

STATE OF MINNESOTA

IN SUPREME COURT

A18-1002

A19-1083

Hennepin County

Hudson, J.

Diamond Lee Jamal Griffin,

Appellant,

vs.

Filed: April 8, 2020
Office of Appellate Courts

State of Minnesota,

Respondent.

Diamond Lee Jamal Griffin, Rush City, Minnesota, pro se.

Keith Ellison, Attorney General, Saint Paul, Minnesota; and

Michael O. Freeman, Hennepin County Attorney, Brittany D. Lawonn, Assistant County Attorney, Minneapolis, Minnesota, for respondent.

S Y L L A B U S

1. The district court did not abuse its discretion by denying appellant postconviction relief with respect to his claim of ineffective assistance of trial counsel made in his first petition for postconviction relief.

2. The district court did not abuse its discretion by denying appellant's second petition for postconviction relief because the claims are time-barred under Minn. Stat. § 590.01, subd. 4(a) (2018).

Affirmed.

Considered and decided by the court without oral argument.

OPINION

HUDSON, Justice.

Appellant Diamond Lee Jamal Griffin appeals the district court's denial of his ineffective-assistance-of-trial-counsel claim, raised in his first petition for postconviction relief, and the claims raised in his second petition for postconviction relief. Because we conclude that the district court did not abuse its discretion in denying Griffin's claims, we affirm.

FACTS

A Hennepin County grand jury indicted Griffin on six charges related to events that occurred on the evening of July 8, 2013. Griffin and an accomplice, Ryan Grant, entered the backyard of Francisco Benitez-Hernandez's home with a plan to rob Benitez-Hernandez and the two other men present in the backyard. When the men resisted, Griffin fatally shot Benitez-Hernandez in the chest. One of the other men was also injured.

Two public defenders represented Griffin during the district court proceedings. On October 21, 2014, Griffin rejected a plea offer from the State that would have allowed him to plead guilty to second-degree intentional murder in exchange for a sentence of 330 months in prison. The case then proceeded to trial.

The jury found Griffin guilty of first-degree felony murder, attempted first-degree felony murder, and second-degree assault. For the first-degree felony murder conviction, the district court imposed a sentence of life in prison with the possibility of release after 30 years. Griffin also received 153 months in prison for his attempted first-degree felony murder conviction and 36 months in prison for his second-degree assault conviction, with both sentences to be served consecutively to each other and to the first-degree felony murder sentence. We affirmed Griffin's convictions in his direct appeal. *State v. Griffin*, 887 N.W.2d 257, 265 (Minn. 2016).

Proceeding pro se, Griffin filed his first petition for postconviction relief with the district court on April 28, 2017. In that petition, he raised some of the same issues addressed in his direct appeal, but also claimed that he received ineffective assistance of trial counsel because his attorneys told him not to accept the State's 2014 plea offer. He alleged that his attorneys told him to reject the offer because the State would not be able to prove its case. On August 9, 2017, the district court denied all the claims in Griffin's first petition with the exception of the ineffective-assistance-of-trial-counsel claim, and ordered an evidentiary hearing on that claim.

Both of Griffin's trial attorneys testified at the evidentiary hearing that they never told Griffin to reject the plea offer and never guaranteed him a certain outcome at trial. The day after the hearing, the district court issued an order denying Griffin's postconviction claim for ineffective assistance of trial counsel.

Griffin appealed the district court's order denying him postconviction relief for his claim of ineffective assistance of trial counsel. We stayed that appeal so Griffin could file

a second petition for postconviction relief. Still proceeding pro se, Griffin filed his second petition for postconviction relief with the district court on March 21, 2019. His second petition requested relief based on claims for (1) alleged *Brady*¹ violations; (2) ineffective assistance of appellate counsel; and (3) the district court’s alleged failure to safeguard his right to a fair trial. The district court summarily denied Griffin’s second postconviction petition for relief. Griffin appealed that decision. We then issued an order vacating the stay in his first appeal and consolidating Griffin’s two appeals.

ANALYSIS

We review a district court’s denial of a postconviction petition for relief for an abuse of discretion. *Brown v. State*, 863 N.W.2d 781, 786 (Minn. 2015). We will not reverse a district court’s denial of a petition for relief unless the court “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.” *Reed v. State*, 793 N.W.2d 725, 729 (Minn. 2010). Griffin argues on appeal that the district court abused its discretion by denying him postconviction relief based on ineffective assistance of trial counsel and by summarily denying his second petition for postconviction relief. We consider each of his arguments in turn.

