

IN THE NEBRASKA COURT OF APPEALS

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

STATE V. MENDOZA CARRANZA

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STATE OF NEBRASKA, APPELLEE,

V.

ARMANDO MENDOZA CARRANZA, APPELLANT.

Filed September 1, 2026. No. A-26-019.

Appeal from the District Court for Madison County: MICHAEL L. LONG, Judge. Affirmed.
Matthew A. Headley, Madison County Public Defender, for appellant.
Michael T. Hilgers, Attorney General, and Jacob M. Waggoner for appellee.

RIEDMANN, Chief Judge, and BISHOP and FREEMAN, Judges.

RIEDMANN, Chief Judge.

INTRODUCTION

Following a plea-based conviction for first degree sexual assault of a child, Armando Mendoza Carranza filed this appeal asserting his sentence was excessive and his counsel was ineffective. Following our review, we affirm the judgment of the district court for Madison County.

BACKGROUND

Mendoza Carranza was charged with first degree sexual assault of a child and third degree sexual assault of a child. Pursuant to a plea agreement, he pled no contest to first degree sexual assault of a child, a Class IB felony, and the State dismissed the remaining charge and agreed to recommend a minimum sentence of 20 years' imprisonment. The factual basis established that during the relevant period, Mendoza Carranza was over 19 years of age and was the stepfather of the victim, who was under 12 years of age. He subjected the victim to various sexual acts, including

touching her chest and vaginal area, inserting his finger into her vaginal area, placing his penis inside the outer lips of her vagina, and performing oral sex on her.

The district court accepted Mendoza Carranza's plea, found him guilty, and ordered a presentence investigation report (PSI). For his conviction of first degree sexual assault of a child, Mendoza Carranza received a sentence of 20 to 35 years' imprisonment.

ASSIGNMENTS OF ERROR

Mendoza Carranza assigns, restated and renumbered, (1) that the district court abused its discretion by imposing a sentence that was excessive based upon the facts of the case and (2) that he received ineffective assistance of trial counsel because counsel failed to investigate the facts of this case and failed to provide an effective and zealous defense.

STANDARD OF REVIEW

Absent an abuse of discretion by the trial court, an appellate court will not disturb a sentence imposed within the statutory limits. *State v. Jones*, 318 Neb. 840, 19 N.W.3d 499 (2025).

Whether a claim of ineffective assistance of counsel may be determined on direct appeal is a question of law. *State v. Lopez*, 321 Neb. 118, 32 N.W.3d 868 (2026). In reviewing claims of ineffective assistance of counsel on direct appeal, an appellate court decides only whether the undisputed facts contained within the record are sufficient to conclusively determine whether counsel did or did not provide effective assistance. *Id.*

ANALYSIS

Excessive Sentence.

Mendoza Carranza assigns that the district court abused its discretion by imposing a sentence that was excessive based upon the facts of the case. We disagree. Mendoza Carranza was convicted of first degree sexual assault of a child, a Class IB felony. A Class IB felony is punishable by a maximum sentence of life imprisonment and a minimum sentence of 20 years' imprisonment. Neb. Rev. Stat. § 28-105 (Supp. 2025). Additionally, a conviction of first degree sexual assault of a child requires a mandatory minimum sentence of 15 years' imprisonment. Neb. Rev. Stat. § 28-319.01 (Reissue 2016). Mendoza Carranza's sentence of 20 to 35 years' imprisonment is within statutory limits, and we review for an abuse of discretion. An abuse of discretion occurs when a trial court's decision is based upon reasons that are untenable or unreasonable or if its action is clearly against justice or conscience, reason, and evidence. *State v. Geller*, 318 Neb. 441, 16 N.W.3d 365 (2025).

When imposing a sentence, a sentencing judge should consider the defendant's (1) age, (2) mentality, (3) education and experience, (4) social and cultural background, (5) past criminal record or record of law abiding conduct, and (6) motivation for the offense, as well as (7) the nature of the offense and (8) the amount of violence involved in the commission of the crime. *State v. Jones, supra*. A sentencing court is not limited to any mathematically applied set of factors, but the appropriateness of the sentence is necessarily a subjective judgment that includes the sentencing judge's observations of the defendant's demeanor and attitude and all the facts and circumstances surrounding the defendant's life. *Id.*

At the time of sentencing, Mendoza Carranza was 49 years old and had a 9th grade education. Although he had minimal criminal history, testing showed he had a high risk to recidivate. The probation officer conducting the PSI interview felt that Mendoza Carranza showed a significant level of minimization or rationalization of his behavior in this matter. At sentencing, the district court confirmed that it had reviewed the PSI and noted that this case caused serious harm.

