

**IN THE COURT OF APPEALS OF IOWA**

No. 9-756 / 09-0089  
Filed October 21, 2009

**JASON POWELL,**  
Applicant-Appellant,

**vs.**

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

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Appeal from the Iowa District Court for Crawford County, Edward A. Jacobson, Judge.

Jason Powell appeals from the denial of his application for postconviction relief. **AFFIRMED.**

Chad Douglas Primmer of Chad Douglas Primmer, P.C., Council Bluffs, for appellant.

Thomas J. Miller, Attorney General, Karen Doland, Assistant Attorney General, Vicki Ryan, County Attorney, and Julie A. Schumacher, Assistant County Attorney, for appellee.

Considered by Sackett, C.J., and Eisenhauer and Doyle, JJ.

**EISENHAUER, J.**

Jason Powell appeals from the denial of his application for postconviction relief. He contends his trial counsel was ineffective in four respects: (1) in failing to move for a change of venue, (2) in failing to move for judgment of acquittal on the attempted murder charge, (3) in failing to utilize an expert witness, and (4) in failing to advise him on the mandatory sentence for the attempted murder charge. Our review is de novo. See *Collins v. State*, 588 N.W.2d 399, 401 (Iowa 1998).

On February 12, 2005, Powell was driving a friend's vehicle without permission when a deputy sheriff attempted to pull him over. In the course of attempting to evade his arrest, Powell hit one patrol car and nearly struck the sheriff with his vehicle. He was convicted of attempted murder, eluding in the first degree, assault on a peace officer, and theft in the second degree.

On direct appeal, this court reversed the conviction for second-degree theft of the vehicle and remanded for entry of judgment of guilty of operating without owner's consent. *State v. Powell*, No. 05-1757 (Iowa Ct. App. Jan. 18, 2007). Powell's conviction for first-degree eluding was reversed and new trial was ordered, while the convictions for assault on a peace officer and attempted murder were affirmed. *Id.* Several claims of ineffective assistance of trial counsel were preserved for postconviction relief proceedings, including his claim his trial attorney breached an essential duty in failing to move for judgment of acquittal on the attempted murder charge.

On June 6, 2007, Powell filed an application for postconviction relief, which he later amended. Following a hearing, the district court denied relief on all grounds. Powell now appeals the denial on four of those grounds.

To establish a claim of ineffective assistance of counsel, Powell must show by a preponderance of the evidence that (1) counsel's performance fell outside the normal range of competency and (2) the deficient performance so prejudiced the defense as to deprive the criminal defendant of a fair trial. *Thompson v. State*, 492 N.W.2d 410, 413 (Iowa 1992). We may dispose of an ineffective-assistance-of-counsel claim if the applicant fails to meet either the breach of duty or the prejudice prong. *Strickland v. Washington*, 466 U.S. 668, 697, 104 S. Ct. 2052, 2064, 80 L. Ed. 2d 674, 699 (1984). In order to show prejudice, Powell must show a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. *Id.* at 694, 104 S. Ct. at 2068, 80 L. Ed. 2d at 698.

On appeal, Powell makes general, conclusory statements that he was prejudiced by each of his trial counsel's alleged deficiencies. Each of these claims was thoroughly considered and correctly decided by the postconviction court. We adopt its findings and conclusions as our own. Powell's general claims are insufficient to establish prejudice. See *State v. Myers*, 653 N.W.2d 574, 579 (Iowa 2002). Because Powell has failed his burden of proving prejudice, we affirm the district court's denial of his application for postconviction relief.

**AFFIRMED.**