

*This opinion is nonprecedential except as provided by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
A25-0932**

Juan Pachuco Silva, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed February 17, 2026
Affirmed
Bratvold, Judge**

Chisago County District Court
File No. 13-CR-20-915

Juan Pachuco Silva, Brooklyn Center, Minnesota (pro se appellant)

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

Janet Reiter, Chisago County Attorney, Thomas A. Gehrz, Assistant County Attorney,
Center City, Minnesota (for respondent)

Considered and decided by Bentley, Presiding Judge; Bratvold, Judge; and Jesson,
Judge.*

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

NONPRECEDENTIAL OPINION

BRATVOLD, Judge

In this appeal from an order denying postconviction relief after a conviction for fourth-degree assault, appellant argues that the district court abused its discretion by rejecting his claims of prosecutorial misconduct, erroneous evidentiary rulings, and judicial bias. We affirm.

FACTS

Respondent State of Minnesota charged appellant Juan Pachuco Silva with fourth-degree assault of a correctional employee under Minn. Stat. § 609.2231, subd. 3(1) (2020). The state's complaint alleged that Silva bit V.A., a correctional officer. From January 30 through February 1, 2023, the district court conducted Silva's jury trial, and Silva represented himself.¹ The following summarizes the evidence received during trial.

V.A. testified that, on August 9, 2020, he was checking for contraband inside inmates' cells at the Minnesota Correctional Facility in Rush City. When V.A. searched Silva's cell, he found "a mixed concoction of what seemed of feces and urine in a cup." As a result, V.A. placed Silva on "quiet control status."² V.A. and other correctional officers

¹ Before trial, Silva orally waived his right to counsel and completed a signed written waiver. The district court appointed advisory counsel to assist Silva at trial and during sentencing proceedings.

² V.A. testified that quiet control status is when correctional officers "search the cell of an individual that's already been placed in segregation. Being that they've broken a policy, we take everything out of their cell. We search that individual again, and we give them the bare essentials or the bare necessities of what they should have, so nothing extra."

conducted an “unclothed body search” of Silva. When Silva was asked “to hand his clothes” to an officer, Silva “threw the clothes” and “had to be restrained” by V.A.

V.A. testified that “during that incident Mr. Silva did, did bite me at that time.” When asked if he felt the bite, V.A. responded, “Not initially, but there was a sting.” V.A. confirmed that he was in “physical pain.” V.A. reported the bite to his supervisor, and a nurse later examined and treated V.A., who had “bite marks” that broke the skin and “blood on [his] arm.” V.A. denied “making this assault up to get Mr. Silva in trouble or otherwise retaliate against him.”

The jury heard testimony from four other correctional officers—K.S., T.S., T.F., and R.K.—as well as the treating nurse, all of whom corroborated V.A.’s testimony about the assault. The district court received, among other exhibits, photographs of V.A.’s wound and a video of the assault as recorded by R.K. “with a handheld camera.” Silva testified and denied biting V.A. According to Silva, the correctional officers “spliced” the video to hide that Silva was assaulted multiple times by V.A. and to make it “appear as if [Silva] was resisting the whole time.” Silva also called a fifth correctional officer, K.E., whose testimony is summarized below in our analysis of the district court’s evidentiary rulings.

The jury found Silva guilty of fourth-degree assault. The district court sentenced Silva to 12 months and one day in prison. In September 2023, Silva appealed. In February 2024, this court dismissed Silva’s appeal based on his notice of voluntary dismissal.³

³ Silva was initially represented by an attorney on appeal. Shortly after this court dismissed his direct appeal, Silva moved in district court to discharge his attorney.

On September 20, 2024, Silva timely petitioned for postconviction relief, seeking to overturn his conviction based on prosecutorial misconduct, erroneous evidentiary rulings, and judicial bias. Silva also submitted affidavits and requested an evidentiary hearing. The state opposed. On May 8, 2025, the district court denied Silva's postconviction petition without an evidentiary hearing.

Silva appeals.

DECISION

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) (2024). A petitioner 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). A postconviction petition “must constitute more than argumentative assertions without factual support.” *Zornes v. State*, 880 N.W.2d 363, 368 (Minn. 2016).

