

**Filed 3/1/17 by Clerk of Supreme Court
IN THE SUPREME COURT
STATE OF NORTH DAKOTA**

2017 ND 40

Sean Michael Kovalevich, Petitioner and Appellant

v.

State of North Dakota, Respondent and Appellee

No. 20160194

State of North Dakota, Plaintiff and Appellee

v.

Sean Michael Kovalevich, Defendant and Appellant

No. 20160325

Appeals from the District Court of Grand Forks County, Northeast Central Judicial District, the Honorable Jon J. Jensen, Judge.

AFFIRMED.

Per Curiam.

Benjamin C. Pulkrabek, 402 First Street N.W., Mandan, N.D. 58554-3118, for petitioner and appellant in No. 20160194.

Meredith H. Larson, Assistant State's Attorney, P.O. Box 5607, Grand Forks, N.D. 58206-5607 for respondent, plaintiff and appellee.

Sean Michael Kovalevich, self-represented, P.O. Box 5521, Bismarck, N.D. 58506 in No. 20160325; on brief.

Kovalevich v. State
Nos. 20160194 & 20160325

Per Curiam.

[¶1] Sean Kovalevich appeals from district court orders denying his motions for a new trial and his application for post-conviction relief. After a jury verdict, Kovalevich’s convictions for two counts of gross sexual imposition and one count of corruption of a minor were affirmed in State v. Kovalevich, 2015 ND 11, 858 N.W.2d 625. Kovalevich thereafter applied for post-conviction relief, alleging prosecutorial misconduct and ineffective assistance of counsel. The district court granted summary dismissal of Kovalevich’s claim for prosecutorial misconduct and dismissed his ineffective assistance of counsel claim after an evidentiary hearing. Kovalevich, with counsel, filed a motion for new trial in the post-conviction proceeding, claiming newly discovered evidence. Kovalevich also filed a self-represented motion for new trial in the criminal prosecution, claiming the Bureau of Criminal Investigation lacked jurisdiction to investigate the charges against him. The district court denied both motions.

[¶2] On appeal, Kovalevich argues he was entitled to a new trial because the State failed to disclose evidence to him during discovery, he was deprived the opportunity to effectively cross-examine a witness about prior inconsistent statements, and he received ineffective assistance of counsel. In a self-represented supplemental statement under N.D.R.App.P. 24, Kovalevich argues the Bureau of Criminal Investigation did not have jurisdiction to investigate him.

[¶3] We conclude the district court did not abuse its discretion in denying Kovalevich’s motions for new trial and did not clearly err in denying his post-conviction claim for ineffective assistance of counsel. We affirm under N.D.R.App.P. 35.1(a)(2) and (4).

[¶4] Gerald W. VandeWalle, C.J.
Lisa Fair McEvers
Daniel J. Crothers
Jerod E. Tufte
Carol Ronning Kapsner