

**IN THE COURT OF APPEALS OF IOWA**

No. 23-0165  
Filed February 21, 2024

**DOUGLAS K. LINDAMAN,**  
Applicant-Appellant,

**vs.**

**STATE OF IOWA,**  
Respondent-Appellee.

---

Appeal from the Iowa District Court for Floyd County, Colleen Weiland,  
Judge.

Douglas Kent Lindaman appeals the denial of postconviction relief from his  
conviction for assault with intent to commit sexual abuse. **AFFIRMED.**

Douglas K. Lindaman, Charles City, self-represented appellant.

Brenna Bird, Attorney General, and Louis S. Sloven, Assistant Attorney  
General, for appellee State.

Considered by Tabor, P.J., and Badding and Chicchelly, JJ.

**CHICCHELLY, Judge.**

Douglas Kent Lindaman appeals the denial of his application for postconviction relief (PCR). The question is whether the trial court could submit to the jury the lesser-included offense of assault with intent to commit sexual abuse. Finding that Lindaman's arguments lack merit, we affirm.

We begin by briefly summarizing the facts. The State charged Lindaman with third-degree sexual abuse, alleging that he touched a seventeen-year-old's penis by force or against the seventeen-year-old's will. After three trials,<sup>1</sup> a jury found Lindaman guilty of the lesser-included offense of assault with intent to commit sexual abuse, and the district court sentenced Lindaman to two years in prison and ordered him to register with the sex offender registry. We affirmed Lindaman's direct appeal. *State v. Lindaman*, No. 18-1147, 2020 WL 821974, at \*1 (Iowa Ct. App. Feb. 19, 2020). Now, Lindaman appeals the denial of his PCR application.

Lindaman contends he is entitled to PCR because the trial court erred by instructing the jury on assault with intent to commit sexual abuse. He argues that assault with intent to commit sexual abuse is not a lesser-included offense of third-degree sexual assault. But his argument conflicts with controlling supreme court precedent. See *State v. McNitt*, 451 N.W.2d 824, 824 (Iowa 1990). We cannot overrule the supreme court. See *State v. Beck*, 854 N.W.2d 56, 64 (Iowa Ct. App. 2014).

---

<sup>1</sup> Lindaman's first trial ended in a conviction that the supreme court reversed based on an inadequate colloquy before Lindaman waived his right to counsel. The second trial ended in a mistrial.

Lindaman also claims the statute of limitations expired on assault with intent to commit sexual abuse.<sup>2</sup> The PCR court agreed that based on the statute of limitations in effect when the crime occurred, the State was time-barred from charging Lindaman with assault with intent to commit sexual abuse. But the trial court had to submit assault with intent to commit sexual abuse to the jury as a lesser-included offense of third-degree sexual abuse. See Iowa Rs. Crim. P. 2.6(1) (“Where a public offense carries with it certain lesser included offenses, the latter should not be charged, and it is sufficient to charge that the accused committed the major offense.”), 2.22(3) (“[T]he defendant may be found guilty of any offense the commission of which is necessarily included in that with which the defendant is charged.”).<sup>3</sup> When the crime occurred in May 2011, the statute of limitations for third-degree sexual abuse was ten years. See Iowa Code § 802.2 (2011). The State filed that charge against Lindaman in 2015, well within the applicable statute of limitations.

We have reviewed Lindaman’s appellate brief and find no merit to any of the claims raised in it. We therefore affirm the denial of PCR.

**AFFIRMED.**

---

<sup>2</sup> The statute of limitations for assault with intent to commit sexual abuse changed between the act occurring and the State charging Lindaman. When the act occurred in May 2011, the statute of limitations for assault with intent to commit sexual abuse was three years. See Iowa Code § 802.3 (2011). Before the State charged Lindaman in 2015, the legislature extended the statute of limitations to ten years if the offense was committed on a person under the age of eighteen. See *id.* §§ 802.2B(2), .3 (2015). The PCR court agreed that based on the statute of limitations in effect when the crime occurred, the State was time-barred from charging Lindaman with assault with intent to commit sexual abuse.

<sup>3</sup> We refer to the Iowa Rules of Criminal Procedure as enacted at the time of Lindaman’s criminal trial.