IN THE COURT OF APPEALS OF IOWA

No. 1-014 / 90-433

FILED
APR 23 1991
CLERK SUPREME COURT

285

STATE OF IOWA,

Appellee,

vs.

MARTIN LOWRY,

Appellant.

Appeal from the Iowa District Court for Woodbury County, Dewie J. Gaul, Judge.

The defendant appeals from his conviction, following a jury trial, for second-degree burglary. He contends his trial attorney rendered ineffective assistance of counsel. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Brian K. Sissel, Assistant State Appellate Defender, for appellant.

Bonnie J. Campbell, Attorney General; Sarah J. Coats, Assistant Attorney General; Thomas S. Mullin, County Attorney; and Connie E. Anstey, Assistant County Attorney, for appellee.

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

DONIELSON, P.J.

Martin Lowry and Ronald Spike were accused of breaking into a "liquidation center" and removing some merchandise. They were apprehended as they tried to walk away from the liquidation center.

Lowry was charged with second-degree burglary. At his jury trial, much of the State's evidence consisted of testimony by Ronald Spike. The State acknowledges that Spike was an accomplice.

At the close of the State's evidence, Lowry's attorney moved for a directed verdict of acquittal. The motion alleged that the evidence was insufficient to support a conviction. The motion did not, however, allege that there was insufficient evidence to corroborate the testimony of an accomplice, as required by Iowa Rule of Criminal Procedure 20(3). The district court overruled this motion.

The jury found Lowry guilty of burglary in the second degree. Lowry has appealed the resulting conviction.

Lowry contends his trial attorney rendered ineffective assistance by failing, in the motion for directed verdict of acquittal, to raise a claim that there was insufficient evidence to corroborate the testimony of an accomplice.

Lowry also contends his trial attorney rendered ineffective assistance by failing to request an instruction telling the jury that accomplice testimony must be corroborated.

The record before this court is inadequate to review this claim of ineffective assistance of counsel. Generally, we hold such claims are more properly raised through postconviction proceedings under Iowa Chapter 663A. See, e.g., State v. Powell, 400 N.W.2d 562, 565 (Iowa 1987). Where the record on direct appeal is not adequate to permit us to resolve the issue, we preserve the defendant's claim for postconviction proceedings so the facts may be more fully developed. State v. Koenighain, 356 N.W.2d 237, 238 (Iowa App. 1984). This also gives the allegedly ineffective attorney the opportunity to explain his or her conduct. State v. Coil, 264 N.W.2d 293, 296 (Iowa 1978).

We conclude there is an inadequate record for us to adjudicate the defense claim without counsel's explanation for his conduct. We therefore preserve defendant's ineffective assistance of counsel claim for a later proceeding.

AFFIRMED.