

IN THE COURT OF APPEALS OF IOWA

No. 9-1011 / 09-0555
Filed December 30, 2009

ARAMIS SAUERS,
Applicant-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

Appeal from the Iowa District Court for Cerro Gordo County, Bryan
H. McKinley, Judge.

Appeal from the district court's order dismissing the application for
postconviction relief. **AFFIRMED.**

Andrew C. Abbott of Abbott Law Office, P.C., Waterloo, for appellant.

Thomas J. Miller, Attorney General, Elisabeth S. Reynoldson, Assistant
Attorney General, Paul L. Martin, County Attorney, and Erica W. Clark, Assistant
County Attorney, for appellee.

Considered by Sackett, C.J., and Vaitheswaran and Danilson, JJ.

SACKETT, C.J.

Applicant-appellant, Aramis Sauers, appeals from the district court order dismissing his application for postconviction relief. He contends postconviction counsel was ineffective (1) in unilaterally dismissing all but one of the claims raised in the pro se application for postconviction relief, and (2) in not seeking reinstatement of the remaining claims from the pro se application. We affirm.

Appellant filed a pro se application for postconviction relief. He alleged trial counsel was ineffective for failing to inform him of the lifetime supervision provisions of Iowa Code section 903B.1 (2007) prior to his guilty plea. He requested that the lifetime supervision portion of his sentence be removed. Counsel was appointed to represent him. The State filed a motion requesting that the application be dismissed. Counsel resisted the motion and requested that appellant be resentenced with the lifetime supervision provisions of section 903B.1 stricken, arguing trial counsel was ineffective (1) in failing to advise appellant of the applicability of section 903B.1 prior to his guilty plea, and (2) in failing to argue the provisions of section 903B.1 violate the Eighth Amendment prohibition on cruel and unusual punishment as well as his “right to travel.” The State’s motion for summary dismissal came on for hearing. Appellant was not present and did not testify. At the unreported hearing, counsel informed the court that the “sole grounds” being relied on was the failure of trial counsel to challenge the constitutionality of Iowa Code section 903B.1. The district court analyzed the claim and granted the State’s motion for summary dismissal.

On appeal, appellant contends he never had discussions with counsel about restricting or limiting the issues in the postconviction proceeding to a constitutional challenge to section 903B.1 and did not authorize counsel to limit his application. He asserts counsel failed to address the most important issues he raised in his pro se application.

Generally, claims of ineffective assistance of counsel are not resolved on direct appeal. *State v. Biddle*, 652 N.W.2d 191, 203 (Iowa 2002). Such questions are usually reserved for postconviction proceedings so counsel has an opportunity to defend against the charge. *State v. Tate*, 710 N.W.2d 237, 240 (Iowa 2006). Only in rare cases will the record on direct appeal alone be sufficient to resolve the claim. *Id.* (citing *State v. Straw*, 709 N.W.2d 128, 133 (Iowa 2006)). Although the State proffers a reasonable explanation for counsel's actions, that appellant would lose the benefit of the plea agreement if he were to challenge the plea itself instead of just a portion of the sentence, we conclude the record is insufficient for us to address appellant's claims. We reserve appellant's ineffective assistance of postconviction counsel claims for possible further postconviction proceedings to allow full development of the facts surrounding counsel's conduct. See *Straw*, 709 N.W.2d at 133.

AFFIRMED.