

*This opinion is nonprecedential except as provided by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
A25-0475**

Patrick Charles Bonga, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed December 22, 2025
Affirmed
Cleary, Judge***

Becker County District Court
File No. 03-CR-22-1061

Cathryn Middlebrook, Chief Appellate Public Defender, Steven P. Russett, Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

Brian W. McDonald, Becker County Attorney, Detroit Lakes, Minnesota (for respondent)

Considered and decided by Bjorkman, Presiding Judge; Cochran, Judge; and Cleary, Judge.

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

NONPRECEDENTIAL OPINION

CLEARY, Judge

Appellant Patrick Charles Bonga argues that the district court abused its discretion by denying his petition for postconviction relief, claiming that he did not receive a fair trial because the trial judge was biased. We disagree and affirm.

FACTS

Bonga does not challenge the sufficiency of the evidence supporting his convictions of second- and third-degree assault and false imprisonment. As such, the undisputed facts are presented as described by the victim during his testimony at Bonga's jury trial.

On June 7, 2022, the victim walked an acquaintance to her home and went inside the house. Bonga was inside the house. Bonga asked the victim if he was "AP," which is the victim's nickname. Bonga introduced himself and soon after punched the victim. Bonga continued to punch and kick the victim. The victim's acquaintance and another person started to attack the victim. Bonga then wrapped a chain around the victim's neck and poured boiling water on him. Bonga chained the victim to a post, beat him, and burned him with a "propane torch." Bonga held a skill saw to the victim's face and told him he was going to cut his body into pieces. The victim escaped when an electronic padlock locking the chain around his neck opened. The victim went to the hospital. Hospital staff called the police.

Respondent State of Minnesota charged Bonga with first-degree assault, second-degree assault, and false imprisonment. The state also filed notice of intent to seek an aggravated sentence.

Bonga removed the first judge assigned to the case. The case was reassigned to the trial judge. Prior to her appointment to the bench in 2016, the trial judge had prosecuted Bonga when she worked in the county attorney's office. In 2019, the trial judge presided over one of Bonga's criminal cases for over one year before he requested that she remove herself because she had prosecuted him.

The trial judge raised her prior involvement as a judge at a July 19, 2022 hearing on the state's motion to seek an aggravated sentence, stating: "So, I just want to clarify and . . . so we're all on the same page going forward, I had a previous case with Mr. Bonga." Bonga's attorney stated that he was aware. The trial judge continued:

Okay, you're aware. And so I'm just looking at my previous order because I think one of the grounds [for a departure] was similar to what [the state is] bringing in this as well. . . . Is it 609.1095, subdivision 2, dangerous offender who commits third violent crime or—I address that one and subdivision 3, mandatory sentence for dangerous offender who commits third violent felony. And so that's a different subdivision, both of which were addressed in my other order.

The prosecutor stated that he was unfamiliar with a prior order. The trial judge replied:

[C]ourt file 03-CR-22-1061 . . . was a case that had come before me that involved Mr. Bonga. A similar [sentencing-departure] motion was made and I entered an order and . . . I want to make sure with respect to [the basis] . . . in this current case, defendant has two or more prior convictions for violent crimes and is a danger to the public safety, I just want to make sure you can inform for me exactly which subdivision that's in.

The trial judge stated to the prosecutor: "I think once you read that order, you'll know exactly what I'm talking about." Bonga's attorney did not object to the state filing an amended motion.

The state filed an amended notice of intent to seek an aggravated sentence, clarifying that section 609.1095, subdivision 2, which permits an increased sentence for a third violent crime, supported an aggravated sentence. The trial judge granted the state's motion. The trial judge found that Bonga had committed 11 offenses, including assaults, kidnapping, and violating predatory-offender-registration laws. The trial judge concluded that Bonga's significant criminal history, and the state's proffered evidence of assaultive behavior since 2001, provide facts of a pattern of criminal behavior. The trial judge also determined that, if facts were elicited at trial, the state could seek an aggravated sentence based on the particular cruelty of the offense, and that the offense was committed by a group of three or more persons.

On August 30, 2022, Bonga appeared for a hearing intending to plead guilty, stating that he did not believe that he would get a fair trial. Bonga then pivoted and stated that he wanted a trial. Because Bonga "essentially accused" the trial judge of "being unfair," the prosecutor noted that the trial judge had disclosed that she previously presided over one of Bonga's cases, and then all parties agreed that they were comfortable with the trial judge presiding over the current matter. The trial judge reiterated her disclosure and stated that "[a]ll of that was waived, everyone was given the opportunity . . . to make a request regarding that, so that time has passed." Bonga replied that his attorney told him that he did not have an option to request a different judge. The trial judge stated:

[I]n the last case that I had with you as a judge, you were fine with me up until a point and then [defense counsel] on your behalf asked me . . . since we were beyond timeliness for her to remove me, that I consider [removing myself] in the best interests . . . so I did.

