

IN THE SUPREME COURT OF THE STATE OF IDAHO
Docket No. 52856

STEVEN RONALD ENNIS, JR.,	)	
	)	
Petitioner-Appellant,	)	Boise, October 2025 Term
	)	
v.	)	Opinion Filed: September 14, 2026
	)	
STATE OF IDAHO,	)	Melanie Gagnepain, Clerk
	)	
Respondent.	)	

Appeal from the District Court of the First Judicial District of the State of Idaho, Bonner County. Lamont C. Berecz, District Judge.

The district court's judgment is vacated, the order summarily dismissing the petition is reversed, and the case is remanded.

Nevin, Benjamin & McKay, LLP, Boise, for Appellant Steven R. Ennis, Jr. Dennis A. Benjamin submitted argument on the briefs.

Raúl R. Labrador, Idaho Attorney General, Boise, for Respondent State of Idaho. Kacey L. Jones submitted argument on the briefs.

MEYER, Justice.

Steven Ronald Ennis, Jr. appeals from the district court's order dismissing his petition for post-conviction relief without a hearing. In an affidavit supporting his petition, Ennis claimed that he accepted a plea deal offered by the State, but his trial counsel failed to communicate his acceptance, and the offer was subsequently withdrawn. The district court dismissed Ennis' claim after the State's motion for summary disposition, concluding that Ennis had not provided admissible or non-conclusory evidence to support his petition.

On appeal, the Idaho Court of Appeals upheld the district court's ruling. Ennis filed a petition for review with this Court. For the reasons explained below, we vacate the district court's judgment, reverse its order summarily dismissing Ennis' petition for post-conviction relief, and remand the case for further proceedings because Ennis presented sufficient admissible, non-conclusory evidence to establish a genuine issue of material fact.

I. FACTUAL AND PROCEDURAL BACKGROUND

In 2018, a jury found Ennis guilty of one count of felony lewd conduct with a minor under sixteen, Idaho Code section 18-1508, and two counts of felony sexual abuse of a child under the age of sixteen, Idaho Code section 18-1506. *State v. Ennis*, No. 46734, 2020 WL 1034806, at *1 (Idaho Ct. App. Feb. 20, 2020). Along with those convictions, a sentencing enhancement applied to Ennis as a repeat sexual offender subject to registration, Idaho Code section 19-2520G. *Id.* For the lewd conduct conviction, the district court sentenced Ennis to a life term with twenty years fixed. *Id.* For each sexual abuse conviction, the district court sentenced Ennis to twenty-five years with twenty years fixed. *Id.* His sentences were to run concurrently. *Id.*

Ennis filed a verified pro se petition for post-conviction relief with a supporting affidavit. He later submitted an amended affidavit in support of his post-conviction petition. Relevant to the issue on appeal, the petition and amended affidavit alleged ineffective assistance of counsel related to trial counsel's alleged failure to communicate Ennis' acceptance of the State's plea offer.

The State filed a motion for summary disposition supported by an affidavit of Ennis' trial counsel. Trial counsel acknowledged in his affidavit that the State extended a plea offer to Ennis. In exchange for a guilty plea, Ennis was offered a prison term of five years fixed and ten years indeterminate that was conditioned on Ennis assisting with a pending homicide case that he "claimed to possess knowledge of." Trial counsel explained that Ennis "promptly rejected" the offer and proposed a counteroffer of five years fixed and two years indeterminate, which the State rejected.

The State argued that Ennis did not support his claim of ineffective assistance of counsel during the plea-bargaining process with "tangible evidence" and that Ennis' allegations were factually untrue, alluding to his lack of credibility. The State contended that Ennis' claims "were refuted" by his trial counsel's affidavit. The State's motion further asserted that

Mr. Ennis' experience with the criminal justice system was extensive prior to this time. Had Mr. Ennis agreed to a plea agreement and his attorney simply failed to alert the prosecuting attorney in [c]ourt that there was an agreement on an offer of plea, it stands to reason that Mr. Ennis would have vociferously let it be known that he wanted to take a deal. Instead, Mr. Ennis, at all times prior to the trial, at numerous hearings indicated that he wanted to pursue a jury trial.

The State did not file a motion to strike Ennis' amended affidavit in support of his petition for post-conviction relief. Absent from the State's motion was any argument that Ennis' statements were inadmissible or lacked foundation, nor did it separately argue that Ennis failed to establish

the second prejudice prong under *Strickland v. Washington*, 466 U.S. 668 (1984), with respect to the ineffective assistance of counsel claim.

