

IN THE SUPREME COURT
STATE OF NORTH DAKOTA

2021 ND 91

George Robert Lyons,

Petitioner and Appellant

v.

State of North Dakota,

Respondent and Appellee

No. 20200333

Appeal from the District Court of Grand Forks County, Northeast Central
Judicial District, the Honorable John A. Thelen, Judge.

AFFIRMED.

Per Curiam.

Benjamin C. Pulkrabek, Mandan, ND, for petitioner and appellant.

Rachel R. Egstad, Assistant State's Attorney, Grand Forks, ND, for respondent
and appellee.

Lyons v. State
No. 20200333

Per Curiam.

[¶1] George Robert Lyons appeals from an order denying his amended application for post-conviction relief. Following a jury trial, Lyons was convicted of gross sexual imposition. Lyons applied for post-conviction relief, alleging ineffective assistance of counsel, arguing his attorney’s representation fell below an objective standard of reasonableness because counsel decided not to impeach the victim about a prior, unrelated report of sexual assault. Following a hearing, the district court found the attorney’s decision was reasonable trial strategy. The court further found the attorney discussed his trial strategy with Lyons, who accepted or at least trusted his attorney’s decision, and concluded Lyons failed to meet his burden to prove his attorney’s assistance was ineffective.

[¶2] We conclude the district court’s findings are not clearly erroneous. The evidence supports the court’s findings on trial strategy and the attorney’s communication of trial strategy with Lyons. *See Noorlun v. State*, 2007 ND 118, ¶¶ 12-14, 736 N.W.2d 477 (stating we do not second guess trial tactics on appeal, including strategic decisions about how to question certain witnesses). The court did not err in denying Lyons’ application for post-conviction relief, and we summarily affirm under N.D.R.App.P. 35.1(a)(2) and (7).

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