

**IN THE COURT OF APPEALS OF IOWA**

No. 9-853 / 09-0322  
Filed February 10, 2010

**BRYAN D. SHUFORD,**  
Applicant-Appellant,

**vs.**

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

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Appeal from the Iowa District Court for Scott County, Gary D. McKenrick,  
Judge.

Applicant appeals the summary disposition of his application for  
postconviction relief. **AFFIRMED.**

Steven W. Stickle of Stickle Law Firm, P.L.C., Davenport, for appellant.

Thomas J. Miller, Attorney General, Sharon K. Hall, Assistant Attorney  
General, Michael J. Walton, County Attorney, and Jerald L. Feuerbach, Assistant  
County Attorney, for appellee State.

Considered by Vogel, P.J., and Doyle and Mansfield, JJ.

**VOGEL, P.J.**

Bryan Shuford appeals the district court's grant of the State's motion for summary disposition pursuant to Iowa Code section 822.6 (2007) on his application for postconviction relief.<sup>1</sup> Summary disposition is appropriate when no material facts are in dispute and the moving party is entitled to judgment as a matter of law. *Manning v. State*, 654 N.W.2d 555, 560 (Iowa 2002). We review postconviction relief proceedings for correction of errors at law. *Ledezma v. State*, 626 N.W.2d 134, 141 (Iowa 2001). We review ineffective-assistance-of-counsel claims de novo. *Id.*

Shuford's application for postconviction relief asserted his trial counsel was ineffective for: (1) failing to reassert a motion for change of venue after voir dire and (2) failing to request a limiting instruction as to certain testimony.

The postconviction court indicated it had reviewed the file and concluded "[t]he record establishes that a fair and impartial jury was impaneled and heard the evidence in the underlying criminal trial." We agree, as the record of the voir dire supports the finding that an impartial jury was seated. Trial counsel breached no essential duty by not reasserting a meritless motion for change of venue and the postconviction court was correct in denying this claim on summary disposition. See *State v. Hoskins*, 586 N.W.2d 707, 709 (Iowa 1998) (stating counsel has no duty to pursue a meritless motion).

Shuford also claimed that a limiting instruction as to certain trial testimony should have been given. The postconviction court correctly found Shuford could

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<sup>1</sup> Following a jury trial, Shuford was convicted of second-degree murder, willful injury, and intimidation. On direct appeal, this court affirmed his convictions. *State v. Shuford*, No. 03-0293 (Iowa Ct. App. June 9, 2004).

not establish the required prejudice, as the trial record included “two separate corroborated confessions by the applicant. No reasonable likelihood exists that the result of the applicant’s underlying criminal trial would have been different had a limiting instruction been given.” See *Ledezma*, 626 N.W.2d at 144 (discussing that an applicant must show a reasonable probability that but for counsel’s error, the result of the proceeding would have been different). We agree.

Shuford also raises in this appeal that his postconviction counsel was ineffective for failing to submit adequate resistance to the State’s motion for summary disposition. See *State v. Straw*, 709 N.W.2d 128, 133 (Iowa 2006) (stating that in order to succeed on an ineffective-assistance-of-counsel claim, an applicant must prove (1) counsel failed to perform an essential duty and (2) prejudice resulted). Postconviction counsel did file a nine-page amended application for postconviction relief, with seven attachments, directing the court to the specific claims asserted. While the hearing was not reported, the postconviction court ruling recited it had held a “contested hearing” and the court “heard the arguments of counsel.” We find no merit in Shuford’s claim that his postconviction counsel was ineffective as he cannot establish neither a failure to perform an essential duty nor any resulting prejudice.

We affirm the postconviction court’s disposition of Shuford’s application on summary disposition.

**AFFIRMED.**