STATE OF MINNESOTA
IN COURT OF APPEALS
A23-0453

State of Minnesota,
Respondent,

vs.

Eric James Reinbold,
Appellant.

Filed April 28, 2025
Affirmed
Ross, Judge

Pennington County District Court
File No. 57-CR-21-506

Keith Ellison, Attorney General, Peter Magnuson, Assistant Attorney General, St. Paul, Minnesota; and

Nathan Haase, Pennington County Attorney, Thief River Falls, Minnesota (for respondent)

Christopher J. Cadem, Cadem Law Group, PLLC, Fergus Falls, Minnesota (for appellant)

Considered and decided by Smith, Tracy M., Presiding Judge; Ross, Judge; and Bratvold, Judge.

NONPRECEDENTIAL OPINION

ROSS, Judge

The district court departed upward from the presumptive guidelines sentence of 366 months to sentence Eric Reinbold to serve 480 months in prison after a jury found him guilty of second-degree murder for stabbing his wife to death and the court determined that

he did so with particular cruelty. Reinbold unsuccessfully petitioned for postconviction relief, and he contends on appeal that the postconviction court improperly dismissed his petition without a hearing because he presented sufficient evidence to support his ineffective-assistance-of-trial-counsel claims. He also argues that the district court lacked a factual or legal basis to depart from the guidelines sentence. Because Reinbold's postconviction petition and the record established that he was entitled to no postconviction relief, the district court acted within its discretion by dismissing the petition without a hearing. And because the district court departed from the presumptive sentence based on a proper aggravating fact that the jury found during Reinbold's *Blakely* sentencing stage, the district court acted within its discretion by departing upward from the presumptive sentence. We therefore affirm.

FACTS

An attacker stabbed Lissette Reinbold to death in July 2021. Her fourteen-year-old son found her body outside their Pennington County home on the ground beside her car. We will call this boy "Lee," a name we have randomly chosen in the interest of protecting his privacy. Lissette's husband, Eric Reinbold, was not around when Lee found his mother's body.

Reinbold and Lissette's living arrangements were somewhat complicated. They had two children together, and those two children lived with them in their rural home. Lissette had two other children, including Lee, with a different man, and those two children lived primarily with their father but would stay overnight on visits with their mother in the Reinbold house. A family-court order restricted Reinbold's contact with them, so when

they visited overnight, Reinbold stayed in a camper about three-quarters of a mile from the house.

Lee left his bedroom at the Reinbold house before 8:00 the morning he found his mother's body. He saw her car in the driveway and looked in her room for her. He looked outside and noticed something on the ground beside her car. He approached, saw blood, and made the grim discovery. He telephoned his father, who did not answer. He eventually reached Reinbold's mother, who told him she would call 9-1-1 for assistance.

Emergency medical technicians and law enforcement officers arrived at the Reinbold property. They found Lissette, dead, with cuts or gashes on her throat, chin, chest, and hand, which left blood pooled on the driveway. Investigators saw signs of a struggle. Lissette's body was soiled with dust and gravel from the driveway, and road grime was wiped from the driver's side door of her car, as if something or someone had pressed against it. And near Lissette's body inside a garage they found a note that a handwriting expert would later say was "highly probably" written by Reinbold, saying, "Jesus forgive me of my sins."

Investigators could not immediately find Reinbold. They engaged other law enforcement agencies in a search for him that lasted over three weeks and that involved search dogs, helicopters, drones, thermal imagers, and night-vision optics. They finally located Reinbold after a trail camera in an area about a quarter mile from Reinbold's parents' property captured an image of him.

The state charged Reinbold with two counts of second-degree murder, and the case went to trial. At trial the prosecutor introduced evidence of conflict in Reinbold's

relationship with Lissette, including Reinbold's accusations of Lissette's alleged infidelity, and suggested the infidelity as his motive to kill her. Reinbold's defense, which did not include him testifying, emphasized the state's lack of direct evidence that he killed Lissette.

The jury found Reinbold guilty on both counts and made *Blakely* findings about alleged aggravating facts for sentencing. The jury answered "Yes" when asked, "Did the defendant stab Lissette Reinbold multiple times and leave her, and one of her children found her?" The district court concluded that the jury had found facts sufficient for the court to depart upward from the presumptive guidelines imprisonment sentence ranging between 312 and 439 months (with a presumptive sentence of 366 months). Relying on the departure factor of particular cruelty, the district court sentenced Reinbold to serve 480 months in prison.

