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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A26-0133**

Jeffrey Velt Murray, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed September 14, 2026
Affirmed
Smith, Tracy M., Judge**

Hennepin County District Court
File No. 27-CR-21-18980

Jeffrey Velt Murray, Rush City, Minnesota (self-represented appellant)

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

Mary F. Moriarty, Hennepin County Attorney, Shannon M. Harmon, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

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

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

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

In this appeal from the district court's order denying postconviction relief, appellant Jeffrey Velt Murray argues that the district court erred by summarily denying his claims of (1) ineffective assistance of trial counsel and (2) prosecutorial misconduct. We affirm.

FACTS

In September 2021, D.B. was shot in a Minneapolis apartment and died from his injuries. After an investigation, respondent State of Minnesota charged Murray with second-degree intentional murder, second-degree felony murder, and unlawful possession of a firearm.

After initially entering a speedy-trial demand, Murray agreed to temporarily waive his demand until March 2022 because his counsel contracted COVID-19. As the March trial date approached, Murray's counsel requested another continuance and stated that Murray had requested to withdraw his speedy-trial demand. The continuance was granted, but no withdrawal of Murray's speedy-trial demand was ever filed. Thereafter, Murray moved to dismiss the case based on a violation of his right to a speedy trial. The district court denied that motion, and a renewed demand for a speedy trial was entered on May 27, 2022.

Murray waived his right to a jury, and a bench trial was held over five days between July 21 and August 23, 2022. We summarized the evidence presented at trial in our decision on Murray's direct appeal. *State v. Murray*, No. A23-0117, 2024 WL 764009, at *1-3 (Minn. App. Feb. 26, 2024), *rev. denied* (Minn. June 18, 2024).

In brief, D.B.'s girlfriend, P.G., testified to the following. P.G. was in the bedroom of D.B.'s apartment when D.B. and Murray came into the bedroom to talk. Murray asked D.B. whether he could borrow D.B.'s gun. D.B. responded that his gun was not in the apartment, and Murray "looked strangely" at D.B. After some more conversation, D.B. asked Murray to get him some juice from the kitchen. Murray stood up, took a couple of steps, and shot D.B. D.B. said, "He shot me. He shot me," and Murray responded, "Give it up. Give it up." P.G. revealed D.B.'s gun under a pillow, and D.B. slid the gun across the bed towards Murray. Murray picked up the gun. Murray, who then had two guns, shot D.B. "one or two more times." D.B. never pointed or shot his gun at Murray.

Murray testified to the following in support of his theory of self-defense. Murray went to D.B.'s apartment to sell drugs to D.B. He brought a gun. After he sold D.B. some drugs, D.B. asked for more and Murray refused. D.B. became angry and, when Murray tried to leave, aimed a gun at Murray and demanded more drugs. Murray threw a bag of drugs at D.B., and P.G. grabbed it. Murray tried to run but "saw a flash" when D.B. fired the gun. Murray immediately fired his own gun at D.B. Murray never asked D.B. for a gun or took D.B.'s gun. Murray did not realize that he had shot D.B. or that D.B. had died until nearly a month later. Murray did not report the incident to the police because he "didn't want to be linked to the situation and be linked to the other drug activities and carrying a gun." He also did not think that the police would believe him.

The state presented additional evidence at trial. Responding officers and a detective who took P.G.'s statement testified that P.G. reported that Murray shot D.B. The detective testified that, after being arrested, Murray admitted that he may have robbed someone but

had not murdered anyone. The medical examiner testified that D.B. had been shot twice and that his death was a homicide. Officers collected a white residue believed to be narcotics and three discharged cartridge casings from the apartment. A forensic scientist analyzed the casings and testified that they had been fired from the same gun.

The district court found Murray guilty and convicted him of all three charges. Murray filed a direct appeal. Murray raised several claims in his represented brief and, relevant here, in a supplemental brief, raised a claim for ineffective assistance of counsel based on 12 different grounds. We rejected the majority of these asserted grounds because they involved matters of trial strategy, and we declined to address the remaining grounds that did not involve matters of trial strategy because the factual record was insufficiently developed for appellate review. We affirmed Murray's convictions except for his conviction for felony murder because it is an included offense of second-degree intentional murder and thus reversed in part and remanded to the district court to vacate the felony-murder conviction. *Murray*, 2024 WL 764009, at *7-9.

