IN THE COURT OF APPEALS OF IOWA

No. 7-027 / 96-0304

PAUL JOEL RAY,

Applicant-Appellant,

vs.

STATE OF IOWA,

Respondent-Appellee.

FILED
MAR 28 1997
CLERK SUPREME COURT

Appeal from the Iowa District Court for Boone County, Joel E. Swanson, Judge.

Paul Ray appeals the district court's denial of his application for postconviction relief. **AFFIRMED.**

Steven K. Nalean of Nalean & Nalean, Boone, for appellant.

Thomas J. Miller, Attorney General, Mary Tabor, Assistant Attorney General, and Steven J. Oeth, County Attorney, for appellee.

Considered by Habhab, C.J., and Huitink and Vogel, JJ.

VOGEL, J.

Ray appeals the denial of his petition for postconviction relief. We review the totality of the circumstances as to whether constitutional safeguards have been violated. *Kellogg v. State*, 288 N.W.2d 561, 563 (Iowa 1980).

In 1993, a jury convicted Paul Ray of assault while displaying a dangerous weapon, going armed with intent, and simple assault.

On appeal, Ray's conviction was affirmed and his claim of ineffective assistance of counsel was denied on a finding of no prejudice to Ray. *See State v. Ray*, 516 N.W.2d 863 (Iowa 1994).

An application for postconviction relief filed March 16, 1995, raised new grounds for ineffective assistance of counsel of both trial counsel and appellate counsel. The claim that appellate counsel was ineffective stemmed from appellate counsel's alleged failure to raise the additional grounds for ineffective assistance of trial counsel arguments on direct appeal, thereby not preserving them for possible postconviction relief.

Although the allegation of ineffective appellate counsel was made in Ray's application for postconviction relief, it was not raised nor advanced in this appeal. Grounds raised at trial but not on appeal are deemed abandoned. *State v. Rosewall*, 239 N.W.2d 171, 173 (Iowa 1976).

We affirm the trial court denying Ray postconviction relief as the issue of ineffective assistance of trial counsel was not preserved for postconviction relief and the issue of ineffective assistance of appellate counsel was waived.

AFFIRMED.