

IN THE NEBRASKA COURT OF APPEALS

**MEMORANDUM OPINION AND JUDGMENT ON APPEAL
(Memorandum Web Opinion)**

STATE V. WOOLRIDGE-JONES

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STATE OF NEBRASKA, APPELLEE,

v.

MAKHI WOOLRIDGE-JONES, APPELLANT.

Filed September 8, 2026. No. A-25-701.

Appeal from the District Court for Douglas County: JAMES M. MASTELLER, Judge.
Affirmed.

Makhi Woolridge-Jones, pro se.

Michael T. Hilgers, Attorney General, and Jordan Osborne for appellee.

RIEDMANN, Chief Judge, and PIRTLE and PICCOLO, Judges.

RIEDMANN, Chief Judge.

I. INTRODUCTION

Makhi Woolridge-Jones appeals from the order of the district court for Douglas County denying his motion for postconviction relief without an evidentiary hearing. Following our review, we affirm the order of the district court.

II. BACKGROUND

After a jury trial, Woolridge-Jones was convicted of second degree murder, second degree assault, and two counts of use of a deadly weapon to commit a felony. We summarize only that evidence presented at trial that is necessary to resolve the issues raised in this appeal.

1. TRIAL AND DIRECT APPEAL

On April 17, 2021, Woolridge-Jones was at a shopping mall when he and his companions were approached by Trequez Swift and another individual. The altercation that followed was

captured by surveillance cameras, but only one video clip had sound. During the argument, Woolridge-Jones and Swift can be seen gesturing back and forth. At one point, Swift turned, set down his shopping bags, and turned back to face Woolridge-Jones. Swift appeared to have his hands near his waist. One witness described the incident to police by saying that Swift “turned around like he was going to punch the boy.”

Woolridge-Jones pulled out a gun, pointed it at Swift, and fired two shots. Swift fell and Woolridge-Jones moved toward Swift, stood over him, and pointed the gun at him. Swift appeared to kick toward the gun, the clip fell out, and Swift got up and limped away. Woolridge-Jones picked up the clip and inserted it, ran after Swift, raised his arm, and fired two additional shots toward Swift. Swift was shot twice, once in the back/hip area and once in the left buttock, and he died from these injuries.

Woolridge-Jones told police that he had had the gun for about a week or two and thought that everyone should carry a gun. He explained to the police that Swift had threatened to kill him, that he was terrified, and that he shot at Swift to get Swift away from him. There was testimony that Swift was a gang member, had multiple “locates” for homicide investigations, which meant police desired to speak with him in connection with a homicide, and had prior involvement with guns. Swift’s social media page included a reference to gangs. The jury was instructed on both self-defense and defense of others.

Following his convictions and sentencing, Woolridge-Jones filed a direct appeal and was represented by trial counsel. He assigned that the district court erred in excluding certain evidence, that the evidence was insufficient to support his convictions, and that the sentences imposed were excessive. See *State v. Woolridge-Jones*, 316 Neb. 500, 5 N.W.3d 426 (2024). His convictions and sentences were affirmed. *Id.* The mandate was issued in May 2024.

2. POSTCONVICTION PROCEEDINGS

In February 2025, Woolridge-Jones filed a timely verified motion for postconviction relief. Woolridge-Jones alleged that he had received ineffective assistance of trial counsel when counsel failed to: (1) investigate and present a social media video of Swift’s sister that contained exculpatory evidence regarding Swift’s prior conflict with members of Woolridge-Jones’ group; (2) introduce video footage showing Swift taunting and antagonizing an individual at the mall prior to the April 17, 2021, incident; and (3) call witnesses who could testify to Swift’s history of aggression and context leading up to the altercation. Woolridge-Jones alleged that counsel was ineffective in failing to raise claims on direct appeal that the district court erred in (4) failing to remedy improper testimony regarding his alleged attempts to purchase a gun and (5) not addressing improper testimony regarding his credibility. The district court denied the motion for postconviction relief without an evidentiary hearing. Additional background will be discussed below as necessary.

