

IN THE COURT OF APPEALS OF IOWA

No. 1-656 / 10-0824
Filed September 21, 2011

FELIPE NEGRETE-RAMIREZ,
Applicant-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

Appeal from the Iowa District Court for Polk County, Robert J. Blink,
Judge.

A postconviction relief applicant, Felipe Negrete-Ramirez, alleges his trial
attorney was ineffective. **AFFIRMED.**

Erin M. Carr of Carr & Wright, P.L.C., Des Moines, for appellant.

Thomas J. Miller, Attorney General, Darrel Mullins, Assistant Attorney
General, John P. Sarcone, County Attorney, and Jaki Livingston, Assistant
County Attorney, for appellee State.

Considered by Vogel, P.J., and Potterfield and Danilson, JJ. Tabor, J.,
takes no part.

POTTERFIELD, J.

On appeal from his criminal convictions, this court described the facts that led to the applicant's convictions for first-degree robbery, first-degree burglary, and assault causing serious injury as follows:

Brandon Tripp discovered the defendant, Felipe Negrete-Ramirez, breaking into his car. Negrete-Ramirez was leaning through the passenger door trying to remove the radio with a screwdriver. Tripp grabbed Negrete-Ramirez from behind and tried to wrestle away the screwdriver. Negrete-Ramirez grabbed a knife with his left hand and stabbed Tripp in the arm, face, and thumb. Tripp ran to his house, and Negrete-Ramirez left the scene.

State v. Negrete-Ramirez, No. 07-1059 (Iowa Ct. App. Oct. 1, 2008). We vacated his conviction for assault causing serious injury, finding it merged with the robbery conviction.¹

Negrete-Ramirez later sought postconviction relief, asserting his trial counsel was ineffective in failing to argue he did not enter an "occupied structure"; to request a justification instruction; to raise a *Miranda* challenge to his confession; and to investigate or submit an intoxication defense.²

Following a hearing, the district court addressed each of the applicant's claims and found them without merit because (1) there was testimony at trial that the vehicle was "occupied"; (2) the record did not contain evidence supporting his acts were justified; (3) his statements to police were unsolicited and not the product of interrogation; and (4) there was no evidence that the applicant's ability to form specific intent was affected by intoxication. The court's ruling was

¹ Negrete-Ramirez did not appeal the burglary conviction.

² In his postconviction application, Negrete-Ramirez also asserted appellate counsel was ineffective. However, the issue was not decided by the district court, was not raised on appeal, and it is therefore waived. Iowa R. App. P. 6.903(2)(g)(3).

thorough, well-reasoned, and supported by relevant legal authority. The district court denied the application for postconviction relief. Negrete-Ramirez appeals.

Upon our de novo review, see *Everett v. State*, 789 N.W.2d 151, 155 (Iowa 2010), we affirm the district court. See Iowa R. App. P. 6.1203(a), (d).

AFFIRMED.