On September 2, 2022, Bonga moved to reopen the omnibus hearing because he had originally waived omnibus issues. The trial judge granted the request and held a hearing. Defense counsel requested a different judge to hear the challenge to the search warrant because the trial judge had issued the warrant. The trial judge responded that she had asked other judges their opinions on the issue in preparation for the hearing. Judges had replied that recusal is not required “unless there’s authority” supporting it. Defense counsel failed to provide authority requiring recusal, and the trial judge stated that it would rule on the omnibus issues.¹

The trial judge then again stated that she had prosecuted Bonga. Then as a judge, Bonga had a case before her, and although all “conflicts were waived,” “towards the end of the case there was a [defense] request that [she] recuse . . . [and she] did so.” The trial judge concluded:

Noting that, here we are with this case. In the very beginning I noted the conflict, the conflict was waived numerous times . . . no challenge or no removal was filed in this case, it was discussed on the record whether I should remain, and so numerous opportunities have been given in the past with respect to this case both under the rules and otherwise to have another judge assigned and that wasn’t done.

The trial judge denied Bonga’s motion to suppress evidence and dismiss the charges. That same day, Bonga moved to remove the trial judge for cause.

¹ We note that, although defense counsel was unable to provide authority requiring removal of the judge who issues a warrant to then review a challenge to the warrant, best practice is for the judge who finds probable cause and signs off on a warrant to have another judge preside over an omnibus hearing where probable cause is challenged.

After hearing arguments on the motion, the Chief Judge of the district court denied Bonga's motion. The Chief Judge concluded that Bonga had failed to show that the trial judge was biased because he was aware of the trial judge's prior involvement as a prosecutor and judge but did not object to her presiding over the current matter until she ruled against him on the aggravated-sentence motion.

Bonga's case proceeded to a jury trial. On the last day, Bonga's attorney discussed which acts related to which charges. Defense counsel stated that the first-degree assault charge involved Bonga pouring boiling water on the victim and the second-degree assault charge involved Bonga threatening the victim with the skill saw. Bonga requested that a third-degree assault charge be submitted to the jury as a lesser-included of first-degree assault with a lower standard of bodily harm. The state objected and stated that the lesser-included offense would be second-degree assault, not third-degree assault, because boiling water is a dangerous weapon. The trial judge stated:

I'm going to grant [the defense] request. We're going to include that in the instructions. . . . [T]he doctor did testify to essentially both theories. I heard testimony about the fact that the burning of skin is, in cases, permanent. [The defense] also did elicit testimony that it is not in some cases.

. . . .

[F]or the same reason I granted the defense request, I believe that it also applies to the [s]tate.

Five counts were submitted to the jury: first-degree assault—infliction of great bodily harm; second-degree assault with a dangerous weapon; third-degree assault—infliction of substantial bodily harm; second-degree assault—infliction of substantial bodily harm with a dangerous weapon; and false imprisonment. The jury found Bonga not

guilty of first-degree assault, but guilty of the other four counts. The jury also found that Bonga is a danger to public safety, has been convicted of two or more crimes of violence, and “exacerbate[d]” the victim’s injuries.

The trial judge sentenced Bonga to 120 months in prison for second-degree assault; the other offenses were not adjudicated included offenses. The trial judge imposed an upward durational sentencing departure based on the jury determinations. Bonga did not file a direct appeal.

On November 18, 2024, Bonga filed a petition for postconviction relief, claiming that he was entitled to a new trial because the trial judge was biased against him. The district court denied Bonga’s petition, concluding that the record showed that “[the trial judge] treated [Bonga] in a fair and patient manner, despite the fact that he engaged in multiple personal attacks on her and other judges.” This appeal followed.

DECISION

Bonga argues that he did not receive a fair trial because the trial judge exhibited emergent bias by relying on personal knowledge of past criminal proceedings. He also argues that a lay person would question the trial judge’s impartiality.

Appellate courts “review the denial of a petition for postconviction relief for an abuse of discretion.” *Pearson v. State*, 891 N.W.2d 590, 596 (Minn. 2017). A district court abuses its discretion when it “exercise[s] its discretion in an arbitrary or capricious manner, base[s] its ruling on an erroneous view of the law, or ma[kes] clearly erroneous factual findings.” *Id.* (quotation omitted).

A criminal defendant has a “fundamental right to a fair trial and a fair and impartial judge.” *State v. Duol*, 25 N.W.3d 135, 141 (Minn. 2025) (quotation omitted). “A judge must maintain the integrity of the adversary system at all stages of the proceedings.” *State v. Schlien*, 774 N.W.2d 361, 367 (Minn. 2009). It is presumed that a judge “discharged its judicial duties properly.” *State v. Lopez*, 988 N.W.2d 107, 116 (Minn. 2023) (quotation omitted). Whether a defendant was deprived of an impartial judge presents a constitutional question reviewed de novo. *Id.* at 120.