Reinbold directly appealed his conviction to this court, and we stayed the appeal to allow him to pursue his separate petition for postconviction relief. His postconviction petition asserted that he is entitled to a new trial because his trial attorney was ineffective and that he is entitled to resentencing because the departure was improper. The postconviction court denied his petition without holding an evidentiary hearing. This court reinstated Reinbold's prior appeal, which we now address along with Reinbold's arguments contesting the postconviction court's decision.

DECISION

Reinbold offers two principal reasons in urging us to reverse. He argues first that the postconviction court improperly dismissed his postconviction petition without a hearing. He argues second that the district court erroneously departed upward from the

presumptive guidelines sentence. For the following reasons, neither argument leads us to reverse.

I

We first address Reinbold's contention that the postconviction court improperly dismissed his postconviction petition without first holding an evidentiary hearing. We review a postconviction court's decision to dismiss a petition without an evidentiary hearing for an abuse of discretion. *Caldwell v. State*, 853 N.W.2d 766, 770 (Minn. 2014). A postconviction petitioner is entitled to a hearing "[u]nless 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 (2022). The postconviction court must consider the facts alleged in the petition as true and construe them in the light most favorable to the petitioner. *Andersen v. State*, 913 N.W.2d 417, 424 (Minn. 2018). But the court may deny an evidentiary hearing when a petitioner's claims rest "solely on conclusory, argumentative assertions without factual support." *Crow v. State*, 923 N.W.2d 2, 10 (Minn. 2019) (quotation omitted). Although the standard a postconviction petitioner must meet to be granted an evidentiary hearing is relatively low, Reinbold did not reach that standard on his ineffective-assistance-of-trial-counsel claims. His attorney allegedly failed (1) to investigate a mental-illness defense, (2) to present evidence of innocent fleeing, (3) to obtain and present exculpatory evidence, (4) to obtain Reinbold's family-law file, (5) to properly cross-examine a state witness, and (6) to obtain some of Lissette's employment records.

1. Failure to Investigate Mental-Illness Defense

Reinbold unconvincingly argues that he made a sufficient showing that his trial attorney's failure to investigate a mental-illness defense constituted ineffective assistance. A defendant asserting an ineffective-assistance claim must show both that his attorney's performance "fell below an objective standard of reasonableness" and that "a reasonable probability exists" that, but for the deficient performance, the trial outcome would have been different. *Bruestle v. State*, 719 N.W.2d 698, 704 (Minn. 2006) (quotation omitted) (citing *Strickland v. Washington*, 466 U.S. 668, 687 (1984)). The record informs us that the postconviction court appropriately rejected Reinbold's ineffective-assistance claim premised on his counsel's alleged failure to investigate a mental-illness defense.

Reinbold was not entitled to an evidentiary hearing on this theory. He cites previous evaluations and psychological assessments that indicated he had an adjustment disorder, a personality disorder with schizotypal characteristics, major depressive disorder, and intermittent explosive disorder. He also cites a posttrial evaluation that included a diagnosis of major depressive disorder and paranoid personality disorder and that included schizoaffective disorder as a rule-out diagnosis. The supreme court has held that a postconviction court need not hold an evidentiary hearing to explore whether the defendant's trial attorney's decision not to pursue a mental-illness defense constituted ineffective assistance of counsel when, among other circumstances, a petitioner fails to provide evaluations completed near the time of the murder, expert testimony about the petitioner's mental state at the time of the killing, or affidavits from independent defense-attorney experts suggesting that the trial attorney's representation was unreasonably

deficient. *Id.* at 705–06. Similarly here, none of Reinbold's cited evidence establishes that investigating further would have led to a successful mental-illness defense.

This conclusion rests in part on the difficulty to succeed relying on the defense. A successful mental-illness defense is rare because the standard to prevail is very high. To be excused from criminal liability due to mental illness, a defendant must prove that when he committed the offense he "was laboring under such a defect of reason, from [his mental illness], as not to know the nature of [his] act, or that it was wrong." Minn. Stat. § 611.026 (2020); *see also State v. Martin*, 591 N.W.2d 481, 486 (Minn. 1999). None of Reinbold's cited reports supports the conclusion that he was suffering from a mental illness that kept him from knowing either the nature of his act or that it was wrong. The posttrial evaluation comes closest but falls far short, merely speculating about what Reinbold "could have been going through" that "might have caused him to be in a psychotic state or certainly in a clinical state." The report fails to explain its conclusory and vague speculation. Reinbold did not give the postconviction court a sufficient reason to determine that a hearing would lead to evidence on which it might conclude that a reasonably competent attorney would have investigated a mental-illness defense.