In July 2025, Murray filed a petition for postconviction relief, seeking an evidentiary hearing. In the petition, Murray alleged ineffective assistance of trial counsel, ineffective assistance of appellate counsel, and prosecutorial misconduct. The district court filed an order denying the petition without an evidentiary hearing.

This appeal follows.

DECISION

“A petitioner for postconviction relief bears the burden of establishing, by a fair preponderance of the evidence, facts that warrant relief.” *Pederson v. State*, 649 N.W.2d

161, 163 (Minn. 2002) (citing Minn. Stat. § 590.04, subd. 3 (2000)). 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) (quotation omitted). Allegations in a petition “must be more than argumentative assertions without factual support.” *Matakis v. State*, 862 N.W.2d 33, 37 (Minn. 2015) (quotation omitted).

Murray argues that the district court erred by summarily denying his postconviction claims of (1) ineffective assistance of trial counsel and (2) prosecutorial misconduct.¹ We address each argument in turn.

I. The district court did not err by denying Murray’s ineffective-assistance-of-trial-counsel claim without a hearing.

Murray argues that the district court erred by rejecting his claim for ineffective assistance of trial counsel without a hearing.

Appellate courts “review the denial of postconviction relief based on a claim of ineffective assistance of counsel de novo because such claims involve mixed questions of law and facts.” *Sardina-Padilla*, 7 N.W.3d at 602. “We review a district court’s legal

¹ Murray does not challenge the district court’s rejection of his ineffective-assistance-of-appellate-counsel claim.

conclusions de novo and its findings of fact for clear error.” *Paul v. State*, 20 N.W.3d 48, 54 (Minn. 2025).

In his postconviction petition, Murray asserted two grounds for his claim that his trial counsel was ineffective: (1) failure to investigate and present exculpatory evidence and (2) failure to secure a speedy trial.

A. Exculpatory Evidence

Murray argues that his trial counsel provided ineffective assistance because he failed to adequately investigate and present exculpatory evidence that would have bolstered his self-defense theory that D.B. was the aggressor and was attempting to rob Murray for drugs. Specifically, Murray asserts that his lawyer was ineffective by failing to obtain an expert ballistics witness and by failing to obtain testing of evidence thought to be drugs due to a lack of resources. He also argues that his lawyer was ineffective by failing to introduce a video of drugs being discovered at the crime scene. The district court concluded that Murray’s ineffective-assistance-of-counsel claim based on the failure to investigate and present exculpatory evidence was procedurally barred.

“[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.” *Gilbert v. State*, 2

N.W.3d 483, 487 (Minn. 2024). The petitioner has the burden of showing that an exception applies. *Id.* at 489.

In determining that Murray’s claim is *Knaffla* barred, the district court observed that Murray raised an ineffective-assistance-of-trial-counsel claim in his direct appeal. It concluded that, “[w]hile the arguments may be dressed slightly differently, it is clear [Murray] brought these arguments before or had reason to know of the issues and could have raised them before the Court of Appeals.” It also determined that “neither exception to the *Knaffla* bar applies.”

Murray argues that *Knaffla* does not bar his claim because the grounds that he raised here “were factually and legally not **ripe** for review.” Although he does not mention the exception by name, we construe Murray’s argument as invoking the interests-of-justice exception to *Knaffla*. Under that exception, “a claim of ineffective assistance of trial counsel is not barred by *Knaffla* if it cannot be determined from the district court record and requires additional evidence, such as that involving attorney-client communications.” *Schleicher v. State*, 718 N.W.2d 440, 447 (Minn. 2006) (quotation omitted). We examine whether that exception applies to Murray’s claims.

Murray asserts that he would have called a ballistics expert and his trial counsel to testify at an evidentiary hearing so that they “could explain what ballistic trajectory supported [Murray’s] self-defense theory.” In its findings of facts to support the guilty verdict, the district court relied in large part on the forensic evidence disproving Murray’s theory of self-defense—namely, that there was no gun found in the bedroom, that all three casings came from one gun, and that the ejection patterns of the three casings were

consistent with being fired from where Murray stood in the room. With his postconviction petition, Murray provided no affidavits from an expert or his trial counsel and made no offer of proof specifying what they would have testified to at an evidentiary hearing. Murray has therefore not shown that additional facts are necessary to evaluate his claim. Thus, the interest-of-justice exception to *Knaffla* does not apply.