III. ASSIGNMENTS OF ERROR

Woolridge-Jones assigns, combined, reordered, and restated, that the district court erred in denying his motion for postconviction relief without an evidentiary hearing by: (1) treating a social media post exclusively as hearsay and failing to consider admissible nonhearsay or exception uses; (2) finding no prejudice related to a video showing the victim in a group of people taunting an

individual at the mall; (3) dismissing a claim related to trial counsel’s failure to present testimony from witnesses as insufficiently pled, without affording leave to amend or appointing counsel; (4) upholding testimony implying he attempted to purchase a gun based on a theory that the defense had opened the door; and (5) concluding a detective’s testimony opining that Woolridge-Jones was not “100 percent accurate” was harmless and failing to recognize it as an inadmissible credibility opinion.

IV. STANDARD OF REVIEW

In appeals from postconviction proceedings, an appellate court reviews de novo a determination that the defendant failed to allege sufficient facts to demonstrate a violation of his or her constitutional rights or that the record and files affirmatively show that the defendant is entitled to no relief. *State v. Bershon*, 33 Neb. App. 523, 18 N.W.3d 810 (2025).

On appeal from the denial of postconviction relief without an evidentiary hearing, the question is not whether the movant was entitled to relief by having made the requisite showing. *Id.* Instead, it must be determined whether the allegations were sufficient to grant an evidentiary hearing. *Id.*

V. ANALYSIS

Woolridge-Jones raised five claims in his motion for postconviction relief, all related to ineffective assistance of counsel. On appeal, he assigns error to the denial of each claim. We first set forth the applicable case law before addressing each assigned error.

Postconviction relief is available to a prisoner in custody under sentence who seeks to be released on the ground that there was a denial or infringement of his or her constitutional rights such that the judgment was void or voidable. *State v. Cox*, 314 Neb. 104, 989 N.W.2d 65 (2023). Thus, in a motion for postconviction relief, the defendant must allege facts which, if proved, constitute a denial or violation of his or her rights under the U.S. or Nebraska Constitution, causing the judgment against the defendant to be void or voidable. *Id.* The district court must grant an evidentiary hearing to resolve the claims in a postconviction motion when the motion contains factual allegations which, if proved, constitute an infringement of the defendant’s rights under the state or federal Constitution. *Id.*

However, the allegations in a motion for postconviction relief must be sufficiently specific for the district court to make a preliminary determination as to whether an evidentiary hearing is justified. *Id.* An evidentiary hearing is not required on a motion for postconviction relief when (1) the motion does not contain factual allegations which, if proved, constitute an infringement of the movant’s constitutional rights rendering the judgment void or voidable; (2) the motion alleges only conclusions of fact or law without supporting facts; or (3) the records and files affirmatively show that the defendant is entitled to no relief. *Id.*

In order to establish a right to postconviction relief based on a claim of ineffective assistance of counsel, the defendant has the burden, in accordance with *Strickland v. Washington*, 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984), to show that counsel’s performance was deficient and that counsel’s deficient performance prejudiced the defense in his or her case. *State v. Bershon, supra*. The two prongs of this test—deficient performance and prejudice—may be addressed in either order, and the entire ineffectiveness analysis is viewed with a strong

presumption that counsel's actions were reasonable. *Id.* To show that counsel's performance was deficient, a defendant must show that counsel's performance did not equal that of a lawyer with ordinary training and skill in criminal law. *Id.* To establish prejudice, the defendant must demonstrate a reasonable probability that but for counsel's deficient performance, the result of the proceeding would have been different. *Id.*

1. SOCIAL MEDIA VIDEO

Woolridge-Jones assigns that the district court erred in denying his motion for postconviction relief without an evidentiary hearing by treating a social media post exclusively as hearsay and failing to consider admissible nonhearsay or exception uses. We find that Woolridge-Jones failed to allege facts that constitute deficient performance and the district court did not err in denying this claim without an evidentiary hearing. In his motion for postconviction relief, Woolridge-Jones claimed that trial counsel was ineffective in failing to investigate and present social media video footage created by Swift's sister that indicated Swift's approach "was motivated by previous disputes with one member of [Woolridge-Jones'] group and would have provided critical context for self-defense, defense of others' claims, or the defense's theory that provocation occurred." Woolridge-Jones' motion for postconviction relief makes clear he was asserting the video be admitted for the truth of the matter asserted. In addition to the language quoted above, he states in his motion that it "would have provided critical evidence regarding the motive behind [Swift's] actions" and that the "comments [contained in the video] included references to prior conflicts with one member of [Woolridge-Jones'] group and her role in prompting the altercation."

