

**Filed 3/19/15 by Clerk of Supreme Court
IN THE SUPREME COURT
STATE OF NORTH DAKOTA**

2015 ND 49

Gene Carl Kirkpatrick, Petitioner and Appellant

v.

State of North Dakota, Respondent and Appellee

No. 20140321

Appeal from the District Court of Cass County, East Central Judicial District,
the Honorable Steven L. Marquart, Judge.

AFFIRMED.

Per Curiam.

Monty G. Mertz, Fargo Public Defender Office, 912-3rd Avenue South, Fargo,
N.D. 58103-1707, for petitioner and appellant.

Birch P. Burdick, State's Attorney, P.O. Box 2806, Fargo, N.D. 58108-2806,
for respondent and appellee.

Kirkpatrick v. State
No. 20140321

Per Curiam.

[¶1] Gene Kirkpatrick appealed from a district court judgment denying his amended petition for postconviction relief. In 2011, Kirkpatrick was convicted by a jury of conspiracy to commit murder and conspiracy to commit burglary, and his conviction was affirmed on appeal. State v. Kirkpatrick, 2012 ND 229, 822 N.W.2d 851. In 2014, he petitioned for postconviction relief, and the district court denied his amended petition after an evidentiary hearing. Kirkpatrick appealed, arguing the district court erred in denying postconviction relief because his trial attorney’s conduct fell below an objective standard of reasonableness and he was prejudiced by his trial attorney’s recommendation to not testify at trial. We summarily affirm under N.D.R.App.P. 35.1(a)(2).

[¶2] Gerald W. VandeWalle, C.J.
Carol Ronning Kapsner
Dale V. Sandstrom
Daniel J. Crothers
Lisa Fair McEvers