FILED
MAR 29 1978
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

JOHN DAVID LONG,

Appellant,

v.

STATE OF IOWA,

Appellee.

Filed March 29, 1978

420
2-60619

Appeal from Marshall District Court - David R. Hansen, Judge.

Petitioner appeals from judgment denying his application for postconviction relief. Affirmed.

Curtis A. Ward, of Mowry, Irvine & Brooks, Marshalltown, for appellant.

Richard C. Turner, Attorney General, J. Susan Carney, Assistant Attorney General, and Sandra Holien, County Attorney, for appellee.

Heard by Allbee, C.J., and Donielson, Snell, Oxberger and Carter, JJ.

PER CURIAM

Petitioner appeals from judgment denying his application for postconviction relief. He raises three issues on the appeal: (1) whether the testimony of two police officers at petitioner's original criminal trial was improperly admitted; (2) whether evidence obtained from a search of petitioner was improperly admitted at that trial; and (3) whether petitioner was denied the effective assistance of counsel at his original criminal trial under the standard evolved in State v. Massey, 207 N.W.2d 777 (Iowa 1973).

I. Issues (1) and (2). We believe the first two issues stated above have been waived by petitioner as a result of his failure to pursue them to adjudication by means of direct appeal. The postconviction remedy contained in chapter 663.A, The Code, is not a substitute for appeal. We accordingly hold that in accordance with the principles announced in Bledsoe v. State, 257 N.W.2d 32, 34 (Iowa 1977) petitioner is barred from asserting issues (1) and (2) as a result of § 663A.8, The Code.

II. Effective Assistance of Counsel. Petitioner argues that certain procedural omissions on the part of defense counsel prior to and during his trial on a charge of carrying a concealed weapon affirmatively demonstrate that he was denied the effective assistance of counsel to which he is constitutionally entitled. He enumerates these omissions as (1) failure to file a motion to suppress evidence; (2) failure to object to certain testimony; (3) failure to renew a motion for directed verdict at the close of all of the evidence; and (4) failure to subpoena an essential witness for the defense.

As stated in State v. Massey, supra, and more recently in State v. Lemburg, 257 N.W.2d 39, 46 (Iowa 1977) the issue presented is "whether defense counsel's performance was within the range of normal competency." In determining this issue and making disposition of the present appeal, we conclude that little purpose would be served by a detailed critique of the alleged omissions which have been made the subject of petitioner's complaints against his defense counsel. It is not our purpose to substitute a type of hindsight judgment easily arrived at from our opportunity for detached reflection for trial counsel's judgments made contemporaneously with the heat of

petitioner's criminal trial. Suffice it to say that our examination of the entire record produces agreement with the trial court's findings that

> His [trial counsel's] representation of the defendant fell within the range of normal competency -- he investigated the case, he talked with witnesses, he conferred with his client, he researched, he cross-examined, and he attempted to impeach the State's witness, Carla Pyke. He argued hard for a probationary sentence. The jury and the sentencing judge saw things differently and came to different conclusions. Trial counsel cannot be blamed for that.

We have considered all issues presented and find no basis for reversal.

AFFIRMED.