by admitting *Spriegl* evidence, and (2) the prosecutor committed prosecutorial misconduct.

² On appeal, Hendrickson asserted that a witness who observed Hendrickson’s trial counsel yell at Hendrickson in the courthouse hallway: “you’re not worth my fu-king job” was scheduled to testify at the postconviction hearing.

Hendrickson also raised thirteen additional issues in a pro se supplemental brief. *Hendrickson*, 2023 WL 2564630, at *7. These issues included allegations of fraud, jury prejudice, due-process violations, ineffective assistance of counsel, improper venue, and entrapment. *Id.* This court affirmed Hendrickson's conviction in a nonprecedential opinion, and in May 2023, the Minnesota Supreme Court denied review. *Id.*

In March 2024, Hendrickson petitioned for postconviction relief by filing pleadings that included a motion to remove the district court judge who presided over his trial and postconviction matters, a motion to change postconviction venue, and supporting memorandum. The district court construed Hendrickson's motions and memorandum as a petition for postconviction relief and summarily denied all of Hendrickson's claims without an evidentiary hearing. Because the trial judge retired in late 2022, the district court denied Hendrickson's motion to remove the judge as moot.³ The district court denied Hendrickson's motion to change postconviction venue as improper, concluded that Hendrickson did not meet his burden to demonstrate ineffective assistance of trial or appellate counsel, and denied Hendrickson's remaining claims because they were previously raised and decided in Hendrickson's direct appeal.

Hendrickson appeals.

³ On appeal, Hendrickson has not challenged the district court's decision denying his motion to remove the trial judge.

DECISION

I. The district court did not abuse its discretion by summarily denying Hendrickson’s petition for postconviction relief.

Hendrickson argues that his motion was not a postconviction petition and that he is still entitled to court-appointed postconviction counsel. However, postconviction relief “takes the place of any other common law, statutory, or other remedies which may have been available for challenging the validity of a conviction, . . . and must be used exclusively in place of [any other remedy] unless it is inadequate or ineffective to test the legality of the conviction.” Minn. Stat. § 590.01, subd. 2 (2022). Accordingly, the district court correctly considered Hendrickson’s motions and other claims as a postconviction petition. Therefore, we review Hendrickson’s arguments as an appeal from the denial of a postconviction petition.

Under Minnesota’s postconviction statutes, a person convicted of a crime may seek relief by filing a petition claiming 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) (2022). “The person seeking postconviction relief bears the burden of establishing by a preponderance of the evidence that his claims merit relief.” *Crow v. State*, 923 N.W.2d 2, 10 (Minn. 2019).

We review the denial of a postconviction petition for an abuse of discretion. *Williams v. State*, 5 N.W.3d 399, 405 (Minn. 2024). “A postconviction court abuses its discretion when it has exercised its discretion in an arbitrary or capricious manner, based its ruling on an erroneous view of the law, or made clearly erroneous factual findings.”

Pearson v. State, 891 N.W.2d 590, 596 (Minn. 2017) (quotation omitted). We review legal issues de novo, and “we do not reverse the postconviction court’s findings unless they are clearly erroneous.” *Id.* (quotation omitted).

A. The district court did not abuse its discretion by denying Hendrickson’s motion to change postconviction venue.

Hendrickson argues that the district court abused its discretion by denying his motion to change venue for the postconviction proceedings. In his petition for postconviction relief, Hendrickson requested a change of postconviction venue to “eliminate ongoing, wanton Postconviction testimony obstruction and allow faithful examination of prior unlawful actions of Sherburne Court personnel.” To support his argument, Hendrickson relied on Minnesota law stating that the district court has discretion to transfer venue to “the Second, Fourth, Seventh, or Tenth Judicial Districts.” Minn. Stat. § 590.04, subd. 2 (2022). The district court determined that Hendrickson’s reliance on section 590.04, subdivision 2, was misplaced and denied Hendrickson’s motion as improper because none of the discretionary grounds for change of venue applied. *See* Minn. R. Crim. P. 24.03, subd. 1 (listing grounds for change of venue).

On appeal, Hendrickson does not argue specifically how the district court abused its discretion. Instead, Hendrickson generally asserts that Sherburne County will not honor his postconviction rights. We review the district court’s denial of a motion to change venue for an abuse of discretion. *State v. Fairbanks*, 842 N.W.2d 297, 302 (Minn. 2014).

