

**IN THE COURT OF APPEALS OF IOWA**

No. 9-423 / 08-1094  
Filed July 2, 2009

**DANNY ROBINSON,**  
Applicant-Appellant,

**vs.**

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

---

Appeal from the Iowa District Court for Polk County, Robert J. Blink,  
Judge.

Appellant appeals the postconviction court's ruling denying his application  
for postconviction relief. **AFFIRMED.**

Christopher Kragnes, Des Moines, for appellant.

Thomas J. Miller, Attorney General, Bridget Chambers, Assistant Attorney  
General, John P. Sarcone, County Attorney, and George Karnas, Assistant  
County Attorney, for appellee State.

Considered by Sackett, C.J., and Vogel and Miller, JJ.

**VOGEL, J.**

Danny Robinson appeals the postconviction court's denial of his application for postconviction relief. On our de novo review, we affirm. *Ledezma v. State*, 626 N.W.2d 134, 141 (Iowa 2001).

In December 2004, a jury found Robinson guilty of arson in the first degree, a class B felony in violation of Iowa Code sections 712.1 and 712.2 (2003).<sup>1</sup>

Robinson asserts his trial counsel was ineffective for failing to “move and investigate possible motion to suppress statements made by the defendant during a custodial interrogation.” At the postconviction hearing, trial counsel was asked why he did not move to suppress statements made by Robinson. He answered, “[W]ell, I would imagine—I mean, based upon what I remember of it, it was a non-custodial conversation, so therefore, there wouldn't be any basis to file a Motion to Suppress.” The record supports the same. After police received a radio broadcast that he may be a suspect in an arson investigation, Robinson was located and stopped while walking. Police talked with Robinson for a few minutes, until they got into a police van to get out of the heavy rain. The questioning continued for a few more minutes, after which Robinson was arrested for domestic assault. We agree with the postconviction court finding that nothing in the record indicates Robinson was in custody at the time of questioning. As such, we affirm the postconviction court's findings of no breach of duty or resulting prejudice. *Strickland v. Washington*, 466 U.S. 668, 687, 104

---

<sup>1</sup> This court affirmed the conviction on direct appeal. *State v. Robinson*, No. 08-1094 (Iowa Ct. App. May 10, 2006).

S. Ct. 2052, 2064, 80 L. Ed. 2d 674, 693 (1984) (holding a defendant must prove both (1) counsel failed to perform an essential duty, and (2) prejudice resulted on an ineffective-assistance-of-counsel claim).

Having reviewed the record and agreeing with the district court's fact findings, reasoning, and conclusions of law, we affirm pursuant to Iowa Rule 21.29(1)(a), (c), (d), and (e).

**AFFIRMED.**