Reinbold likens his situation to the one presented in *Rompilla v. Beard*, which we believe is inapposite. 545 U.S. 374 (2005). The *Rompilla* Court concluded that Rompilla's trial attorneys provided ineffective assistance of counsel because they failed to timely obtain and review his prior rape-conviction file, even though the file was publicly available and the attorneys knew the prosecutor would rely on it to support a death sentence. *Id.* at 383–84. By contrast here, Reinbold does not cite any reference in the record to suggest that

his attorney believed that the state intended to rely on his allegedly impaired mental condition at trial, which would be a nonsensical approach by the state. Reinbold fails to persuade us that the postconviction court abused its discretion by denying him a hearing on his mental-illness theory.

2. Failure to Present Evidence of Innocent Fleeing

Reinbold similarly unconvincingly argues that he made a sufficient showing to warrant an evidentiary hearing on his theory that his trial attorney failed to obtain and present evidence about his supposedly innocent flight from the murder scene. A trial attorney's performance is presumably reasonable, and his decisions about which defenses to advance at trial, how much to investigate, and which evidence to present are generally matters of unreviewable trial strategy. *State v. Vang*, 847 N.W.2d 248, 266–67 (Minn. 2014). The postconviction court applied that presumption, and we can affirm on that basis. We add that the court also considered, reasonably, that developing an innocent-flight defense would have placed Reinbold at the murder scene and exposed him—as the only witness who could have testified to the facts necessary to support the defense—to cross-examination. Either way, the postconviction court's reasoning is sound.

3. Failure to Present Evidence of Alternative Perpetrators

Reinbold argues next that he was entitled to a hearing to present evidence that his attorney's performance was deficient because he failed to investigate and present evidence of alternative perpetrators. This theory again presents a matter of subjective, discretionary, and unreviewable trial strategy rather than a matter of potentially objectively unreasonable trial performance. It can fail for this reason alone. *See Opsahl v. State*, 677 N.W.2d 414,

421 (Minn. 2004) (declining to substantively address a petitioner's failure-to-investigate-an-alternative-perpetrator claim because the decision was trial strategy). We explore it nonetheless to reveal its implausibility. The alternative alleged perpetrators that Reinbold identifies are Lissette's two children (Lee and his younger brother, who was about 12 years old at the time of the murder) and their father. We first discuss this theory as it regards the boys' father and then as it regards the boys.

Regarding the boys' father as the alternative perpetrator, Reinbold highlights several facts that he says demonstrate his motive and ability to commit the murder. He asserts that, as the supposed motive, there was "significant ongoing turmoil" between the boys' father and Lissette about custody of Lee and his brother. He points to Lissette's motion in her family-law file, seeking to remove a provision that restricted Reinbold's contact with the boys. He cites the father's affidavit opposing the motion, which expressed concerns that "[Reinbold] and Lissette presented alarming behaviors which suggested significant dysfunction and safety issues." And he highlights an interview of the boys' father two days after the murder, which reflects tension between the boys' father and Lissette:

> DEPUTY: [H]ow well did you get along with Lissette still?
>
> BOYS' FATHER: So um I can tell you while [Reinbold] was out of the picture is the best that we had gotten along in a long time.
>
> DEPUTY: Okay.
>
> BOYS' FATHER: She was very open to you know schedule changes or whatever so we got along in that sense pretty good. Other than that we have, it has been rocky you know. A lot of tension because especially with custody changing.

DEPUTY: Kids involved, custody issues. It makes it tough.

BOYS' FATHER: Yup.

Reinbold contends that this evidence reveals the child-custody motive to murder Lissette. Considering the state's weak case, Reinbold asserts, his attorney's lack of investigation into the custody file was unreasonably deficient and prejudiced him at trial.