Minnesota law presumes that a postconviction petition will be heard in the county where the conviction occurred. *See* Minn. Stat. § 590.01, subd. 1(2) (2022) (requiring

petitioner to file a postconviction petition “in the district court in the county where the conviction was had”). Generally, a motion to change venue must be made prior to trial. *See* Minn. R. Crim. P. 24.03, subd. 3 (stating that unless an exception applies, “a motion for change of venue must be made at the time prescribed . . . for making pretrial motions”). The district court has discretion to grant a motion to change venue: “(a) If the court is satisfied that a fair and impartial trial cannot be had in the county in which the case is pending; (b) For the convenience of parties and witnesses; (c) In the interests of justice; [and] (d) As provided by [the rule] governing prejudicial publicity.” *Id.*, subd. 1.

Although Hendrickson filed his motion for change of postconviction venue after trial, the district court still considered whether the allegations of misconduct by counsel and a judicial officer in Sherburne County required a change of postconviction venue. The district court determined that Hendrickson’s allegations of misconduct were moot, as he was no longer represented by his former counsel and the former judicial officer was no longer presiding over the case. These findings are supported by the record, and Hendrickson does not provide additional authority to argue that the district court abused its discretion. *See State v. Ture*, 632 N.W.2d 621, 632 (Minn. 2001) (stating that claims are forfeited when a party “fails to provide any authority or argument to support [the] claim”). Therefore, the district court did not abuse its discretion by denying Hendrickson’s motion to change postconviction venue.

B. The district court did not abuse its discretion by denying postconviction relief because Hendrickson did not meet his burden to establish ineffective assistance of counsel.

Hendrickson argues that the district court abused its discretion by concluding that he did not demonstrate ineffective assistance of counsel.⁴ “The United States and Minnesota Constitutions guarantee a criminal defendant the right to effective assistance of counsel.” *Crow*, 923 N.W.2d at 14; *see also* U.S. Const. amend. VI; Minn. Const. art. I, § 6. To demonstrate ineffective assistance of counsel, a defendant must satisfy the two-pronged test outlined in *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Andersen v. State*, 830 N.W.2d 1, 10 (Minn. 2013). *Strickland* requires the defendant to “demonstrate that (1) his counsel’s performance fell below an objective standard of reasonableness, and (2) that a reasonable probability exists that the outcome would have been different but for counsel’s errors.” *Andersen*, 830 N.W.2d at 10. In deciding whether to summarily deny a petition for postconviction relief, the postconviction court must presume that the facts alleged in the petition are true. *Bobo v. State*, 820 N.W.2d 511, 517 (Minn. 2012).

Here, the district court determined that Hendrickson’s ineffective-assistance-of-counsel claims failed because Hendrickson did not meet his burden under either prong of the *Strickland* test and summarily denied relief. “[W]e review the denial of postconviction

⁴ Hendrickson argues that he is still entitled to competent postconviction counsel because his appointed appellate counsel pursued a direct appeal instead of continuing to pursue a postconviction ineffective-assistance-of-trial-counsel claim. However, the Minnesota Constitution only guarantees the right to counsel for one appeal, either the direct appeal, or if the defendant did not pursue a direct appeal, the defendant’s first postconviction petition. *Erickson v. State*, 725 N.W.2d 532, 537 (Minn. 2007); *see also* Minn. Stat. § 611.14(2) (2024).

relief based on a claim of ineffective assistance of counsel de novo because such claims involve mixed questions of law and facts.” *State v. Sardina-Padilla*, 7 N.W.3d 585, 602 (Minn. 2024). “If a claim fails to satisfy one of the *Strickland* prongs, we need not consider both prongs in determining that the claim fails.” *Swaney v. State*, 882 N.W.2d 207, 217 (Minn. 2016).

1. Hendrickson did not meet his burden to demonstrate ineffective assistance of trial counsel.

Hendrickson was represented by multiple trial counsel during different stages of the district court proceedings, all of whom withdrew. On appeal, Hendrickson makes general statements about his pretrial and trial counsel.⁵ Hendrickson asserts that his constitutional right to a fair trial was compromised because his pretrial counsel violated attorney-client privilege by informing the state that the complaint contained a clerical error.⁶ Hendrickson contends that he informed his pretrial counsel of the error, that the error in the complaint was fraud, that pretrial counsel should have challenged jurisdiction, that pretrial counsel violated attorney-client privilege by exposing protected conversations to the state and by

⁵ Hendrickson was represented by a third attorney during sentencing and the initial direct appeal that was stayed for postconviction proceedings. In its order denying postconviction relief, the district court recognized that Hendrickson had been represented by three attorneys, but only analyzed Hendrickson’s ineffective-assistance-of-trial-counsel claims regarding two attorneys, pretrial and trial counsel. Hendrickson does not raise arguments related to the third attorney’s conduct in this appeal.

