

*This opinion is nonprecedential except as provided by  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  
A25-1683**

John Mitchell Wiseman, petitioner,  
Appellant,

vs.

State of Minnesota,  
Respondent.

**Filed April 20, 2026  
Affirmed; motion granted  
Larson, Judge**

Hennepin County District Court  
File No. 27-CR-20-6781

Paul Engh, Minneapolis, Minnesota; and

Earl P. Gray, St. Paul, Minnesota (for appellant)

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

Mary F. Moriarty, Hennepin County Attorney, Elizabeth Scoggin, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Considered and decided by Larson, Presiding Judge; Johnson, Judge; and Schmidt,  
Judge.

## **NONPRECEDENTIAL OPINION**

**LARSON, Judge**

Appellant John Mitchell Wiseman challenges the postconviction court's decision to summarily deny his petition for postconviction relief. Because we conclude Wiseman failed to meet his burden to allege facts that, if proven, would entitle him to relief, we affirm.

### **FACTS**

Respondent State of Minnesota charged Wiseman with second-degree intentional murder, without premeditation. Wiseman retained two private attorneys (lead counsel and co-counsel) to represent him.

Well into the 17-day jury trial, lead counsel failed to appear in court. Lead counsel informed co-counsel that he was ill and would not be available that day. Co-counsel appeared with Wiseman when the district court went on the record regarding lead counsel's absence. The district court stated that lead counsel was ill. Then, the district court noted that lead counsel "did let the [district] [c]ourt know that he does have a rather serious medical condition that could cause something like this as a result of a traumatic brain injury [(TBI)] that he suffered from an accident several years prior." Co-counsel asked for a one-day continuance, which the district court granted.

Lead counsel returned the next day. With Wiseman present, the district court again noted lead counsel's medical condition, explaining that the district court "completely respect[ed] the notion of someone having a serious health condition." The district court then asked Wiseman if lead counsel's absence and the one-day continuance prejudiced

him. Wiseman responded, “I believe there’s been no prejudice.” Thereafter, the trial proceeded with lead counsel representing Wiseman.

The jury found Wiseman guilty, and the district court entered a conviction and imposed the presumptive guidelines sentence. Following sentencing, Wiseman filed a direct appeal challenging the sufficiency of the evidence. *See State v. Wiseman*, No. A22-0260, 2023 WL 2637397, at \*1 (Minn. App. Mar. 27, 2023), *rev. denied* (Minn. June 28, 2023). Lead counsel and a second private attorney represented Wiseman on direct appeal. We affirmed. *Id.* at \*13.

After the appeal, Wiseman filed a petition for postconviction relief, claiming he was denied his Sixth Amendment right to choice of counsel because lead counsel failed to disclose his medical and disciplinary history.<sup>1</sup> Wiseman argued that this was structural error. The postconviction court summarily denied Wiseman’s petition.<sup>2</sup>

Wiseman appeals.

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<sup>1</sup> In 2019, before Wiseman’s trial and conviction, lead counsel received a public censure in Colorado after appearing pro hac vice on a case. Lead counsel was disciplined for maintaining inadequate boundaries with a female client. The public censure attributed his actions to the significant injuries lead counsel suffered from the accident, including the TBI.

<sup>2</sup> The postconviction court denied the petition on two grounds: (1) Wiseman’s claims were procedurally barred under *State v. Knaffla*, 243 N.W.2d 737, 741 (Minn. 1976) and (2) Wiseman’s claims failed on the merits. The state argues that we should affirm the postconviction court’s decision that the claims are *Knaffla*-barred. But because we determine the postconviction court did not abuse its discretion when it determined Wiseman’s claims fail on the merits, “we need not decide whether [they] are *Knaffla* barred.” *See Walen v. State*, 777 N.W.2d 213, 216 (Minn. 2010).

## DECISION

Wiseman argues the postconviction court abused its discretion when it summarily denied his postconviction petition. We review a decision to summarily deny a postconviction petition for an abuse of discretion. *Munt v. State*, 984 N.W.2d 242, 249 (Minn. 2023). “A postconviction court abuses its discretion when its decision is based on an erroneous view of the law or is against logic and facts in the record.” *Andersen v. State*, 913 N.W.2d 417, 422 (Minn. 2018) (quotation omitted).

