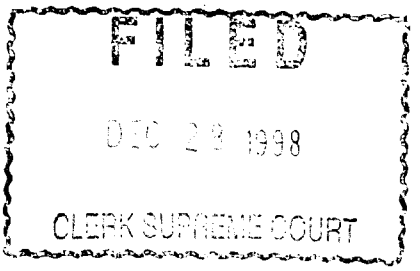
IN THE COURT OF APPEALS OF IOWA

No. 8-537 / 97-1575
Filed December 28, 1998



DARREN DAVID FARMER,
Appellant,

vs.

STATE OF IOWA,
Appellee.

Appeal from the Iowa District Court for Linn County, Van D. Zimmer, Judge.

On appeal from the denial of his application for postconviction relief, Darren Farmer claims his trial counsel was ineffective in failing to present adequate evidence on the issue of bruises and marks found on the victim and blood found at the crime scene. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and James G. Tomka, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Richard J. Bennett, Assistant Attorney General, Denver D. Dillard, County Attorney, and Todd D. Tripp, Assistant County Attorney, for appellee.

Considered by Sackett, P.J., and Huitink, Streit, Vogel, and Mahan, JJ. Zimmer, J., takes no part.

STREIT, J.

Darren Farmer appeals the denial of his application for postconviction relief, claiming his trial counsel was ineffective in failing to present adequate evidence on the issue of bruising and markings found on the victim and blood found at the crime scene. We affirm by memorandum opinion pursuant to Iowa Supreme Court rule 9.

In 1990, a jury convicted Darren Farmer of involuntary manslaughter and second-degree sexual abuse in connection with the death of his girlfriend's eighteen-month-old daughter. This court affirmed his convictions on appeal. *State v. Farmer,* 492 N.W.2d 239 (Iowa App. 1992).

In 1995, Farmer filed an application for postconviction relief alleging ineffective assistance of trial counsel. He filed an amended application in 1996. The district court denied the application in July 1997. The postconviction court concluded Farmer's trial counsel was not ineffective in failing to have additional testing done on injuries to the victim and blood found at the scene. The court found such testing would not have been productive or in Farmer's best interests. The court concluded additional evidence regarding the victim's bruising would not have overcome the "significant body of evidence" incriminating Farmer.

Our review of allegations of ineffective assistance of counsel is de novo. *State v. Howes*, 525 N.W.2d 874, 876 (Iowa App. 1994). A defendant has the burden of proving by a preponderance of the evidence his attorney did not perform an essential duty and, as a result, he was prejudiced. *State v. Howell*, 557 N.W.2d 908, 913 (Iowa

App. 1996). To demonstrate prejudice a defendant must prove there is a reasonable probability that but for counsel's unprofessional errors the result of the proceeding would have been different. *State v. Tracy*, 482 N.W.2d 675, 680 (Iowa 1992). Furthermore, we look at trial counsel's overall representation, rather than "isolated complaints about what counsel *might* have done . . . ." *State v. Newman*, 326 N.W.2d 788, 795 (Iowa 1982) (emphasis in original).

To demonstrate ineffective assistance, a defendant must overcome the strong presumption counsel was competent. *State v. Ray*, 516 N.W.2d 863, 865 (Iowa 1994). A reviewing court can deny an application for postconviction relief based on the failure to prove prejudice, without deciding whether counsel's representation was deficient. *See State v. McKettrick*, 480 N.W.2d 52, 56 (Iowa 1992); *Taylor v. State*, 352 N.W.2d 683, 685 (Iowa 1984).

Farmer claims his trial counsel was ineffective in failing to present adequate evidence, including expert testimony, on the issue of bruises, bite and slap marks found on the victim, and blood found at the crime scene. Farmer contends if his counsel had presented such expert evidence he would have been fully acquitted. This is not so. Farmer's attorney offered testimony of an expert witness, James Cone. Some of the testimony was not allowed because the expert was not qualified to express medical opinions. Although Farmer's attorney did not order testing to determine whether or not the bite mark, hand print, and blood found at the scene could have come from Farmer, we find this was the result of a defense strategy to

challenge the adequacy of the State's investigation. Improvident trial strategy, miscalculated tactics, or mistakes in judgment do not necessarily amount to ineffective assistance. *Fryer v. State*, 325 N.W.2d 400, 413 (Iowa 1982).

In addition, Farmer has failed to demonstrate prejudice. His bare claim, "if defense counsel had presented that expert testimony, than [sic] Farmer would have been fully acquitted" is without support in the record. The State presented overwhelming evidence of Farmer's guilt at trial. Farmer offered no evidence in the postconviction hearing the suggested expert testimony or test results would have been exculpatory. *See Thompson v. State*, 492 N.W.2d 410, 413 (Iowa 1992). Without evidence, Farmer's claim would only have us speculate the testimony and evidence might have changed the result of the trial. We will not reverse a conviction on mere speculation. *State v. Belt*, 515 N.W.2d 182, 185 (Iowa 1993). Nor is speculation sufficient to demonstrate prejudice from trial counsel's alleged failures.

AFFIRMED.