

**IN THE COURT OF APPEALS OF IOWA**

No. 3-715 / 12-1726  
Filed July 24, 2013

**MICHAEL LANG,**  
Applicant-Appellant,

**vs.**

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

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Appeal from the Iowa District Court for Woodbury County, Steven J. Andreasen, Judge.

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

Michael H. Lang, Fort Madison, appellant pro se.

Thomas J. Miller, Attorney General, Martha E. Trout, Assistant Attorney General, Patrick Jennings, County Attorney, and Mark Campbell, Assistant County Attorney, for appellee.

Considered by Potterfield, P.J., and Mullins and Bower, JJ.

**MULLINS, J.**

Michael Lang appeals the district court's dismissal of his application for postconviction relief (PCR) on statute of limitations grounds. Lang was convicted of first-degree kidnapping in 1988. His conviction was affirmed by this court in 1990. *State v. Lang*, No 88-1469, 1990 WL 121731 (Iowa Ct. App. Mar. 27, 1990). *Procedendo* issued from that appeal in June 1990. Lang has filed three other PCR applications, which have all been unsuccessful. Lang filed the current PCR application on February 16, 2012. This application is clearly untimely under Iowa Code section 822.3 (2011) (requiring all postconviction relief proceedings to be filed within three years from the date the writ of *procedendo* is issued). This bar precludes this action unless Lang raises "a ground of fact or law that could not have been raised within the applicable time period." Iowa Code § 822.3.

Lang's application rests on his assertion that the trial information from 1988 was inadequate because it charged him with first-degree kidnapping rather than charging him with kidnapping. He asserts there is no such crime as first-degree kidnapping. To get around the time bar, he claims the case of *State v. Maddox*, 10-0831, 2011 WL 2075421, at \*8 (Iowa Ct. App. May 25, 2011), changed the law with respect to the requirements for charging of kidnapping when it held, "Kidnapping in the first degree and kidnapping in the third degree are not separate offenses; they are different degrees of kidnapping."

We disagree with Lang's contention that *Maddox* changed the law with respect to the charging requirements of kidnapping as that case dealt with the sufficiency of the evidence to support a kidnapping conviction, not whether the

trial information was adequate. *Maddox*, 2011 WL 2075421, at \*8. As we find no exception to the three-year statute of limitations applicable to Lang's PCR application, we affirm the district court's dismissal without further opinion. See Iowa Ct. R. 21.26(1)(c), (d), (e).

**AFFIRMED.**