For the video to have had the effect Woolridge-Jones claims, it would have had to have been admitted for the truth of the matter and would be hearsay. Hearsay is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted. Neb. Rev. Stat. § 27-801(3) (Cum. Supp. 2024). Hearsay is not admissible unless otherwise provided for in the Nebraska Evidence Rules or elsewhere. *State v. Munoz*, 309 Neb. 285, 959 N.W.2d 806 (2021). As a matter of law, counsel is not ineffective for not attempting to adduce inadmissible testimony. *Id.* Here, counsel's failure to offer inadmissible evidence would not constitute deficient performance. This claim did not allege facts which, if proved, constituted an infringement of Woolridge-Jones' constitutional rights rendering the judgment void or voidable. Therefore, he was not entitled to an evidentiary hearing on this claim.

2. TAUNTING VIDEO

Woolridge-Jones assigns that the district court erred in denying his motion for postconviction relief without an evidentiary hearing by finding no prejudice in the exclusion of a video showing the victim in a group of people taunting an individual at the mall. We find that even if Woolridge-Jones could establish deficient performance, he cannot show prejudice. The records and files affirmatively establish he is entitled to no relief; therefore, he was not entitled to an evidentiary hearing on this claim.

Our case law provides that when reviewing claims of ineffective assistance of counsel, we may review the two prongs of the test in either order. See *State v. Bershon*, 33 Neb. App. 523, 18 N.W.3d 810 (2025). Here, we review the prejudice prong, as it is dispositive of this claim. In his

motion for postconviction relief, Woolridge-Jones claimed that trial counsel was ineffective in failing to introduce video footage showing Swift taunting and antagonizing an individual at the mall at some unidentified date, evincing Swift's aggressive tendencies. This video was cumulative to other evidence.

The jury was aware of Swift's gang membership, locates for homicide investigations, prior history with guns, and the reference to gangs on his social media page. Woolridge-Jones told police that Swift had threatened to kill him and that he was terrified. There was already evidence before the jury regarding Swift's aggressive character.

On appeal, Woolridge-Jones argues that the taunting video evidence is different from other evidence because instead of "generalized reputation or a distant conviction, a mall-floor video filmed in the same venue powerfully corroborates first-aggressor in a way jurors intuitively grasp. . . ." Brief for appellant at 34. Even if this evidence had been introduced, it would not negate the video showing Swift limping away, and Woolridge-Jones running after Swift and firing additional shots. There is not a reasonable probability that, had this video been presented, the result of the proceedings would have been different. The records and files affirmatory establish that Woolridge-Jones is not entitled to relief, and the district court did not err in denying this claim without an evidentiary hearing.

3. WITNESSES

Woolridge-Jones assigns that the district court erred by denying his motion for postconviction relief without an evidentiary hearing by dismissing a claim related to trial counsel's failure to present testimony from witnesses as insufficiently pled without affording leave to amend or appointing counsel. We review whether the district court erred in dismissing Woolridge-Jones' claim without giving leave to amend for an abuse of discretion, and we find none. See *State v. Jackson*, 32 Neb. App. 563, 2 N.W.3d 203(2024).

We first note that the record does not show that Woolridge-Jones requested leave to file an amended motion. A trial court cannot err in failing to decide an issue not raised, and an appellate court will not consider an issue for the first time on appeal that was not presented to or passed upon by the trial court. *Larson v. Larson*, 33 Neb. App. 609, 23 N.W.3d 670 (2025). But even if Woolridge-Jones had moved to amend after the State had submitted its answer or the district court denied the motion for postconviction relief, we would still find it did not abuse its discretion in denying such motion. This court has previously found no abuse of discretion when a district court denied leave to amend a motion for postconviction relief when the motion was filed after the matter had been submitted to the district court for decision. See *Jackson, supra*. Here, had Woolridge-Jones requested leave to amend after the matter had been submitted, the district court would not have abused its discretion in denying the motion.

