

IN THE COURT OF APPEALS OF IOWA

No. 2-901 / 12-0187
Filed December 12, 2012

OSCAR RICH,
Petitioner-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

Appeal from the Iowa District Court for Polk County, Donna L. Paulsen,
Judge.

Petitioner appeals the district court's denial of postconviction relief.

AFFIRMED.

Susan R. Stockdale, Des Moines, for appellant.

Thomas J. Miller, Attorney General, Richard J. Bennett, Assistant Attorney
General, John Sarcone, County Attorney, and Stephan Bayens, Assistant County
Attorney, for appellee.

Considered by Eisenhauer, C.J., and Vogel and Vaitheswaran, JJ.

VOGEL, J.

Oscar Rich appeals from a district court decision denying him postconviction relief (PCR) from his guilty plea and thirty-year prison sentence for possession of a controlled substance with intent to deliver as a second or subsequent offender, in violation of Iowa Code section 124.401(1)(c)(3) and 124.411 (2009). He argues the district court erred in finding trial counsel was not ineffective in advising him regarding a possible plea offer.

Rich was initially offered two plea options. Under the one he ultimately accepted, he could face up to thirty years in prison with a sentencing enhancement, but would be given the opportunity to argue for probation. Under the rejected offer there would be no sentencing enhancement, and he would face up to fifteen years in prison with no possibility to argue for probation. Just before sentencing, with a stern warning from his attorney that probation was not likely, Rich rejected a third offer of up to twenty years' imprisonment, but again forgoing the argument for probation.

Upon our review, we find the district court properly considered the facts, testimony, and case law surrounding the plea negotiations and found that Rich made a knowing and intelligent decision among the plea offers. The postconviction court concluded in its detailed ruling, "this was a case of wishful thinking. Mr. Rich was not listening to his attorney's advice . . . and was not facing the reality of the strong likelihood of prison." After considering the record on appeal and Rich's contentions, we conclude he has not demonstrated his trial

counsel breached an essential duty resulting in prejudice. Accordingly, we affirm. See Iowa Ct. R. 21.29(1) (a), (b), (c), (d), and (e).

AFFIRMED.