

IN THE COURT OF APPEALS OF IOWA

No. 3-335 / 11-1105
Filed May 15, 2013

KEVIN JORDAN,
Applicant-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

Appeal from the Iowa District Court for Polk County, Eliza J. Ovrom,
Judge.

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

John C. Heinicke of Kragnes & Associates, P.C., Des Moines, for
appellant.

Thomas J. Miller, Attorney General, Tyler J. Buller, Assistant Attorney
General, John Sarcone, County Attorney, and James Ward, Assistant County
Attorney, for appellee State.

Considered by Vogel, P.J., and Vaitheswaran and Bower, JJ.

VOGEL, P.J.

Kevin Jordan appeals the district court order denying his application for postconviction relief from his conviction for robbery in the second degree in violation of Iowa Code section 711.1(1) and 711.3 (2007). He argues the postconviction court erred in finding his criminal trial and appellate counsel were not ineffective, with the focus of his claims centering around the “assault” element of section 711.1(1).

The district court aptly summarized the underlying facts of the case:

Kevin Jordan frequently shopped at a Git-N-Go convenience store in Des Moines prior to April 6, 2008. The store clerk, Lynn Lewis, knew him as a frequent customer. On April 6, at approximately 7:00 p.m., a surveillance camera shows Jordan waiting around the corner of the store until there were no customers present. He stepped out from behind the corner of the building and pulled up the hood on a light-colored hooded sweatshirt. He entered the store.

Jordan walked up to the counter where Lewis was standing. He had his right hand in his pocket and never removed it. He demanded money. Ms. Lewis said “Are you f—ing kidding me?” Jordan said “Bitch give me the money.” Lewis opened the cash register and gave Jordan the cash inside. He walked out of the store. Lewis pushed the alarm to call police and telephoned her store supervisor. She was visibly shaken by the incident.

The court went on to find:

There is evidence that Jordan intended to place Ms. Lewis in fear of immediate physical contact because he kept his hand in his pocket suggesting he had a weapon, and demanded money. She believed he could have a weapon in his pocket, and she was scared. . . .

After Jordan leaves the store, Ms. Lewis is clearly visible on the video. She appears very nervous, placing her face in her hands and drumming her hands on her legs. Lewis’s store manager, who arrived at the store soon afterward, described Lewis as teary, nervous, and “kind of hysterical.” The police officer who responded to the scene described her as “rattled,” and said she was shaking and trembling.

On our de novo review of his ineffective assistance of counsel claims, we find the district court properly denied Jordan's application. See *Ledezma v. State*, 626 N.W.2d 134, 141 (Iowa 2001). The district court adequately deciphered all of Jordan's arguments and further belaboring the issues would not enhance nor alter the district court's well reasoned conclusions.¹

We affirm the district court without further opinion pursuant to Iowa Court Rule 21.26(1)(a), (b), (e).

AFFIRMED.

¹ Jordan also reframes his sufficiency of the evidence claim arguing his trial attorney should have examined the clerk "more aggressively." We find even if the attorney had done this, what Jordan alleges is impeaching would likely not change the result as there is sufficient evidence from other witnesses as to the clerk's emotional and physical state immediately following Jordan leaving the store.