Ennis responded that his affidavit served as admissible evidence. He also contended that the court should not prematurely dismiss his ineffective assistance of counsel claim without first allowing discovery because the claim inherently involved allegations of confidential attorney-client communications.

At the summary disposition hearing, Ennis' post-conviction counsel stated that she could not "put forth an argument that ha[d] merit" and could not offer "proof" supporting Ennis' claims, except for his excessive sentence claim. She attributed this to an ethical obligation and explained she had no supporting evidence in the materials before her. She also stated that "Ennis doesn't agree with that." With permission to address the court, Ennis explained that he had "legitimate evidence" that he asked to send to his post-conviction counsel, but she "didn't want it." Without hearing argument from the State, the district court adjourned the hearing.

The district court subsequently granted the State's motion for summary disposition and dismissed Ennis' petition for post-conviction relief. The court concluded that Ennis had provided "no factual support" for his claims. The court further explained that it did not accept Ennis' "conclusory allegation unsupported by admissible evidence."

Ennis appealed. *See Ennis v. State*, No. 50996, 2024 WL 5001913 (Idaho Ct. App. Dec. 6, 2024). The Court of Appeals affirmed the district court's judgment for different reasons. *Id.*, at *4. Ennis filed a petition for review, which this Court granted.

II. ISSUES ON APPEAL

1. Whether Ennis' post-conviction counsel's statements that Ennis' ineffective assistance of counsel claim lacked merit at the summary disposition hearing constituted a concession binding on Ennis.
2. Whether the district court erred in granting the State's motion for summary disposition without an evidentiary hearing.

III. STANDARDS OF REVIEW

When reviewing a case on a petition for review from the Court of Appeals, this Court gives serious consideration to the Court of Appeals' decision, but we review the district court's decision directly. *Searcy v. Idaho State Bd. of Corr.*, 160 Idaho 546, 550, 376 P.3d 750, 754 (2016) (citing *Kelly v. State*, 149 Idaho 517, 521, 236 P.3d 1277, 1281 (2010)).

When a defendant files a petition for post-conviction relief, it initiates a civil proceeding governed by the Idaho Rules of Civil Procedure. *Creech v. State*, 174 Idaho 578, 582, 558 P.3d 723, 272 (2024). Summary disposition “of an application for post-conviction relief is the procedural equivalent of summary judgment” under Idaho Rule of Civil Procedure 56. *Id.* (citing *Takhsilov v. State*, 161 Idaho 669, 672, 389 P.3d 955, 958 (2016)). Idaho’s Uniform Post-Conviction Procedure Act (IPCPA) provides for summary disposition of a post-conviction application “when it appears from the pleadings, depositions, answers to interrogatories, and admissions and agreements of fact, together with any affidavits submitted, that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.” I.C. § 19-4906(c). “When a genuine issue of material fact is shown to exist, an evidentiary hearing must be conducted.” *Bell v. State*, 175 Idaho 911, 916, 572 P.3d 209, 214 (2025) (citation omitted).

Upon review of a dismissal of a post-conviction relief application without an evidentiary hearing, this Court assesses whether a genuine issue of fact exists based on the pleadings, depositions, admissions, and any affidavits on file. *Creech*, 174 Idaho at 582, 558 P.3d at 727 (citation omitted). This Court also liberally construes the facts and reasonable inferences in favor of the petitioner “to determine whether the appellant has alleged facts in his petition that if true, would entitle him to relief.” *Rodriquez v. State*, 171 Idaho 634, 641, 524 P.3d 913, 920 (2023) (quoting *Thumm v. State*, 165 Idaho 405, 412, 447 P.3d 853, 860 (2019)). However, summary disposition “may be appropriate even where the State does not controvert the applicant’s evidence because the court is not required to accept either the applicant’s mere conclusory allegations, unsupported by admissible evidence, or the applicant’s conclusions of law.” *Id.* at 642, 524 P.3d at 921 (quoting *State v. Yakovac*, 145 Idaho 437, 444, 180 P.3d 476, 483 (2008)).

