

IN THE COURT OF APPEALS OF IOWA

No. 19-1933
Filed March 3, 2021

ISACK ABDINUR,
Applicant-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

Appeal from the Iowa District Court for Woodbury County, Steven J. Andreasen, Judge.

Isack Abdinur appeals the dismissal of his application for postconviction relief. **AFFIRMED.**

Fred Stiefel, Victor, for appellant.

Thomas J. Miller, Attorney General, and Thomas J. Ogden, Assistant Attorney General, for appellee State.

Considered by Vaitheswaran, P.J., May, J., and Carr, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2021).

CARR, Senior Judge.

Following a bench trial, the district court found Isack Abdinur guilty of first-degree murder. This court affirmed his conviction on direct appeal. *State v. Abdinur*, No. 17-0247, 2018 WL 2731624, at *6 (Iowa Ct. App. June 6, 2018). Abdinur filed an application for postconviction relief (PCR), which the State moved to dismiss. Because Abdinur failed to resist the motion or produce facts to support his application, the PCR court dismissed the application as a matter of law.

Abdinur appeals the dismissal of his PCR application, arguing for the first time that his PCR counsel was ineffective. Abdinur and the State both agree that the proper procedure is for this court to affirm and allow Abdinur to litigate his claim in a second PCR action. See *Goode v. State*, 920 N.W.2d 520, 527 (Iowa 2018) (“The applicant must assert his claim of ineffective assistance of postconviction counsel raised on appeal in a separate application for PCR.”). We affirm the dismissal of Abdinur’s PCR application so that Abdinur may raise his claim of ineffective assistance of PCR counsel in a second PCR action.

AFFIRMED.