⁶ The complaint initially stated that the offenses occurred in Sherburne County. The state later amended the complaint, changing Sherburne County to Anoka County and Mille Lacs County.

withdrawing his representation, and that pretrial counsel damaged Hendrickson’s “prospect to procure representation for a fair trial.”

Hendrickson also asserts that his trial counsel “deceitfully obstruct[ed] exculpatory testimony and evidence, [and] aid[ed] in prosecutorial misconduct.” Hendrickson claims that trial counsel yelled at him, did not investigate a plot to entrap Hendrickson with a USB device, did not introduce the USB device at trial, prejudiced the jurors, conspired not to challenge a witness’s memory issues, and concealed expert witness testimony.

Generally, “where direct appeal has once 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). Under *Knaffla*, Hendrickson’s ineffective-assistance-of-trial-counsel claims are “barred if they are based on the trial record and were known or should have been known to him at the time of his direct appeal.” *Zornes v. State*, 880 N.W.2d 363, 369 (Minn. 2016). However, *Knaffla* does not apply “when the merits of the claim cannot be determined from the district court record and requires additional evidence, such as that involving attorney-client communications.” *Erickson*, 725 N.W.2d at 535-36 (quotation omitted).

During Hendrickson’s direct appeal, we did not consider his ineffective-assistance-of-trial-counsel claims because Hendrickson’s arguments were not supported by the record or legal authority. *Hendrickson*, 2023 WL 2564630, at *7 n.2. Additionally, we stated that “it is possible that Hendrickson could pursue a claim for ineffective assistance of trial counsel in a postconviction petition” because we were “unable to determine from Hendrickson’s pro se brief whether his claim for ineffective assistance of trial counsel

could be resolved on the district court record alone.” *Id.* Therefore, we assume without deciding that Hendrickson’s ineffective-assistance-of-trial-counsel claims are not barred by *Knaffla*.

Here, Hendrickson appears to challenge the district court’s decision by making conclusory statements of fact about trial counsel’s alleged errors. However, as in his direct appeal, Hendrickson does not support these assertions with any analysis or authority. *See State v. Andersen*, 871 N.W.2d 910, 915 (Minn. 2015) (“An assignment of error based on mere assertion and not supported by any argument or authorities in appellant’s brief is waived and will not be considered on appeal unless prejudicial error is obvious on mere inspection.” (quotation omitted)). Hendrickson forfeited these claims, as he “alludes” to several issues, but “fails to address them in the argument portion of his brief.” *McKenzie v. State*, 583 N.W.2d 744, 746 n.1 (Minn. 1998); *see also Rhodes v. State*, 875 N.W.2d 779, 784 n.4 (Minn. 2016) (concluding ineffective-assistance-of-counsel claim raised in petition for postconviction relief but not addressed in appellate brief was forfeited).

Even if Hendrickson’s ineffective-assistance-of-trial-counsel claims were not forfeited, they fail on the merits. “[T]here is a strong presumption that counsel’s performance was reasonable, and this court does not review matters of trial strategy or the particular tactics used by counsel.” *State v. Hokanson*, 821 N.W.2d 340, 358 (Minn. 2012). Many of Hendrickson’s claims are related to trial strategy and are thus presumed reasonable under the first *Strickland* prong, including “the extent of trial counsel’s investigation,” and “which witnesses to call and what information to present to a jury.” *Allwine v. State*, 994 N.W.2d 528, 540 (Minn. 2023).

For any remaining reviewable claims, Hendrickson did not demonstrate prejudice under the second *Strickland* prong. Hendrickson did not identify any evidence demonstrating that but for counsel's errors, the outcome of the trial would have been different. *State v. Rhodes*, 657 N.W.2d 823, 843 (Minn. 2003); *State v. Jones*, 977 N.W.2d 177, 194 (Minn. 2022). Therefore, considering the facts alleged in the petition as true and construing them in the light most favorable to Hendrickson, he did not meet his burden to demonstrate ineffective assistance of trial counsel, and the district court did not abuse its discretion by denying postconviction relief.