Appellate courts review the denial of a postconviction petition for abuse of discretion. *State v. Nicks*, 831 N.W.2d 493, 503 (Minn. 2013). A district court in postconviction proceedings 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.” *Ries v. State*, 920 N.W.2d 620, 627 (Minn. 2018) (quotation omitted).

Silva, who is self-represented, argues that the district court abused its discretion in denying his postconviction petition by rejecting his claims of (1) prosecutorial misconduct;

(2) erroneous evidentiary rulings before and during trial; and (3) judicial bias. We address each argument in turn.⁴

I. The district court did not abuse its discretion by denying postconviction relief based on Silva’s claims of prosecutorial misconduct.

“Prosecutors have an affirmative obligation to ensure that a defendant receives a fair trial.” *State v. Jones*, 753 N.W.2d 677, 686 (Minn. 2008) (quotation omitted). A prosecuting attorney engages in misconduct when they violate “clear or established standards of conduct, e.g., rules, laws, orders by a district court, or clear commands in this state’s case law.” *State v. McCray*, 753 N.W.2d 746, 751 (Minn. 2008) (quotation omitted). Prosecutorial misconduct may result in the denial of a fair trial. *State v. Ramey*, 721 N.W.2d 294, 300 (Minn. 2006).

Silva did not object to alleged prosecutorial misconduct during trial proceedings. Appellate courts review unobjected-to prosecutorial misconduct using a modified plain-error standard. *See id.* at 302. Under this standard, the appellant bears the burden of establishing plain error. *Id.* “An error is plain if it . . . contravenes case law, a rule, or a standard of conduct.” *Id.* (quotation omitted). If plain error occurred, the burden shifts “to the state to demonstrate lack of prejudice; that is, the misconduct did not affect [the appellant’s] substantial rights.” *Id.* The state meets this burden if it shows that there is “no

⁴ On appeal, Silva does not challenge the district court’s decision not to hold a postconviction evidentiary hearing. *See* Minn. Stat. § 590.04, subd. 1 (2024) (stating that a district court must hold an evidentiary hearing on a postconviction petition “[u]nless the petition and the files and records of the proceeding conclusively show that the petitioner is entitled to no relief”). Therefore, we consider whether the district court abused its discretion in denying the relief sought in Silva’s postconviction petition.

reasonable likelihood that the absence of the misconduct in question would have had a significant effect on the verdict of the jury.” *Id.* (quotations omitted). If the state does not meet its burden, the reviewing court considers “whether the error should be addressed to ensure fairness and the integrity of judicial proceedings.” *State v. Parker*, 901 N.W.2d 917, 926 (Minn. 2017).

Silva maintains that the prosecuting attorney engaged in three types of misconduct, which we consider below.

A. *Brady* Violations

Under *Brady v. Maryland*, “suppression by the State of material evidence favorable to the defendant violates the constitutional guarantee of due process.” *Allwine v. State*, 994 N.W.2d 528, 541 (Minn. 2023) (citing *Brady v. Maryland*, 373 U.S. 83, 87 (1963)). To succeed on a *Brady*-violation claim, three elements are required: “(1) the evidence must be favorable to the defendant as either exculpatory or impeaching; (2) the evidence must have been suppressed by the prosecution, intentionally or otherwise; and (3) the evidence must be material.” *Id.* at 541-42 (quotation omitted). Silva contends that the prosecuting attorney committed two *Brady* violations.

First, Silva argues that the prosecuting attorney failed to send the video recording of the assault to Silva’s parents and a friend.⁵ Silva maintains that this prevented him “from procuring a video expert to examine the same for splicing and editing.” During

⁵ Silva asserts that the prosecuting attorney (1) “falsely claimed that [the state] sent a video download of the alleged assault” to Silva because the email address to which the state sent the video did not exist and (2) mailed “two blank video discs” to Silva’s parents.

postconviction proceedings, the district court rejected this argument, finding that the state “provided [Silva] with the video evidence, and he had a meaningful opportunity to review the evidence prior to trial.” On appeal, Silva counters that “[t]his view is inconsequential to [his] stated intent to have [his] parents and [his friend] receive a copy of the video disc.”

