

IN THE COURT OF APPEALS OF IOWA

No. 17-1800
Filed January 9, 2019

JOHN NELL MITCHELL,
Applicant-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

Appeal from the Iowa District Court for Scott County, Henry W. Latham II,
Judge.

An applicant appeals from the summary dismissal of his application for
postconviction relief. **AFFIRMED.**

Eric D. Tindal of Keegan Farnsworth & Tindal, Iowa City, for appellant.

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

Considered by Vogel, P.J., and Vaitheswaran and McDonald, JJ.

McDONALD, Judge.

At issue in this appeal is whether the district court erred in summarily dismissing as time-barred John Mitchell's third application for postconviction relief. We conclude it did not. In 2002, Mitchell was convicted of three counts of sexual abuse in the second degree and sentenced to seventy years' incarceration. The supreme court affirmed his convictions on direct appeal. See *State v. Mitchell*, 670 N.W.2d 416, 425 (Iowa 2003). In 2013, this court affirmed the denial of Mitchell's second application for postconviction relief. See *Mitchell v. State*, No. 09-0610, 2013 WL 750121, at *1 (Iowa Ct. App. Feb. 27, 2013). The application at issue in this appeal was filed in May 2016, almost thirteen years after procedendo issued on direct appeal. There is no disputed issue of fact that would bring the case within the three-year statute of limitations. See Iowa Code §822.3 (2016). We affirm the judgment of the district court.

AFFIRMED.