I.

Griffin argues that he is entitled to postconviction relief because he received ineffective assistance of trial counsel concerning the plea negotiations. The test from

¹ *Brady v. Maryland*, 373 U.S. 83 (1963).

Strickland v. Washington, 466 U.S. 668 (1984), applies to such claims. *Hill v. Lockhart*, 474 U.S. 52, 58 (1985) (“We hold . . . that the two-part *Strickland v. Washington* test applies to challenges to guilty pleas based on ineffective assistance of counsel.”); *see also Gates v. State*, 398 N.W.2d 558, 561–62 (Minn. 1987) (discussing the *Strickland* test for ineffective assistance of counsel). To prove that he is entitled to relief, Griffin must make two showings.

First, Griffin must establish that his “counsel’s representation fell below an objective standard of reasonableness.” *Strickland*, 466 U.S. at 688. Review of counsel’s performance under this prong is “highly deferential.” *Id.* at 689. Second, Griffin must demonstrate “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Id.* at 694. In the plea bargain context, a defendant is prejudiced by ineffective assistance of counsel “if there is a reasonable likelihood the plea bargain would have been accepted had the defendant been properly advised.” *Leake v. State*, 737 N.W.2d 531, 540 (Minn. 2007). We may address the *Strickland* prongs in either order and “dispose of a claim on one prong without analyzing the other.” *Jackson v. State*, 817 N.W.2d 717, 722 (Minn. 2012).

The district court held an evidentiary hearing on Griffin’s claim that his trial attorneys were ineffective because they advised him to reject the State’s plea offer. The district court heard testimony from Griffin and his two trial attorneys and made factual findings regarding what those attorneys told Griffin about the State’s plea offer. We will not disturb the district court’s findings of fact unless they are “clearly erroneous.” *State v. Andersen*, 784 N.W.2d 320, 334 (Minn. 2010) (“Findings of fact are clearly erroneous if,

on the entire evidence, we are left with the definite and firm conviction that a mistake occurred.”).

Griffin argues that trial counsel’s performance was objectively unreasonable because his attorneys said they were “confident they can beat the case,” told him that the State would not be able to prove intent to kill, and urged him to reject the State’s plea offer. As support for this argument, he quotes the transcript of his own testimony at the evidentiary hearing before the district court, where he testified that both of his trial attorneys assured him on multiple occasions that the State would lose at trial.

The district court is in the best position to evaluate witness credibility, and we defer to those determinations absent a clear error. *Miles v. State*, 840 N.W.2d 195, 201 (Minn. 2013). The district court considered Griffin’s testimony at the evidentiary hearing and did not find it credible. The court also heard testimony from Griffin’s trial attorneys, who both testified that they never promised Griffin that they would achieve a certain outcome at trial or told him to reject the plea offer, and the court found their testimony to be credible. The district court considered this conflicting testimony, made detailed findings regarding the respective claims, and did not clearly err when it credited the trial attorneys’ testimony and rejected Griffin’s testimony. *See Robinson v. State*, 567 N.W.2d 491, 495 (Minn. 1997) (holding that the district court did not clearly err when it credited the testimony of trial counsel that he conveyed the State’s plea offer to the defendant and when it rejected the defendant’s testimony that his trial counsel did not tell him about the State’s plea offer). Nothing in the record leaves us with a “definite and firm conviction” that the district court’s findings were mistaken on this point. *Andersen*, 784 N.W.2d at 334.

Based on the above, we conclude that Griffin has not satisfied the first prong of *Strickland*. He presented no evidence to demonstrate that his trial counsel’s representation fell below an objective standard of reasonableness other than his own testimony, and the district court did not clearly err by finding that his testimony lacked credibility. We therefore hold that the district court did not abuse its discretion in denying Griffin postconviction relief based on the ineffective-assistance-of-trial-counsel claim raised in Griffin’s first petition.

II.

Griffin’s second petition for postconviction relief raised claims for (1) alleged *Brady* violations; (2) alleged ineffective assistance of appellate counsel; and (3) the district court’s alleged failure to safeguard his right to a fair trial. Griffin argues that the district court abused its discretion when it summarily denied these claims without a hearing.

