

Filed 6/27/19 by Clerk of Supreme Court
IN THE SUPREME COURT
STATE OF NORTH DAKOTA

2019 ND 148

Martin Thomas Blackcloud
a/k/a Martin Thomas Black Cloud,

Petitioner and Appellant

v.

State of North Dakota,

Respondent and Appellee

No. 20190029

Appeal from the District Court of Burleigh County, South Central Judicial District, the Honorable Gail Hagerty, Judge.

AFFIRMED.

Per Curiam.

Scott O. Diamond, Fargo, ND, for petitioner and appellant; submitted on brief.

Julie A. Lawyer, Burleigh County State's Attorney, Bismarck, ND, for respondent and appellee; submitted on brief.

Blackcloud v. State
No. 20190029

Per Curiam.

[¶1] Martin Blackcloud, also known as Martin Black Cloud, appeals from a district court order denying his application for post-conviction relief. Blackcloud’s conviction for gross sexual imposition was affirmed in *State v. Blackcloud*, 2015 ND 108, 865 N.W.2d 124. On this appeal Blackcloud argues the district court erred in denying his application for post-conviction relief. The application alleged newly discovered evidence exists which would impeach the trial testimony and show Blackcloud did not engage in the charged conduct. The district court conducted an evidentiary hearing and denied Blackcloud’s application.

[¶2] The district court’s findings of fact are not clearly erroneous, and evidence supports the district court’s finding the evidence was not newly discovered and would not result in an acquittal. We summarily affirm under N.D.R.App.P. 35.1(a)(2).

[¶3] Gerald W. VandeWalle, C.J.
Daniel J. Crothers
Jerod E. Tufte
Jon J. Jensen
Lisa Fair McEvers