

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,

Plaintiff-Appellee,

vs.

RONALD WILLIAM CARTER,

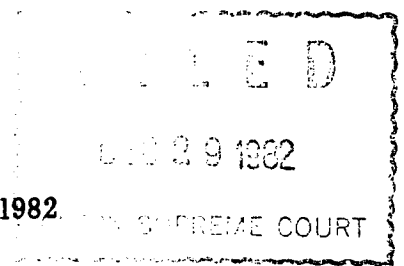
Defendant-Appellant.

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Filed December 29, 1982.

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Appeal from Scott District Court, J. Hobart Darbyshire, Judge.

Defendant appeals from his conviction for burglary in the second degree, a violation of Iowa Code sections 713.1 and 713.3 (1979), on the ground that he was denied effective assistance of counsel. AFFIRMED.

Scott D. Rosenberg, Assistant Appellate Defender, for defendant-Appellant.

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

Considered en banc.

Defendant Ronald William Carter appeals from his conviction for burglary in the second degree, a violation of Iowa Code sections 713.1 and 713.3 (1979). He contends that his trial attorney rendered ineffective assistance by eliciting from him on direct examination the information that he had previously been convicted of a similar crime and by failing to call two witnesses to support his defense of diminished capacity due to intoxication. We affirm the conviction and preserve the issue for postconviction relief proceedings.

The test for determining whether effective assistance of counsel has been provided is whether the attorney's performance was "within the normal range of competency." State v. Aldape, 307 N.W.2d 31, 41-42 (Iowa 1981). The burden of proof is on the defendant to demonstrate that he was denied effective assistance of counsel. Id. at 42. Generally a record on direct appeal is considered insufficient to allow a court to adjudicate a claim of ineffective assistance. State v. Schoelerman, 315 N.W.2d 67, 71 (Iowa 1982); Washington v. Scurr, 304 N.W.2d 231, 235 (Iowa 1981). Particularly in cases such as this, where trial counsel's conduct may have been the result of his implementation of strategic techniques and his exercise of professional judgment, which cannot be the bases for attacking trial counsel's competency, Aldape, 307 N.W.2d at 42; Parsons v. Brewer, 202 N.W.2d 49, 54 (Iowa 1972), it is preferable to preserve the competency issue until counsel has had the opportunity to provide the court with an adequate record upon which to base its determination. See State v. Schoelerman, 315 N.W.2d 67, 71 (Iowa 1971). We therefore affirm the conviction and preserve the ineffective assistance of counsel issues for postconviction relief proceedings.

AFFIRMED.