On appeal, Mendoza Carranza argues the district court failed to consider his minimal criminal history, history of depression, and the facts of the case. However, information on these factors was included in the PSI, which the district court reviewed. The sentence imposed is within statutory limits. Mendoza Carranza cannot show an abuse of discretion. This assignment of error fails.

Ineffective Assistance of Counsel.

Mendoza Carranza assigns his counsel was ineffective in two different ways. However, because we find that Mendoza Carranza failed to assign these errors with the specificity required for claims of ineffective assistance of counsel on direct appeal, we decline to address them. We will first review the requirements to properly assign a claim of ineffective assistance of counsel on direct appeal and then apply those standards to Mendoza Carranza's assigned errors.

Generally, to prevail on a claim of ineffective assistance of counsel under the framework established by the U.S. Supreme Court in *Strickland v. Washington*, 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984), the defendant must show that his or her counsel's performance was deficient and that this deficient performance actually prejudiced the defense. *State v. Lopez*, 321 Neb. 118, 32 N.W.3d 868 (2026). 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.* When a conviction is based upon a guilty or no contest plea, the prejudice requirement for an ineffective assistance of counsel claim is satisfied if the defendant shows a reasonable probability that but for the errors of counsel, the defendant would have insisted on going to trial rather than pleading guilty. *State v. Blaha*, 303 Neb. 415, 929 N.W.2d 494 (2019).

When a defendant's trial counsel is different from his or her counsel on direct appeal, the defendant must properly raise on direct appeal any issue of trial counsel's deficient performance which is either known to the defendant or is apparent from the record. *Lopez, supra*. Any known or apparent issue of deficient performance not properly raised on direct appeal will be procedurally barred in a subsequent postconviction proceeding. *Id.*

In every appeal in Nebraska, 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. *Id.* Anytime a defendant seeks to raise an ineffective assistance claim, whether on direct appeal or in a postconviction motion, the defendant must specifically assign and specifically argue the alleged deficient performance, and must do so with sufficient particularity. See *id.*

A claim of ineffective assistance of trial counsel that is insufficiently stated is no different than a claim not stated at all and will not prevent the procedural bar accompanying the failure to raise all known or apparent claims of ineffective assistance of trial counsel. *State v. Rupp*, 320 Neb. 502, 28 N.W.3d 74 (2025). For the purpose of avoiding a procedural bar to a future postconviction action, appellate counsel must present the claim with enough particularity for (1)

an appellate court to make a determination of whether the claim can be decided upon the trial record and (2) a district court later reviewing a petition for postconviction relief to be able to recognize whether the claim was brought before the appellate court. *Id.*

A specific enough description of deficient performance in the assignment of error must, standing alone, permit an appellate court to determine if the claim can be decided upon the trial record and permit a district court to later recognize if the claim was brought before the appellate court. See *id.* The argument section of the brief is to elaborate on the ineffective assistance of counsel claims by discussing legal authority and its application to the trial record, not to set forth, for the first time, the allegedly deficient act. *Id.*

Here, Mendoza Carranza assigns that trial counsel “failed to investigate the facts of this case. Had trial counsel properly investigated the case, [Mendoza Carranza] would have elected not to waive his constitutional rights and would have proceeded to trial to produce a different outcome.” This is a vague and generalized assigned error. The Nebraska Supreme Court has previously held that an assigned error that trial counsel was ineffective in “Failing to Investigate the Case Fully” was insufficiently specific. See *State v. Wood*, 310 Neb. 391, 436, 966 N.W.2d 825, 858 (2021). Here, the assigned error does not inform this court of the allegedly deficient conduct, and we will not scour the remainder of Mendoza Carranza’s brief to discover the alleged deficient act. We do not address this assigned error, and this claim is not preserved for postconviction review.

Mendoza Carranza also assigns that “trial counsel failed to provide an effective and zealous defense.” This court has previously found such language insufficient to assign a claim of ineffective assistance of counsel on direct appeal. See *State v. Rupp*, 33 Neb. App. 562, 19 N.W.3d 771 (2025). We reach the same conclusion here. Mendoza Carranza’s assigned error fails to specify how trial counsel’s performance was deficient, and we will not scour the remainder of his brief to discover the alleged deficient act. We do not address this assigned error, and this claim is not preserved for postconviction review.

CONCLUSION

The district court did not abuse its discretion when imposing the sentence. Mendoza Carranza’s claims of ineffective assistance of counsel are not stated with the specificity required to raise those claims on direct appeal and we do not address them. They are not preserved for postconviction review. We affirm the judgment of the district court.

AFFIRMED.