We note that the rules of criminal procedure mandate disclosure to only the defendant or their attorney if they are represented. *See* Minn. R. Crim. P. 9.03, subd. 4 (“Materials furnished to a party under discovery rules or orders must remain in the party’s custody and be used by the party only to conduct that attorney’s side of the case, and may be subject to other conditions the court orders.”). The record establishes that the prosecuting attorney gave the video to Silva. In his petition, Silva conceded that “[w]hile at the jail I was given access to a laptop so I could view the video disc in question—so I could work on my case and prepare for trial since I acted pro se in trial.” The district court also ordered the state to allow Silva to review the video recording in the courthouse before trial. Because the prosecuting attorney provided Silva with the video evidence, we conclude that the state did not suppress evidence in violation of *Brady*.

Second, Silva argues that the prosecuting attorney suppressed incident reports allegedly prepared by K.S. and T.S., two correctional officers who saw the assault. Silva maintains that K.S. testified and “admitted to writing a report and claimed she couldn’t find it.” Silva adds that the prosecuting attorney “attempted to elicit a false admission that perhaps [K.S.] didn’t write a report.”

The district court rejected Silva’s argument during postconviction proceedings:

[Silva] only surmises that the reports actually exist and that they would be favorable to his defense without any evidentiary support. The record does not support that the State failed to disclose incident reports that it had in its possession or control because there is no showing the reports were ever created or that the reports were willfully or inadvertently withheld from [Silva]. It was not established there was plain error in the State not disclosing incident reports it did not have.

The record supports the district court’s postconviction decision. Although both correctional officers confirmed that it was customary for officers to prepare reports after an incident, no evidence suggests that T.S. or K.S. wrote incident reports about this assault. T.S. testified that she did not “believe” she wrote a report:

Q: [T.S.], did you write a report in this case?

A: I do not believe I did.

....

Q: Can you tell me why . . . you . . . failed to write a report, pertaining to this incident?

A. That I could not tell you. I can’t say a hundred percent that I did not write a report. I cannot find my report. I write several reports a month, so I can’t specifically say I did not write one; I can’t specifically say I wrote one.

K.S. also testified that she did not find her incident report in the prison records system and that it was “possible” she did not write one.

We agree with the district court that Silva “only surmises that the reports actually exist and that they would be favorable to his defense.” Because Silva’s claim rests on speculation, we conclude that he did not meet his burden to show a *Brady* violation occurred. *See Zornes*, 880 N.W.2d at 368 (stating that a “petitioner’s allegations must constitute more than argumentative assertions without factual support”).

B. Eliciting False Testimony

A prosecuting attorney commits misconduct by knowingly eliciting false testimony. *See Napue v. Illinois*, 360 U.S. 264, 269, 272 (1959) (reversing a conviction obtained with the state’s knowing use of false evidence). When a petitioner raises a false-testimony claim in postconviction proceedings, reviewing courts analyze the claim under the *Larrison* test. *Gilbert v. State*, 982 N.W.2d 763, 769-70 (Minn. App. 2022), *aff’d on other grounds*, 2 N.W.3d 483 (Minn. 2024); *see also Larrison v. United States*, 24 F.2d 82, 87-88 (7th Cir. 1928) (establishing test). Under this test, a petitioner is entitled to a new trial based on a claim of false testimony if

(1) the court is reasonably well-satisfied that the testimony given by a material witness was false; (2) that without the testimony, the jury might have reached a different conclusion; and (3) the petitioner was taken by surprise when the false testimony was given and was unable to meet it or did not know of its falsity until after trial.

Martin v. State, 825 N.W.2d 734, 740 (Minn. 2013). “The first two prongs are compulsory, but the third prong is not required in order to grant a new trial.” *State v. Turnage*, 729 N.W.2d 593, 597 (Minn. 2007).

