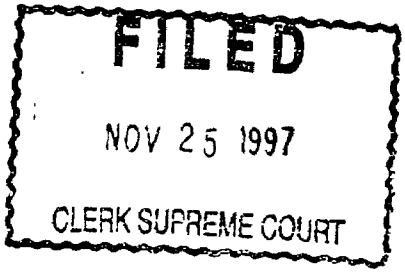
**IN THE COURT OF APPEALS OF IOWA**

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No. 7-522 / 96-453




**BRUCE R. BAKER,**

Appellant,

**vs.**

**STATE OF IOWA,**

Appellee.

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Appeal from the Iowa District Court for Black Hawk County, Leonard Lybbert, Senior Judge.

Bruce Baker appeals the denial of his application for postconviction relief.

**AFFIRMED.**

John W. Ackerman of Ackerman Law Office, Waterloo, for appellant.

Thomas J. Miller, Attorney General, Martha E. Boesen, Assistant Attorney General, Thomas J. Ferguson, County Attorney, and Shawn Wehde, Assistant County Attorney, for appellee.

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

**CADY, C.J.**

Bruce Baker appeals the denial of his application for postconviction relief by the district court following his judgment and sentence for second-degree kidnaping and second-degree sexual assault. He claims the district court did not fully advise him of the sentencing dispositions under the plea agreement and failed to obtain a waiver of his right to a presentence investigation report. He also claims his counsel was ineffective for failing to explain the purpose and right to a presentence report. We affirm.

The State charged Baker with second-degree kidnaping and second-degree sexual assault. He entered an *Alford* plea pursuant to a plea agreement with the State. The plea agreement required Baker to plead guilty to second-degree kidnaping and second-degree sexual assault in exchange for the State's agreement not to pursue first-degree kidnaping charges. The terms of the agreement also required Baker to serve two consecutive indeterminate 25-year sentences concurrently with a prior sentence for escape.

After Baker's guilty pleas were accepted, the district court asked him if he desired to waive his right to time before sentencing, his right to file a motion in arrest of judgment, and his right to a presentence investigation. Baker agreed and the court proceeded immediately to sentencing. The court sentenced him, pursuant to the plea agreement, to consecutive indeterminate 25-year terms on each count.

Baker subsequently filed an application for postconviction relief. He did not file an appeal from his judgment and sentence. The district court denied postconviction relief, and Baker filed this appeal.

**I. Preservation of Error**

A postconviction proceeding is not the appropriate forum to raise claims that have not been properly preserved. *Blum v. State*, 510 N.W.2d 175, 177-78 (Iowa App. 1993). Generally, to preserve a claim for postconviction relief, it must first be properly raised at trial or on direct appeal. *Earnest v. State*, 508 N.W.2d 630, 632 (Iowa 1993). If not, it may not be litigated in a postconviction proceeding unless there is sufficient reason shown for not raising the claim previously. *Id; see* Iowa Code § 822.8 (1995).

Baker failed to raise his claims on direct appeal. Moreover, he failed to provide any reason for failing to raise his claims before the district court or on direct appeal. The record on this issue is silent. Accordingly, we conclude Baker is not entitled to relief.

We acknowledge the preparation of a presentence investigation report in this case was mandatory. *State v. Brown*, 518 N.W.2d 351, 352 (Iowa 1994). Moreover, the preparation of the report was not subject to waiver. *Id.* Nevertheless, an issue must be properly preserved before we can grant relief.

Finally, we also acknowledge ineffective assistance of trial counsel can often be raised in a postconviction proceeding even when not made on direct appeal.

*Earnest*, 508 N.W.2d at 632. However, Baker failed to explain any reasons for failing to raise the claim of ineffective assistance by a direct appeal, and has failed to state how he was prejudiced by his counsel's alleged ineffective assistance. In particular, there was no showing the lack of a presentence report adversely affected his sentence or his placement and status.

We affirm the district court.

**AFFIRMED.**