

IN THE COURT OF APPEALS OF IOWA

No. 6-620 / 95-2042

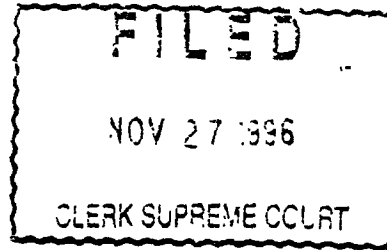
STATE OF IOWA,

Plaintiff-Appellee,

vs.

OSCAR COREA,

Defendant-Appellant.



Appeal from the Iowa District Court for Polk County, Gene L. Needles, Judge.

Oscar Corea appeals from judgment and sentence entered following jury trial for sexual abuse in the second degree. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Sarah E. Hennesy, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Roxann M. Ryan, Assistant Attorney General, John P. Sarcone, County Attorney, and Jeffrey K. Noble, Assistant County Attorney, for appellee.

Considered by Sackett, C.J., and Cady and Streit, JJ.

PER CURIAM

This is an appeal by a defendant claiming his conviction for second-degree sexual abuse, in violation of Iowa Code section 709.3, should be overturned. We affirm on appeal pursuant to Iowa Supreme Court Rule 9.

The State alleged that in early 1994 Oscar Corea engaged in a sex act with Russell by placing his penis in Russell's mouth. Russell was then nine years old and a special education student. On April 14, 1995, Corea admitted to the incident in a taped interview with Detective Thomas Follett of the Des Moines Police Department.

At the criminal trial, Corea raised the following defenses: (1) Russell had lied about the incident; (2) Corea was a native of Nicaragua and his fear of police officers caused him to confess to Follett; and (3) Corea was seriously ill in early 1994. In an effort to impeach Corea, the State asked him whether he had given a false Social Security number in order to gain employment. Defense counsel objected on the ground the question exceeded the scope of cross-examination. The court overruled the objection, and Corea admitted he had lied in order to get a job. He was convicted of sexual abuse in the second degree. He now appeals his conviction.

Corea claims he received ineffective assistance because his counsel failed to raise the proper objection to the question concerning his false Social Security number. He believes the question involved improper impeachment. He also states the evidence should have been excluded under Iowa Rule of Evidence 403 as being unduly prejudicial.

To establish a claim of ineffective assistance of counsel, a defendant must show that the attorney failed to perform an essential duty, and prejudice resulted to the extent it denied defendant a fair trial. *Caldwell v. State*, 494 N.W.2d 213, 214 (Iowa 1992). We determine Corea has failed to show he was prejudiced by his counsel's failure to raise a different objection. The evidence against Corea was overwhelming due to his confession to the crime. We do not find the result of the trial would have been different if the evidence had been excluded.

We affirm Corea's conviction for second-degree sexual abuse. Costs of this appeal are assessed to Corea.

AFFIRMED.