“[F]alse testimony is established if a trial witness credibly recants her trial testimony or makes credible posttrial statements that materially contradict her trial testimony; it may also be established through other credible evidence that a witness testified dishonestly at trial.” *Gilbert*, 982 N.W.2d at 770. But “a statement that merely contradicts earlier testimony, evidence of a witness’s general unreliability, and a witness’s failure to give a

full explanation of her trial testimony are insufficient to establish false trial testimony under the *Larrison* test.” *Id.*

Silva appears to argue that the prosecuting attorney engaged in misconduct by eliciting “false testimony by six of the state’s witnesses.” Silva urges that the correctional-employee witnesses had “a pattern of fabricating malicious charges” in response to Silva suing the Minnesota Department of Corrections (DOC). Silva cites his postconviction petition, which alleged discrepancies between witness testimony about the assault and related statements in incident reports. Silva maintains that he “cited transcripts for each lie” and “listed incident reports . . . that further established false testimony.” Silva asserts that “one prime example is the so-called victim [V.A.], his report says I bit him on the arm, left tricep. His testimony, he claims I bit him on the shoulder.” In his postconviction petition, Silva also alleged discrepancies in testimony related to who took photos of V.A.’s injuries, when V.A. reported the incident to his supervisor, and who was present during the incident.

The district court in postconviction proceedings determined that Silva’s false-testimony claim failed to satisfy the *Larrison* test. The district court explained that Silva did not “present any evidence to establish that the State’s witnesses falsely testified except his own self-serving affidavits and arguments,” which the court did not find credible. The district court also determined that Silva offered “no evidence that a trial witness recanted their testimony or made any posttrial statements that materially contradict their trial testimony” and that Silva “provided no credible evidence that the State’s witnesses testified dishonestly at trial.”

The district court’s conclusions are supported by the record, which does not indicate that any of the state’s witnesses recanted their testimony, were untruthful, or made contradictory posttrial statements. And the alleged discrepancies outlined by Silva do not present credible evidence that any witness provided false testimony. *See Gilbert*, 982 N.W.2d at 770 (requiring credible recantation or evidence of witness dishonesty to meet the first prong of the *Larrison* test). Instead, the alleged discrepancies involve the credibility of the state’s witnesses, which Silva had the opportunity to challenge during trial.⁶

At most, Silva establishes inconsistencies between a witness’s testimony and prior statements in an incident report; these inconsistencies may diminish a witness’s reliability. Because “evidence of a witness’s general unreliability” does not satisfy the first prong of the *Larrison* test, we conclude that the district court did not err by denying postconviction relief based on Silva’s false-testimony claim. *See Gilbert*, 982 N.W.2d at 770; *Turnage*, 729 N.W.2d at 597 (stating that a successful false-testimony claim must fulfill the first two prongs of the *Larrison* test).

⁶ “The credibility of a witness may be attacked by any party. . . .” Minn. R. Evid. 607; *see also* Minn. R. Evid. 613(a) (allowing a party to examine a witness “concerning a prior statement made by the witness”); *State v. Knaffla*, 243 N.W.2d 737, 740 (Minn. 1976) (“It is well established that proper impeachment evidence includes prior inconsistent statements.”). The fact-finder determines witness credibility and the weight to be given their testimony. *DeMars v. State*, 352 N.W.2d 13, 16 (Minn. 1984). Here, the jury found that the state’s witnesses were credible, despite any alleged inconsistencies. This court defers to the fact-finder’s credibility determination. *Griffin v. State*, 941 N.W.2d 404, 408-09 (Minn. 2020).

C. Closing Argument Not Based on Reasonable Inferences

A prosecuting attorney's closing argument "should be based on [the] evidence presented at trial and inferences reasonably drawn from that evidence." *State v. Bauer*, 776 N.W.2d 462, 475 (Minn. App. 2009) (quotation omitted), *aff'd*, 792 N.W.2d 825 (Minn. 2011); *see State v. Bobo*, 770 N.W.2d 129, 142 (Minn. 2009) (concluding that an argument in closing was based on "a reasonable inference" because "*some* evidence" supported it). And appellate courts consider "the closing argument as a whole, rather than just selective phrases or remarks that may be taken out of context or given undue prominence." *State v. Walsh*, 495 N.W.2d 602, 607 (Minn. 1993).

Silva appears to contend that the prosecuting attorney committed misconduct by drawing unreasonable inferences.⁷ The state's closing argument summarized the first element and the evidence of Silva's guilt:

As to the first element the state must prove, first, that Mr. Silva assaulted [V.A.] and inflicted demonstrable bodily harm. So what evidence do we have that Mr. Silva assaulted the victim? . . . We have [T.F.]'s testimony that he saw [Silva] bite [V.A.], and that he saw [Silva] spit bloody saliva onto the window of his cell after the staff-assisted unclothed body search was completed. . . . [W]e have video of the event in Mr. Silva's cell, which . . . includes video of Mr. Silva spitting bloody saliva onto the window of his cell after he was released from handcuffs in his cell.

