FILED
JAN 31 1978
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

RICHARD ALLEN TERRELL,
Appellant,
v.
STATE OF IOWA,
Appellee.

Filed January 31, 1978

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2-60458

Appeal from Black Hawk District Court - Carroll E. Engelkes, Judge.

Appeal from judgment denying postconviction relief. Appeal dismissed.

Stanford J. Patterson, of Gottschalk & Patterson, of Waterloo, for appellant.

Richard C. Turner, Attorney General, and David Correll, Black Hawk County Attorney, for appellee.

Submitted to Allbee, C.J., and Donielson, Snell, Oxberger and Carter, JJ.

PER CURIAM

Petitioner, Richard Allen Terrell, appeals from judgment denying postconviction relief sought under chapter 663A, The Code. Terrell was convicted of assault with intent to commit rape, in violation of § 698.4, The Code, by plea of guilty accepted by Judge L. John Degnan on September 3, 1974. No appeal was taken from the judgment rendered upon that conviction, although he was advised of that right. (Transcript of Judgment and Sentence, p. 7.)

In this appeal, petitioner asserts that the postconviction court, Judge Carroll E. Engelkes, erred (1) in failing to find a reasonable doubt existed as to his sanity when the guilty plea was accepted and, therefore, the proceedings should have been suspended and a trial had upon that question; and (2) the guilty plea was not knowingly and voluntarily entered in conformance with "Sisco/Brainard" standards. Specifically, Terrell's second contention is that Judge Degnan erred in accepting the guilty plea by failing to: (a) explain the nature of the charge to him; (b) determine if he understood the nature of the charge; and (c) establish a factual basis for acceptance of the guilty plea.

During the pendency of this appeal, the supreme court decided Bledsoe v. State, 257 N.W.2d 32 (Iowa 1977), which held that when an individual fails to raise an issue in a direct appeal from his conviction, he has the burden of showing a sufficient reason why that new issue was not previously asserted.

Here, the postconviction court decided the case on the record of the original proceedings, pursuant to an agreement of counsel. (X. 11-13.) There was no reliance by petitioner on evidence other than that which was in the original record. Cf. Bledsoe v. State, supra at 35 (McCormick, J., dissenting). Terrell has attempted to substitute the remedy created by chapter 663A, The Code, for a direct appeal.

Petitioner has neither stated nor shown grounds upon which he could secure postconviction relief. The postconviction court would have been justified in denying his petition for that reason. This appeal is, therefore, dismissed. See Carstens v. Rans, 210 N.W.2d 663 (Iowa 1973).

Appeal dismissed.