

*This opinion is nonprecedential except as provided by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
A25-1769**

Sean William Roulo, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed June 29, 2026
Affirmed
Beane, Judge**

St. Louis County District Court
File No. 69DU-CR-20-1977

Sean William Roulo, Duluth, Minnesota (pro se appellant)

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

Kimberly J. Maki, St. Louis County Attorney, Jon D. Holets, Deputy County Attorney,
Duluth, Minnesota (for respondent)

Considered and decided by Smith, Tracy M., Presiding Judge; Beane, Judge; and
Smith, John, Judge.*

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

NONPRECEDENTIAL OPINION

BEANE, Judge

In this appeal from the district court's order summarily denying postconviction relief, appellant Sean William Roulo argues that the district court erred by concluding that his petition for postconviction relief was procedurally barred and abused its discretion by denying his petition without an evidentiary hearing. We affirm.

FACTS

In April 2021, a jury found Roulo guilty of three counts of second-degree criminal sexual conduct. Roulo filed a direct appeal from the judgment of conviction, and we affirmed. *State v. Roulo*, No. A21-1223, 2023 WL 126425, at *5 (Minn. App. Jan. 9, 2023), *rev. denied* (Minn. Apr. 26, 2023).

Our opinion affirming Roulo's conviction on direct appeal outlined the underlying facts of this case. Respondent State of Minnesota charged Roulo based on reports from his two adult stepdaughters, S.H. and B.H., that he had sexually abused them when they were younger. The original complaint alleged two counts of first-degree criminal sexual conduct for conduct against S.H. (counts 1 and 2, respectively) and one count each of second-degree and fourth-degree criminal sexual conduct for conduct against B.H. (counts 3 and 4, respectively). At the start of trial, the state moved to amend the date ranges for counts 2 and 3 and to replace the charge of fourth-degree criminal sexual conduct in count 4 with a charge of second-degree criminal sexual conduct. The district court granted the motion as to counts 2 and 3 but denied the motion as to count 4. The state then withdrew the proposed amendment as to count 3 and dismissed count 4.

During the trial, S.H. and B.H. each testified to specific incidents in which Roulo sexually abused them. After calling nine other witnesses, the state then moved to amend the complaint to conform the charges to S.H.'s and B.H.'s testimony. Specifically, the state sought to amend counts 1 and 2 to allege second-degree criminal sexual conduct, rather than first-degree criminal sexual conduct, consistent with S.H.'s testimony that Roulo had engaged in sexual contact but not penetration. And the state sought to renumber count 3 to count 4 and to allege a new count 3 as a single, specific act of sexual contact involving B.H., consistent with her trial testimony. Over Roulo's objection, the district court granted the state's motion to amend the complaint (the mid-trial amendment). After hearing testimony from three other witnesses, including Roulo, the jury found Roulo guilty of the charges in counts 1, 2, and 3, but not guilty of the charge in count 4. The district court convicted and sentenced Roulo.

With the assistance of counsel, Roulo filed a direct appeal. Roulo's appellate counsel filed a principal brief raising two issues: (1) that the district court erred by allowing the mid-trial amendment to add new count 3, and (2) that the district court erred by imposing two sentences on counts 1 and 2.

The appellate proceedings then stalled. Roulo's appellate counsel withdrew, citing "an impasse" between her and Roulo as to case strategy, and Roulo proceeded pro se. Roulo then requested multiple extensions of time to complete and file his pro se supplemental brief. Altogether, he received nearly five months' worth of extensions. During this time, Roulo filed various motions, a partial pro se supplemental brief, and several reply briefs following the state's response to his principal brief.

