

IN THE COURT OF APPEALS OF IOWA

No. 7-021 / 05-1702
Filed February 28, 2007

CHARLES CRAWLEY,
Applicant-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

Appeal from the Iowa District Court for Black Hawk County, John J. Bauercamper, Judge.

Charles Crawley appeals from the district court's order denying his application for postconviction relief. **AFFIRMED.**

Gregory F. Greiner of Greiner Law Office, P.C., Des Moines, for appellant.

Thomas J. Miller, Attorney General, Cristen Douglass, Assistant Attorney General, Thomas J. Ferguson, County Attorney, and Kim Griffith, Assistant County Attorney, for appellee.

Considered by Sackett, C.J., and Huitink and Mahan, JJ.

SACKETT, C.J.

Charles Crawley was convicted of forgery and being a habitual offender, in violation of Iowa Code sections 715A.2 and 902.8 (1997), respectively. His conviction was affirmed on appeal. *State v. Crawley*, 633 N.W.2d 802 (Iowa 2001). He sought postconviction relief claiming his trial attorney was ineffective in a number of ways. The district court denied his claims and this appeal follows. We affirm.

We adopt the facts set out in *Crawley*, 633 N.W.2d at 803-04:

On November 6, 1998, a Waterloo business was burglarized, and some of the business checks were taken. One of the checks was written without authorization, payable to Jon Gross, and cashed for \$260. Gross, who became a State's witness, testified Crawley wrote the check out to Gross, who cashed the check at a nearby grocery store. Gross gave Crawley all the cash except some that Gross used to buy groceries. When asked why Crawley gave him the check, Gross stated, "It was for to get drugs."

As part of its investigation, on March 25, 1999, the State obtained an order requiring Crawley to submit a handwriting exemplar. The State contended that Crawley failed to comply with this order by providing an accurate exemplar because he had disguised his handwriting. The State then requested a contempt order, and on April 8, the court found him in contempt. The court found the defendant "willfully and intentionally refused to comply with handwriting exemplar orders, and to subvert exemplar through feigned cooperation."

On May 6 the State filed a motion to adjudicate law points, requesting that evidence of Crawley's refusal to provide an accurate handwriting exemplar be admitted at trial. The court granted the State's motion, ruling that testimony of the lack of compliance with the court's order was admissible; however, evidence Crawley had been found in contempt for failing to provide the sample was not admissible. At trial two officers, including a handwriting expert, testified Crawley disguised his handwriting while preparing the exemplar.

Crawley was convicted of forgery in the first stage of a bifurcated trial, and in the second stage, he was found guilty of being a habitual criminal.

While affirming Crawley's direct appeal, the supreme court preserved for possible postconviction proceedings Crawley's claims that his trial counsel was ineffective in (1) failing to retain an independent handwriting expert, (2) obtaining an opinion on handwriting from a police officer, (3) failing to object to testimony regarding other forgeries of checks from the same business, and (4) soliciting testimony about other suspects with whom Crawley was familiar.

The district court, after a hearing, denied all of Crawley's claims finding Crawley failed to show evidence of prejudice and that Crawley's trial attorney conferred with him and gave him input on the selection of trial tactics and the theory of defense. The district court noted in making this determination it took into consideration its assessment of the credibility of Crawley and his trial counsel.

We review claims of ineffective assistance of counsel de novo. *State v. Belken*, 633 N.W.2d 786, 794 (Iowa 2001) (citing *State v. DeCamp*, 622 N.W.2d 290, 292 (Iowa 2001)). To prevail on a claim of ineffective assistance of counsel, Crawley must demonstrate his counsel failed to perform an essential duty and prejudice resulted. *State v. Hischke*, 639 N.W.2d 6, 8 (Iowa 2002); (citing *Ledezma v. State*, 626 N.W.2d 134, 142 (Iowa 2001)). Both elements must be proved by a preponderance of the evidence. *Id.* If a claim lacks one of the elements of an ineffective assistance of counsel claim, it is not necessary for us

to address the other element. *Id.* Like the district court, we are unable to find any evidence to support a finding that Crawley suffered any prejudice.

AFFIRMED.