

**IN THE COURT OF APPEALS OF IOWA**

No. 7-708 / 07-0174  
Filed October 12, 2007

**TRAVIS WOLFKILL,**  
Applicant-Appellant,

**vs.**

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

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Appeal from the Iowa District Court for Polk County, Glenn E. Pille, Judge.

Travis Wolfkill appeals the trial court's ruling denying his application for postconviction relief. **AFFIRMED.**

Jeffrey Mains of Mains Law Office, Des Moines, for appellant.

Thomas J. Miller, Attorney General, Kevin Cmelik, Assistant Attorney General, John P. Sarcone, County Attorney, and Joseph P. Weeg, Assistant County Attorney, for appellee.

Considered by Huitink, P.J., and Vogel and Baker, JJ.

**HUITINK, P.J.**

Travis Wolfkill appeals from the trial court's ruling denying his application for postconviction relief. Wolfkill claims he was denied effective assistance of trial counsel in at least nine particulars. We review Wolfkill's claims de novo. *State v. Kress*, 636 N.W.2d 12, 19 (Iowa 2001).

**Ineffective Assistance of Counsel**

To prevail on ineffective assistance of counsel claims, the applicant has the burden of proving by a preponderance of the evidence that "(1) counsel failed to perform an essential duty, and (2) prejudice resulted." *Meier v. State*, 337 N.W.2d 204, 207 (Iowa 1983). With regard to the first prong, "the [applicant] must overcome the presumption that counsel was competent and show that counsel's performance was not within the range of normal competency." *State v. Buck*, 510 N.W.2d 850, 853 (Iowa 1994). With regard to the second prong, the applicant must show that "a reasonable probability exists that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Wemark v. State*, 602 N.W.2d 810, 815 (Iowa 1999). "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Strickland v. Washington*, 466 U.S. 668, 694, 104 S. Ct. 2052, 2068, 80 L. Ed. 2d 674, 698 (1984). We may dispose of ineffective assistance of counsel claims if an applicant fails to meet either of these prongs. *State v. Cook*, 565 N.W.2d 611, 614 (Iowa 1997).

Even if we assume without deciding Wolfkill has not waived error by failing to comply with our rules of appellate procedure and counsel breached an essential duty in any particular claimed, we are nevertheless required to affirm

because Wolfkill has failed to prove the prejudice element of his ineffective assistance of counsel claims. “[A] verdict or conclusion only weakly supported by the record is more likely to have been affected by errors than one with overwhelming record support.” *Strickland*, 466 U.S. at 696, 104 S. Ct. at 2069, 80 L. Ed. 2d at 698.

On Wolfkill’s direct appeal, we found the evidence supporting Wolfkill’s conviction was “overwhelming.” See *State v. Milligan*, No. 03-0475 (Iowa Ct. App. Aug. 11, 2004).<sup>1</sup> The record includes evidence of the following: Sometime on the night of March 1, 2002, Shirley Wilson was stabbed to death in her home in Des Moines, which she shared with her grandson, Wolfkill. At trial, Chris McAdam testified Wolfkill had told him earlier on the day of Wilson’s death, “I hate my grandma. I wish she was dead.” In addition, Jeremy Chirch testified Wolfkill had told him earlier on the evening of Wilson’s death that he was going to kill a family member. Wolfkill admitted to being in the house at about the time Wilson was killed. Wilson’s DNA was found on Wolfkill’s leg. The crime scene indicated Wilson had struggled with her killer; and a day after the murder, Wolfkill’s body displayed marks consistent with having been in a fight. Finally, Wolfkill’s shirt, which had Wilson’s DNA on it, was found in Wolfkill’s bedroom. We reach the same conclusion here as we did on direct appeal.

We accordingly affirm the district court’s decision denying Wolfkill’s application for postconviction relief.

**AFFIRMED.**

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<sup>1</sup> Wolfkill is also known as Milligan.