Ultimately, we denied Roulo’s final request for an extension of time to complete his pro se supplemental brief. Because Roulo never filed a complete pro se supplemental brief, we considered only the two issues raised in the brief filed by appellate counsel. *Roulo*, 2023 WL 126425, at *2. With respect to Roulo’s argument that the mid-trial amendment to add new count 3 was contrary to Minnesota Rule of Criminal Procedure 17.05, we concluded that the amendment was within the district court’s discretion because new count 3 was not an additional or different offense, and because the amendment did not prejudice Roulo. *Id.* at *2-4. And with respect to his argument that the district court erred by imposing two sentences on counts 1 and 2, we determined that separate sentences were not prohibited because counts 1 and 2 did not arise from a single behavioral incident. *Id.* at *4-5. The Minnesota Supreme Court denied further review.

In 2025, Roulo filed a petition for postconviction relief that is more than 200 pages long and raises 74 “claims.” Those claims fall into three categories: (1) assertions of various errors and alleged misconduct at trial by the district court, trial counsel, and the state, mostly related to the mid-trial amendment; (2) contentions that Roulo received ineffective assistance of trial counsel because his trial counsel failed to raise various arguments in opposition to the mid-trial amendment; and (3) assertions that Roulo received ineffective assistance of appellate counsel, mostly because his appellate counsel failed to raise meritorious arguments related to the mid-trial amendment. The district court denied the petition without an evidentiary hearing.

Roulo appeals.

DECISION

Roulo argues that the district court erred by summarily denying his postconviction petition. We review a summary denial of a postconviction petition for abuse of discretion. *Thoresen v. State*, 965 N.W.2d 295, 303 (Minn. 2021). A district court abuses its discretion if it misapplies the law or makes clearly erroneous factual findings. *Reed v. State*, 793 N.W.2d 725, 729 (Minn. 2010).

Under the postconviction statute, a defendant may petition the district court for postconviction relief “to vacate and set aside the judgment . . . or make other disposition as may be appropriate.” Minn. Stat. § 590.01, subd. 1 (2024). Unless the petition and record “conclusively show that the petitioner is entitled to no relief,” the district court must set an evidentiary hearing on the petition. Minn. Stat. § 590.04, subd. 1 (2024); *see also Chavez-Nelson v. State*, 948 N.W.2d 665, 671 (Minn. 2020) (“A district court need not hold an evidentiary hearing when the petitioner alleges facts that, even if true, are legally insufficient to entitle him to the requested relief.”).

I.

We first consider Roulo’s arguments that the district court erred by concluding that his 55 claims related to the mid-trial amendment and ineffective assistance of trial counsel are procedurally barred by *Knaffla* and the law-of-the-case doctrine.

“[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 (codifying the same rule for “grounds that could have been raised on direct

appeal”).¹ The *Knaffla* bar “applies even in postconviction proceedings raising constitutional issues of criminal procedure.” *Schleicher v. State*, 718 N.W.2d 440, 445 (Minn. 2006) (quotation omitted). And “[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).

Roulo’s 55 claims related to rulings at trial and the conduct of participants in the trial are procedurally barred by *Knaffla*. Twenty-five of Roulo’s trial-related claims are arguments that the district court erred in allowing the mid-trial amendment. These arguments include, among others, asserted violations of various constitutional provisions, challenges to the district court’s personal and subject-matter jurisdiction, and allegations of prosecutorial misconduct and judicial bias. Roulo’s 30 remaining trial-related claims assert that trial counsel provided ineffective assistance for failing to raise these arguments before the district court when opposing the mid-trial amendment. Because all these claims pertain to Roulo’s contention that the mid-trial amendment was impermissible—an issue raised and decided in Roulo’s direct appeal—they either were or could have been raised on direct appeal and are barred by *Knaffla*.²

¹ Roulo does not argue that either of the two exceptions to the *Knaffla* bar—novelty and interests-of-justice—applies here. See *Davis v. State*, 880 N.W.2d 373, 377 (Minn. 2016) (noting the two common-law exceptions to *Knaffla*). We therefore do not analyze the applicability of either exception.

² The district court also concluded that Roulo’s claims pertaining to the mid-trial amendment are barred by the law-of-the-case doctrine because we affirmed the mid-trial amendment in Roulo’s direct appeal. See *Lynch v. State*, 749 N.W.2d 318, 321 (Minn.

