

**IN THE COURT OF APPEALS OF IOWA**

No. 8-645 / 05-1697  
Filed September 17, 2008

**STANLEY REED,**  
Applicant-Appellant,

**vs.**

**STATE OF IOWA,**  
Respondent-Appellee.

---

Appeal from the Iowa District Court for Lee (South) County, David B. Hendrickson, Judge.

Stanley Reed appeals the district court decision denying his application for postconviction relief. **AFFIRMED.**

William Monroe, Burlington, for appellant.

Thomas J. Miller, Attorney General, Mary Tabor, Assistant Attorney General, Michael Short, County Attorney, and Bruce C. McDonald, Assistant County Attorney, for appellee State.

Considered by Mahan, P.J., and Vaitheswaran and Doyle, JJ.

**PER CURIAM**

Stanley Reed appeals the district court decision denying his application for postconviction relief. He alleges he received ineffective assistance of trial counsel. Reed also raises several claims of trial error. We affirm.

**I. Background Facts and Proceedings.**

Reed was found guilty of two counts of delivery of a cocaine base, delivery of cocaine, possession with intent to deliver more than five grams of cocaine or cocaine base, ongoing criminal conduct through specified unlawful activity, and two counts of failing to affix a tax stamp for marijuana and cocaine. Reed is serving a prison sentence totaling one hundred years.

Reed's convictions were affirmed on direct appeal in *State v. Reed*, 618 N.W.2d 327 (Iowa 2000).<sup>1</sup> Reed filed a petition seeking postconviction relief,<sup>2</sup> and on April 15, 2005, the parties agreed to submit the matter to the court through depositions, briefs, and trial transcripts. On September 2, 2005, the district court denied Reed's application for postconviction relief in a twenty-three-page opinion. Reed now appeals the district court's ruling. Through a pro se brief, he raises eight claims, some of which are also raised by his appellate

---

<sup>1</sup> Reed raised four issues on direct appeal: (1) the vagueness and overbreadth of the ongoing criminal conduct statute under the federal constitution; (2) whether the district court violated his double jeopardy rights for his drug convictions and ongoing criminal conduct conviction; (3) whether the district court should have merged the sentence for those convictions pursuant to Iowa Code section 701.9; (1999) and (4) the sufficiency of the evidence of corroboration.

<sup>2</sup> Reed filed a petition seeking postconviction relief on February 21, 2003, alleging eleven claims of ineffective assistance of trial counsel. The State filed an answer, requesting the petition be dismissed. Reed filed a pro se resistance to the State's motion to dismiss, requesting a hearing on his postconviction claims. A hearing was scheduled for January 22, 2004, but neither Reed nor Reed's counsel appeared. On January 30, 2004, Reed moved to reinstate the postconviction petition, alleging he was unaware of the scheduled hearing. The district court reinstated the proceedings.

counsel. Through his counsel's brief, he challenges the district court's ruling with regard to his trial counsel's ineffective assistance, and raises several claims of trial error.

## **II. Scope and Standard of Review.**

We review postconviction relief proceedings for errors at law. Iowa R. App. P. 6.4; *Millam v. State*, 745 N.W.2d 719, 721 (Iowa 2008). Under this standard, we affirm if the court's fact findings "are supported by substantial evidence and if the law was correctly applied." *Harrington v. State*, 659 N.W.2d 509, 520 (Iowa 2003). Those claims concerning alleged constitutional violations, including ineffective assistance of counsel claims, are reviewed de novo. *Id.*; *State v. Decker*, 744 N.W.2d 346 (Iowa 2008). We give weight to the lower court's determination of witness credibility. *Milam*, 745 N.W.2d at 721.

## **III. Merits.**

Reed contends the district court erred in rejecting claims of his trial counsel's ineffectiveness and claims of trial error. Reed also raises eight pro se claims. We address each argument in turn.

### **A. Ineffective Assistance of Trial Counsel.**

Reed argues his trial counsel was ineffective because he failed to (1) object to the prosecutor's misconduct; (2) object to the playing of tape recordings of controlled purchases of drugs offered into evidence against Reed; (3) object to prior bad acts evidence; (4) properly investigate and impeach

witnesses Adriane Bradley and Lamont Walker,<sup>3</sup> and raise objections during their testimony; and (5) object and request a continuance or motion for a mistrial when new information was introduced at trial.

To establish a claim of ineffective assistance of counsel, a defendant must prove (1) counsel failed to perform an essential duty and (2) prejudice resulted to the extent it denied the defendant a fair trial. *State v. Maxwell*, 743 N.W.2d 185, 195 (Iowa 2008). A defendant's failure to prove either element by a preponderance of the evidence is fatal to a claim of ineffective assistance. *State v. Polly*, 657 N.W.2d 462, 465 (Iowa 2003).

