FILED
IN THE OFFICE OF THE
CLERK OF SUPREME COURT
APRIL 28, 2021
STATE OF NORTH DAKOTA

IN THE SUPREME COURT
STATE OF NORTH DAKOTA

2021 ND 78

Delvin Lamont Shaw, Petitioner and Appellant

v.

State of North Dakota, Respondent and Appellee

No. 20200190

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

AFFIRMED.

Per Curiam.

Delvin L. Shaw, Bismarck, ND, petitioner and appellant; submitted on brief.

Carmell F. Mattison, Assistant State's Attorney, Grand Forks, ND, for respondent and appellee; submitted on brief.

Shaw v. State
No. 20200190

Per Curiam.

[¶1] Delvin Lamont Shaw appeals from an order denying his application for post-conviction relief. Following a jury trial, Shaw was convicted on charges of murder and burglary. Shaw argues the district court erred in denying his application for post-conviction relief because he received ineffective assistance of appellate counsel on direct appeal. Shaw contends his appellate counsel was ineffective because counsel did not consult with him about the objectives of his appeal and failed to raise issues that Shaw preserved at trial. Following a post-conviction evidentiary hearing, the court found Shaw failed to demonstrate any actual prejudice and therefore failed to satisfy the second prong of the *Strickland* test for ineffective assistance of counsel.

[¶2] We conclude the district court's findings are not clearly erroneous. Courts need not address both prongs of the *Strickland* test for ineffective assistance of counsel claims if the matter can be resolved by addressing only one prong. *Rencountre v. State*, 2015 ND 62, ¶ 7, 860 N.W.2d 837. The court did not err in denying Shaw's application for post-conviction relief, and we summarily affirm under N.D.R.App.P. 35.1(a)(2) and (7).

[¶3] Daniel J. Crothers, Acting C.J.
Gerald W. VandeWalle
Lisa Fair McEvers
Jerod E. Tufte
Douglas L. Mattson, D.J.

[¶4] The Honorable Douglas L. Mattson, D.J., sitting in place of Jensen, C.J., disqualified.