

IN THE COURT OF APPEALS OF IOWA

No. 3-714 / 12-1659
Filed September 5, 2013

JEFFREY ALLAN ROADEN,
Applicant-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

Appeal from the Iowa District Court for Polk County, Arthur E. Gamble,
Judge.

Jeffrey Roaden appeals from the dismissal of his application for
postconviction relief. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Dennis D. Hendrickson,
Assistant Appellate Defender, Des Moines, for appellant.

Thomas J. Miller, Attorney General, Martha E. Trout, Assistant Attorney
General, John Sarcone, County Attorney, and Susan Cox, Assistant County
Attorney, for appellee State.

Considered by Potterfield, P.J., and Mullins and Bower, JJ.

POTTERFIELD, P.J.

In June 2008, Jeffrey Roaden pleaded guilty to three counts of intimidation with a dangerous weapon, third-degree burglary, and fourth-degree theft, pursuant to a plea agreement. At the plea proceeding when Roaden was represented by privately-retained counsel, the trial court failed to inform him of his right to counsel. See Iowa R. Crim. P. 2.8(2)(b). Roaden did not appeal his convictions.

In May 2011, Roaden filed an application for postconviction relief, which was denied after a hearing.

On appeal, Roaden argues the district court erred in denying his application for postconviction relief. He notes that in *State v. Myers*, 653 N.W.2d 574, 578 (Iowa 2002), our supreme court concluded the first prong of an ineffectiveness claim—breach of duty—is satisfied by defense counsel’s failure to raise a deficiency in the plea colloquy. Roaden acknowledges he must also demonstrate prejudice to support his ineffectiveness claim. See *Myers*, 653 N.W.2d at 577. He impliedly concedes he cannot prove prejudice, but asks that we “re-visit” the prejudice requirement. Such a request must be addressed to our supreme court. See *State v. Eichler*, 83 N.W.2d 576, 578 (Iowa 1957) (“If our previous holdings are to be overruled, we should ordinarily prefer to do it ourselves.”). We therefore affirm.

AFFIRMED.