

IN THE COURT OF APPEALS OF IOWA

No. 3-506 / 12-1215
Filed June 12, 2013

BRETT ARTHUR ANDERSON,
Applicant-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

Appeal from the Iowa District Court for Polk County, Glenn E. Pille, Judge.

A postconviction relief applicant appeals the summary disposition of his application. **AFFIRMED.**

Susan R. Stockdale, Des Moines, for appellant.

Thomas J. Miller, Attorney General, Sheryl A. Soich, Assistant Attorney General, John Sarcone, County Attorney, and Jeffrey Noble, Assistant County Attorney, for appellee State.

Considered by Vogel, P.J., and Vaitheswaran and Bower, JJ.

VOGEL, P.J.

This is an appeal following the denial of Brett Anderson's second application for postconviction relief. He argues the postconviction court erred as a matter of law when it granted the State's motion for summary disposition upon finding Anderson's claim was barred by the statute of limitations. In his direct appeal and in his first postconviction action, Anderson asserted his acts did not fall within the statutory definition of "sex act." In this present action, Anderson once again asserts what he did was not a "sex act." This time he argues the legal reasoning employed in *Anderson v. State*, 801 N.W.2d 1 (Iowa 2011), constitutes a new statement of law, thus allowing him to file his action more than three years after his direct appeal was final.

It is clear the reasoning utilized in *Anderson* does not constitute a new statement of law but rather is a restatement of well-established statutory interpretation doctrines. Anderson's claim is therefore without merit.

He also claims all his prior attorneys—trial through appeal of his first postconviction action—were ineffective in failing to fully utilize the statutory construction doctrines explained in *Anderson*. Because *Anderson* is not new law and his attorneys already used the same principles to challenge the definition of "sex act," they did not breach an essential duty.

Anderson makes an additional pro se argument, challenging the sufficiency of the evidence to prove Count II, as it was not of the same "common scheme" as the other counts and there was no evidence to corroborate the victim's testimony. This claim should have been, and was, litigated in his previous actions and is now barred by the statute of limitations.

We therefore affirm the district court's finding all of Anderson's claims are time barred and issue no further opinion pursuant to Iowa Court Rule 21.26(1)(a), (c), and (e).

AFFIRMED.