

IN THE COURT OF APPEALS OF IOWA

No. 14-0780
Filed June 10, 2015

JAVONTA HERBERT-BEY,
Applicant-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

Appeal from the Iowa District Court for Black Hawk County, George L. Stigler, Judge.

Javonta Herbert-Bey appeals the dismissal of his application for postconviction relief. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Melinda J. Nye, Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Mary A. Triick, Assistant Attorney General, Thomas J. Ferguson, County Attorney, and Kimberly Griffith, Assistant County Attorney, for appellee.

Considered by Danilson, C.J., and Potterfield and Bower, JJ.

BOWER, J.

Javonta Herbert-Bey appeals the denial of his application for postconviction relief (PCR) and motion to correct an illegal sentence. In 2010 Herbert-Bey was charged and pled guilty to one count of theft in the second degree (by exercising control over stolen property worth more than \$1000 but less than \$10,000). He received a five-year suspended sentence and was placed on probation. Seven months later his probation was revoked, and he was incarcerated. Less than a year later his sentence was reconsidered, and he was placed in a residential treatment facility. Subsequently, his probation was revoked, and he was once again incarcerated. In 2013 Herbert-Bey filed an application for PCR. The district court found his sentence was not illegal and he was properly tried in district court rather than juvenile court. The court also denied his application for PCR finding his guilty plea was supported by a sufficient factual basis establishing the value of the stolen property was over \$1000.¹

On appeal, Herbert-Bey claims his trial counsel was ineffective because his guilty plea was not supported by a sufficient factual basis. The district court found a sufficient basis, based on the minutes of evidence, to establish the actual value of the items stolen totaled \$1197. The court noted this total did not include the value of items stolen but not yet recovered. Pursuant to Iowa Court Rule 21.26(1)(a), (b), and (d), we affirm the district court's ruling.

AFFIRMED.

¹ The transcript from the plea hearing shows Herbert-Bey acknowledged the value of the property was more than \$1000.