Relatedly, Murray also appears to contend that his counsel's failure to retain a ballistics expert and to investigate and present drug-related evidence constitute proper bases for his postconviction ineffective-assistance-of-counsel claim because those arguments were preserved by our opinion in his direct appeal. In that opinion, we declined to address Murray's ineffective-assistance-of-trial-counsel arguments that did not involve matters of trial strategy because they could not be decided on the trial record. *Murray*, 2024 WL 764009, at *9. We thus effectively preserved Murray's right to pursue such arguments in a postconviction petition. *See, e.g., State v. Gustafson*, 610 N.W.2d 314, 321 (Minn. 2000) (preserving appellant's right to pursue ineffective-assistance-of-counsel claim in postconviction proceedings when the claim could not be determined on trial record). Murray contends that his trial counsel's failure to retain an expert and to investigate and present drug-related evidence were not matters of trial strategy and thus were issues that were preserved for postconviction proceedings.

The argument is unconvincing. "Trial strategy . . . includes the extent of counsel's investigation and the selection of evidence presented to the jury." *State v. Vang*, 847 N.W.2d 248, 267 (Minn. 2014). Trial strategy also includes choosing whether to call expert

witnesses. *Allwine v. State*, 994 N.W.2d 528, 538 (Minn. 2023). Both of Murray’s asserted grounds fit squarely within the parameters of trial strategy.

Murray argues, though, that the expert-witness and drug-related-evidence matters were so closely related to his self-defense theory that the failure to present them cannot be considered trial strategy. In support of his argument, he cites *State v. Nicks*, 831 N.W.2d 493 (Minn. 2013). That case, however, is distinct. In *Nicks*, the supreme court held that an evidentiary hearing was required because Nicks’s postconviction petition alleged that his “counsel did not follow up on information received and did not perform the necessary steps to successfully execute on his main theory of the case.” 831 N.W.2d at 507. Specifically, Nicks alleged that his counsel failed to review cellphone records that were received in response to a subpoena and failed to order a forensic examination of the victim’s phone and that the failures were significant because the victim’s having received threatening phone calls from Nicks was “pivotal” to the state’s proof of premeditated murder. *Id.* at 505. Here, in contrast, Murray failed to allege facts that, if proved, would show that ballistics evidence or drug-related evidence was so crucial to his case that the failure to develop and present such evidence could not have been a strategic decision. Murray’s submissions do not persuade us that his arguments do not involve matters of trial strategy, and we therefore discern no error in the district court’s determination that this ineffective-assistance claim is *Knaffla* barred.

The district court did not err by summarily denying Murray’s claim of ineffective assistance of counsel based on an alleged failure to investigate and present exculpatory evidence because it is *Knaffla* barred.

B. Speedy Trial

Murray argues that his counsel provided ineffective assistance by failing to preserve his right to a speedy trial.²

To receive an evidentiary hearing on an ineffective-assistance-of-counsel claim, a postconviction petitioner must “allege facts that, if proven by a fair preponderance of the evidence, would satisfy the two-prong test announced in *Strickland v. Washington*.” *Bobo v. State*, 820 N.W.2d 511, 516 (Minn. 2012) (citation omitted). The *Strickland* test requires 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). If the appellant fails to show one prong, a court does not need to address the other. *State v. Smith*, 932 N.W.2d 257, 271 (Minn. 2019).

Here, the district court rejected Murray’s claim based on the second prong. It concluded that Murray’s allegations and the record were insufficient to show that any error in failing to preserve the right to a speedy trial would have prejudiced the outcome.

Murray argues that the district court erred by concluding that the second prong was not met because counsel’s failure to preserve his right to a speedy trial caused an important witness (W.L.) to change his mind about testifying. He argues that there is a material factual dispute over what W.L. would have testified to and, therefore, a hearing is warranted. But

² The district court determined that this argument for ineffective assistance of counsel is not *Knaffla* barred, and the state does not argue otherwise. We agree with the district court that the issue is not *Knaffla* barred.

Murray has not alleged any concrete facts that would create such a dispute. The only substantive allegation that Murray made is that W.L. had “vital information that would have supported [Murray’s] theory of self-defense.” This is insufficient. To receive an evidentiary hearing, Murray’s burden was to “allege facts that, if proven by a fair preponderance of the evidence, would satisfy the two-prong test announced in *Strickland*.” *Bobo*, 820 N.W.2d at 516 (quotation omitted). Murray has not alleged any specific facts about what W.L.’s testimony would have been. And the mere fact that Murray and the state disagree on what W.L. could have testified to does not establish prejudice under the second prong.