⁷ Silva asserts that the district court's postconviction decision "falsely claims [that the] prosecutor's closing argument was not plain error . . . and that evidence of bloody spit supported the state's theory of the case." He maintains that the prosecuting attorney's "inference of the evidence was not based on a reasonable inference of the same" and that "there is no conclusive evidence that supports a bite ever took place."

We understand Silva to argue that the prosecuting attorney's argument was erroneous because, according to Silva, evidence of him spitting blood does not support a reasonable inference that Silva bit V.A.

The district court in postconviction proceedings determined that the "evidence supported the State's theory of the case that [Silva] bit the victim and caused a wound to the victim's arm that was bleeding and after the bite [Silva] spit bloody saliva onto [the] window of the door to his cell." The district court concluded that the prosecuting attorney "made a reasonable inference from the evidence in this matter that [Silva's] spit of bloody saliva was consistent with him biting the victim."

The record supports the district court's determination. V.A. testified that Silva bit him and that he "saw blood on [his] arm." T.F. also testified that he saw Silva bite V.A.'s arm. When asked what happened after Silva bit V.A., T.F. testified that correctional employees completed the unclothed body search of Silva and secured him in his cell. Silva "then turned back towards to the door and then spat blood against the window." Thus, there is direct evidence that Silva bit V.A. and it is reasonable to infer that the blood in Silva's spit came from V.A.'s bite wound.

Still, Silva urges that he "proved the bloody spit was from a cut in [his] mouth" caused by a correctional employee "pressing [Silva's] cheek into [his] teeth to get [him] to open [his] mouth."⁸ But Silva did not offer any testimony to this effect at trial. Even if

⁸ To support this argument, Silva cites the transcript of the video recording of the incident, in which he says, "Ah," as correctional employees are telling him to open his mouth. Silva also cites an incident report stating that "Silva was directed to comply with a mouth check to which he kept his mouth closed. Touch pressure was applied to gain compliance."

Silva had testified that the bloody spit was from a cut in his mouth, we would nonetheless conclude that no prosecutorial misconduct occurred. The prosecuting attorney's argument does not have to accept a defendant's version of events. *See Bobo*, 770 N.W.2d at 142 (determining that it is not error for a prosecuting attorney to question a witness's credibility if the argument is supported by evidence). And at least some evidence supports the state's inference that the bloody spit was from Silva biting V.A.

Because we conclude that the prosecuting attorney's closing argument rested on reasonable inferences drawn from the evidence, the district court did not abuse its discretion by denying postconviction relief based on Silva's claim of prosecutorial misconduct during closing arguments.

II. The district court did not abuse its discretion by denying postconviction relief based on Silva's challenges to evidentiary rulings.

A district court's evidentiary rulings are reviewed for abuse of discretion. *Dolo v. State*, 942 N.W.2d 357, 362 (Minn. 2020). Reviewing courts "afford the district court broad discretion when ruling on evidentiary matters" and "will not lightly overturn a trial court's evidentiary ruling." *State v. Foster*, 20 N.W.3d 6, 27 (Minn. 2025) (quotations omitted). Further, "an evidentiary ruling must be prejudicial" to justify reversal. *Shea v. Esensten*, 622 N.W.2d 130, 134 (Minn. App. 2001). Silva challenges the postconviction court's review of two evidentiary rulings.

A. Exclusion of Relevant Evidence

Silva challenges the district court's exclusion of two exhibits at trial. First, Silva sought to admit a "notice of filing" of an order to show cause, dated May 12, 2020, in a

civil lawsuit between Silva and the commissioner of corrections, a warden, and a sergeant (exhibit 15). Second, Silva sought to admit a news article from May 23, 2000, titled, “After Trial, Jurors Ask for Prison Investigation” (exhibit 16). The first paragraph of exhibit 16 stated, “In an unusual ending to the trial of a prison inmate . . . , a Washington County jury asked for an investigation into alleged abuses at the Minnesota Correctional Facility-Oak Park Heights.” The article detailed “alleged abuses” that Silva endured while imprisoned.

