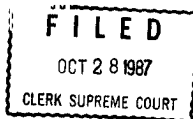


IN THE COURT OF APPEALS OF IOWA



HARRY JOHN CASBOHM,)

Applicant-Appellant,)

vs.)

STATE OF IOWA,)

Resister-Appellee.)

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Filed October 28, 1987

7-377
86-1167

Appeal from the Iowa District Court for Black Hawk County (No. 66876) -
Dale S. Missildine, Judge.

Applicant appeals from the district court's summary dismissal of his
application for postconviction relief. **AFFIRMED.**

Craig C. Ament, of Olsen, Parsons & Ament, Cedar Falls, for
applicant-appellant.

Thomas J. Miller, Attorney General; David L. Dorff, Assistant Attorney
General; and Scott Lemke, Assistant County Attorney, for resister-appellee.

Considered by Oxberger, C.J., and Schiegel, and Sackett, JJ. Snell, J.,
takes no part.

PER CURIAM

Applicant Harry John Casbohm appeals from the district court's dismissal of his application for postconviction relief. Iowa Code §663A.6 (1985).

I.

Casbohm alleges the district court erred in failing to make findings of fact and conclusions of law in its dismissal of his application. Since the court was proceeding under section 663A.6, it was not required to hold a hearing or to enter an order as provided in section 663A.7. Casbohm's first assignment of error is without merit.

II.

Casbohm next claims summary dismissal of his application for postconviction relief was improper because there existed genuine issues of material fact as to whether his trial counsel was ineffective. Prior to the commencement of Casbohm's bench trial, Casbohm's trial attorney asked the judge whether he had inadvertently seen a record of Casbohm's prior criminal convictions. The judge stated he had seen the rap sheet but that he would decide the case based on the evidence presented at trial. Casbohm's trial counsel made no further objection, thus failing to preserve error. Casbohm claims this failure constitutes ineffective counsel.

Based on the trial court's assurances it would not rely on Casbohm's prior convictions, see State v. Knupp, 310 N.W.2d 179, 184 (Iowa 1981), we find trial counsel's performance was well within the range of normal competency. State v. Newman, 326 N.W.2d 788, 794 (Iowa 1982). We also find Casbohm failed to show he was prejudiced by counsel's failure to preserve error. Snethen v. State, 308 N.W.2d 11, 14 (Iowa 1981). The district court did not err in dismissing Casbohm's application; there were no genuine issues of material fact.

III.

Because of our ruling that Casbohm did not sustain his burden of proving ineffective assistance of trial counsel, see Newman, 326 N.W.2d at 794, we need not address his related claim of ineffective assistance of appellate counsel.

AFFIRMED.