Moreover, at best, W.L. may have corroborated minor parts of Murray’s testimony. At trial, Murray testified that, on the night of the shooting, he went to the apartment building where both W.L. and D.B. lived. Murray testified that W.L. let him in and bought drugs from him. W.L. then called D.B. to tell him that Murray was in the building so that D.B. could buy drugs from Murray. Murray testified that he stayed in W.L.’s apartment for “10, 15 minutes” and then went to D.B.’s apartment. There was no testimony or evidence that W.L. was present for the shooting or even knew about it. So, even if W.L. had testified, he would have been able to confirm only that Murray entered the building, sold drugs to W.L., and then left to go see D.B. Corroboration of these minor details would not likely have changed the outcome of Murray’s self-defense case.

In sum, Murray failed to allege sufficient facts to meet his burden to show that he was prejudiced under the second *Strickland* prong. The district court thus did not err by denying Murray’s ineffective-assistance-of-counsel claim without a hearing.

II. The district court did not err by denying Murray’s prosecutorial-misconduct claim without a hearing.

Murray argues that the district court erred by summarily rejecting his claim that the state committed prosecutorial misconduct by failing to test drugs found at the crime scene and not sharing the results of such tests with the defense.

The denial of a postconviction claim for prosecutorial misconduct is reviewed for an abuse of discretion. *Pederson v. State*, 692 N.W.2d 452, 459 (Minn. 2005). “A district court 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.” *Martin v. State*, 969 N.W.2d 361, 363 (Minn. 2022) (quotation omitted).

The district court concluded that this claim is *Knaffla* barred because it could have been raised on direct appeal and no exception applies. On appeal, Murray does not mention or in any way address the district court’s conclusion that this claim is barred by *Knaffla*. He has therefore forfeited a challenge to this dispositive ruling. *See Hunter v. Anchor Bank, N.A.*, 842 N.W.2d 10, 17 (Minn. App. 2013) (holding that arguments for reversal not raised in an appellant’s principal brief are forfeited), *rev. denied* (Minn. Mar. 18, 2014); *see also Waters v. Fiebelkorn*, 13 N.W.2d 461, 464-65 (Minn. 1944) (“[O]n appeal error is never presumed. It must be made to appear affirmatively before there can be reversal . . .”). But even if we were to engage with his claim on the merits, Murray has not shown that he is entitled to relief.

Murray argues that the state committed a *Brady* violation by failing to test and disclose drug evidence. “In *Brady*, the United States Supreme Court held that ‘the

suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution.” *Pederson*, 692 N.W.2d at 459 (quoting *Brady v. Maryland*, 373 U.S. 83, 87 (1963)). Similarly, Minnesota Rule of Civil Procedure 9.01 requires the state to provide discovery to the defense of all matters and evidence that relate to the case. Minn. R. Crim. P. 9.01, subd. 1.

The district court concluded that neither *Brady* nor the rules of criminal procedure imposed an affirmative duty on the state to create evidence for the defense by testing the drugs. Murray argues that the district court erred by holding that there is no duty for the state to test evidence. But Murray cites no authority imposing such a duty, and Minnesota Supreme Court caselaw refutes his argument. *See State v. Krosch*, 642 N.W.2d 713, 719 (Minn. 2002) (holding that there is no affirmative duty for the state to perform an alcohol-concentration test). Additionally, while Rule 9.01 requires the state to disclose test results and “allow the defendant to conduct reasonable tests,” it does not provide that the state must perform any tests to create test results in the first place. Minn. R. Crim. P. 9.01.

Murray also cites cases discussing the prosecution’s general duty to seek justice, arguing that these cases created an obligation on the state to test the drugs here. *See, e.g., State v. Ramey*, 721 N.W.2d 294, 300 (Minn. 2006) (“[A] prosecutor is a minister of justice whose obligation is to guard the rights of the accused as well as to enforce the rights of the public.” (quotation omitted)); *Berger v. United States*, 295 U.S. 78, 88 (1935) (holding that the interest of a prosecutor “is not that it shall win a case, but that justice shall be done”).

But none of the cases he cites imposes an obligation on the state to test or create evidence for the defense.

The district court therefore did not err by denying Murray's postconviction claim for prosecutorial misconduct without a hearing.

Affirmed.