

IN THE COURT OF APPEALS OF IOWA

No. 2-323 / 11-0097
Filed May 9, 2012

FRANK RUSSELL OWENS,
Applicant-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

Appeal from the Iowa District Court for Scott County, Marlita A. Greve,
Judge.

Frank Owens appeals the denial of his application for postconviction relief.

AFFIRMED.

Lori J. Kieffer-Garrison, Rock Island, Illinois, for appellant.

Thomas J. Miller, Attorney General, Kyle Hanson, Assistant Attorney
General, and Michael J. Walton, County Attorney, for appellee.

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

MULLINS, J.

Frank Owens appeals the district court's denial of postconviction relief. He argues his postconviction counsel rendered ineffective assistance by failing to investigate, prepare, and rehabilitate his "key witness" whose testimony was the basis of his newly discovered evidence claim. We affirm.

Even if we were to find Owens's postconviction counsel failed to perform an essential duty in regards to the key witness, Owens cannot show prejudice. *Dunbar v. State*, 515 N.W.2d 12, 15 (Iowa 1994). Further, Owens has not challenged the district court's determinations that the witness's testimony was not newly discovered evidence nor that his postconviction relief claim was barred by the statute of limitations. Consequently, we affirm the district court's denial of his application for postconviction relief.

AFFIRMED.