IV. ANALYSIS

Ennis asks this Court to reverse the district court’s dismissal of his petition for post-conviction relief and remand the case for an evidentiary hearing. On appeal, he challenges only the summary disposition of his ineffective assistance of counsel claim based on trial counsel’s alleged failure to communicate his acceptance of the State’s plea offer. Ennis contends that his sworn affidavit, which asserts that the State extended a plea offer and that he instructed his trial counsel to accept it, was admissible and should have been considered in response to the motion for summary disposition. He does not contest the dismissal of his remaining claims; therefore, those claims are not addressed.

Before addressing Ennis’ argument on appeal, it is necessary to address whether post-conviction counsel’s statement at the summary disposition hearing, that she could not put forth an argument that had merit, constituted a binding concession on Ennis that his claims lacked merit.

A. Ennis’ post-conviction counsel’s statements did not constitute a concession, nor were they binding on Ennis.

This Court addresses the reasoning of the Court of Appeals because its decision rested on an issue raised sua sponte, rather than on arguments developed by the parties or decided by the district court. In these circumstances, it is necessary to discuss the Court of Appeals’ rationale to clarify the scope of review and explain why this rationale does not provide an independent basis to affirm summary disposition. The Court of Appeals explained that, although “the concession may . . . contradict[] the allegations in Ennis’ affidavit, the concessions were nonetheless made, and [the court] will not second-guess the propriety of those concessions,” as they invited the district court’s decision. *Ennis v. State*, No. 50996, 2024 WL 5001913, at *4 (Idaho Ct. App. Dec. 6, 2024).

Ennis maintains that his post-conviction counsel did not concede that his ineffective assistance of counsel claim lacked merit, and, even if such a concession had occurred, it would not be binding on him. The State’s arguments on petition for review mirror the reasoning of the Court of Appeals, which concluded that Ennis “failed to show error in the summary dismissal of his petition” because his post-conviction counsel “conceded” that the ineffective assistance of counsel claim lacked merit. *See id.*

During the hearing on the State’s motion for summary disposition, Ennis’ counsel first provided context regarding her recently filed motion to withdraw before addressing the merits of the State’s motion. Counsel explained:

I think that there was a lot of disagreement between previous attorneys and Mr. Ennis.

I think that this was a really challenging trial. The outcome was not as Mr. Ennis anticipated or wanted. And I don’t think that was the outcome that his trial attorneys wanted, either.

But when I reviewed this entire file, all the affidavits, all of the concerns, I don’t think I can put forth an argument that has merit with this post-conviction relief.

I think the only relief that he has at this point is a potential excessive sentence. I think that he is entitled to, we can make [an] argument to, but as far as prosecutorial misconduct, ineffective assistance of counsel, and the other violations

I think he cited, 5th, 6th and 14th, I -- I -- I don't see it. And so that is my legal opinion.

And I know Mr. Ennis doesn't agree with that, but I hold my ethical duties to put forth honorable and -- and claims full of merit to this [c]ourt above a lot of things, and I -- I don't have an argument that supports his contention. I don't have proof that supports these contentions other than theories. And that is not enough for a post-conviction hearing.

Ennis responded, "I agree[,]” but continued that he wanted to make a statement to the district court. He stated:

[Counsel] has absolutely zero from me. Nothing. And I have it all. I have every single bit of it.

So what she's doing is she's saying, well, I'm working within the color of the State, and I'm doing everything that they are telling me to do, and I got all the information from them, but I have nothing from my client. I have received no paperwork.

I have every single bit of it. I'm not saying that I know this, I'm saying I can prove it. And I have the proof.

But she's taken -- asked her, like I said, if I could send it to her, she told me I don't want it. That's it.

So if you don't want the information that I have that backs up my application, we have got a serious problem. . . .

. . . .

You can't just tell me, you know, when I looked at a few papers, and I don't think you have a case. You have to see it all. You have to see both sides of the case.

I have that information. She does not. She didn't want it.

In our view, Ennis' post-conviction counsel did not speak on his behalf when she stated that his claims lacked merit. Rather, in explaining her reasons for filing her motion to withdraw and her inability to support his post-conviction claims, counsel clarified, "*I know Mr. Ennis doesn't agree with that*, but I hold my ethical duties to put forth honorable and -- and claims full of merit to this [c]ourt above a lot of things, and I -- I don't have an argument that supports his contention." This statement demonstrates that counsel was expressing her own legal opinion, consistent with her ethical obligation to present only meritorious claims, rather than conveying Ennis' position.