Wiseman first argues that we must review lead counsel’s failure to disclose his medical and disciplinary history for structural error. Specifically, Wiseman asserts that because his “choice of counsel [was] obstructed,” the Sixth Amendment is invoked, and the resulting error is structural. The state disagrees, arguing that under existing precedent we must review Wiseman’s claims as ineffective-assistance-of-counsel claims and apply the test set forth in *Strickland v. Washington*, 466 U.S. 668 (1984). We agree with the state.

In *State v. Smith*, unknown to the district court or the defendant, the defendant’s trial counsel “was having disciplinary problems.” 476 N.W.2d 511, 512 (Minn. 1991). While the jury was deliberating, trial counsel learned that the supreme court “had ordered his immediate suspension” and, upon disclosure, the district court appointed new defense counsel. *Id.* at 512-13. Following the guilty verdict, the defendant challenged his conviction on the ground that trial counsel’s failure to disclose his “disciplinary problems” constituted a “per se violation of one’s Sixth Amendment right to counsel.” *Id.* at 513.

The supreme court disagreed, construed the claim as an ineffective-assistance-of-counsel claim, and applied the *Strickland* test. *Id.* at 514.

In *State v. Edwards*, following sentencing, the defendant brought a motion for a new trial arguing his trial attorney's undisclosed, but diagnosed, mental illness impaired his right to a fair trial. 736 N.W.2d 334, 337 (Minn. App. 2007), *rev. denied* (Minn. Sept. 26, 2007). The defendant argued his trial attorney's "mental illness amounted to structural error." *Id.* The district court disagreed and, instead, reviewed the claim as an ineffective-assistance-of-counsel claim. We affirmed, concluding that failure to disclose a mental illness did not constitute structural error requiring automatic reversal. *Id.* at 338. Instead, we construed the defendant's claim as an ineffective-assistance-of-counsel claim and applied the *Strickland* test. *Id.* at 338-39.

Here, Wiseman's claims that lead counsel failed to disclose his medical and disciplinary history are analogous to the situations examined in *Smith* and *Edwards*. Applying those precedents, we conclude that Wiseman's claims are appropriately construed as ineffective-assistance-of-counsel claims and analyzed using the *Strickland* test.

Construing Wiseman's claims as ineffective-assistance-of-counsel claims, we next address whether the postconviction court abused its discretion when it summarily denied Wiseman's postconviction petition. A postconviction court may deny a petition for postconviction relief without an evidentiary hearing if "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 (2024).

“An ineffective assistance of counsel claim is an alleged violation of the right to reasonably effective assistance of counsel as guaranteed by the Sixth Amendment of the United States Constitution.” *State v. Rhodes*, 657 N.W.2d 823, 842 (Minn. 2003); *see also* U.S. Const. amends. VI, XIV; Minn. Const. art. I, § 6. Under the *Strickland* test, a petitioner must show that: (1) their counsel’s performance “fell below an objective standard of reasonableness” (performance prong) and (2) “there is a reasonable probability that, but for counsel’s unprofessional errors, the result . . . would have been different” (prejudice prong). *Gates v. State*, 398 N.W.2d 558, 561 (Minn. 1987) (quotation omitted). When a postconviction petition raises an ineffective-assistance-of-counsel claim, to be entitled to a hearing, the petitioner must allege facts that, if proven, would satisfy both prongs. *Morrow v. State*, 886 N.W.2d 204, 206 (Minn. 2016).

Here, Wiseman’s petition for postconviction relief did not allege any facts regarding the prejudice prong. In fact, at oral argument, Wiseman’s counsel conceded the petition does not include any facts alleging prejudice. Because Wiseman did not allege any facts that, taken as true, would satisfy the prejudice prong, we conclude the district court did not abuse its discretion when it summarily denied the postconviction petition.<sup>3</sup>

**Affirmed; motion granted.**

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<sup>3</sup> The state filed a motion to strike evidence Wiseman submitted for the first time on appeal. Because these materials were not presented to or considered by the postconviction court when it denied the postconviction petition, we grant the state’s motion. *See Thiele v. Stich*, 425 N.W.2d 580, 582-83 (Minn. 1988) (providing that we may consider “only those issues that the record shows were presented and considered by the [district] court in deciding the matter before it”).