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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-0695**

Douglas Allan Treu, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed December 29, 2025
Affirmed
Smith, Tracy M., Judge**

Wabasha County District Court
File No. 79-CR-19-1081

Zachary A. Longsdorf, Longsdorf Law Firm, PLC, Inver Grove Heights, Minnesota (for appellant)

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

Michael T. Walters, Olmsted County Attorney, James E. Haase, Senior Assistant County Attorney, Rochester, Minnesota (for respondent)

Considered and decided by Smith, Tracy M., Presiding Judge; Slieter, Judge; and Harris, Judge.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

In this appeal from the district court's order summarily denying postconviction relief, appellant Douglas Allan Treu argues that the district court abused its discretion by

dismissing his claims without an evidentiary hearing. He also argues that he should be granted a new trial in the interests of justice. We affirm.

FACTS

In November 2021, a jury found Treu guilty of first-degree assault. We affirmed the conviction on direct appeal. *State v. Treu*, No. A22-0387, 2023 WL 1770296, at *9 (Minn. App. Feb. 6, 2023). Treu then filed a petition for postconviction relief, which the district court summarily denied in the order under review here.

In our opinion affirming Treu’s conviction on direct appeal, we outlined the facts underlying this case. In December 2019, a dispute took place between Treu and a couple outside of an apartment building. The woman in the couple, R.M., managed and lived in the building, and Treu lived in another apartment in the building. The man in the couple, D.A.Z., was outside the building with his dog when Treu angrily confronted him about some tenancy issues. D.A.Z. told Treu that Treu was going to be evicted; he also told Treu that he (D.A.Z.) had heard that Treu was “touching little girls’ butts.” Treu pushed D.A.Z., and a physical altercation ensued. Treu pulled a box cutter out of his pocket and sliced D.A.Z.’s face using a downward slicing motion. As D.A.Z. fought back, Treu stabbed him in the back with the blade. R.M. came outside when she heard the fight and tried to intervene, but Treu attacked her, cutting her face. D.A.Z.’s dog then went after Treu and bit him on the calf. D.A.Z. pulled his dog off Treu, and the three people returned to the building. When police responded to a 911 call, they found Treu in his apartment, bloody, with large bite wounds on his leg. The police discovered a box cutter outside where the altercation occurred.

At trial, Treu testified that he acted in self-defense when D.A.Z. attacked him and ordered his dog to kill Treu. He claimed that a box cutter fell out of his pocket during the struggle and that he used a portion of its broken blade to make one cut across D.A.Z.'s face and arm but that, due to recent shoulder surgery, he could not raise his arm above his head. The jury rejected Treu's self-defense argument.

In his direct appeal, Treu advanced three arguments. First, he asserted that he was denied his constitutional right to a present a complete defense when the district court's discovery sanctions and evidentiary rulings prevented him from questioning D.A.Z. about his past acts of violence, reputation for violence, and attitude toward pedophiles. *Id.* at *3-6. Second, he argued that the district court erred by not granting a continuance of the trial. *Id.* at *7-8. Finally, he claimed ineffective assistance of counsel because his attorney failed to conduct an adequate investigation, failed to subpoena witnesses, and committed discovery violations. *Id.* at *8-9. We determined that there was no prejudicial error and affirmed. *Id.* at *9.

After the supreme court denied review, Treu filed a postconviction petition stating two "grounds for relief":

1. [Treu] received the ineffective assistance of trial and appellate counsel.
2. Actual Innocence/Interests of Justice. There is a lack of evidence upon which to base [Treu's] conviction and the combination of cumulative error in this matter dictate that [Treu] be granted a new trial in the interests of justice.

The district court denied the petition without an evidentiary hearing.

Treu appeals.

DECISION

Treu argues that the district court erred in summarily denying his postconviction petition. He frames his arguments on appeal somewhat differently from how he framed them in his petition. We consider, first, whether the district court abused its discretion by summarily denying his petition for postconviction relief and, second, whether Treu should be granted a new trial in the interests of justice.

I. The district court did not abuse its discretion by summarily denying Treu’s postconviction petition without an evidentiary hearing.

