

*This opinion is nonprecedential except as provided by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
A25-2143**

Charles Calvin Lockhart, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed August 10, 2026
Affirmed
Beane, Judge**

Hennepin County District Court
File No. 27-CR-20-8335

Charles Calvin Lockhart, Faribault, Minnesota (pro se 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 Ede, Presiding Judge; Smith, Tracy M., Judge; and Beane, Judge.

NONPRECEDENTIAL OPINION

BEANE, Judge

Appellant Charles Calvin Lockhart challenges the district court's order summarily denying his petition for postconviction relief. Lockhart, who is no longer represented by counsel, argues that he received ineffective assistance of both trial and appellate counsel.

Lockhart also contends that respondent State of Minnesota did not disclose exculpatory evidence. We affirm.

FACTS

The state charged Lockhart with two counts of first-degree criminal sexual conduct, and a jury found him guilty on both counts. The district court convicted Lockhart on the first count and sentenced him to 172 months' imprisonment. Lockhart filed a direct appeal from the judgment of conviction, and we affirmed. *State v. Lockhart*, No. A22-0094, 2023 WL 1098182 (Minn. App. Jan. 30, 2023), *rev. denied* (Minn. Apr. 18, 2023). Lockhart, who at the time was represented by appellate counsel, raised one issue in his principal brief: whether “his constitutional rights were violated because his jury venire did not represent a fair cross-section of the community.” *Id.* at *1. We affirmed, concluding that while Lockhart established the first two elements of his fair-cross-section claim, he failed to establish the third. *Id.* at *6. The supreme court denied review.

Lockhart then petitioned for postconviction relief. He subsequently filed two additional documents he described as “amended” petitions for postconviction relief. In his petitions, he asserted that he received ineffective assistance of appellate counsel because his appellate counsel raised a fair-cross-section claim rather than other, more meritorious arguments related to ineffective assistance of trial counsel.¹

¹ Lockhart also asserted that he was erroneously convicted of two counts arising from a single behavioral incident. Lockhart has not raised this issue on appeal, so he has abandoned it. *McKenzie v. State*, 583 N.W.2d 744, 746 n.1 (Minn. 1998).

The district court denied Lockhart’s petition without an evidentiary hearing, concluding that Lockhart’s claims were *Knaffla*-barred because the issue of ineffective assistance of trial counsel was “either raised at trial or reviewed by the Court of Appeals on Petitioner’s direct appeal” and that the claims of ineffective assistance of appellate counsel were a “repackag[ed]” version of those claims.

Lockhart appeals.

DECISION

Lockhart argues that the district court erred by summarily denying his postconviction petition. We review a summary denial of a postconviction petition for an 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). But “we review the merits of any underlying ineffective-assistance-of-counsel claims de novo.” *Berry v. State*, 33 N.W.3d 683, 693 (Minn. 2026).

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 address Lockhart's argument that he received ineffective assistance of appellate counsel. The district court concluded that the issues raised in Lockhart's petition were *Knaffla*-barred because the claim of ineffective assistance of appellate counsel was merely a "repackag[ed]" version of ineffective-assistance-of-trial-counsel claims. "[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"). But a claim of ineffective assistance of appellate counsel is "properly raised in a first postconviction petition, because the petitioner could not have known of such a claim at the time of direct appeal." *Zornes v. State*, 880 N.W.2d 363, 370-71 (Minn. 2016). Thus, Lockhart's ineffective-assistance-of-appellate-counsel claims are not barred by *Knaffla*, and we consider them on their merits. *See Onyelobi v. State*, 932 N.W.2d 272, 280 (Minn. 2019).

A.

Lockhart first contends that appellate counsel was ineffective for raising an issue on direct appeal that has never succeeded. Claims that appellate counsel was ineffective are subject to the two-prong *Strickland* test. *Berry*, 33 N.W.3d at 693 (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*, 880 N.W.2d at 371. Instead, counsel may focus on the “most meritorious” arguments, omitting claims unlikely to succeed. *Id.* “[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 may “dispose of a claim on one prong without considering the other.” *Peltier*, 946 N.W.2d at 372 (quotation omitted).

With that background in mind, we consider Lockhart’s claim that he received ineffective assistance of appellate counsel. Lockhart argues that appellate counsel provided ineffective assistance for raising an issue on appeal—a fair-cross-section challenge—that has “been successful *zero percent of the time*.” On the performance prong, the fact that an issue has never or rarely been successful does not, by itself, render counsel’s decision to raise it objectively unreasonable. *See Berry*, 33 N.W.3d at 693 (stating that appellate counsel “only has a duty to bring the most meritorious claims on appeal” (quotation omitted)). Even if Lockhart is correct that fair-cross-section challenges have not succeeded in Minnesota, we cannot conclude that appellate counsel’s performance was deficient solely on that basis.

In any event, to prevail, Lockhart must also establish the prejudice prong, but he has failed to do so. Lockhart does not argue that the outcome of his direct appeal would have been different, and the mere fact that appellate counsel raised an “allegedly meritless issue[]” does not mean that the result of [the] appeal would have been different had his counsel not raised the issue[.]” *Allwine v. State*, 994 N.W.2d 528, 545 n.11 (Minn. 2023). This aspect of Lockhart’s ineffective-assistance-of-appellate-counsel claim therefore fails.

B.