The test for the first element is objective: whether counsel's performance was outside the range of normal competency. *Millam*, 745 N.W.2d at 721. We start with a strong presumption that counsel's conduct was within the wide range of reasonable professional assistance. *DeVoss v. State*, 648 N.W.2d 56, 64 (Iowa 2002). We presume the attorney performed competently, and the defendant must present an affirmative factual basis establishing inadequate representation. *Millam*, 745 N.W.2d at 721. Miscalculated trial strategies and mere mistakes in judgment normally do not rise to the level of ineffective assistance of counsel. *Id.* However, "strategic decisions made after a 'less than complete investigation' must be based on reasonable professional judgments which support the particular level of investigation conducted." *Id.*; *Ledezma v. State*, 626 N.W.2d 134, 143 (Iowa 2001) (quoting *Strickland v. Washington*, 466 U.S. 668, 690-91, 104 S. Ct. 2052, 2066, 80 L. Ed. 2d 674, 695 (1984)).

---

<sup>3</sup> At trial, Reed requested the court to enter an accomplice instruction including the names of several individuals, including Adriane Bradley and Lamont Walker. This request was denied.

Ineffective assistance of counsel claims “involving tactical or strategic decisions of counsel must be examined in light of all the circumstances to ascertain whether the actions were a product of tactics or inattention to the responsibilities of an attorney guaranteed a defendant under the Sixth Amendment.” *Ledezma*, 626 N.W.2d at 143.

The test for the second element is whether the defendant can prove there is a reasonable probability that, without counsel’s errors, the outcome of the proceedings would have been different. *Id.* at 722; *Ledezma*, 626 N.W.2d at 143. A reasonable probability is one that undermines confidence in the outcome. *Millam*, 745 N.W.2d at 722.

We have reviewed the record, the briefs of the parties, and the district court’s detailed and well-written opinion. Under our de novo review, we find the district court sufficiently addressed every issue Reed now raises regarding ineffective assistance of trial counsel. Any further discussion of these issues by our court would add little to and not change the disposition of this case. Accordingly, we affirm on this issue of ineffective assistance of counsel.

#### **B. Claims of Trial Error.**

Reed claims the trial court erred when it (1) admitted drugs that lacked a proper foundation; (2) failed to find as a matter of law that Lamont Walker and Adriane Bradley were accomplices to Reed; (3) allowed a police officer’s opinion concerning ownership of the drugs found in Reed’s home; and (4) found sufficient evidence to convict Reed. Upon our review of the pleadings and postconviction ruling, these issues were neither raised nor decided as claims of trial error in the district court. Furthermore, the claims were not raised on direct

appeal. *Jones v. State*, 479 N.W.2d 265, 271 (Iowa 1991); *Washington v. Scurr*, 304 N.W.2d 231, 235 (Iowa 1981) (“A postconviction proceeding is not an avenue for litigating issues that were not properly preserved for our review on direct appeal.”).

To preserve error for postconviction relief, a defendant must first raise the alleged deficiencies on direct appeal. *State v. McCright*, 569 N.W.2d 605, 607 (Iowa 1997) (“Issues not raised before the district court, including constitutional issues, cannot be raised for the first time on appeal.”). An exception exists if the defendant can show cause for failing to challenge the alleged errors on direct appeal. *Washington*, 304 N.W.2d at 235. Here, error has not been preserved, as Reed has not provided a sufficient reason for his failure to raise these newly asserted claims of trial error on direct appeal. We therefore affirm the district court.

### **C. Pro Se Claims.**

Reed alleges eight pro se claims on appeal. These claims either overlap his appellate counsel’s claims or are not fully developed for appellate review.<sup>4</sup> It is the work of this court to assess the arguments made by each side, not to undertake a party’s research and advocacy. See *Hylar v. Garner*, 548 N.W.2d 864, 876 (Iowa 1996) (“[W]e will not speculate on the arguments [the appellant] might have made and then search for legal authority and comb the record for facts to support such arguments.”). These claims are simply too general to either address or preserve for yet another possible postconviction proceeding. See

---

<sup>4</sup> Reed’s pro se claims that are not discernibly different than those made by his appellate counsel have been addressed above.

*Dunbar v. State*, 515 N.W.2d 12, 15-16 (Iowa 1994). We reject Reed's pro se claims that his trial counsel was ineffective for failing to adequately develop both issues and evidence. We see no proof that any of the claimed deficiencies of counsel, if shown to exist, were sufficient to prejudice Reed's case.

#### **IV. Conclusion.**

For the reasons set forth above, we conclude Reed has not met his burden to show his trial counsel rendered ineffective assistance, and has not established any other postconviction claim. The ruling of the district court is affirmed.

**AFFIRMED.**