

IN THE COURT OF APPEALS OF IOWA

No. 7-541 / 06-1219
Filed August 22, 2007

FREDRICK CARTER,
Applicant-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

Appeal from the Iowa District Court for Polk County, Carla T. Schemmel,
Judge.

Fredrick Carter appeals from the district court's denial of his application for
postconviction relief. **AFFIRMED.**

Christopher Kragnes, Des Moines, for appellant.

Thomas J. Miller, Attorney General, Mary Tabor, Assistant Attorney
General, John P. Sarcone, County Attorney, and Celene Gogerty, Assistant
County Attorney, for appellee.

Considered by Mahan, P.J., and Miller and Vaitheswaran, JJ.

MILLER, J.

Fredrick Carter appeals from the district court's denial of his application for postconviction relief, presenting two claims that trial counsel in the underlying criminal prosecution rendered ineffective assistance.¹ Upon our de novo review of his claims, see *State v. Martin*, 704 N.W.2d 665, 668 (Iowa 2005), we fully agree with the postconviction trial court's findings, conclusions, and resulting judgment.² We therefore affirm. See Iowa R. App. P. 6.24(1), (4).

AFFIRMED.

¹ The second of his two claims consists of two sub-parts, both related to the fact he did not testify during the non-jury trial in the underlying criminal case.

² We note, but reject, the State's claim that Carter waived, or failed to preserve error on, his two claims. See *Hannan v. State*, 732 N.W.2d 45, 51 (Iowa 2007) (holding that the 2004 amendment to Iowa Code section 814.7 by 2004 Iowa Acts ch. 1017, § 2, applies retroactively); *DeVoss v. State*, 648 N.W.2d 56, 63 (Iowa 2002) (holding that State, by failing to urge in the district court the postconviction applicant's waiver of or failure to preserve error on a claim of ineffective assistance of trial counsel, waived the issue).