Minnesota law identifies three types of judicial bias: actual, emergent, and perceived. *Id.* at 117. Bonga argues that he is entitled to a new trial because of emergent bias and perceived bias.

Emergent bias occurs “when the [judge] is not actually biased, but during trial, something happens that transforms [the judge] into a partial trier of fact.” *Id.* at 117. A judge exhibits emergent bias when it conducts an independent investigation into prejudicial extra-record information and when they fail to “set the knowledge aside and consider only the evidence adduced in deciding the case.” *State v. Dorsey*, 701 N.W.2d 238, 252 (Minn. 2005). But when a judge relies on “general knowledge” outside of the record, obtained during the course of “ordinary affairs,” they do not exhibit emergent bias. *See Lopez*, 988 N.W.2d at 120-21 (concluding that court’s reliance on “general knowledge” of COVID-19 pandemic did not result in emergent bias). When a judge exhibits emergent bias, they commit structural error, and proof of prejudice to the defendant is not required to demonstrate the need for a new trial. *Id.* at 117, 119.

Perceived bias arises when the facts or circumstances of a case might cause the public to reasonably question the impartiality of an unbiased judge. *Id.* at 120. “A judge shall disqualify himself or herself in any proceeding in which the judge’s impartiality might reasonably be questioned.” Minn. R. Jud. Conduct 2.11(A)(1).

Bonga argues that the trial judge’s conduct during the case exhibited emergent bias because she failed to put aside knowledge from her involvement in Bonga’s other cases when deciding whether the state should be allowed to seek an aggravated departure. Bonga asserts that the trial judge “used her prior order as a template for her order in this case, and that she made her decision based at least in part on arguments the prosecutor had made in the prior case.”

We disagree. The record shows that the trial judge merely stated that she required clarification in the state’s motion to make a ruling. At the July 19, 2022 hearing, the trial judge stated: “I’m just looking at my previous order because I think one of the grounds was similar to what [the state is arguing in this case]. . . . Is it 609.1095, subdivision 2, dangerous offender who commits third violent crime or . . . subdivision 3, mandatory sentence for dangerous offender who commits third violent felony[?]” The prosecutor was not aware of another order, prompting the trial judge to reply: “[C]ourt file 03-CR-22-1061 . . . had come before me that involved Mr. Bonga. A similar motion [to seek an aggravated sentence] was made and I entered an order and . . . I just want to make sure you can [identify] for me exactly which subdivision that’s in.” The trial judge stated to the prosecutor: “I think once you read that [previous] order, you’ll know exactly what I’m talking about.”

The trial judge merely recalled a motion from a different matter and wanted to understand if the prosecutor was presenting the same argument in the current matter. The state filed an amended motion to clarify the correct statutory subdivision, and the trial judge ruled on the motion. The trial judge did not rely on court records from other matters to decide the motion, and it is not clear how referencing the court order transformed the trial judge from an unbiased decision-maker into a partial one, which is when emergent bias arises. The trial judge did not exhibit emergent bias under these circumstances.

Bonga also argues that the trial judge exhibited perceived bias because she granted the state's motion to submit second-degree assault as a lesser-included offense, which the state needed in order to have Bonga sentenced as a dangerous offender. He asserts that "[a]lthough [the trial judge] had already granted the state's request to submit second-degree assault as a lesser included of the first-degree assault charge, [she] later urged the prosecutor to amend the complaint to include that charge."

First, the trial judge properly applied the law in deciding whether the evidence produced at trial supported the lesser-included offenses being submitted to the jury. Bonga requested that a lesser-included charge of third-degree assault be submitted to the jury, which the trial judge granted. The state noted that the evidence also supported submitting a second-degree assault charge to the jury, and the trial judge concluded that the evidence allowed for the submission of both lesser-included offenses to the jury.

Second, as the district court stated, the trial judge had already ruled on the request before stating that the state could amend the complaint to include the charge. Essentially, the trial judge did not exhibit bias or assist the state by stating that the prosecutor "could"

amend the complaint when the trial judge had already granted the request to submit the lesser-included second-degree assault charge to the jury.

Bonga also slightly mischaracterizes the record because it does not appear that the trial judge urged the state to amend the complaint. The trial judge granted both parties' requests for lesser-included offenses to be submitted to the jury, ruling that both were appropriate. Because the additional charges were supported by the evidence, this is not a situation in which the public would perceive bias on the part of the judge. The district court did not abuse its discretion by denying Bonga postconviction relief.

Affirmed.