Reinbold's assertion that he has identified a motive—a motive that is, at best, conjectural—fails to suggest that a plausible alternative-perpetrator defense existed. Concocting a theoretical motive is not enough to get an alternative-perpetrator defense in front of a jury. Alternative-perpetrator evidence is not admissible unless it is "coupled with other evidence having an inherent tendency to connect [the alternative perpetrator] with the actual commission of the crime." *State v. Hawkins*, 260 N.W.2d 150, 158–59 (Minn. 1977). Only after a defendant has laid that foundation may he "introduce evidence of a motive of the [alternative perpetrator] to commit the crime, threats by the [alternative perpetrator], or other miscellaneous facts which would tend to prove the [alternative perpetrator] committed the act." *Id.* at 159. Reinbold cites no evidence establishing that he could have laid the necessary foundation connecting the boys' father to the murder, leaving us certain that pursuing the defense would have been futile.

Reinbold criticizes the postconviction court's findings that support its determination that the boys' father had a valid alibi. But the criticism does not advance his argument on appeal. Attacking the alibi simply falls short of placing the father at the murder scene or otherwise connecting him to the crime as a potential perpetrator.

Regarding Lee and his brother as alternative perpetrators, Reinbold points to what he calls "striking" inconsistencies in their trial testimony. The postconviction court reasoned persuasively that Reinbold failed to show how these inconsistencies are material. Reinbold also suggests that Lee's failure to render aid to his mother implies that he committed the murder. He points to Lee's testimony that he saw her body but got no closer than "a couple feet" and that he did not telephone police. But Lee's testimony described conduct that is not at all suspicious for a fourteen-year-old boy who had just found his mother bloody and dead. He testified that after he saw her, he went inside "to call somebody to call the police for me" because he didn't know what to say. And his call log corroborated that he called close family members even though his testimony included minor inconsistencies about this. He testified that Reinbold's mother told him she would call 9-1-1, which informed him that help was on the way. Reinbold has identified nothing that calls into serious question the postconviction court's decision not to conduct an evidentiary hearing to explore his ineffective-assistance claim premised on the boys being presented as alternative perpetrators.

Reinbold highlights other evidence that he says should have prompted a hearing related to an alternative-perpetrator defense. He cites a text-message exchange the day before the murder in which he texted Lissette about the "bent bread knife" he found in the garage by "u know who." This message does not link anyone to the killing. He also cites text messages from April 2021 in which Lee's father's wife stated, "Honestly im starting to feel like he might stab me in my sleep," and, "I dont feel safe in this house. I really feel like hes plotting my murder. The hate he has for me." These messages might suggest that

Lee's father's wife was concerned for her own safety, but they do not indicate that someone other than Reinbold killed Lissette. The postconviction court was not bound to hold an evidentiary hearing on Reinbold's factually and logically weak alternative-perpetrator theory. And any other errors Reinbold now seems to assign to the postconviction court are harmless.

4. Failure to Obtain Family-Law File

Reinbold contends that his attorney's unreasonable failure to obtain his family-law file left him unarmed to counter the state's theory that Reinbold murdered Lissette because he was unhappy in their marriage. He cites as support Lissette's April 2021 affidavit in that file where she describes Reinbold's parenting in relatively positive terms and asks the district court to remove the provision that restricts Reinbold from contact with Lee and his brother. This too is merely a matter of trial strategy that we generally would not consider when assessing whether an attorney's performance fell below an objective standard of reasonableness. We add that introducing the affidavit from the family-law file might have allowed the jury to learn through Lissette's words that Reinbold had possessed a pipe bomb. Whether to risk introducing one's client's personal and potentially inflammatory family-law matters into his murder trial is certainly a question of strategy.

5. Opening the Door on Cross-Examination

Reinbold argues next that during cross-examination of a state witness his attorney deficiently and prejudicially opened the door to text messages between Reinbold and Lissette about their relationship without providing rehabilitating texts. The postconviction court rejected the argument because Reinbold's attorney had vigorously objected to the

state's introducing the damaging text messages throughout the proceedings and, having not succeeded, appropriately cross-examined the state witness. The record supports this determination. Reinbold's attorney sought to limit the more than 1,700 pages of text messages the district court might have allowed the state to introduce as admissible relationship evidence. And during cross-examination, Reinbold's attorney elicited testimony that the admitted messages might not "paint the whole picture" of Reinbold and Lissette's relationship; that none of the messages threatened Lissette with physical harm; that the messages included many words of affection; and that the state "cherry-picked" which messages to present. The postconviction court's record-supported characterization of the attorney's effort to minimize the quantity of messages and then to minimize the harm they caused satisfies us that an evidentiary hearing was unnecessary to decide whether the attorney's performance was constitutionally unreasonable.