Moreover, Roulo has not identified any facts supporting these claims that needed further development at an evidentiary hearing. To the contrary, it is plain from Roulo's postconviction petition and the record that his trial-related claims are procedurally barred. Consequently, Roulo has failed to show that the district court abused its discretion by summarily denying the claims in his postconviction petition related to events that occurred during trial.

II.

We next address Roulo's 19 claims that he received ineffective assistance of appellate counsel. The district court concluded that Roulo's claims of ineffective assistance of appellate counsel are also *Knaffla*-barred because they could have been raised in his supplemental brief on direct appeal. The state endorsed this argument. But "claims of ineffective assistance of appellate counsel on direct appeal are not barred by the *Knaffla* rule in a first postconviction appeal because they could not have been brought at any earlier time." *Onyelobi v. State*, 932 N.W.2d 272, 280 (Minn. 2019) (emphasis omitted) (quotation omitted). Thus, Roulo's ineffective-assistance-of-appellate-counsel claims are not barred by *Knaffla*.

"Although the overarching standard of review of a district court's summary denial of a postconviction petition is abuse of discretion, we review the merits of any underlying ineffective-assistance-of-counsel claims de novo." *Berry v. State*, 33 N.W.3d 683, 693

2008) (applying the law-of-the-case doctrine, in part, to affirm the denial of a petition for postconviction relief). We need not address the extent to which the law-of-the-case doctrine would also bar Roulo's claims because we conclude that all his claims pertaining to alleged trial errors and ineffective assistance of trial counsel are procedurally barred by *Knaffla*.

(Minn. 2026). Claims that appellate counsel was ineffective are subject to the two-prong *Strickland* test. *Id.* (citing *Strickland v. Washington*, 466 U.S. 668, 687 (1984)). To establish *Strickland*'s first prong (the performance prong), a petitioner must show that "counsel's performance was deficient when judged against an objective standard of reasonableness." *Id.* (quotation omitted). Appellate counsel need not raise every possible issue to satisfy the performance prong. *Zornes v. State*, 880 N.W.2d 363, 371 (Minn. 2016). Instead, counsel may focus on the "most meritorious" arguments, omitting claims unlikely to succeed. *Id.* When a defendant and counsel disagree about which issues to raise on appeal, "counsel has no duty to include claims which would detract from other more meritorious issues." *Black v. State*, 560 N.W.2d 83, 86 (Minn. 1997) (quotation omitted). "[W]e employ a strong presumption that appellate counsel exercised reasonable professional judgment in selecting which issues to raise." *Berry*, 33 N.W.3d at 693-94 (quotation omitted).

The petitioner must also demonstrate prejudice (the prejudice prong): "a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Peltier v. State*, 946 N.W.2d 369, 373 (Minn. 2020) (quoting *Strickland*, 466 U.S. at 694). In other words, "a defendant must show that counsel's errors actually had an adverse effect." *Leake v. State*, 767 N.W.2d 5, 10 (Minn. 2009) (quotation omitted). We may analyze the prongs in either order and "dispose of a claim on one prong without considering the other." *Peltier*, 946 N.W.2d at 372 (quotation omitted).

Against that backdrop, we consider Roulo's claims of ineffective assistance of appellate counsel. Here, Roulo's petition primarily alleges that appellate counsel failed to

raise issues he believes had greater merit than the issues counsel raised in Roulo’s principal brief. “Thus, we need only decide whether appellate counsel’s failure to—or decision not to—bring these claims is ineffective assistance as a matter of law.” *Berry*, 33 N.W.3d at 693. To overcome the presumption that appellate counsel’s strategic choice was reasonable, Roulo “must establish that appellate counsel improperly concluded that waived or unraised arguments would be unsuccessful on appeal.” *Chavez-Nelson*, 948 N.W.2d at 674.