2. Hendrickson did not meet his burden to demonstrate ineffective assistance of appellate counsel.

Hendrickson argues that he received ineffective assistance of appellate counsel because his appointed appellate public defender pursued a direct appeal instead of continuing the postconviction proceedings and did not bring an ineffective-assistance-of-trial-counsel claim. He did not argue on direct appeal that his trial counsel was ineffective. Hendrickson argues that, under *Garza v. Idaho*, 586 U.S. 232 (2019), the result of the proceeding would have been different but for appellate counsel's errors because "prejudice is presumed when counsel's constitutionally deficient performance deprives a defendant of an appeal he otherwise would have taken." We are unpersuaded.

Although the record supports Hendrickson's argument that he insisted on continuing to pursue his postconviction ineffective-assistance-of-trial-counsel claim rather than a direct appeal, Hendrickson was not deprived of an appeal altogether as discussed in *Garza*.

“An attorney’s representation meets the objective standard of reasonableness if the attorney exercises the skills and diligence that a reasonably competent lawyer would exercise under the circumstances.” *Zornes*, 880 N.W.2d at 371. “There is a strong presumption that appellate counsel has exercised reasonable professional judgment in selecting the issues to raise on appeal.” *Davis v. State*, 15 N.W.3d 635, 647 (Minn. 2025). Thus, a claim of ineffective assistance of appellate counsel will fail if “appellate counsel could have legitimately concluded that the claim would not prevail.” *State v. Leake*, 737 N.W.2d 531, 536 (Minn. 2007) (quotation omitted).

Here, Hendrickson does not point to any evidence that appellate counsel did not act reasonably by reviewing the case and deciding to pursue a direct appeal after concluding that the postconviction claim based on ineffective assistance of trial counsel would be unsuccessful. *See Fields v. State*, 733 N.W.2d 465, 471 (Minn. 2007) (holding that appellate counsel’s failure to forego appellant’s direct appeal and pursue postconviction relief was not ineffective assistance of counsel because both *Strickland* prongs were not met). Therefore, Hendrickson did not meet his burden to demonstrate ineffective assistance of appellate counsel, and the district court did not abuse its discretion by denying postconviction relief.⁷

⁷ To the extent that Hendrickson’s ineffective-assistance-of-appellate-counsel claim is based on appellate counsel’s failure to raise an ineffective-assistance-of-trial-counsel claim, as explained above, we conclude Hendrickson did not meet his burden “to first show that trial counsel was ineffective.” *Fields*, 733 N.W.2d at 468.

C. The district court did not abuse its discretion by denying Hendrickson's remaining claims as statutorily and procedurally barred.

In its order denying postconviction relief, the district court summarily denied Hendrickson's remaining claims of fraud, jury prejudice, due-process violations, and entrapment because Hendrickson "already litigated or appealed [these claims]," and "these claims cannot be re-litigated." To the extent that Hendrickson challenges the district court's decision on appeal, Hendrickson did not support these arguments with any authority or legal analysis. Therefore, these issues are forfeited. *State v. Mrozinski*, 971 N.W.2d 233, 237 n.2 (Minn. 2022).

Even if these arguments were not forfeited, the district court did not abuse its discretion by determining that these remaining claims were statutorily and procedurally barred. As discussed above, *Knaffla* bars all claims that were known, or should have been known at the time of direct appeal. 243 N.W.2d at 741; *Buggs v. State*, 734 N.W.2d 272, 274 (Minn. 2007); *see also* Minn. Stat. § 590.01, subd. 1(2) ("A petition for postconviction relief after a direct appeal has been completed may not be based on grounds that could have been raised on direct appeal of the conviction or sentence."). There are two exceptions to this general rule: (1) "if the claim's novelty was so great that its legal basis was not reasonably available when direct appeal was taken" or (2) "when fairness so requires and when the petitioner did not deliberately and inexcusably fail to raise the issue on direct appeal." *Lynch v. State*, 749 N.W.2d 318, 321 (Minn. 2008) (quoting *Leake*, 737 N.W.2d at 535).

Hendrickson submitted a pro se supplemental brief during his direct appeal which included “bare allegations of fraud, jury prejudice, due-process violations, ineffective assistance of counsel, improper venue, and entrapment, among other arguments.” *Hendrickson*, 2023 WL 2564630, at *7. Hendrickson does not allege that any of the claims he raised in his petition for postconviction relief are new or different from those raised in his direct appeal, or that any of the exceptions to *Knaffla* apply. *See Erickson*, 725 N.W.2d at 535 (“When a petitioner fails to argue either exception to *Knaffla*, a postconviction court may decline to apply either exception.”). Therefore, the district court did not abuse its discretion by denying Hendrickson’s additional claims because these claims were previously raised in Hendrickson’s direct appeal.

