

IN THE COURT OF APPEALS OF IOWA

No. 2-1083 / 12-0438
Filed January 9, 2013

STEVEN ANTHONY ASBURY,
Applicant-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

Appeal from the Iowa District Court for Jasper County, Brad McCall,
Judge.

Asbury appeals the district court's dismissal of his postconviction relief
application. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Robert Ranschau, Assistant
State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Benjamin M. Parrott, Assistant
Attorney General, Michael K. Jacobsen, County Attorney, and James W. Cleverly
Jr., Assistant County Attorney, for appellee.

Considered by Doyle, P.J., and Mullins and Bower, JJ.

MULLINS, J.

Steven Asbury appeals the denial of his application for postconviction relief (PCR). Pursuant to a plea agreement, he pleaded guilty to manufacturing methamphetamine with intent to deliver. Asbury's PCR application alleged ineffective assistance of trial counsel in failing to move to suppress the evidence that resulted in the filing of the drug charges against him. Asbury also alleged his counsel was ineffective in failing to withdraw when Asbury requested him to withdraw.

On appeal, he only asserts the district court erred in denying his ineffective-assistance claim based on his counsel's failure to file a motion to suppress. Asbury alleges the search warrant used to search his home lacked probable cause. The district court thoroughly addressed the issue in a well-written ruling. The court found the attorney was ineffective in failing to thoroughly investigate the facts surrounding the search warrant, but also found Asbury did not prove he was prejudiced by this breach as Asbury failed to establish by a preponderance of the evidence that there is "a reasonable probability of a different outcome had the breach not occurred." See *State v. Carroll*, 767 N.W.2d 638, 643 (Iowa 2009). After a thorough review of the briefs and record in this case, we conclude the district court's decision was correct and no error of law appears. We therefore affirm the district court's decision without opinion pursuant to Iowa Rule of Appellate Procedure 6.1203(a) and (d).

AFFIRMED.