During trial, the district court sustained the state’s objections to the admission of exhibits 15 and 16, which were offered during Silva’s direct examination of K.E.:

SILVA: Isn’t it true it was common knowledge at the prison among staff, that I filed a lawsuit against a warden, a social warden, and commissioner of corrections?

PROSECUTING ATTORNEY: Objection. Relevance and leading. This is his witness, he can’t conduct cross.

THE COURT: Well, I’ll sustain it as to relevance, Mr. Silva, I’m giving some latitude on asking leading questions. But it is sustained, so you can move on to the next question.

SILVA: Okay. Isn’t it true this case that we are here for is retaliation for filing a lawsuit?

PROSECUTING ATTORNEY: Objection, Your Honor. Relevance.

THE COURT: I’m going to overrule it on relevance, but you do need to lay the foundation, Mr. Silva, as to whether this witness can testify to that.

SILVA: Again, it’s common knowledge at Rush City among most staff that I filed a lawsuit in the past; is that correct?

K.E.: I was not aware of this until Monday when I was handed this paperwork to appear today.

SILVA: If I were to show you proof of that, would you then agree?

K.E.: I would have no way of proving that. That’s all hearsay. I have not heard any rumors, nor have I had any information.

SILVA: Your Honor, I'd like to enter Exhibit 15 to show that I filed a lawsuit.

PROSECUTING ATTORNEY: I object, Your Honor. This is not relevant. It's designed to confuse the jury and bring up issues that aren't at issue. And this witness does, cannot lay foundation for it.

THE COURT: That is sustained.

SILVA: Okay. Isn't it true that it's common knowledge that most staff know that, that I filed litigation in the past, and received reprisals as a result of that?

K.E.: Negative—

PROSECUTING ATTORNEY: Objection—

K.E.: I do not keep track of anything about that, nor do I hear any rumors about that. I work in dispatch, and I have never heard of you filing a lawsuit in the past.

SILVA: I'd like to enter Exhibit 16 as proof of past litigation and reprisals against the [DOC], news article.

PROSECUTING ATTORNEY: Objection, Your Honor. It's not relevant. There's no foundation for it. It's designed to confuse the issues. I oppose.

THE COURT: Sustained.

The district court in postconviction proceedings rejected Silva's claim, ruling that exhibits 15 and 16 were properly excluded as irrelevant, confusing to the jury, and lacking proper foundation.⁹

On appeal, Silva appears to argue that the district court deprived him of his constitutional right to present a complete defense by excluding relevant evidence. Silva maintains that exhibit 15 was "relevant to the theory of [his] defense, that [DOC] has a

⁹ The district court in postconviction proceedings also determined that Silva "was able to testify himself regarding his lawsuit and the results of his lawsuit." In short, the district court determined that any error in excluding exhibits 15 and 16 during K.E.'s testimony was harmless because Silva testified about his lawsuit. *See State v. Guzman*, 892 N.W.2d 801, 812-13 (Minn. 2017) ("When an alleged evidentiary error is harmless, an appellate court need not address the merits of the claimed error." (quotation omitted)).

pattern of fabricating malicious charges in response to [Silva] suing them.” Silva contends that exhibit 16 “corroborated the theory of [his] defense since it pertained to a malicious 13 count case that was concocted after [Silva] sued [Oak Park Heights] prison.”

Even if we assume, without deciding, that Silva’s exhibits are relevant to his defense, relevant evidence “may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury.” Minn. R. Evid. 403. A district court may also exclude evidence based on lack of foundation or personal knowledge of the witness. *See* Minn. R. Evid. 602 (“A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the witness’ own testimony.”). K.E. testified that he had no personal knowledge of either exhibit. Yet Silva’s brief to this court does not discuss the postconviction reasoning under rule 403 or foundation.

Because Silva does not challenge the district court’s evidentiary reasoning on appeal, he has forfeited this issue. *State v. Butcher*, 563 N.W.2d 776, 780 (Minn. App. 1997), *rev. denied* (Minn. Aug. 5, 1997) (stating that inadequately briefed issues are not properly before this court). Thus, we conclude that the district court did not abuse its discretion in denying postconviction relief based on the exclusion of exhibits 15 and 16.

