

IN THE COURT OF APPEALS OF IOWA

No. 2-294 / 11-0993
Filed May 9, 2012

CURTIS CASTOR,
Applicant-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

Appeal from the Iowa District Court for Scott County, Paul L. Macek,
Judge.

Curtis Castor appeals the district court's dismissal of his postconviction
action. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Martha J. Lucey, Assistant
Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Martha E. Trout, Assistant Attorney
General, Michael J. Walton, County Attorney, and Rob Cusack, Assistant County
Attorney, for appellee State.

Considered by Vaitheswaran, P.J., and Doyle and Danilson, JJ.

DOYLE, J.

In December 2007, Curtis Castor was charged with sexual abuse in the third degree. He entered into a plea agreement with the State and pled guilty as charged under Iowa Code section 709.4(2)(c)(4) (2007), a non-forcible felony. Castor was sentenced to prison not to exceed ten years, and the sentence was suspended. He was placed on probation for a period of three years. As conditions of probation, Castor was required to complete an in-patient treatment program and then complete the program at the Residential Correction Facility.

In November 2008, Castor's probation officer filed a report of numerous probation violations by Castor. The State sought to have Castor's probation revoked. Following the revocation hearing, the district court determined Castor "willfully violated the terms of his probation as set forth in the report of violation." The court then revoked Castor's probation and imposed the original sentence.

Neither the probation revocation nor the sexual abuse sentence was directly appealed by Castor. In May 2010, Castor filed an application for postconviction relief (PCR). He asserted, through his PCR counsel, that his trial counsel provided him ineffective assistance in four respects, all related to his guilty plea. The PCR court determined his claims were without merit and dismissed his application.

Castor now appeals. He contends his PCR counsel was ineffective in failing to challenge the sentencing court's "abuse of discretion" in revoking his probation and imposing his original sentence.

We find the issues Castor now raises on appeal are not preserved for our review. The ineffective-assistance claim Castor raises on appeal is different than

the issues presented in his application for PCR and decided by the district court. Because this claim was not raised before or decided by the district court, there is nothing for our review, and we cannot decide the issues on appeal. See *Meier v. Senecaut*, 641 N.W.2d 532, 537 (Iowa 2002) (“It is a fundamental doctrine of appellate review that issues must ordinarily be both raised and decided by the district court before we will decide them on appeal.”). We therefore affirm the judgment of the PCR trial court.

AFFIRMED.