6. Obtaining TeleMainia Records

Reinbold argues last that his trial attorney's failure to properly subpoena records from TeleMainia, purportedly a Nevada phone-sex services company where Lissette allegedly worked, was constitutionally deficient and prejudiced his defense. The postconviction court determined that no hearing was necessary and that the attorney's performance was not deficient because pursuing the records "was a course of action that trial counsel considered but then rejected." The record supports that determination. A pretrial-hearing transcript shows that his attorney weighed the importance of the files:

> We've subpoenaed the records and they've not responded and they're an out-of-state party, and so I don't know that I could lay foundation, but to any extent that anybody opens that door,

> it was one of the things that she was doing, and so I don't know if that created an issue in this relationship or not, but to the extent anybody testifies about what she was doing for work, I don't know.

We repeat that decisions about which evidence to present to the jury are matters of trial strategy. *Vang*, 847 N.W.2d at 267. And on this issue, the risk of being perceived as attacking a murder victim with evidence about her alleged work at a phone-sex services company would be obvious to any reasonably competent defense attorney, and the danger of pursing that course is particularly high when the attorney "do[esn't] know if that created an issue in this relationship or not." The postconviction court appropriately treated this as a matter of trial strategy that does not implicate Reinbold's right to adequate representation.

In sum, the postconviction court did not abuse its discretion by dismissing Reinbold's postconviction petition without a hearing on his ineffective-assistance claims. Reinbold's invocation of other authority, such as *State v. Rhodes*, 627 N.W.2d 74 (Minn. 2001), does not persuade us to a different conclusion. We turn to Reinbold's sentencing arguments.

II

Reinbold argues that the district court erred when it departed upward from the presumptive guidelines sentence and imposed a sentence of 480 months in prison. We review *de novo* a district court's stated reason for departing upward and, if we determine that the district court's stated grounds justify departing, we review the decision to depart for an abuse of discretion. *Dillon v. State*, 781 N.W.2d 588, 595 (Minn. App. 2010), *rev.*

denied (Minn. July 20, 2010). Applying that standard, we affirm Reinbold's sentence for the following reasons.

Reinbold challenges the district court's rationale for imposing a sentence that exceeds the presumptive sentence of 366 months designated by the sentencing guidelines for his offense. Although the sentencing guidelines designate a convicted defendant's presumptive sentence, the district court may depart upward from that sentence when a substantial and compelling reason justifies departing. Minn. Sent'g Guidelines 2.D.1 (2020). One of those reasons is particular cruelty, meaning that a district court may depart upward if it determines that a defendant committed the crime in a "particularly cruel" manner, including "the gratuitous infliction of pain and cruelty of a kind not usually associated with the commission of the offense in question." *State v. Rourke*, 773 N.W.2d 913, 922 (Minn. 2009) (quotation omitted); Minn. Sent'g Guidelines 2.D.3.b(2) (2020). A defendant has the right to a jury's consideration of whether the defendant has in fact—beyond a reasonable doubt—engaged in conduct that supports an aggravating factor, like particular cruelty. *Rourke*, 773 N.W.2d at 919–22 (discussing *Blakely v. Washington*, 542 U.S. 296 (2004)). The district court can then rely on jury findings of fact to decide whether, in its discretion, to depart from the presumptive guidelines sentence. *Id.* We address the departure for particular cruelty here based on the two facts the district court relied on: the manner of the stabbing and the manner of leaving the body.

1. Multiple Stab Wounds

Reinbold first contends that the jury's finding that he stabbed Lissette "multiple" times is insufficient as a matter of law to support the district court's particular-cruelty

determination. He maintains specifically that the jury's response on the verdict form implies merely that the jury found that she was stabbed more than once, which is not more serious than conduct typically involved in murder. But "[t]he manner of use of a single deadly weapon . . . has been held sufficient to establish particular cruelty and to justify a double or less-than-double departure." *State v. Musse*, 981 N.W.2d 216, 223 (Minn. App. 2022), *rev. denied* (Minn. Dec. 28, 2022); *see also State v. Rathbun*, 347 N.W.2d 548, 548–49 (Minn. App. 1984) (affirming a finding of particular cruelty when the defendant slashed and stabbed the victim 23 times and left him to die in a ditch); *State v. Kisch*, 346 N.W.2d 130, 131, 133 (Minn. 1984) (affirming a limited upward durational departure based in part on the fact that the victim received four blows to the head). The jury here found that Reinbold stabbed Lissette "multiple" times after receiving evidence showing many wounds to her throat, chin, chest, and hand.