B. Denied Motion for a Video Expert

Before trial, Silva moved for the district court “to facilitate a video expert to review and analyze the video of the alleged incident of assault.” Silva maintained that he needed the video expert “to ascertain whether the video has been tampered with, or any portion

thereof edited etc.” Silva explained, “Based upon my recollection of events, I can say with an absolute certainty that major portions of the video were deleted.” He also argued that the state edited the video “to keep [him] incarcerated based on a malicious prosecution and reprisals.” The district court denied Silva’s request for a video expert, explaining that Silva could “get to whatever [his] concerns are through cross-examination” of R.K., the officer who recorded the video and laid foundation for its admission.

After the district court’s ruling, Silva cross-examined R.K. about the video:

Q: Isn’t it true no assault ever took place?

A: An assault took place.

Q: Okay. The missing video that was deleted off of the video that they just saw, wouldn’t that prove otherwise?

A: There was nothing deleted from the video.

Q: Okay. Have you ever recorded any other incidents, strip searches or seg placements, et cetera?

A: Yes. I recorded multiple.

....

Q: How many other incidents have you turned the camera away or is this the first one?

A: I do not remember.

Q: You don’t remember. So there’s other, there’s other cases where you turned the camera away when the officer is supposedly being assaulted?

....

A: I do not re, I don’t think so.

The district court in postconviction proceedings rejected Silva’s claim for relief, concluding that “there was no plausible showing that [a video expert] would lead to evidence favorable to [Silva’s] defense” and that Silva “had the opportunity to cross examine the State’s witnesses.”

On appeal, Silva asserts that “the video should’ve been examined by a videographer to ascertain splicing of three minutes of video,” claiming that he was “tortured for three minutes.” Silva cites no legal authority to support his request for the district court to appoint a video expert.¹⁰

An assignment of error in a brief based on “mere assertion” and not supported by argument or authority is forfeited unless prejudicial error is obvious on mere inspection. *State v. Andersen*, 871 N.W.2d 910, 915 (Minn. 2015) (quotation omitted). We discern no obvious error. The record shows no evidence of video tampering. The video was shown to the jury. And Silva cross-examined R.K. about the allegedly missing footage. Thus, we conclude that the district court did not abuse its discretion in rejecting Silva’s request for postconviction relief based on his motion for a video expert.

III. The district court did not abuse its discretion by denying postconviction relief based on Silva’s judicial-bias claim.

Silva argues that the district court in postconviction proceedings erred in rejecting his judicial-bias claim. Silva contends that the “multiple erroneous factual findings by the district court exemplifies bias” during district court proceedings. Appellate courts review de novo allegations of judicial bias. *State v. Reek*, 942 N.W.2d 148, 156 (Minn. 2020).¹¹

¹⁰We acknowledge that Minnesota Rule of Evidence 706 permits court-appointed expert witnesses. Silva, however, did not cite rule 706 in district court, postconviction, or appellate proceedings.

¹¹ Supreme court caselaw suggests that appellate courts review all claims of judicial bias de novo, even if asserted for the first time on appeal. *See Reek*, 942 N.W.2d at 155-56 (reviewing de novo a claim of judicial disqualification under the code of judicial conduct, even though the claim was raised for the first time on appeal). *But see State v. Finch*,

A district court judge must disqualify herself from “any proceeding in which the judge’s impartiality might reasonably be questioned.” Minn. Code Jud. Conduct Rule 2.11(A); *see also* Minn. R. Crim P. 26.03, subd. 14(3) (stating that a judge cannot preside over a criminal proceeding from which they are disqualified under the Minnesota Code of Judicial Conduct). But Silva identifies no basis on which to reasonably question the district court’s impartiality. Instead, Silva criticizes the district court’s adverse rulings and appears to assume that this amounts to bias. “[A] district court judge’s adverse rulings, without more, are not enough for a criminal defendant to demonstrate that the judge was biased against him.” *State v. Mouelle*, 922 N.W.2d 706, 716 (Minn. 2019). Thus, we conclude that Silva is not entitled to relief on this issue.

For the reasons stated, the district court did not abuse its discretion in denying Silva’s request for postconviction relief.

Affirmed.

865 N.W.2d 696, 701 n.3 (Minn. 2015) (reviewing a similar judicial-disqualification claim for plain error).