Roulo has not made this showing. Roulo asserts through his 19 claims—nearly all of which relate to the mid-trial amendment—that there was “no plausible strategic reason for omitting” his preferred arguments in the direct appeal. After thoroughly reviewing all of Roulo’s claims of ineffective assistance of appellate counsel, we cannot conclude that appellate counsel acted unreasonably in deciding against asserting Roulo’s preferred arguments. Roulo tends to summarize the law he believes supports his argument and then assert that appellate counsel was wrong not to raise it. In other words, he merely rehashes his disagreement with appellate counsel’s strategic choices without demonstrating that those choices were unreasonable. But “[b]ecause effective appellate advocacy often involves weeding out weaker claims, counsel may reasonably decline to raise an issue precisely *because* she does not believe it has a reasonable probability of success.” *Berry*, 33 N.W.3d at 694 (quotation omitted). Roulo understood that he had the right to raise additional arguments in a pro se supplemental brief if he had a different opinion from his appellate counsel as to what issues should be raised on appeal. His failure to do so does not render his attorney’s strategic decisions unreasonable. *See Case v. State*, 364 N.W.2d 797,

800 (Minn. 1985). Thus, Roulo has not demonstrated that appellate counsel’s decision not to raise his preferred arguments would fall below *Strickland*’s objective standard of reasonableness.³

Separate from Roulo’s contention that appellate counsel failed to raise his preferred arguments, he asserts that appellate counsel was ineffective because she excluded him from preparing the principal brief; misstated whether a trial transcript could be corrected; delayed mailing him the trial transcripts, leaving him with less than a month to prepare his supplemental brief; and filed a “secret brief” that conceded guilt against his wishes.⁴ In our review of the record, we discern no basis to conclude that appellate counsel’s performance was deficient. But even if appellate counsel’s performance was deficient in the ways he identifies, Roulo has not made any plausible argument as to how the outcome of his direct appeal would have been different if not for appellate counsel’s performance. Roulo had every opportunity to raise any issues he wished in the direct appeal, including any alleged deficiencies in the trial record, and was afforded several months of additional time to do

³ Because Roulo cannot satisfy the performance prong, we need not analyze the prejudice prong of the *Strickland* test. *See Peltier*, 946 N.W.2d at 372.

⁴ We understand Roulo’s contention that appellate counsel “filed a secret brief conceding guilt against [his] wishes” to relate to appellate counsel’s decision to argue that Roulo should be resentenced because he was sentenced for two offenses that arose from a single behavioral incident. But contrary to Roulo’s suggestion, appellate counsel did not concede his guilt by arguing for resentencing. Instead, a resentencing argument concerns whether the sentence imposed complied with the law after guilt has already been determined. It is common for appellants to challenge both the legality of their sentence and the underlying conviction in the same appeal. *See, e.g., State v. Ezeka*, 946 N.W.2d 393 (Minn. 2020) (addressing arguments that convictions should be reversed and that a sentence was unlawful because it exceeded the statutory maximum).

so. His failure to timely file a completed pro se supplemental brief on direct appeal cannot reasonably be attributed to any aspect of his appellate counsel's performance.

Because Roulo's ineffective-assistance-of-appellate-counsel claims fail as a matter of law, the district court did not err by summarily denying his postconviction petition.

III.

Roulo mentions several other factual issues that he believes required further development in an evidentiary hearing. He argues that an evidentiary hearing would establish (1) the dates of his library access to show that he "did not inexcusably or deliberately 'choose' to miss the . . . filing deadline" for his pro se supplemental brief in his direct appeal, (2) that appellate counsel incorrectly advised him that "no authority existed to correct the [trial] transcript," (3) that this court erroneously denied his motion to stay the appeal to pursue postconviction relief, and (4) that he did not receive an order from this court. We disagree. Even if Roulo's allegations were proved true, our analysis of his claims demonstrates that these alleged facts are legally insufficient to entitle him to postconviction relief. We therefore conclude that the district court did not abuse its discretion by denying Roulo's postconviction petition without an evidentiary hearing.

Affirmed.