

**IN THE COURT OF APPEALS OF IOWA**

No. 1-764 / 11-0251  
Filed November 23, 2011

**RODNEY FITZGERALD JACKSON,**  
Applicant-Appellant.

**vs.**

**STATE OF IOWA,**  
Respondent-Appellee.

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Appeal from the Iowa District Court for O'Brien County, Don E. Courtney,  
Judge.

An applicant appeals from the district court's dismissal of his application  
for postconviction relief. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Stephan J. Japuntich,  
Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Martha E. Trout, Assistant Attorney  
General, Micah J. Schreurs, County Attorney, for appellee.

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

**VOGEL, P.J.**

In 2008, Rodney Jackson was arrested and cited for public intoxication, a simple misdemeanor, in violation of Iowa Code section 123.46 (2007). A magistrate found Jackson guilty and fined him sixty-five dollars. Jackson's conviction was affirmed on appeal to the district court and the supreme court denied discretionary review. In 2009, Jackson sought postconviction relief in the district court. The State moved for summary dismissal, which the district court granted on February 9, 2011. Jackson appeals.

On appeal, Jackson asserts that the magistrate failed to provide him with court appointed counsel and postconviction counsel was ineffective for failing to raise this issue. However, Jackson was not entitled to counsel for a misdemeanor case that did not result in imprisonment. See *McNabb v. Osmundson*, 315 N.W.2d 9, 14 (Iowa 1982) (explaining that under *Argersinger v. Hamlin*, 407 U.S. 25, 37, 92 S. Ct. 2006, 2012, 32 L. Ed. 2d 530, 538 (1972), and *Scott v. Illinois*, 440 U.S. 367, 373–74, 99 S. Ct. 1158, 1162, 59 L. Ed. 2d 383, 389 (1979), “the right to appointed counsel for an indigent in a nonfelony criminal prosecution attaches only when actual imprisonment will result”); *State v. Allen*, 690 N.W.2d 684, 691 (Iowa 2005) (explaining the Iowa Constitution has not been interpreted “to afford broader protection than the *Argersinger/Scott* ‘actual imprisonment’ standard”). Consequently, Jackson's postconviction counsel had no duty to raise a meritless issue, and his ineffective-assistance-of-counsel claim must fail. See *State v. Dudley*, 766 N.W.2d 606, 620 (Iowa 2009). Jackson's claim is without merit and we affirm.

**AFFIRMED.**