Reinbold argues that the district court erroneously based its departure on the fact that Lissette was stabbed 27 times when the jury's verdict did not specify the number of stabs. He maintains that, based on the evidence presented at trial, the maximum number of stab wounds that the jury could have found was eight. Assuming (without deciding) that this is so, the argument does not lead us to reverse. The transcript of the district court's reasoning at sentencing does not indicate that the district court departed upward based on any specific number of stab wounds. Recapping the evidence presented to the jury at trial, the district court observed that the evidence supported the jury's special-verdict finding of "multiple" stab wounds based on the district court's recollection of the evidence:

> [T]he other part of that aggravating factor that went to the jury was stabbing Lissette Reinbold multiple times. There was no number that was affixed to that question, but the word "multiple." Now, the evidence at trial was clear that it established a number, 27 times. That is a lot of times in this Court's consideration. The jury found as well that the stabbing occurred multiple times. The Court recognizes that the evidence at trial indicated 27 times, and so the bottom line is that the Court does find that the question posed to the jury does constitute a question about particular cruelty and that the jury found that beyond a reasonable doubt. The Court accepts the verdict of the jury and finds that the evidence presented at trial does support that.

The jury's finding that Reinbold stabbed Lissette more than once, as discussed above, was an adequate basis for departure. Whether the district court accurately numbered the multiple stabs based on the evidence does not undermine its determination that the jury's finding was supported by sufficient evidence and that the multiple stabs constitute particular cruelty. Acting within its discretion, it relied on that aggravating factor to depart upward and sentence Reinbold to serve 480 months.

2. Intended Discovery by Children

Reinbold argues also that the special verdict cannot support a particular cruelty determination because it does not say that Reinbold intended that one of Lissette's children find her body. The special-verdict form indeed asked only whether one of Lissette's children found her, not whether Reinbold intended that result. We agree that the additional determination that Reinbold intended to leave the body for the children to discover was a district court fact finding and that this violated *Blakely*'s requirement that an aggravated sentence rest only on a jury's findings or the defendant's admission. *See* 542 U.S. at 301–03. But *Blakely* errors are subject to harmless-error analysis, *State v. Dettman*, 719 N.W.2d

644, 655 (Minn. 2006), and we hold that the error here was harmless. Although this alternative basis for the particular-cruelty determination omits the necessary jury finding on *mens rea*, the omission does not undermine the district court's determination that Reinbold committed the murder with particular cruelty based on the jury's finding of multiple stabbings. The state had focused especially on the multiplicity of stabbings to support the determination, arguing that our "appellate courts have repeatedly held that stabbing a victim multiple times was particularly cruel." The sole aggravating factor of particular cruelty may justify an upward departure. *State v. Harwell*, 515 N.W.2d 105, 109 (Minn. App. 1994), *rev. denied* (Minn. June 15, 1994). And we have relied on a single factual circumstance to justify a particular-cruelty determination. *See, e.g.*, *State v. Grampre*, 766 N.W.2d 347, 352 (Minn. App. 2009) (holding that "Grampre's use of the knife is sufficient to support the finding of particular cruelty" during a sexual assault), *rev. denied* (Minn. Aug. 26, 2009); *State v. Losh*, 721 N.W.2d 886, 896 (Minn. 2006) (holding that a kidnapper's leaving her victim in an unsafe place by a swamp constituted particular cruelty); *see also Rourke*, 773 N.W.2d at 923 (instructing the district court on remand to submit to the sentencing jury "one or more" special interrogatories to determine whether the state has proved "a factual circumstance" to support a particular-cruelty determination). The district court here determined that the jury found that the "stabbing occurred multiple times" and concluded, "[T]he bottom line is that the Court does find that the question posed to the jury does constitute a question about particular cruelty and that the jury found that beyond a reasonable doubt." The court then accepted the jury's finding and determined that an aggravated sentence was appropriate. We hold that the district court's additional reliance

on the unsupported finding of intended discovery of Lissette's body was a harmless error with no effect on the sentence.

Affirmed.