

**IN THE COURT OF APPEALS OF IOWA**

No. 1-014 / 09-1421  
Filed February 9, 2011

**LESLIE JEROME BELL,**  
Applicant-Appellant,

**vs.**

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

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Appeal from the Iowa District Court for Polk County, Joel D. Novak, Judge.

Applicant seeks postconviction relief from his convictions for attempted murder, first-degree burglary, willful injury causing serious injury, assault with intent to inflict serious injury, and going armed with intent. **AFFIRMED.**

Shane Michael of Michael Law Firm, Des Moines, for appellant.

Thomas J. Miller, Attorney General, Sharon K. Hall, Assistant Attorney General, John P. Sarcone, County Attorney, and Michael T. Hunter, Assistant County Attorney, for appellee State.

Considered by Vogel, P.J., Doyle, J., and Mahan, S.J.\* Tabor, J., takes no part.

\*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2011).

**MAHAN, S.J.**

Leslie Bell was convicted of attempt to commit murder, first-degree burglary, willful injury causing serious injury, assault with intent to inflict serious injury, and going armed with intent. The State alleged that on June 15, 2003, Bell broke into the home of his former girlfriend, Lucinda DeBrown, hid in the basement, and then attacked DeBrown and her friend, Charles James, with a box cutter when they came into the home. Bell's convictions were affirmed on direct appeal. See *State v. Bell*, No. 04-0414 (Iowa Ct. App. Feb. 24, 2005).

Bell filed an application for postconviction relief (PCR), claiming he received ineffective assistance because defense counsel: (1) refused to allow him to testify; (2) failed to use Prairie Meadows Casino records showing he and DeBrown were together on June 9 and 10, 2003; (3) failed to challenge a juror who knew DeBrown; (4) failed to obtain telephone records from DeBrown's home telephone; and (5) failed to call Trish Barrow or Bell's mother as witnesses. The district court addressed each of these claims and concluded Bell had not shown his defense counsel failed to perform an essential duty resulting in prejudice.

On appeal, Bell raises only two issues of ineffective assistance of counsel—the first and fourth issues listed above. We review claims of ineffective assistance of counsel de novo. *State v. Bergmann*, 600 N.W.2d 311, 313 (Iowa 1999). To establish a claim of ineffective assistance of counsel, a defendant must show (1) the attorney failed to perform an essential duty and (2) prejudice resulted to the extent it denied defendant a fair trial. *Caldwell v. State*, 494 N.W.2d 213, 214 (Iowa 1991). We may address the issue of prejudice first. See *Ledezma v. State*, 626 N.W.2d 134, 142 (Iowa 2001). The defendant must show

“there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *State v. Carey*, 709 N.W.2d 547, 559 (Iowa 2006) (citation omitted).

During the PCR hearing, defense counsel testified he was concerned that if Bell testified he would be impeached by prior criminal convictions. He was also concerned Bell’s proposed testimony would not be favorable to Bell. The district court concluded defense counsel “exercised reasonable judgment and strategy in analyzing whether he should let Bell testify.” The court found Bell failed to meet his burden to show the result of the trial would have been different if his attorney had advised him differently. We agree with the district court’s conclusions.

During the criminal trial, DeBrown testified she told Bell on June 6, 2003, he was not to return to her residence. Bell believed DeBrown’s home telephone records would have shown he made telephone calls from DeBrown’s home on June 6 and 8, 2003. The district court noted the telephone records themselves do not prove who made the calls. The court also found, however, that even if Bell was in DeBrown’s home with her permission after June 6, it would not be sufficient to establish the result of the trial would have been different. The court determined, “[t]here was substantial evidence presented by the State that established Bell’s motive, intent, and commission of the crimes charged.” We concur with the court’s conclusions on this issue as well.

We determine Bell has failed to show he received ineffective assistance of counsel. We affirm the decision of the district court that denied Bell’s application for postconviction relief.

**AFFIRMED.**