Woolridge-Jones argues that trial counsel was ineffective in failing to investigate potential witnesses. However, his assignment of error does not encompass this argument, and we do not address it. An alleged error must be both specifically assigned and specifically argued in the brief of the party asserting the error to be considered by an appellate court. *State v. Lopez*, 321 Neb. 118, 32 N.W.3d 868 (2026). Woolridge-Jones assigns, but does not argue, that the district court erred in dismissing his claim without appointing counsel. As this error is not argued, we do not address it. See *id.*

4. GUN PURCHASE

Woolridge-Jones assigns that the district court erred in denying his motion for postconviction relief without an evidentiary hearing by upholding testimony implying he attempted to purchase a gun based on a theory that the defense had opened the door. Even if Woolridge-Jones could establish deficient performance, he cannot show prejudice. The records and files affirmatively establish he is entitled to no relief; therefore, he was not entitled to an evidentiary hearing on this claim.

(a) Additional Background

Woolridge-Jones filed a motion in limine seeking to prohibit the State from eliciting testimony or evidence related to social media messages that counsel believed the State would use to allege Woolridge-Jones attempted to purchase a gun. Trial counsel argued there was a lack of evidence linking Woolridge-Jones to the social media profile at issue. The district court sustained the motion.

At trial, Woolridge-Jones questioned police officer Matei Jackson about his suspicions that Woolridge-Jones was not being honest about where he got the gun. Jackson confirmed that Woolridge-Jones stated he had found the gun, but that Jackson “had other information in our investigation to prove that that wasn’t true.” On redirect, the State asked Jackson what information he had that would lead him to believe that Woolridge-Jones did not find the gun. Jackson stated that he had information that Woolridge-Jones had been trying to purchase a gun.

While Jackson was answering the question, Woolridge-Jones objected and requested a sidebar. Trial counsel argued that the only evidence of Woolridge-Jones trying to purchase a gun were the messages that were the subject of the motion in limine. The district court determined that Woolridge-Jones had “opened the door.” Trial counsel requested the testimony be stricken and the district court denied the request. The prosecutor stated that she would re-ask the question so that Jackson did not discuss the messages. After the sidebar, the State confirmed with Jackson that the testimony he had previously given was that based on other information he had, he did not believe Woolridge-Jones was being honest when he said he found the gun on a dirt road.

(b) Analysis

In his motion for postconviction relief, Woolridge-Jones alleged that appellate counsel was ineffective in failing to argue that the district court “erred in not remedying improper testimony regarding [Woolridge-Jones’] alleged attempt to purchase a [gun].” Woolridge-Jones objected to the testimony and requested it be stricken but did not request the jury be ordered to disregard it. Our case law provides that when reviewing claims of ineffective assistance of counsel, we may review the two prongs of the test in either order. See *State v. Bershon*, 33 Neb. App. 523, 18 N.W.3d 810 (2025). Here, we review the prejudice prong, as it is dispositive of this claim.

Woolridge-Jones argues that “[t]he redirect insinuation suggested a propensity to arm, cutting against self-defense and bolstering malice.” Brief for appellant at 46. Woolridge-Jones told police that he had had the gun for about a week or two and thought that everyone should carry a gun. Regardless of how he obtained it, the evidence showed that Woolridge-Jones had possession of the gun days prior to the shooting and had it with him at the mall the day of the shooting. The jury could reasonably infer that Woolridge-Jones made a conscious decision to have a gun at the

mall the day of the shooting. Further, where he obtained the gun has no effect on the surveillance video evidence showing that Woolridge-Jones did, indeed, possess a gun at the time of the incident.