We next consider Lockhart’s claim that appellate counsel provided ineffective assistance by failing to raise other arguments that he believes have greater merit. Lockhart contends that appellate counsel should have argued on direct appeal that trial counsel was ineffective for failing to present ostensibly exculpatory DNA evidence, failing to object to certain evidence and “unauthenticated pictures,” failing to impeach the complainant, and failing to call an expert to testify. Lockhart also asserts that appellate counsel was ineffective for failing to address that he was convicted on two counts on inconsistent theories and that his sentence was an impermissible “upward departure from the sentencing guidelines.” “To succeed on a claim that appellate counsel was ineffective in failing to raise an ineffective-assistance-of-trial-counsel claim, the petitioner must first show that his trial counsel was ineffective, again under the *Strickland* test.” *Berry*, 33 N.W.3d at 699 (quotation omitted). “We presume that trial counsel’s performance was reasonable and we give particular deference to trial strategy.” *Schneider v. State*, 725 N.W.2d 516, 521 (Minn. 2007).

We are not convinced that appellate counsel was ineffective for failing to raise ineffective-assistance-of-trial-counsel claims regarding evidentiary and witness issues. After thoroughly reviewing Lockhart’s claims of ineffective assistance of appellate counsel and the record, we discern no basis to conclude that appellate counsel’s performance was deficient. Lockhart contests trial counsel’s strategic decisions at trial—whether to present or object to evidence—which we generally do not second-guess in reviewing ineffective-assistance-of-counsel claims. *State v. Mosley*, 895 N.W.2d 585, 592 (Minn. 2017); *see also State v. Nicks*, 831 N.W.2d 493, 506 (Minn. 2013) (“We give trial counsel wide latitude to determine the best strategy for the client.”). Because trial strategy includes “[w]hat evidence to present to the jury, what witnesses to call, and whether to object,” it was reasonable for appellate counsel to conclude that these issues were unlikely to prevail because they relate to unreviewable trial strategy. *See State v. Bobo*, 770 N.W.2d 129, 138 (Minn. 2009). But again, even if we were persuaded that appellate counsel’s performance was deficient, Lockhart has not made any plausible argument that the outcome of his direct appeal would have been different absent such purportedly deficient performance.

Lockhart’s arguments about the verdict and his sentence fare no better. Lockhart seems to suggest both that appellate counsel should have included trial counsel’s failure to object to these issues as additional reasons why trial counsel was ineffective and that appellate counsel was ineffective for failing to raise these issues as independent grounds for reversal. Either way, these arguments do not warrant postconviction relief. Lockhart did not raise the inconsistent-verdicts argument in his postconviction petition in the district

court, so it is not properly before us on appeal.² *See Azure v. State*, 700 N.W.2d 443, 447 (Minn. 2005). He also has not explained why he believes the jury’s verdict is inconsistent, and no inconsistency is apparent from our review of the record. As to his sentence, Lockhart contends he was sentenced to “an upward departure from the sentencing guidelines,” when in fact, he was given a sentence at the top of the presumptive sentencing range. Appellate counsel could not have been ineffective for failing to raise a sentencing argument that is based on an inaccurate premise. *See Dobbins v. State*, 788 N.W.2d 719, 730 (Minn. 2010) (observing that “appellate counsel’s representation is not ineffective because counsel fails to raise a meritless claim”).

Ultimately, Lockhart has not pointed to anything in trial counsel’s performance that was unreasonable or prejudiced him at trial. After carefully reviewing the record, we also discern no basis to conclude that appellate counsel’s performance was deficient. And Lockhart 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. Accordingly, Lockhart is not entitled to postconviction relief as to his ineffective-assistance-of-appellate-counsel claims, and the district court did not err by denying his petition without an evidentiary hearing.

² Even if Lockhart’s contention in district court that he was improperly convicted of two offenses arising from a single behavioral incident could fairly be read to have preserved this argument—which we doubt—the result would be the same. The jury rendered guilty verdicts on both counts of first-degree criminal sexual conduct, but Lockhart was convicted and sentenced on only the first count. And Lockhart has not explained how any element of one of the counts of first-degree criminal sexual conduct of which he was found guilty negates a necessary element of the other.

II.

Lockhart next asserts various other issues related to the conduct of the trial. Lockhart mostly appears to contend that trial counsel was ineffective for not introducing DNA evidence or evidence about consent, failing to object to testimony from a medical expert, failing to object to allegedly unauthenticated pictures, and failing to call any witnesses on Lockhart's behalf, among other evidentiary issues. But at times, he also seems to assert that these are standalone justifications for postconviction relief. Lockhart does not offer any reason why these grounds for relief could not have been decided based on the trial record. Indeed, Lockhart criticizes appellate counsel for failing to raise these very issues on direct appeal. Therefore, to the extent Lockhart's arguments can be read to seek postconviction relief based on ineffective assistance of trial counsel or substantive trial errors, separate from appellate counsel's failure to raise those issues, we conclude that they are *Knaffla*-barred because they could have been raised on direct appeal. *Torres v. State*, 688 N.W.2d 569, 572 (Minn. 2004).

III.

Finally, Lockhart requests ostensibly exculpatory evidence that he believes was withheld by the prosecution and his trial counsel. *See Brady v. Maryland*, 373 U.S. 83, 87 (1963). Because he did not raise this issue in his original or amended postconviction petitions, we do not address it. *See* Minn. Stat. § 590.02, subd. 1(1) (2024) (stating that “[a]ll grounds for relief must be stated in the petition or any amendment thereof unless they could not reasonably have been set forth therein”).

Affirmed.