

IN THE COURT OF APPEALS OF IOWA

No. 7-235 / 06-1052

Filed May 23, 2007

DAVEY LEN BARNETT,
Applicant-Appellant,
vs.

STATE OF IOWA,
Respondent-Appellee.

Appeal from the Iowa District Court for Woodbury County, Edward A. Jacobson, Judge.

A postconviction relief applicant appeals the district court's order dismissing his application on summary judgment. **AFFIRMED.**

Rees Conrad Douglas, Sioux City, for appellant.

Thomas J. Miller, Attorney General, Thomas Tauber, Assistant Attorney General, Patrick Jennings, County Attorney, and Drew Bockenstedt, Assistant County Attorney, for appellee State.

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

VOGEL, P.J.

Davey Barnett appeals the dismissal of his application for postconviction relief by the district court on summary judgment. Barnett was convicted and sentenced following a jury trial on numerous criminal charges. We affirmed his convictions and sentences on direct appeal in *State v. Barnett*, No. 02-0485 (Iowa Ct. App. Jan. 29, 2003). Barnett filed an application for postconviction relief in April 2004, in response to which the State moved for summary judgment. Following a contested hearing,¹ the district court determined that Barnett failed to preserve error on the issue of whether his trial counsel was ineffective for not pursuing an alibi defense. Barnett appeals.

We review postconviction proceedings for errors of law. *Rhiner v. State*, 703 N.W.2d 174, 176 (Iowa 2005). We conclude that the district court properly granted dismissal of Barnett's application, because the same issue was raised and decided adversely to Barnett on direct appeal. We had determined his allegations were simply too general to either address or preserve for possible postconviction relief. See generally *Dunbar v. State*, 515 N.W.2d 12, 15-16 (Iowa 1994) (stating an applicant must state specific ways in which counsel was ineffective and how effective counsel probably would have changed the outcome). We conclude that Barnett was thus barred from relitigating the issue in a postconviction proceeding as it was adjudicated on direct appeal. See

¹ Although Barnett urged several grounds in the application, only the ruling as it related to whether counsel was ineffective for failing to call alibi witnesses was raised in this appeal.

Armento v. Baughman, 290 N.W.2d 11, 12 (Iowa 1980). We affirm pursuant to Iowa Court Rule 21.29(1)(a), (c), and (e).

AFFIRMED.