The denial of a postconviction petition is reviewed for abuse of discretion. *Martin v. State*, 969 N.W.2d 361, 363 (Minn. 2022). A district court abuses its discretion if it improperly applies the law or makes clearly erroneous factual findings. *Gilbert v. State*, 2 N.W.3d 483, 487 (Minn. 2024). Appellate courts “review a district court’s legal conclusions de novo and its findings of fact for clear error.” *Paul v. State*, 20 N.W.3d 48, 54 (Minn. 2025).

Unless the postconviction petition and record “conclusively show that the petitioner is entitled to no relief,” the matter must be set for an evidentiary hearing. Minn. Stat. § 590.04, subd. 1 (2024). Any doubts about whether to hold an evidentiary hearing must be resolved in favor of the petitioner. *Opsahl v. State*, 677 N.W.2d 414, 423 (Minn. 2004). “[A] district court need not hold a hearing ‘when the petitioner alleges facts that, if true, are legally insufficient to grant the requested relief.’” *State v. Sardina-Padilla*, 7 N.W.3d 585, 602-03 (Minn. 2024) (quoting *Woodard v. State*, 994 N.W.2d 272, 276 (Minn. 2023)). A petitioner’s burden in a postconviction petition is to establish facts warranting relief “by

a fair preponderance of the evidence.” *Pederson v. State*, 649 N.W.2d 161, 163 (Minn. 2002) (citing Minn. Stat. § 590.04, subd. 3 (2000)).

A. Ineffective-Assistance-of-Trial-Counsel Claim

Treu argues that the district court erred by summarily rejecting his claim of ineffective assistance of trial counsel. The district court concluded that the claim was procedurally barred by *Knaffla*.

“[W]here 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); *see also* Minn. Stat. § 590.01, subd. 1 (2024) (codifying the same rule for “grounds that could have been raised on direct appeal”). “[T]here are two exceptions to the *Knaffla* procedural bar: (1) if a novel legal issue is presented; or (2) if the interests of justice require review.”¹ *Gilbert*, 2 N.W.3d at 487. The petitioner has the burden of showing that an exception applies. *Id.* at 489.

¹ The state notes that since Minnesota Statutes section 590.01 (2024) was amended in 2005, courts have been unsure about whether the exceptions to *Knaffla* were superseded. While some earlier cases characterized this as an “open question,” a recent case applied the exceptions without any uncertainty. *Compare, e.g., Griffin v. State*, 883 N.W.2d 282, 286 (Minn. 2016), *with Gilbert*, 2 N.W.3d at 487-89. As no case has found that the statute superseded the exceptions, they appear to remain in effect.

The state also asserts that the two exceptions apply only to “unraised claims.” While some cases do seem to suggest this limitation, *see, e.g., Gilbert*, 2 N.W.3d at 487 (“For an *unraised* claim, there are two exceptions to the *Knaffla* procedural bar” (emphasis added)), others do not, *see, e.g., Wright v. State*, 765 N.W.2d 85, 89 n.3, 90 (Minn. 2009) (applying the exception to an ineffective-assistance-of-counsel claim even though the same claim was rejected on direct appeal). Because Treu’s ineffective-assistance-of-trial-counsel claim fails to meet the exception, we do not decide whether the *Knaffla* exceptions apply only to unraised claims.

Treu argues that the second exception applies. “To qualify under the interests-of-justice exception, a petition for postconviction relief must have substantive merit and petitioner must not have deliberately and inexcusably delayed in bringing the claim.” *Gilbert*, 2 N.W.3d at 488. This exception applies to claims for ineffective assistance of counsel “when the court needs to conduct additional fact-finding to consider the claim on its merits.” *Schleicher v. State*, 718 N.W.2d 440, 447 (Minn. 2006) (quoting *Zenanko v. State*, 688 N.W.2d 861, 864 (Minn. 2004)).

Treu asserts that, even though he raised ineffective assistance of trial counsel in his direct appeal, the interests-of-justice exception permits him to raise an ineffective-assistance-of-trial-counsel claim in a postconviction petition. We thus analyze whether the requirements of the exception are met.

1. Substantive Merit

The first part of the interests-of-justice exception asks whether the claim has substantive merit. *Griffin*, 883 N.W.2d at 286. Ineffective-assistance-of-counsel claims require the appellant to show (1) that “counsel’s representation fell below an objective standard of reasonableness” and (2) “a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Strickland v. Washington*, 466 U.S. 668, 688, 694 (1984).