D. The district court did not abuse its discretion by denying Hendrickson’s postconviction petition without an evidentiary hearing.

Hendrickson appears to argue that the district court abused its discretion by summarily denying his postconviction petition without an evidentiary hearing. “We review the ultimate decision by the postconviction court to grant or deny an evidentiary hearing for an abuse of discretion.” *Caldwell v. State*, 853 N.W.2d 766, 770 (Minn. 2014).

The district court must hold an evidentiary hearing on a petition for postconviction relief “[u]nless 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 (2022). In contrast, the district court “may summarily deny a petition when the issues raised in it have previously been decided by the Court of Appeals or the Supreme Court in the same case.” *Id.*, subd. 3 (2022).

As discussed above, when determining whether the petitioner is entitled to an evidentiary hearing, the district court is required to consider the facts alleged in the petition as true and construe them in the light most favorable to the petitioner. *Henderson v. State*, 906 N.W.2d 501, 507 (Minn. 2018). “[T]he burden is on a petitioner to show facts entitling the petitioner to relief.” *Allwine*, 994 N.W.2d at 541. To meet this burden, the petitioner must establish by a fair preponderance of the evidence facts which, if proved true, would entitle them to relief. *Roby v. State*, 531 N.W.2d 482, 483 (Minn. 1995). “The petitioner’s allegations must be more than argumentative assertions without factual support.” *Hodgson v. State*, 540 N.W.2d 515, 517 (Minn. 1995) (quotation omitted).

Here, the record supports the district court’s denial of Hendrickson’s request for an evidentiary hearing. Hendrickson did not meet his burden to allege facts that, if true, would entitle him to relief. *Erickson*, 725 N.W.2d at 536-37; *Hodgson*, 540 N.W.2d at 717-18. Therefore, the district court did not abuse its discretion by denying Hendrickson’s petition for postconviction relief without an evidentiary hearing.

II. Hendrickson is not entitled to a writ of mandamus.

Hendrickson argues in his principal brief that we should issue a writ of mandamus instructing the district court to “vacate [the] fraudulent judgment with prejudice.” “Application for a writ of mandamus . . . in the Court of Appeals directed to a trial court, shall be made by petition.” Minn. R. Civ. App. P. 120.01. That petition must “specify the lower court and the name of the judge,” and must include a statement of (1) “the facts necessary to an understanding of the issues presented by the application;” (2) “the issues presented and the relief sought;” and (3) “the reasons why the extraordinary writ should

issue.” *Id.* And a “copy of any order or written action” must be included in the petition’s addendum, including any relevant “findings of fact, conclusions of law, or memorandum of law.” *Id.*

Hendrickson’s “petition” did not comply with these requirements because the so-called petition was improperly included within Hendrickson’s principal brief on appeal from the district court’s order denying postconviction relief. Therefore, Hendrickson’s petition for a writ of mandamus is not properly before this court.

Even if a petition for a writ of mandamus was properly before us, mandamus is not appropriate because Hendrickson has an adequate remedy by appeal. Mandamus is an extraordinary legal remedy that is appropriate when the district court fails to perform a nondiscretionary act. *State v. Davis*, 592 N.W.2d 457, 459 (Minn. 1999); *State v. Pero*, 590 N.W.2d 319, 323 (Minn. 1999). However, “even if the court has such a clear judicial duty, if there is some other plain, speedy, and adequate remedy in the ordinary course of law, the writ may not issue.” *State v. Hoelzel*, 639 N.W.2d 605, 610 (Minn. 2002); Minn. Stat. § 586.02 (2024). “*Mandamus* is not a substitute for, and cannot be used as, an appeal or writ of error.” *Davis*, 592 N.W.2d at 459 (quotation omitted). Therefore, “where a party has an adequate remedy by appeal, a writ of *mandamus* should be denied.” *Id.* (quotation omitted).

Here, Hendrickson appealed the judgment in a direct appeal, the issues raised in his petition for postconviction relief were reviewed during this appeal, and as addressed earlier, Hendrickson has not established that the district court’s failure to rule in his favor was so arbitrary and capricious as to constitute a clear abuse of discretion. *See Pero*, 590

N.W.2d at 323 (“If the court has discretion to perform the act, appellant must establish that failure to perform it was so arbitrary and capricious as to constitute a clear abuse of discretion.” (quotation omitted)). Therefore, Hendrickson is not entitled to a writ of mandamus.

Affirmed.