

IN THE COURT OF APPEALS OF IOWA

No. 13-0620
Filed July 30, 2014

STATE OF IOWA,
Plaintiff-Appellee,

vs.

JASON M. CURTIS,
Defendant-Appellant.

Appeal from the Iowa District Court for Pottawattamie County, James M. Richardson (Motion to Suppress) and Mark J. Eveloff (Jury Trial and Sentencing), Judges.

A defendant challenges his conviction based upon the ineffective assistance of counsel. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Patricia Reynolds, Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Sharon K. Hall, Assistant Attorney General, Matthew D. Wilbur, County Attorney, and Amy L. Zacharias, Assistant County Attorney, for appellee.

Heard by Vaitheswaran, P.J., and Tabor and Bower, JJ.

VAITHESWARAN, P.J.

James Curtis appeals his judgment and sentence for first-degree murder and child endangerment causing death. He contends his trial attorneys were ineffective in: (1) failing to object to comments made by the prosecutor during trial and closing argument, (2) failing to timely and adequately object to the State's efforts to impeach a defense expert with extrinsic evidence, and (3) failing to object to the admission of those portions of a recorded interview in which Curtis considered invoking his Fifth Amendment right to remain silent.

Curtis and the State acknowledge that, ordinarily, ineffective-assistance-of-counsel claims are preserved for postconviction relief proceedings. See *State v. Biddle*, 652 N.W.2d 191, 203 (Iowa 2002) (noting we generally preserve ineffective-assistance-of-counsel claims for postconviction relief proceedings "where an adequate record of the claim can be developed and the attorney charged with providing ineffective assistance may have an opportunity to respond to defendant's claims"). We conclude these claims should be preserved for postconviction relief.

AFFIRMED.