

STATE OF MINNESOTA
IN COURT OF APPEALS

A24-0744



Andrew Joseph Haman, petitioner,

Appellant,

vs.

State of Minnesota,

Respondent.

ORDER OPINION

Steele County District Court
File No. 74-CR-18-752

Considered and decided by Bjorkman, Presiding Judge; Frisch, Chief Judge; and Reyes, Judge.

BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND BECAUSE:

1. In April 2018, a state trooper stopped appellant Andrew Joseph Haman's vehicle for speeding. The trooper dispatched a drug dog to conduct a sniff around Haman's vehicle, the dog alerted, the trooper searched the inside of the vehicle, and the trooper found psilocybin mushrooms and cocaine in the vehicle. A jury found Haman guilty of first- and fifth-degree possession of a controlled substance pursuant to Minn. Stat. §§ 152.021, subd. 2(a), .025, subd. 2(1) (2016), and the district court sentenced him to an 85-month commitment.

2. Haman appealed his conviction, arguing that the search of his vehicle was unlawful. *State v. Haman*, No. A19-1617, 2021 WL 21498, at *1 (Minn. App. Jan. 4, 2021), *rev. denied* (Minn. Oct. 19, 2021). We concluded that the search was lawful

but remanded the matter to the district court to recalculate Haman's criminal-history score and for resentencing. *Id.* at *2. Haman also raised additional issues on direct appeal in a pro se supplemental brief, including that (1) Minn. Stat. § 152.021, subd. 2(a), does not apply to psilocybin mushrooms, (2) the district court erred in admitting *Spreigl* evidence, and (3) Haman received ineffective assistance of counsel during sentencing. We declined to consider the merits of these issues because they were not raised before the district court. *Id.*

3. Haman separately initiated a civil proceeding in district court to contest the related forfeiture of his vehicle. In March 2022, the district court held an evidentiary hearing and received testimony from the trooper and Haman. In its forfeiture order, the district court noted that Haman asserted that the trooper's testimony during the evidentiary hearing was inconsistent with his testimony during the criminal trial. But the district court concluded that any inconsistencies did not undermine the trooper's testimony and were irrelevant to the determination in the forfeiture proceeding.

4. Haman thereafter petitioned for postconviction relief, and the postconviction court held a hearing on Haman's petition. Neither Haman nor the state presented evidence at this hearing. The postconviction court denied Haman's petition, determining that Haman's claims of ineffective assistance of appellate counsel and newly discovered evidence lacked merit and that Haman's claims of prosecutorial misconduct, ineffective assistance of trial counsel, and evidentiary error were barred under *State v. Knaffla*, 243 N.W.2d 737, 741 (Minn. 1976). Haman appeals.

5. We review the “denial of a postconviction petition for an abuse of discretion.” *Martin v. State*, 969 N.W.2d 361, 363 (Minn. 2022). “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.” *Id.* (quotation omitted).

6. A postconviction court must hold an evidentiary hearing on a petition for postconviction relief “unless the petition and the files and records of the proceeding conclusively show that the petitioner is entitled to no relief.”¹ *Andersen v. State*, 913 N.W.2d 417, 422 (Minn. 2018) (quotation and alteration omitted). And “[i]n determining whether an evidentiary hearing is required, a postconviction court considers the facts alleged in the petition as true and construes them in the light most favorable to the petitioner.” *Id.* at 422-23 (quotation omitted). But “[w]hen it is indisputable that claims are procedurally barred, they are frivolous.” *Wayne v. State*, 912 N.W.2d 633, 641 (Minn. 2018).

7. We first address claims that are procedurally barred. “[W]here [a] 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.” *Knaffla*, 243 N.W.2d at 741. The postconviction court concluded that Haman’s claims related to ineffective assistance of trial counsel, prosecutorial misconduct, or evidentiary errors were

¹ We note that, although the postconviction court held a hearing, that hearing was noticed as a “review hearing.” It is not clear from the record that Haman was aware that he could present evidence at this hearing. We construe the postconviction court’s order as a summary denial of Haman’s postconviction petition.

Knaffla-barred because the issues “could have been raised on direct appeal” and that Haman failed to do so.

8. Haman appears to argue that his trial counsel was ineffective because he did not (1) “vigorously cross-examine” the trooper, (2) object to prosecutorial misconduct, (3) challenge certain evidence at trial, (4) relay a proposed plea agreement, and (5) properly calculate his criminal-history score. Haman also asserts that the prosecutor committed misconduct by making false factual assertions and fabricating evidence during trial, and the district court erroneously admitted *Spreigl* evidence. But Haman raised the issues of ineffective assistance of trial counsel and evidentiary objections in his prior direct appeal, and we declined to consider those claims. And Haman knew or should have known of the remaining asserted issues when he brought his direct appeal.²

9. Haman does not argue that any of his claims fall within an exception to the *Knaffla* bar. See *Hooper v. State*, 838 N.W.2d 775, 787-88 (Minn. 2013) (stating that a reviewing court will decline to apply the *Knaffla* exceptions if they are not raised by the petitioner); *Taylor v. State*, 691 N.W.2d 78, 79 (Minn. 2005) (explaining that a claim is not *Knaffla*-barred if (1) “a novel legal issue is presented,” or (2) “the interests of justice require review”). We conclude that the postconviction court did not abuse its discretion in concluding that Haman’s claims of ineffective assistance of trial counsel, prosecutorial

² To the extent that Haman relies on emails between himself and counsel in his brief, we decline to consider these materials because they are not part of the record on appeal and were not considered by the district court.

misconduct, or evidentiary objections were *Knaffla*-barred, and in summarily denying him postconviction relief for these claims.

