FILED
SEP 24 1991
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 1-349 / 90-1528

JEFFREY A. SALKIL,

Applicant-Appellant,

vs.

STATE OF IOWA,

Respondent-Appellee.

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Appeal from the Iowa District Court for Scott County, James R. Havercamp, Judge.

Salkill appeals the district court denial of postconviction relief. **AFFIRMED.**

Gary D. McKenrick of Gomez, May, McKenrick & Kelly, Davenport, for appellant.

Bonnie J. Campbell, Attorney General, Bruce Kempkes, Assistant Attorney General, William E. Davis, County Attorney, and Hugh J. Pries, Assistant County Attorney, for appellee.

Considered by Schlegel, P.J., and Hayden and Sackett, JJ.

PER CURIAM

In this appeal from a trial court's denial of postconviction relief, applicant-appellant Jeffrey A. Salkil contends he received ineffective assistance of trial and appellate counsel. He claims he should have a new trial. We disagree and affirm.

Applicant was convicted of burglary in the second degree and possession of burglar tools. He appealed, and his conviction was affirmed by this court. State v. Salkil, 441 N.W.2d 386, 387-88 (Iowa App. 1989).

The case against the applicant was based primarily on the testimony of two Davenport police officers who testified as to the conduct of applicant and an accomplice in a used car lot. The police officers testified applicant acted as a lookout while the accomplice removed items from cars. Applicant contends his trial counsel was ineffective in failing to object to the testimony he acted as a lookout; in not impeaching the police officers, and in refusing to let the applicant take the witness stand and testify in his own defense.

Our review is de novo. Hinkle v. State, 290 N.W.2d 28, 30 (Iowa 1980). We do, however, accord weight to the trial court's finding of fact on witness credibility. See Wycoff v. State, 382 N.W.2d 462, 465 (Iowa 1986).

The issues the applicant now raises were not raised on direct appeal. The applicant did not allege in his postconviction application his attorneys on direct appeal,

who were not trial counsel, rendered ineffective assistance of counsel in not challenging on direct appeal the competency of the applicant's trial counsel.

Applicant did not call as a witness the attorney who represented him on direct appeal. He only called his trial counsel. He therefore offered his counsel on direct appeal no opportunity to explain their professional effort. See Kellogg v. State, 288 N.W.2d 561, 566 (Iowa 1980).

The applicant has not preserved error on the issue of the ineffectiveness of his trial counsel. We have, however, examined his claims, and agree with the trial court they are without merit.

In order to prevail on such a claim, applicant must show by a preponderance of the evidence that (1) counsel failed to perform an essential duty, and (2) prejudice resulted. See State v. Risdal, 404 N.W.2d 130, 131-32 (Iowa 1987); Edman v. State, 444 N.W.2d 99, 101 (Iowa App. 1989).

Our ultimate concern is "the fundamental fairness of the proceeding whose result is being challenged." See Strickland v. Washington, 466 U.S. 668, 696, 104 S. Ct. 2052, 2069, 80 L. Ed. 2d 674, 699 (1984).

Imprudent trial strategy, miscalculated tactics, or mistakes in judgment, do not necessarily amount to ineffective counsel. See Hinkle, 290 N.W.2d at 34. Applicant has not met the required burden. We affirm.

AFFIRMED.