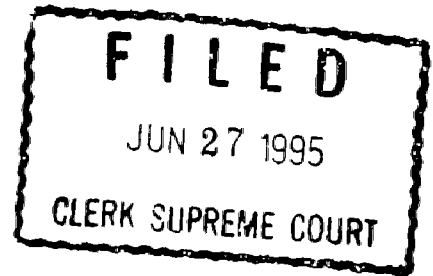


IN THE COURT OF APPEALS OF IOWA

No. 5-198 93-1557



JAMES WILLIAM LANGDEAUX,

Appellant.

vs.

STATE OF IOWA,

Appellee.

Appeal from the Iowa District Court for Dickinson County, Tom Hamilton,
Judge, and Murray S. Underwood, Senior Judge.

Applicant appeals from the dismissal of his application for postconviction
relief. **REVERSED AND REMANDED.**

Daniel J. Millea of Ladegaard & Maahs, Spirit Lake, until withdrawal, then
Edward Bjornstad, Spirit Lake, until withdrawal, and then Larry Stoller, Spirit Lake,
for appellant.

Thomas J. Miller, Attorney General, Thomas S. Tauber, Assistant Attorney
General, and Jon M. Martin, County Attorney, for appellee.

Heard by Hayden, P.J., and Sackett and Cady, JJ; but decided by Hayden, P.J.,
and Habhab, and Cady, JJ. Sackett, J. takes no part.

CADY, J.

James Langdeaux was convicted of first degree murder and going armed with intent in March 1988. We affirmed his convictions on direct appeal. *State v. Langdeaux*, No. 88-852 (Iowa App. Aug. 23, 1989). His first application for postconviction relief was dismissed. On appeal, we affirmed the dismissal. *Langdeaux v. State*, No. 90-1160 (Iowa App. Nov. 26, 1991).

Langdeaux then filed a second application for postconviction relief contending Iowa's felony murder statute was unconstitutional, the court improperly amended the trial information by instructing the jury on willful injury, and he was unconstitutionally denied an attorney following arrest. The State resisted the application alleging Langdeaux had failed to establish sufficient reason for not raising these issues earlier and that the issues were without merit. The district court summarily dismissed the application, prompting Langdeaux to appeal.

Our supreme court subsequently reversed the summary disposition finding the district court had failed to comply with Iowa Rule of Civil Procedure 237. The State's motion to dismiss was sustained after only five days and without prior notice or hearing. The case was remanded "with instructions to set the State's motion for summary disposition for hearing in accordance with rule 237." *Langdeaux v. State*, No. 94 / 92-982 (Iowa Apr. 5, 1993).

Following the remand, Langdeaux (pro se and by counsel) filed motions to amend his application to include several new issues, to recast his application, and for discovery. The State resisted the motions and reaffirmed its motion to dismiss. Following a hearing, the district court denied Langdeaux's motions to amend and for discovery. The district court interpreted the remand by the supreme court to mean that it could not "address other matters raised subsequent to the motion to dismiss," and concluded it had no discretion to permit discovery or amendment to the petition. In a later hearing, the district court granted the State's motion for summary disposition and dismissed the application "for all the reasons stated in paragraphs 1 through 16, inclusive, of [the State's] Motion to Dismiss."

Langdeaux now appeals. He contends the district court erred in construing the Supreme Court's order to limit the issues on remand, in denying his motions to amend and for discovery, and in failing to state reasons for dismissing the application for postconviction relief.

We review Langdeaux's procedural claim for errors at law. Iowa R. App. P. 4. After considering the record, we agree that the district court erred in construing the supreme court order to limit the issues on remand. The language of the remand order was general not narrow in scope and rule 237 grants courts broad authority to consider matters on file with the court at the time for hearing.

The supreme court's April 5, 1993 order remanding Langdeaux's case stated "we reverse and remand this case to the district court with instructions to set the State's motion for summary disposition for hearing in accordance with rule 237." This statement indicated the district court should hear the State's motion in accordance with rule 237. It did not give specific instructions or impose additional limitations on the court's authority to review the case. The remand order placed the court in the same position it would have been if the May 26, 1992 summary dismissal and subsequent appeal had not occurred.

Furthermore, rule 237 grants courts authority to consider "pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits" in reviewing summary judgment proceedings. *Byker v. Rice*, 360 N.W.2d 572, 573 (Iowa App. 1984); Iowa R. Civ. P. 237. Thus, the power to review requests for discovery and amendments to pleadings inheres in a summary disposition unless restricted by the supreme court on remand. *Cf. State v. Hall*, 249 N.W.2d 843, 845 (Iowa 1977) (stating when the supreme court remands for a special purpose, the district court is limited to that purpose on remand).

In this case, the district court improperly limited its review to the postconviction relief motion filed May 18, 1992 and the State's responsive motion to dismiss. It had discretion to grant or deny the pending motions and erred in failing to exercise its

discretion. We remand to the district court for consideration of Langdeaux's motions to amend the pleadings, motion to recast the pleadings, and motion for discovery.

We also remand the State's motion to dismiss. Any discovery permitted by the trial court following this remand could impact the issues previously considered by the court in the States' motion to dismiss. It is unnecessary for us to consider the remaining issues raised by Langdeaux.

REVERSED AND REMANDED.