10. Haman also alleges that his appellate counsel was ineffective because counsel chose not to raise several issues on appeal that Haman considers meritorious, including ineffective assistance of trial counsel, prosecutorial misconduct, and the cumulative effects of these errors.

11. To support a postconviction claim for ineffective assistance of appellate counsel, Haman 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) (citing *Strickland v. Washington*, 466 U.S. 668, 687 (1984)). Thus, Haman bears the burden to allege in his petition that (1) his counsel’s representation fell below an objective standard of reasonableness and (2) there is a reasonable probability that, but for counsel’s errors, the result of the proceeding would have been different. *Strickland*, 466 U.S. at 687-88, 694.

12. The postconviction petition does not contain sufficient allegations that Haman’s appellate counsel’s representation fell below an objective standard of reasonableness. *See State v. Vang*, 847 N.W.2d 248, 266-67 (Minn. 2014) (defining an objective standard or reasonableness as “customary skills and diligence that a reasonably competent attorney would perform under similar circumstances” (quotation omitted)). Haman asserts that his appellate counsel’s performance was ineffective because counsel failed to raise issues in his direct appeal that Haman asserts were meritorious. But we presume that counsel’s “judgment about which issues to raise falls within the wide range

of reasonable professional assistance.” *Bobo*, 820 N.W.2d at 516 (quotation omitted). And we generally do not review matters of strategy, including appellate counsel’s decisions related to which claims to bring on direct appeal. *Nunn v. State*, 753 N.W.2d 657, 661 (Minn. 2008) (noting that appellate counsel may choose to present only “the most meritorious claims” (quotation omitted)).

13. We therefore conclude that the postconviction court did not abuse its discretion in summarily denying Haman’s ineffective-assistance-of-appellate-counsel claim for postconviction relief. *See Nissalke v. State*, 861 N.W.2d 88, 94 (Minn. 2015) (“We may dispose of a claim on one prong without considering the other.”).

14. Haman separately argues that he presented newly discovered evidence of the trooper’s inconsistent testimony and that the postconviction court erred in not affording relief as a result of the trooper’s inconsistent testimony.³ The postconviction court judge—who presided over both proceedings—concluded that the asserted inconsistencies were due to “the passage of time and [Haman’s] sometimes convoluted questions,” and that the discrepancies only related to potential impeachment.

15. Under *Rainer v. State*, a postconviction petitioner is only entitled to a new trial if newly discovered evidence (1) “was not known to the defendant or his/her counsel at the time of the trial”; (2) “could not have been discovered through due diligence before trial”; (3) “is not cumulative, impeaching, or doubtful”; and (4) “would probably produce an acquittal or a more favorable result.” 566 N.W.2d 692, 695 (Minn. 1997); *see also*

³ We note that because the forfeiture hearing occurred after Haman’s direct appeal, this claim could not have been asserted in his prior appeal.

Bobo, 820 N.W.2d at 517 (“[T]here is no need for a postconviction court to hold an evidentiary hearing when a defendant alleges facts that, if true, are legally insufficient to entitle him to the requested relief.”).

16. We assume without deciding that the trooper’s testimony was inconsistent but conclude that Haman nevertheless failed to meet the third and fourth *Rainer* prongs. The inconsistent testimony only relates to the trooper’s credibility and Haman’s efforts to discredit the state’s theory of the case. *See Andersen v. State*, 982 N.W.2d 448, 455-56 (Minn. 2022) (concluding that a postconviction petition had not alleged newly discovered evidence to overcome the statutory time bar when that evidence was “merely impeaching” and the new evidence did not show an alternative timeline for the crime or provide an alibi for the petitioner).

17. Although Haman asserts that the inconsistent testimony “undermines” the state’s case and the foundation for admitting evidence of Haman previously growing psilocybin mushrooms, he does not explain how or why that is the case. At trial, the jury heard testimony about the quantity of controlled substances found in his car and discredited testimony that Haman believed the mushrooms were not psilocybin. Given this evidence, impeachment of the trooper at trial would not have resulted in an acquittal or more favorable result. *See Bobo*, 820 N.W.2d at 518. The postconviction court therefore did not abuse its discretion in summarily denying Haman’s postconviction petition without an evidentiary hearing.

IT IS HEREBY ORDERED:

1. The postconviction court’s order is affirmed.

2. Pursuant to Minn. R. Civ. App. P. 136.01, subd. 1(c), this order opinion is nonprecedential, except as law of the case, res judicata, or collateral estoppel.

Dated: 2/7/25

BY THE COURT

Chief Judge Jennifer L. Frisch