Even if the statements of post-conviction counsel were construed as being made on his behalf, Ennis' subsequent remarks indicate his disagreement with any assertion that his claims lacked merit. The contention that counsel's statement, made during an attempt to withdraw, binds Ennis relies primarily on Ennis' initial response of "I agree" following counsel's statement that his

claims largely lacked merit. However, evaluating this isolated statement without context is inappropriate. Ennis' subsequent comments clarify that he did not intend to endorse his counsel's assessment of the merits of his claim. Rather, he appeared to agree only with the assertion that counsel lacked sufficient evidence to support his post-conviction claims. The hearing transcript further reveals that Ennis believed his counsel did not seek the necessary information and that he had the information. Although Ennis' statements were imprecise, it is a stretch to infer that he intended to adopt his counsel's view regarding the lack of merit in his post-conviction claim.

Regarding the State's second argument concerning invited error, the doctrine applies to prevent a party from asserting an error when that party's own conduct induces the error. *See Doe I v. Doe (2024-23) (In re Doe II)*, 175 Idaho 412, 428, 566 P.3d 409, 425 (2025). "[A]n error is not reversible if the party invited the error." *Id.* (quoting *Beebe v. N. Idaho Day Surgery, LLC*, 171 Idaho 779, 789, 526 P.3d 650, 660 (2023)). In this case, the doctrine of invited error does not apply. As previously discussed, Ennis' post-conviction counsel did not concede *on his behalf* that his claims lacked merit, and Ennis actively contested any such assertion.

The Court of Appeals determined sua sponte that Ennis' post-conviction counsel conceded that his claims lacked merit. *See Ennis*, 2024 WL 5001913, at *4. Although the State benefits from this ruling on appeal, it did not initially advance this argument. This Court has not been provided with authority to support the interpretation of a petitioner's ambiguous statement as a concession, nor authority for treating an attorney's statement regarding her reason to seek to withdraw as counsel, which is counter to the client's position, as a concession by the client. This Court is not persuaded that Ennis conceded his case lacked merit and does not agree that he is bound by his counsel's opinion regarding the merits, especially when counsel acknowledged that Ennis disagreed. We therefore turn to the merits of his argument on appeal.

B. The district court erred in granting the State's motion for summary disposition of Ennis' petition for post-conviction relief without an evidentiary hearing.

Next, we consider whether Ennis raised a genuine issue of material fact regarding whether his trial counsel was ineffective for failing to convey to the State his acceptance of the State's plea offer made before the trial. Ennis argues that the district court erred in summarily dismissing his post-conviction petition without an evidentiary hearing because his affidavit raised genuine issues of material fact. We agree. Ennis' affidavit contains admissible, non-conclusory factual assertions that, if true, would tend to establish deficient performance under *Strickland v. Washington*, 466 U.S. 668, 687 (1984). Because those assertions conflict with trial counsel's sworn account

regarding a material fact, summary disposition was improper. We therefore hold that the district court erred in granting summary disposition.

1. The district court erred in determining that Ennis' affidavit was conclusory and lacked admissible evidence.

The district court's reasoning for summarily dismissing Ennis' ineffective assistance of counsel claim was succinct: "Ennis claims that he accepted a plea offer on the cusp of trial. As with Ennis' other claims, he provides no factual support for his claim. The [c]ourt does not accept this conclusory allegation unsupported by admissible evidence." Based on this explanation, the district court concluded that Ennis failed to demonstrate that trial counsel's assistance was deficient. The State did not argue, therefore the district court did not address, the second *Strickland* prong regarding prejudice.

Ennis contends that his trial counsel's performance was ineffective by failing to notify the prosecutor of his acceptance of the plea offer prior to the jury trial. In support of this claim, Ennis submitted an amended affidavit, which provides in relevant part:

An 11th hour offer was made by the prosecutor's office. It was 5 years fixed with a 10 year indeterminate sentence. Reluctantly, I agreed. I asked Mr. [Luke] Hagelberg to advise the prosecutor that I accepted the offer. Mr. Hagelberg did not do so. On the second day of trial the first chair attorney Serra Woods was shocked because she was never notified of this offer and my acceptance. By the second day of trial the offer was withdrawn. Mr. Hagelberg told me he "thought he could win the case" so he did not accept the deal on my behalf even though I [had] accepted it and instructed him to advise the prosecution.

Ennis maintains that his amended affidavit asserted facts within his personal knowledge and established a genuine issue of material fact sufficient to survive summary disposition of his petition for post-conviction relief.