Treu asserts that his trial counsel failed to develop or introduce several pieces of evidence at trial due to his discovery violations or failure to investigate. “There is a strong presumption that a counsel’s performance falls within the wide range of ‘reasonable professional assistance.’” *State v. Jones*, 392 N.W.2d 224, 236 (Minn. 1986). “[S]trategic

choices made after thorough investigation of law and facts relevant to plausible options are virtually unchallengeable.” *Strickland*, 466 U.S. at 690. We need not assess whether Treu’s trial counsel’s actions were strategic or unreasonable because Treu cannot establish that, but for the errors, the outcome would have been different under the second prong of *Strickland*.

Treu asserts that his trial counsel was ineffective by failing to disclose to the state his medical records, which resulted in the district court’s ruling that Treu could not introduce medical testimony based on those records. Specifically, Treu argues that he was precluded from introducing testimony about (1) the extent of the injuries that he suffered from the dog bites, which would have helped the jury assess the reasonableness of his actions during the altercation and (2) his physical limitations on the date of the incident due to his previous shoulder surgery, which, he claims, would have refuted D.A.Z. and R.M.’s claims that he swung the box cutter at D.A.Z. with his right hand in an overhead motion.²

Treu’s argument that the excluded medical testimony would have changed the outcome of the case is unpersuasive. We already rejected Treu’s ineffective-assistance-of-trial-counsel claim based essentially on the same argument on direct appeal. There, we wrote:

Treu told the jury about the severity of his injuries, describing the extensive treatment that his wounds required and showing

² Medical records that Treu submitted with his postconviction petition show that, in an examination the day before the incident (which was almost three months after surgery), Treu reported pain and stiffness in his shoulder but was making progress in physical therapy. The doctor restricted him from lifting above his head or weight over five pounds.

pictures of his injuries. Whether testimony on Treu's past shoulder injury that corroborated his purported limited range of motion would have changed the outcome of the proceedings is a closer call. [The victims] both testified they were sure Treu used his right arm to lash out at them with the blade. In a case with competing narratives, the testimony might have corroborated one aspect of Treu's version of events and bolstered his credibility. Yet, Treu's testimony that he lashed out only once at D.A.Z. with the blade to cut his face and arm is contradicted by the physical evidence showing that D.A.Z. had multiple lacerations on his back and hand after the fight. Treu's ineffective-assistance claim fails for his inability to show prejudice such that the jury "would have had a reasonable doubt respecting guilt" without the professional error.

Treu, 2023 WL 1770296, at *9 (quoting *Strickland*, 466 U.S. at 695). The same reasoning applies here.

Treu also argues that his trial counsel was ineffective for failing to obtain a recording of the 911 call that was placed because, he asserts, the recording would have contained audio evidence of D.A.Z. kicking Treu's apartment door and shouting after the altercation.³ He contends this evidence would have shown that D.A.Z. pursued him, supporting his self-defense claim. But Treu already testified to these same facts at trial. Additionally, because the 911 call occurred after the incident, it would have little probative value as to who was the initial aggressor. And the limited value that the evidence would have in corroborating Treu's testimony would be insufficient to establish prejudice in the face of the physical evidence that contradicted Treu's version of events. Treu has failed to show why the 911 recording would have changed the outcome of the proceeding.

³ There is nothing in the record regarding the contents of the 911 recording, but we accept Treu's description as true for the purpose of evaluating the district court's denial of the postconviction motion without a hearing.

Next, Treu argues that his counsel was ineffective for failing to investigate and present evidence of D.A.Z.'s past instances of violence. Specifically, he alleges that R.M. stated D.A.Z. had beaten her up, resulting in two visible black eyes and a ban from the property. Treu says he relayed this information to his trial counsel, who failed to investigate or present this evidence. However, any such error by trial counsel was not prejudicial given the district court's evidentiary ruling that prohibited "[a]ny reference to specific instances of violence by the alleged victim." There could have been no prejudice from the failure to pursue this evidence because the evidence could not have been used anyway.

