FILED
JUN 28 1983
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,	)	
Plaintiff-Appellee,	)	Filed June 28, 1983
vs.	)	
HOWARD L. WATTERSON,	)	3-130/68043
Defendant-Appellant.	)	

Appeal from Woodbury District Court - Charles R. Wolle, Judge.

Defendant appeals from his conviction of sexual abuse in the third degree in violation of Iowa Code § 709.4(4) (1981). AFFIRMED.

Charles L. Harrington and Douglas F. Staskal, Assistant Appellate Defenders, for defendant-appellant.

Thomas J. Miller, Attorney General, and Mary Jane Blink, Assistant Attorney General, for plaintiff-appellee.

Heard en banc.

DONIELSON, J.

Defendant appeals from his conviction of sexual abuse in the third degree in violation of Iowa Code § 709.4(4) (1981). He was sentenced as a habitual offender. On appeal, the defendant contends his trial attorney rendered ineffective assistance of counsel by failing to object to the State's evidence on numerous occasions. We affirm.

The defendant was accused of committing a sex act with his fourteen-year-old daughter. He was found guilty by a jury of the crime of sexual abuse in the third degree, in violation of Iowa Code section 709.4(4) (1981). He was subsequently convicted of that crime and sentenced as a habitual offender.

Defendant's only contention on this appeal is that his trial attorney rendered ineffective assistance of counsel by failing to object to the State's evidence on numerous occasions. The evidence of which the defendant complains includes evidence that the defendant had sexually abused another daughter about four years earlier, that the defendant had taken a nude photograph of the daughter involved in this case and had once punched her in the stomach, and that the defendant sometimes showed pornographic films in his home in the presence of his children. He asserts that, because of his trial counsel's conduct at trial, he was denied his sixth and fourteenth amendment right to effective assistance of counsel. See McMann v. Richardson, 379 U.S. 759, 771, 90 S. Ct. 1441, 1449, 25 L. Ed. 2d 763, 773 (1970); Ogden v. State, 215 N.W.2d 335, 337 (Iowa 1974).

The test for judging counsel's effectiveness is whether counsel's performance falls "within the range of normal competency" of attorneys. State v. Massey, 207 N.W.2d 777, 780 (Iowa 1973). When the appellate court reviews a claim of ineffective assistance of counsel on direct appeal, it makes an independent evaluation of the totality of the circumstances to determine if the defendant has met his burden to show that counsel failed to perform an essential duty, and that

the defendant was prejudiced as a result. State v. Aldape, 307 N.W.2d 32, 42 (Iowa 1981); Snethen v. State, 308 N.W.2d 11, 14 (Iowa 1981).

The State argues that trial counsel's actions were part of his overall trial strategy and were within the normal range of competency of attorneys. We find that, on the record before us, defendant has not met his burden to show ineffective assistance of counsel. See State v. Steltzen, 288 N.W.2d 557, 560 (Iowa 1980); State v. Don, 318 N.W.2d 801, 807 (Iowa 1982).

Having found defendant's contention to be without merit, we affirm the conviction.

AFFIRMED.