

IN THE COURT OF APPEALS OF IOWA

No. 2-322 / 10-1269
Filed May 9, 2012

RICHARD M. O'TOOLE,
Applicant-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

Appeal from the Iowa District Court for Linn County, Ian K. Thornhill,
Judge.

Richard O'Toole appeals from the denial of his application for
postconviction relief. **AFFIRMED.**

Clemens A. Erdahl of Nidey, Wenzel, Erdahl, Tindal & Fisher, P.L.C.,
Cedar Rapids, for appellant.

Richard O'Toole, Coralville, appellant pro se.

Thomas J. Miller, Attorney General, Thomas W. Andrews, Assistant
Attorney General, Jerry Vander Sanden, County Attorney, and Susan Nehring,
Assistant County Attorney, for appellee State.

Considered by Eisenhauer, C.J., and Potterfield and Mullins, JJ. Tabor,
J., takes no part.

POTTERFIELD, J.

Richard O'Toole was convicted of two counts of sexual abuse in the second degree based on claims made by the minor children of his former girlfriend. He was sentenced to two consecutive twenty-five-year terms. His convictions and sentences were affirmed on direct appeal. See *State v. O'Toole*, No. 04-0910, 2005 WL 2756087 (Iowa Ct. App. Oct. 26, 2005).

O'Toole filed a petition for postconviction relief. Following a trial, the district court addressed each of O'Toole's claims of ineffective assistance of counsel, entered its findings of fact and conclusions of law, and denied relief.

O'Toole now appeals from the denial of his application for postconviction relief contending he was denied the effective assistance of counsel because trial counsel: (1) did not fully impeach the complainants; (2) did not call defense witnesses who would have testified the complainants' motive to allege abuse was so they could live with their biological father; (3) did not object to prosecutorial misconduct during unreported closing arguments; and (4) did not specify age as grounds for judgment of acquittal with respect to complainant B.G. In a pro se brief, O'Toole also asserts that cumulative errors denied him effective assistance of counsel and due process.¹

We have thoroughly reviewed each of the applicant's contentions de novo. See *Ledezma v. State*, 626 N.W.2d 134, 141 (Iowa 2001). The district court identified and considered all the issues. We approve of the district court's

¹ This claim was initially made by O'Toole's counsel, but because his application to file an overlength brief was denied, counsel "made the decision to remove" the issue. O'Toole's pro se brief contends, "I disagree with that decision and wish to file the final issue relating to cumulative errors as my Pro Se brief."

reasoning and conclusions and affirm without further discussion, as it would add little to augment or clarify existing case law. See Iowa Ct. R. 21.29(1)(d), (e).

We therefore affirm.

AFFIRMED.