

IN THE COURT OF APPEALS OF IOWA

No. 1-893 / 10-1457
Filed November 23, 2011

EVERETT LEANDER FIELDS,
Applicant-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

Appeal from the Iowa District Court for Des Moines County, Cynthia H. Danielson, Judge.

An applicant appeals from the district court's dismissal of his motion to correct an illegal sentence/second postconviction relief application. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Patricia Reynolds, Assistant Appellate Defender, for appellant.

Everett L. Fields, Fort Madison, appellant pro se.

Thomas J. Miller, Attorney General, Thomas W. Andrews, Assistant Attorney General, Patrick C. Jackson, County Attorney, and Amy Beavers, Assistant County Attorney, for appellee State.

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

VOGEL, J.

As the result of a shooting in October 1997, Everett Fields pleaded guilty to attempted murder in violation of Iowa Code section 707.11 (1997), and terrorism (class D felony) in violation of Iowa Code 708.6. As the district court detailed in its ruling, following his guilty plea, Fields has filed numerous applications, documents, and motions. In August 2010, the district court dismissed Fields's motion to correct an illegal sentence and second postconviction relief application. Fields appeals. He essentially argues, through counsel and pro se, that terrorism is a lesser-included offense of attempted murder.

While the State responds, pointing to several procedural and statutory grounds that bar Fields's claim, we need not discuss those grounds as Fields's claim is clearly without merit. Each offense—attempted murder and terrorism—contains elements not included in the other. *Compare* Iowa Code § 707.11 (providing a person commits attempted murder “when, with the intent to cause the death of another person and not under circumstances which would justify the person's actions, the person does any act by which the person expects to set in motion a force or chain of events which will cause or result in the death of the other person”), *with* Iowa Code § 708.6 (providing a person commits terrorism, a class D felony, “when the person shoots, throws, launches, or discharges a dangerous weapon at, into, . . . or within an assembly of people, and thereby places the occupants or people in reasonable apprehension of serious injury or threatens to commit such an act under circumstances raising a reasonable expectation that the threat will be carried out”). Consequently, terrorism is not a

lesser-included offense of attempted murder. *State v. Bullock*, 638 N.W.2d 728, 733 (Iowa 2002) (explaining that because “each crime contains an element or elements not present in the other,” the offenses did not meet the legal elements test for a lesser-included offense). We affirm the district court.

AFFIRMED.