

IN THE COURT OF APPEALS OF IOWA

No. 7-292 / 06-1743
Filed June 13, 2007

NATHANIEL TAYLOR,
Applicant-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

Appeal from the Iowa District Court for Story County, William J. Pattinson,
Judge.

Nathaniel Taylor appeals from the district court's denial of his application
for postconviction relief. **AFFIRMED.**

Alfredo Parrish of Parrish, Kruidenier, Dunn, Boles, Gribble, Cook, Parrish,
Gentry & Fisher, L.L.P., Des Moines, for appellant.

Thomas J. Miller, Attorney General, Thomas Tauber, Assistant Attorney
General, Stephen Holmes, County Attorney, and Timothy Meals and Mary Howell
Sirna, Assistant County Attorneys, for appellee State.

Considered by Huitink, P.J., and Zimmer and Vaitheswaran, JJ.

VAITHESWARAN, J.

The State charged Nathaniel Taylor with several crimes arising out of an altercation with his wife. Prior to trial, the State offered Taylor a plea to a forcible felony with a ten-year sentence. Taylor declined the offer and proceeded to trial before the district court. The court found Taylor guilty of domestic abuse assault causing bodily injury and first-degree burglary.¹

On direct appeal, the Iowa Supreme Court affirmed the convictions, preserving for postconviction relief several ineffective-assistance-of-counsel claims. *State v. Taylor*, 689 N.W.2d 116,136 (Iowa 2004). Among them was a claim that trial counsel was ineffective in “failing to obtain a determination of the admissibility of the prior-bad-acts evidence before advising the defendant whether to waive a jury trial and whether to accept a plea bargain.” *Id.* at 134.

Taylor filed an application for postconviction relief, raising this and other claims. Following a hearing, the district court determined that the other claims had been abandoned. Focusing on the prior-bad-acts claim, the court concluded Taylor failed to establish “he was prejudiced by any purported ineffective assistance on [defense counsel’s] part.”

Taylor appeals. On our de novo review of the record, we agree with the district court that Taylor did not establish *Strickland* prejudice. *Strickland v. Washington*, 466 U.S. 668, 694, 104 S. Ct. 2052, 2068, 80 L. Ed. 2d 674, 698 (1984).

¹ The court also found Taylor guilty of criminal mischief but vacated the conviction following trial.

Preliminarily, it bears noting that the Iowa Supreme Court adversely resolved key aspects of this claim on direct appeal. The court concluded that evidence relating to prior domestic assaults was properly admitted. *Taylor*, 689 N.W.2d at 130. For this reason, the court declined to preserve an ineffective-assistance-of-counsel claim based on counsel's failure to prevent the admission of this evidence. *Id.* at 135.

The supreme court's resolution of these issues left the postconviction court with Taylor's narrow assertion that, had defense counsel obtained an early ruling on the admissibility of the prior-bad-acts evidence, Taylor could have made "an informed decision about whether to proceed to trial or accept the offer from the state." As the district court found, the problem with this assertion was that Taylor "rejected the plea agreement because its terms required imprisonment." This finding is supported by defense counsel's testimony that Taylor "would not agree to go to prison" and that "was his bottom line" and by similar testimony from Taylor's father.

We conclude there was no reasonable probability that an early attempt by defense counsel to determine the admissibility of the prior bad acts evidence would have prompted Taylor to accept the plea offer. *See Engelen v. United States*, 68 F.3d 238, 241 (Iowa 1995) (stating, to establish *Strickland* prejudice, movant must show that, but for counsel's advice, he would have accepted plea). Accordingly, we affirm the dismissal of his postconviction relief application.

AFFIRMED.