

Filed 5/16/19 by Clerk of Supreme Court

**IN THE SUPREME COURT
STATE OF NORTH DAKOTA**

2019 ND 119

Curtis Lavallie,

Petitioner and Appellant

v.

State of North Dakota,

Respondent and Appellee

No. 20190007

Appeal from the District Court of Williams County, Northwest Judicial District, the Honorable Joshua B. Rustad, Judge.

AFFIRMED.

Per Curiam.

Kyle R. Craig, Minot, N.D., for petitioner and appellant; submitted on brief.

Nathan K. Madden, State's Attorney, Williston, N.D., for respondent and appellee; submitted on brief.

Lavallie v. State
No. 20190007

Per Curiam.

[¶1] Curtis Lavallie appeals a district court order summarily dismissing his post-conviction relief application claiming ineffective assistance of counsel at his probation revocation hearing.

[¶2] Lavallie failed to establish prejudice under *Strickland v. Washington*, 466 U.S. 668, 694 (1984). Pursuant to an agreement with the State for a specific sentence recommendation, Lavallie admitted to twelve of thirteen allegations supporting the petition to revoke his probation. To establish prejudice, Lavallie must show a probability sufficient to undermine confidence in the outcome—his decision to admit to the alleged violations rather than deny them and proceed to a contested revocation hearing. *See State v. Yost*, 2018 ND 157, ¶ 25, 914 N.W.2d 508. Summary dismissal is appropriate where, as is the case here, the application is “clearly and unambiguously contradicted by the record.” *Stein v. State*, 2018 ND 264, ¶ 10, 920 N.W.2d 477. We summarily affirm under N.D.R.App.P. 35.1(a)(2).

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