There is not a reasonable probability that, had counsel assigned error to the district court's failure to take some step regarding this testimony, the result of the proceeding would have been different. As such, Woolridge-Jones cannot show prejudice. The records and files affirmatively establish that Woolridge-Jones is not entitled to relief, and the district court did not err in denying this claim without an evidentiary hearing.

5. CREDIBILITY OPINION

Woolridge-Jones assigns that the district court erred in concluding a detective's testimony opining that Woolridge-Jones was not "100 percent accurate" was harmless and failing to recognize it as an inadmissible credibility opinion. The district court determined that Woolridge-Jones was unable to demonstrate prejudice on this claim; we agree.

(a) Additional Background

At trial, the State played video clips from Jackson's interview with Woolridge-Jones and asked Jackson questions about it. In the interview, Jackson told Woolridge-Jones that although Woolridge-Jones had stated he dropped the gun in the mall, Jackson had watched most of the video and he did not believe that Woolridge-Jones did. Jackson told Woolridge-Jones that "everything that you've said to me is - is almost 100 percent accurate. . . ." The prosecutor asked Jackson, "Did you really think that he was almost 100 percent accurate with everything he was telling you?" Jackson responded that he did not. Woolridge-Jones objected, a sidebar was held, and the State agreed to rephrase the question. The State asked Jackson if using phrases like "[y]ou're being accurate" and "100 percent honest with me" was a tactic he used when interviewing people, and Jackson confirmed it was. Jackson explained that it established rapport and that agreeing with someone that they were being honest made them more inclined to give more information.

(b) Analysis

In his motion for postconviction relief, Woolridge-Jones alleged that appellate counsel was ineffective in failing to argue "that the [district] court erred in not addressing improper testimony regarding [Woolridge-Jones'] credibility" and that the district court "failed to instruct the jury to disregard this improper statement." Although he objected to the testimony, Woolridge-Jones did not request the district court instruct the jury to disregard it. The prejudice prong of the *Strickland* test is dispositive of this claim.

It is generally improper for a witness to testify as to the credibility of another witness. See *State v. Vazquez*, 319 Neb. 192, 21 N.W.3d 615 (2025). Although Woolridge-Jones did not testify at trial, we have previously found this rule to be applicable in a similar situation. In *In re Interest of Kyle O.*, 14 Neb. App. 61, 703 N.W.2d 909 (2005), a party attempted to enter a letter from his counselor into evidence at trial. The letter contained, in part, the opinion that the party was truthful. See *id.* The trial court excluded the letter and in finding it had not abused its discretion in so doing, this court noted it was normally improper for a witness to testify as to the credibility of another witness. See *id.* We expressed our belief that "the rule has equal application in the situation here, where [the party] did not testify." *Id.* at 65, 703 N.W.2d at 913. We noted that the counselor's

opinion that the party was telling the truth was irrelevant. See *id.* Here, after Woolridge-Jones objected to the testimony about whether Jackson had believed he was being accurate, the State rephrased, and the rephrased question clarified that Jackson was using an interview technique. There is ample evidence in the record for a jury to conclude that Woolridge-Jones was not being completely accurate in his interview, even without Jackson's statement. Woolridge-Jones told Jackson that one of the individuals with him at the mall was someone he knew from social media, but based on other information, Jackson knew them to be childhood friends. Woolridge-Jones told Jackson he did not chase Swift, but surveillance video showed that he chased Swift after the initial shots. Woolridge-Jones told Jackson he went home after the shooting, but there was evidence that Woolridge-Jones did not go right home after the shooting but, instead, went to a different house. This evidence confirmed that certain claims Woolridge-Jones made in his interview were not truthful.

There is not a reasonable probability that, had counsel assigned error to the district court's failure to instruct the jury to disregard this testimony, the result of the proceeding would have been different. The records and files affirmatively establish that Woolridge-Jones is not entitled to relief, and the district court did not err in denying this claim without an evidentiary hearing.

VI. CONCLUSION

We find that the district court did not err in denying Woolridge-Jones' motion for postconviction relief without an evidentiary hearing. We affirm the order of the district court.

AFFIRMED.