In addition, Treu argues that his trial counsel unreasonably failed to investigate incidents that led to dangerous-dog reports about D.A.Z.'s dog. Shortly before trial, the state disclosed reports of D.A.Z.'s dog being dangerous before attacking Treu during the incident. The district court issued an order denying a continuance for trial counsel to investigate the reports further. The district court concluded that, because Treu had no knowledge of the reports at the time of the incident, they had no bearing on his self-defense claim and would not "materially affect the outcome of the trial." The state did not dispute that the dog attacked Treu or the extent of Treu's injuries. The only relevant issue at trial was Treu's belief of imminent injury and need to defend himself. Without Treu having knowledge of the dog's prior incidents, evidence concerning those reports would have been irrelevant to Treu's self-defense claim. This argument therefore also fails to show prejudice.

Finally, Treu argues that his counsel was ineffective because counsel's discovery violations led the district court to exclude evidence of social-media posts that Treu wanted

to introduce to show that D.A.Z. wished to harm pedophiles. Again, we rejected this argument on direct appeal, concluding that, even if trial counsel made discovery errors, there was no prejudice because the district court ultimately excluded the evidence pursuant to Minnesota Rule of Evidence 403 due to the risk of confusing the jury. *Treu*, 2023 WL 1770296, at *9.

Because none of Treu’s arguments satisfy the second prong of *Strickland*, his claim of ineffective assistance of trial counsel lacks substantive merit.

2. Deliberate and Inexcusable Delay

The second element of the interests-of-justice exception requires that Treu not have deliberately or inexcusably delayed in raising the claim. *Griffin*, 883 N.W.2d at 286. Treu fails to show why his arguments here could not have been made on direct appeal.

Treu already raised ineffective assistance of trial counsel on direct appeal; he thus considered that claim to be reviewable on the trial record. But Treu argues that his second ineffective-assistance-of-trial-counsel claim made here was not reviewable on the trial record because “additional fact-finding” was required. *Schleicher*, 718 N.W.2d at 447. Specifically, Treu argues that the district court must review the medical records of his shoulder surgery and dog-bite injuries and testimony from him and his trial attorney to determine “why the necessary [discovery] disclosures were not made where it appears that counsel was aware of the importance” of the evidence to his defense. But Treu has not shown why such fact-finding is necessary to resolve his claim.

First, Treu’s medical records are not necessary to evaluate either of the *Strickland* prongs. It is unclear what the records themselves would add to an argument regarding

counsel's reasonableness because the trial transcript already reflects that counsel had the records and was barred from using them due to a discovery violation. As for the prejudice prong, as discussed above, Treu testified to the condition of his shoulder and his dog-bite injuries at trial and there is no basis to conclude that additional testimony regarding either would have changed the outcome.

Second, testimony from Treu and his attorney is likewise not necessary to evaluate his claim. The record already reflects that counsel had the medical records and failed to disclose them because he misunderstood the discovery rules—apparently, he believed he only had to disclose evidence he intended to enter as an exhibit. Treu offers no additional facts that might be elicited from testimony from him or his attorney. Treu's arguments differ from the types of ineffective assistance claims that typically require additional fact-finding. Claims such as a defendant's acquiescence to a concession of guilt or counsel's failure to relay a plea offer by their nature involve attorney-client communications and, thus, require fact-finding on that communication. *See Dukes v. State*, 621 N.W.2d 246, 255 (Minn. 2001) (explaining the distinction). Even accepting as true all his representations regarding the omitted evidence, Treu has not identified how testimony would establish prejudice under the second *Strickland* prong. *See Sardina-Padilla*, 7 N.W.3d at 603.

“A claim of ineffective assistance of trial counsel that can be decided on the basis of the trial court record must be brought on direct appeal and is procedurally barred when raised in a postconviction petition.” *Torres v. State*, 688 N.W.2d 569, 572 (Minn. 2004). Because Treu's claim was resolvable solely on the trial record without the need for fact-finding, Treu has failed to meet his burden of showing that he did not “deliberately and

inexcusably” delay in bringing this second ineffective-assistance-of-trial counsel claim on direct appeal.

Because the petition and record conclusively establish that Treu has not satisfied the interests-of-justice exception to the *Knaffla* rule, the district court did not abuse its discretion by denying his ineffective-assistance-of-trial-counsel claim as procedurally barred.