The State responds that Ennis' petition is "unsupported by admissible evidence." The State claims that "[Ennis'] assertions regarding trial counsel's actions outside his presence lack foundation because they are not based on [Ennis'] own personal knowledge or other admissible evidence."

The IPCPA requires that allegations be supported with admissible evidence based on the petitioner's personal knowledge. I.C. § 19-4903; *see Creech v. State*, 174 Idaho 578, 586, 558 P.3d 723, 731 (2024). Under Idaho Code section 19-4903, a petition must state facts within the applicant's personal knowledge and attach supporting affidavits or records. I.C. § 19-4903; *see also* I.R.E. 602 ("A witness may testify to a matter only if evidence is introduced sufficient to

support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may consist of the witness's own testimony.”).

We apply these rules to each component of Ennis' affidavit in support of his petition for post-conviction relief. Ennis stated that the State made a plea offer of five years fixed with ten years indeterminate; that he “reluctantly” accepted the offer; and that he instructed his trial counsel to communicate his acceptance. These statements recite acts Ennis performed and events he perceived firsthand. They are factual assertions within his personal knowledge, not opinions, and are admissible. I.R.E. 602.

Ennis further stated that his attorney never communicated his acceptance of the offer to the State and that the offer was withdrawn by the second day of trial. These statements reflect Ennis' understanding based on discussions with his attorney along with his own observations and are admissible. I.R.E. 602, 701(a).

On the other hand, Ennis' statement concerning lead counsel's state of mind, that she “was shocked because she was never notified of this offer,” rests on matters outside his personal knowledge. Ennis could observe counsel's demeanor, but he could not know why she reacted as she did or what she had or had not been told. The statement is inadmissible. I.R.E. 602, 701(a).

Ennis' statement that Hagelberg told him he “thought he could win the case” and therefore did not communicate the plea is hearsay offered for its truth and is inadmissible. I.R.E. 801(c)(2), 802.

In summary, Ennis' affidavit contained one hearsay statement and one statement outside his personal knowledge. But it also provided detailed, admissible factual assertions identifying the terms of the State's plea offer, his acceptance of that offer, his instruction to counsel to convey his acceptance, and the withdrawal of the offer. These latter statements are not “bare assertions of incompetence.” *Takhsilov v. State*, 161 Idaho 669, 675, 389 P.3d 955, 961 (2016). Neither are they conclusory. *See Bell v. State*, 175 Idaho 911, 916, 572 P.3d 209, 214 (2025). Thus, the district court erred in determining that Ennis' affidavit was conclusory and lacked admissible evidence.

2. *Ennis' affidavit raised material factual disputes related to his ineffective assistance of counsel claim.*

Because Ennis' affidavit provided admissible testimony, we next consider whether his affidavit raised issues of material fact regarding whether his trial counsel was ineffective for failing to convey to the State his acceptance of the State's plea offer made before the trial. The Sixth Amendment to the United States Constitution and Article 1, section 13 of the Idaho Constitution

guarantee the right to counsel in criminal actions. *Marsalis v. State*, 166 Idaho 334, 340, 458 P.3d 203, 209 (2020) (quoting *Dunlap v. State*, 159 Idaho 280, 295, 360 P.3d 289, 304 (2015)). This right includes “the right to the effective assistance of counsel.” *Id.* (quoting *Dunlap*, 159 Idaho at 295–96, 360 P.3d at 304–05). To establish ineffective assistance, a petitioner must demonstrate both that counsel performed deficiently and that this deficiency prejudiced the defendant—the two-prong test articulated in *Strickland*, 466 U.S. at 687. *See Savage v. State*, 166 Idaho 169, 173, 457 P.3d 150, 154 (2020).

Strickland’s first prong regarding deficient performance requires the petitioner to demonstrate that “counsel’s performance fell below an objective standard of reasonableness.” *State v. Yakovac*, 145 Idaho 437, 444, 180 P.3d 476, 483 (2008) (citing *Strickland*, 466 U.S. at 687–88; remaining citation omitted). “[T]his Court does not second-guess strategic and tactical decisions, and such decisions cannot serve as a basis for post-conviction relief unless” those decisions are based on inadequate preparation, ignorance of the relevant law, or other shortcomings capable of objective evaluation. *Id.* “There is a strong presumption that counsel’s performance was within the range of acceptability,” particularly regarding acts or omissions generally considered to be tactical or strategic decisions. *Marsalis*, 166 Idaho at 340, 458 P.3d at 209 (quoting *Thumm v. State*, 165 Idaho 405, 413, 447 P.3d 853, 861 (2019)).

