

IN THE COURT OF APPEALS OF IOWA

No. 1-853 / 11-0016
Filed December 21, 2011

LYNN G. LAMASTERS,
Applicant-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

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

Lynn Lamasters appeals a district court ruling denying his application for postconviction relief. **AFFIRMED.**

Stephanie C. Rattenborg of Rattenborg Law Office, Manchester, for appellant.

Thomas J. Miller, Attorney General, Bruce Kempkes and Andrew Prosser, Assistant Attorneys General, and Allan Vander Hart, County Attorney, for appellee State.

Considered by Sackett, C.J., and Vogel and Eisenhauer, JJ. Tabor, J., takes no part.

VOGEL, J.

On April 5, 2005, Lynn Lamasters was convicted of first-degree murder under Iowa Code section 707.2 (2003). He was sentenced to life without parole. On February 14, 2007, Lamasters filed a pro se application for postconviction relief. On August 25, 2009, the application was amended with the assistance of counsel. On October 1, 2009, a second amended application for postconviction relief was filed. The application for postconviction relief came on for hearing on November 18, 2010. On December 23, 2010, the district court denied Lamaster's application for postconviction relief. Lamasters appeals.

Our review of an appeal from a denial of a postconviction relief application is generally for errors at law. *Lado v. State*, 804 N.W.2d 248, 250 (Iowa 2011). Where a constitutional claim is asserted, our review is de novo. *King v. State*, 797 N.W.2d 565, 570 (Iowa 2011). "Applications for postconviction relief that allege ineffective assistance of counsel . . . raise a constitutional claim." *Castro v. State*, 795 N.W.2d 789, 792 (Iowa 2011).

In this appeal, Lamasters asserts his trial counsel was ineffective for (1) failing to raise issues of temporary insanity and/or diminished capacity, and (2) failing to sufficiently support the request for bifurcation of his trial. He also claims his appellate counsel was ineffective for failing to raise the issue of bifurcation on appeal. The State contends error was not preserved because "[t]he postconviction court neither identified nor ruled upon either of the petitioner's appellate arguments. Instead, it ruled upon significantly different arguments."

We agree with the State that error was not properly preserved for our appellate review. While Lamasters submitted ineffective-assistance-of-counsel claims pertaining to trial counsel and appellate counsel to the district court for adjudication, the district court failed to rule on the claims presented, other than a general denial of his application. A motion for enlargement is necessary to preserve error “when the district court *fails to resolve* an issue, claim, or . . . legal theory properly submitted for adjudication.” See *State v. Iowa Dist. Court for Webster County*, 801 N.W.2d 513, 543 (Iowa 2011) (citing *Meier v. Senecaut*, 641 N.W.2d 532, 539 (Iowa 2001)); *Starling v. State*, 328 N.W.2d 338, 342 (Iowa Ct. App. 1982) (“A party must move under rule [1.904] to enlarge the findings and conclusions of the court in its postconviction proceeding in order to preserve error on its claim that the court failed to make such findings and conclusions sufficiently specific.”). In this case, Lamasters failed to file a rule 1.904 motion to obtain a more specific ruling, and error was not preserved. Iowa R. Civ. P. 1.904; see also *State v. Krogmann*, 804 N.W.2d 518, 524 (Iowa 2011) (“[W]hen a court fails to rule on a matter, a party must request a ruling by some means.”). As error was not properly preserved, we affirm the ruling of the district court.

AFFIRMED.