

IN THE COURT OF APPEALS OF IOWA

No. 6-493 / 05-1528
Filed August 23, 2006

CALVIN BRADFORD,
Applicant-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

Appeal from the Iowa District Court for Black Hawk County, K.D. Briner,
Judge.

A postconviction relief applicant appeals from the district court's order
denying the application. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Robert P. Ranschau,
Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Thomas S. Tauber, Assistant Attorney
General, Thomas J. Ferguson, County Attorney, and Kimberly Griffith, Assistant
County Attorney, for appellee.

Considered by Sackett, C.J., and Vogel and Zimmer, JJ.

VOGEL, J.

Calvin Bradford appeals the district court's denial of his application for postconviction relief, alleging ineffective assistance of postconviction counsel.

After this court affirmed Bradford's conviction for second-degree robbery as a habitual offender, *State v. Bradford*, No. 01-2022, (Iowa Ct. App. June 13, 2003), Bradford applied for postconviction relief, (PCR), asserting among other things, trial counsel's failure to secure an expert to testify as to the effects of crack cocaine on a person's memory and perception. No such expert was retained to testify at the postconviction hearing, and now Bradford claims a breach of his PCR counsel's duty resulting in prejudice to him. *Cox v. State*, 554 N.W.2d 712, 715 (Iowa Ct. App. 1996). We review Bradford's assertions de novo. *Jones v. State*, 479 N.W.2d 265, 271 (Iowa 1991). To establish a claim of ineffective assistance of counsel, we have indicated that the applicant must show that: 1) counsel's performance fell outside a normal range of competency; and 2) the deficient performance so prejudiced the defense as to deprive the criminal defendant of a fair trial. *Strickland v. Washington*, 466 U.S. 668, 687, 104 S. Ct. 2052, 2064, 80 L. Ed. 2d 674, 693 (1984).

The district court found:

Evidence at the robbery trial showed that witnesses made statements which were inconsistent with other statements by the same witnesses and with statements made by other witnesses. Questioning concerning the ingestion of crack cocaine by the alleged victim Angela Reiter and others involved in the goings-on at her apartment pervade[s] the trial transcript. Given the amount of information jurors received about inconsistent statements, and about drug use, it is difficult to see - - and the petitioner does not show in his pleadings - - how adding an expert witness to testify that smoking crack cocaine interferes with the accuracy of people's perceptions and with their memory would have added anything to

the jury's basis for deciding this case. The chance that such testimony, if presented, would have changed the outcome is virtually nil. The petitioner's third issue is without merit.

We agree with the district court's reasoning and conclusions. We further agree with the State's position that because the victim's testimony was corroborated by several other witnesses, as well as those identifying Bradford as the perpetrator, there is no reasonable probability that the outcome of the trial would have been altered by the procurement of the stated expert testimony. See *Osborn v. State*, 573 N.W.2d 917, 922 (Iowa 1998) ("To prove prejudice, the defendant must show there is a 'reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different.'" (quoting *Gering v. State*, 382 N.W.2d 151, 153 (Iowa 1986))).

We therefore find postconviction counsel breached no essential duty that worked to prejudice Bradford.

AFFIRMED.