The decision whether to accept a plea offer, however, belongs to the defendant. *See Jones v. Barnes*, 463 U.S. 745, 751 (1983). The right to effective assistance extends to the plea-bargaining process, *Lafler v. Cooper*, 566 U.S. 156, 162 (2012), and counsel’s duties there include communicating the State’s formal offers to the accused, *Missouri v. Frye*, 566 U.S. 134, 145 (2012). The duty runs in both directions. Once a client decides to accept an offer, counsel’s role is to carry that decision out, not to override it.

Here, Ennis alleged that he told his trial counsel to accept a plea offer from the State, but that his trial counsel did not convey Ennis’ acceptance. In an affidavit filed in support of the State’s motion for summary disposition, Ennis’ trial counsel disputes Ennis’ version of events, alleging instead that Ennis rejected the State’s plea offer and told counsel to convey a counteroffer, which the State “promptly rejected via email.”

Construing the evidence in Ennis’ favor as we must, the competing affidavits establish the State extended an eleventh-hour offer of five years fixed and ten years indeterminate, that counsel never conveyed an acceptance of that offer, and that the offer was withdrawn by the second day of

trial. The affidavits diverge on a single fact: what Ennis instructed his counsel to do. Ennis swears that he accepted the offer and directed counsel to communicate his acceptance. Counsel swears that Ennis rejected the offer and directed a counteroffer. That fact is material because if Ennis' account is credited, every other element of deficient performance is undisputed.

Ennis' sworn statements describe an alleged failure to carry out a decision that was his to make. If Ennis' version of events is true, then his trial counsel's performance was likely deficient. A lawyer who withholds his client's acceptance of a plea offer because he believes he can win at trial substitutes his own judgment for a choice that is not his to make. *See Lafler*, 566 U.S. at 162, 167-68. The State filed an affidavit of Ennis' trial counsel, which asserted the opposite—that Ennis rejected the offer and directed a counteroffer. This conflicting evidence creates a factual dispute requiring resolution and a credibility assessment, which cannot occur on summary disposition. *See State v. Dunlap*, 155 Idaho 345, 361, 313 P.3d 1, 17 (2013) (“When a genuine issue of material fact is shown to exist, an evidentiary hearing must be conducted.” (citation omitted)).

While the State characterizes Ennis' statements as “bare and conclusory allegations,” his affidavit identifies specific acts, conversations, and the precise plea terms. These are factual assertions, not unsupported conclusions. *See Takhsilov*, 161 Idaho at 675, 389 P.3d at 961. Moreover, Ennis' statements are no more conclusory than those that his trial counsel asserted in his affidavit in support of the State's motion for summary disposition.

The State's assertion that if Ennis' trial counsel did not communicate his acceptance of the offer, Ennis would have vociferously objected, is inapposite for summary disposition. Like much of the rest of the State's evidence and arguments, this assertion goes to Ennis' credibility—a question that cannot be resolved other than through an evidentiary hearing. Whether Ennis ultimately prevails at an evidentiary hearing remains to be seen after the trier of fact considers the competing evidence and assesses the witnesses' credibility. At this stage, however, his factual assertions are sufficiently detailed, admissible, and specific to create a genuine issue of material fact on the first *Strickland* prong. An evidentiary hearing is thus required to resolve the conflict between the competing affidavits.

The State's motion argued that summary disposition was appropriate on the sole ground that Ennis' allegations about the plea-bargaining process were conclusory and unsupported by admissible evidence. The State did not assert the absence of prejudice, and the district court gave no notice of dismissal based on prejudice. Because a petition may be summarily dismissed only

on grounds raised in the State's motion or noticed by the court under Idaho Code section 19-4906(b), we express no opinion on the prejudice prong. *See DeRushe v. State*, 146 Idaho 599, 602-03, 200 P.3d 1148, 1151-52 (2009).

Accordingly, we reverse the district court's order granting summary disposition of this claim and remand for further proceedings.

V. CONCLUSION

We vacate the district court's judgment dismissing Ennis' petition for post-conviction relief and remand the case for further proceedings consistent with this opinion.

Chief Justice BEVAN and Justices BRODY, MOELLER and ZAHN CONCUR.