

BOISE, MONDAY, MAY 12, 2025 at 8:50 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

KEVIN KEITH BELL,)	
)	
Petitioner-Appellant,)	
)	
v.)	Docket No. 52104
)	
STATE OF IDAHO,)	
)	
Respondent.)	
_____)	

Appeal from the District Court of the Fifth Judicial District of the State of Idaho,
Twin Falls County, Rosemary Emory, District Judge.

Erik R. Lehtinen, State Appellate Public Defender, Boise, for Appellant.

Raúl R. Labrador, Idaho Attorney General, Boise, for Respondent.

Kevin Keith Bell appeals from the district court’s decision denying his motion to reconsider its summary dismissal of his petition for post-conviction relief. In the underlying criminal case, Bell was convicted of rape, witness intimidation, and one count of felony domestic battery. Bell subsequently filed a pro-se petition for post-conviction relief, alleging three general claims of constitutional error at trial: (1) prosecutorial misconduct; (2) actual innocence; and (3) ineffective assistance of counsel. After the State filed an answer to Bell’s petition, the district court appointed Bell counsel, and Bell’s counsel filed an amended petition, which alleged three instances of ineffective assistance counsel. The amended petition noted it was “supported by affidavits, filed contemporaneously herewith,” as well as Bell’s original petition, “incorporated herein by reference.” The district court subsequently granted the State’s motion for summary dismissal of Bell’s amended petition.

Bell then filed a motion for reconsideration, arguing the district court erred in summarily dismissing his petition because it did so on the ground that Bell had failed to provide legal argument to support his claims for ineffective assistance of counsel, a ground Bell contended was not argued by the State in its motion to dismiss. Bell further argued that his petition did contain legal support, and genuine issues of material fact precluded summary dismissal. The district court denied Bell’s motion to reconsider, concluding that the State had argued that Bell failed to establish the essential elements of his claims in the amended petition and Bell had failed to establish a *prima facie* case of ineffective assistance of counsel based on the facts he had set forth in his amended petition. Notably, neither the decision granting summary dismissal of the amended petition nor the

decision denying Bell's motion to reconsider addressed Bell's claims for prosecutorial misconduct or actual innocence asserted in his original, pro se, petition.

On appeal, Bell contends the district court erred in denying his motion to reconsider and in summarily dismissing his petition for post-conviction relief because it did not provide him notice that his claims for prosecutorial misconduct and actual innocence, as asserted in his original petition, would be summarily dismissed. Bell also argues the district court erred in dismissing his claim for ineffective assistance of counsel pertaining to his trial counsel's failure to strike a seated juror, contending that there are disputed issues of material fact regarding his trial counsel's performance and the juror's bias.