B. Ineffective-Assistance-of-Appellate-Counsel Claim

Treu also asserts that he received deficient representation from his appellate counsel. Ineffective-assistance-of-appellate-counsel claims on direct appeal are not barred by *Knaffla* in a subsequent postconviction petition because they could not have been brought earlier. *Onyelobi v. State*, 932 N.W.2d 272, 280 (Minn. 2019). The district court considered Treu’s claim but concluded that he had made no specific argument about how his appellate counsel was ineffective and thus summarily denied the claim.

Claims that appellate counsel was ineffective are subject to the two-prong *Strickland* test. *See Dukes*, 621 N.W.2d at 256-57. Treu alleges that his appellate counsel was ineffective by “failing to identify and properly raise issues related to ineffective assistance of [trial] counsel”—specifically, by failing to supplement the record on appeal with Treu’s medical records. The argument is unpersuasive. Treu’s appellate counsel raised ineffective assistance of counsel, arguing trial counsel’s inadequate preparation and discovery violations and the prejudicial effect of counsel’s errors. *Treu*, 2023 WL 1770296, at *8-9. Treu fails to show why failing to supplement the record with his medical records was

unreasonable or would have changed the outcome of his appeal. *See Strickland*, 466 U.S. at 688, 694.

In addition, Treu asserts that his appellate counsel should have raised all the claims now brought in his postconviction petition. Appellate counsel has no duty to raise all possible issues or claims, even when the appellant disagrees. *Dent v. State*, 441 N.W.2d 497, 500 (Minn. 1989). Treu's appellate counsel brought three claims on direct appeal: denial of constitutional rights through evidentiary rulings, abuse of discretion by not granting a continuance, and ineffective assistance of trial counsel. Treu suggests that appellate counsel should have also challenged the sufficiency of the evidence to support his conviction and should have asserted a claim of cumulative trial error. But Treu makes no argument as to why the evidence was insufficient to support his conviction or why reversal is warranted based on cumulative error. He has therefore failed to establish how, even taking any factual allegations as true, his appellate counsel acted objectively unreasonably in not pursuing those claims on appeal and has failed to show that there is a reasonable probability that, but for his appellate counsel's errors, the result of his direct appeal would have been different. *See Strickland*, 466 U.S. at 688, 694.

In sum, Treu has not alleged facts that show that his appellate counsel's performance was objectively unreasonable or that the asserted errors by appellate counsel's performance could reasonably have affected the outcome. The petition and record therefore conclusively show that Treu is not entitled to relief on this claim, and the district court did not abuse its discretion by summarily denying the claim. *See Minn. Stat. § 590.04, subd. 1.*

C. Actual Innocence

Finally, Treu suggests that the district court abused its discretion by summarily rejecting Treu's claim of actual innocence. Claims of actual innocence are typically not procedurally barred by *Knaffla* because they require testing or evidence not available at the time of trial. *See* Minn. Stat. § 590.01, subd. 1a (2024). But Treu's actual-innocence claim nevertheless was properly denied because he asserted no factual or legal basis sufficient to warrant relief. *See Sardina-Padilla*, 7 N.W.3d at 602-03. Actual innocence claims authorize a motion for fingerprint or DNA testing related to an identity issue at trial. Minn. Stat. § 590.01, subd. 1a. Treu made no such motion nor proffered any new evidence for testing. And identity was not at issue in this trial. Because Treu's claim for actual innocence was factually and legally insufficient, the district court did not abuse its discretion by dismissing it without an evidentiary hearing.

II. Treu is not entitled to a new trial in the interest of justice.

Treu also argues that he should be granted a new trial "in the interest of justice." In the exercise of its supervisory role over the trial courts to prevent the recurrence of prosecutorial or judicial misconduct, the Minnesota Supreme Court has, on occasion, awarded a new trial "in the interests of justice" in "exceptional circumstances." *See, e.g., State v. Beecroft*, 813 N.W.2d 814, 846 (Minn. 2012); *State v. Cabrera*, 700 N.W.2d 469, 475 (Minn. 2005). Even assuming that this court holds the power to reverse a conviction "in the interests of justice," Treu has not alleged any misconduct here by either the prosecutor or the district court. Treu has failed to show the sort of impropriety that would warrant applying this exceptional rule, and he is therefore not entitled to a new trial.

Because the district court did not abuse its discretion in summarily denying Treu's postconviction claims and he is not entitled to a new trial, we affirm.

Affirmed.