A district court “must hold an evidentiary hearing” on a postconviction petition “ ‘[u]nless the petition and the files and records of the proceeding conclusively show that the petitioner is entitled to no relief.’ ” *Wayne v. State*, 866 N.W.2d 917, 919 (Minn. 2015) (quoting Minn. Stat. § 590.04, subd. 1 (2018)). “A petitioner is not entitled to relief and ‘[n]o hearing is required if a petition is untimely under the postconviction statute of limitations.’ ” *Odell v. State*, 931 N.W.2d 103, 106 (Minn. 2019) (quoting *Bolstad v. State*, 878 N.W.2d 493, 496 (Minn. 2016)). A claim for postconviction relief is time-barred if it is not filed within 2 years of the later of (1) the entry of judgment of conviction or sentence if the defendant has not filed a direct appeal or (2) the disposition of a defendant’s direct appeal by an appellate court. Minn. Stat. § 590.01, subd. 4(a) (2018).

We decided Griffin’s direct appeal on November 16, 2016. *Griffin*, 887 N.W.2d at 257. Because Griffin did not file a petition for certiorari with the Supreme Court of the United States after our decision on direct appeal, his conviction became “final” for purposes of the time-bar on February 14, 2017. *See Berkovitz v. State*, 826 N.W.2d 203, 207 (Minn. 2013) (“When an appellant does not file a petition for certiorari with the Supreme Court of the United States following our decision on direct appeal, the appellant’s conviction becomes ‘final’ 90 days after our decision for purposes of Minn. Stat. § 590.01, subd. 4(a)(2).”) Griffin filed his second petition on March 21, 2019, more than 2 years after his conviction became final. As a result, all of Griffin’s claims in his second petition are time-barred unless he has adequately invoked a statutory exception and established its application.

There are exceptions to the 2-year time-bar. *See* Minn. Stat. § 590.01, subd. 4(b) (2018). But if the petitioner does not invoke any of the exceptions, we need not consider them. *Clifton v. State*, 830 N.W.2d 434, 438 n.2 (Minn. 2013). Griffin has not invoked any exception to the 2-year time-bar for his claims of ineffective assistance of appellate counsel or the district court’s alleged failure to safeguard his right to a fair trial. Because these claims are untimely, the district court did not abuse its discretion when it summarily denied these claims.

Griffin did invoke an exception to the time-bar for his *Brady*-violations claim. His second petition alleges that he has newly discovered evidence of *Brady* violations.² The

² A *Brady* violation occurs when the State suppresses material evidence favorable to the defendant despite a request for production by the defense. *Brady*, 373 U.S. at 87 (“We

newly-discovered-evidence exception allows a court to consider the merits of a petition for postconviction relief despite the 2-year time-bar if “the petitioner alleges the existence of newly discovered evidence” that “could not have been ascertained . . . within the two-year time period for filing a postconviction petition.” Minn. Stat. § 590.01, subd. 4(b)(2). The petitioner must show that the newly discovered evidence is “not cumulative to evidence presented at trial, is not for impeachment purposes, and *establishes by a clear and convincing standard that the petitioner is innocent*” of the offenses for which they were convicted. *Id.* (emphasis added).

The newly-discovered-evidence exception does not apply to Griffin’s *Brady*-violations claim. Griffin alleges that the State withheld information about (1) the use of an alias by murder victim Benitez-Hernandez; (2) Benitez-Hernandez’s possible criminal history; and (3) the use of an alias by victim and State’s witness P.Y-E. Even taking the allegations as true, the *Brady* evidence does not establish that Griffin is innocent of any of the offenses for which he was convicted. Even if Benitez-Hernandez used an alias and had a criminal history, those facts do not prove that Griffin is innocent of any of the offenses for which he was convicted. The same can be said of any information regarding P.Y-E.’s alias; the use of an alias by P.Y-E. does not contradict his trial testimony regarding the events of July 8, 2013, and does not establish Griffin’s innocence. Griffin’s *Brady*-violations claim fails under the newly-discovered-evidence exception and is barred by the

now hold that the suppression 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.”).

2-year statute of limitations. The district court, therefore, did not abuse its discretion when it summarily denied Griffin's *Brady*-violations claim.

CONCLUSION

For the foregoing reasons, we affirm the decisions of the district court.

Affirmed.