NED WILLIAM REYNOLDS, Applicant-Appellant, vs. STATE OF IOWA, Respondent-Appellee.

2015 | Cited 0 times | Court of Appeals of Iowa | September 10, 2015

IN THE COURT OF APPEALS OF IOWA

No. 14-0402 Filed September 10, 2015

NED WILLIAM REYNOLDS, Applicant-Appellant,

vs.

STATE OF IOWA, Respondent-Appellee.

Appeal from the Iowa District Court for Monona County, Duane E. Hoffmeyer, Judge.

Ned Reynolds appeals from the dismissal of his application for postconviction relief. REVERSED AND REMANDED.

Robert E. Peterson, Carroll, for appellant.

Thomas J. Miller, Attorney General, Sharon K. Hall, Assistant Attorney General, and Ian A. McConeghey, County Attorney, for appellee State.

Considered by Danilson, C.J., and Vaitheswaran and Doyle, JJ. VAITHESWARAN, J.

Ned Reynolds, found guilty of second-degree sexual abuse, had his judgment and sentence affirmed by this court. See State v. Reynolds, No. 09-1208, 2009 WL 1875740, at *1 (Iowa Ct. App. May 12, 2010). Reynolds subsequently filed an application for postconviction relief raising several

ineffective-assistance-of-counsel claims.

The State moved for summary judgment, which attorney

resisted. The district court scheduled the matter for hearing and authorized the

parties to participate by telephone hearing, if they so desired. Although a judge

was specially assigned to the case, the parties agreed to have a different judge

consider the matter.

deposed his trial attorney and the State propounded interrogatories to Reynolds,

which he answered and signed.

Counsel for the State and for Reynolds attended an unreported hearing on

the motion for summary judgment. There is no indication Reynolds was informed

of the hearing or participated in it.

Following the hearing, the district court filed an order stating judicial notice

was taken of the attachments to the motion for summary judgment the decision on direct appeal, the deposition transcript of Reynolds entire underlying criminal file

The court

-assistance-of-counsel claims on the merits. On appeal, Reynolds asserts his postconviction attorney was ineffective in

(1) waiving the specially-assigned judge, (2) waiving reporting of the summary

judgment hearing, and (3) failing to inform [him] of the hearing and to ensure

These omissions, he argues, amounted to a denial of due

process. We find the third claim dispositive.

The Iowa Supreme Court addressed a virtually identical issue in Manning

v. State, 654 N.W.2d 555, 559 (Iowa 2002). There, a postconviction-relief

summary disposition was inappropriate. The district court dismissed the

application without an evidentiary hearing. The dismissal order stated postconviction counsel appeared for Manning at the unreported proceeding. On

appeal, Manning argued the district court erred in failing to afford him an

evidentiary hearing. Manning, 654 N.W.2d at 558.

The Iowa Supreme Court examined Iowa Code section 822.6, which

states:

The court may grant a motion by either party for summary disposition of [a PCR] application, when it appears from the pleadings, depositions, answers to interrogatories, and admissions and agreements of fact, together with any affidavits submitted, that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.

Iowa Code § 822.6 (2013). According to the court, the goal of this method of

disposition of PCR applications is to provide a method of disposition once the

case has been fully developed by both sides, but before an actual trial.

Manning, 654 N.W.2d at 559 (quoting Hines v. State, 288 N.W.2d 344, 346 (Iowa

1980)). dismissed Man Id. at 562. The court reasoned, not properly notified that he would need to present proof on any issue other than

s claims raised

genuine issues of material fact precluding entry of summary disposition, and

assistance of counsel are properly raised in a

post an evidentiary hearing on the merits is ordinarily

required. Id. at 561-62 (citations omitted).

As in Manning informed Reynolds of the scheduled hearing on his postconviction-relief

application or made an effort to ensure his presence at the hearing. On our de

novo review, we conclude counsel breached an essential duty in failing to take

these steps. See Strickland v. Washington, 466 U.S. 668, 687 (Iowa 1984).

In reaching this conclusion, we have considered two factual differences

between Manning and this case. First, in Manning, the only raised procedural grounds for dismissal of the application. Accordingly,

Manning had no warning the court might reach the merits of his application.

Manning, 654 N.W.2d at 560. Here, the t

-assistance-of-counsel claims and

included supporting documentation in the form of deposition

transcript to interrogatories. Second, the court

never scheduled a hearing in Manning, whereas here, the district court afforded

Reynolds the opportunity to participate by telephone. But these seemingly stark

differences matter little if Reynolds was unaware of the scheduled hearing and of his right to present evidence controverting the allegations in the Indeed, one of signed answers to interrogatories, in which he listed

himself as a witness, highlighted his desire to testify. While it could be said those

answers effectively placed his side of the story before the court, the questions

were prepared by the State and the answers served as a poor substitute for his

live elaboration of his ineffective-assistance-of-counsel claims.

ing or

inquire about his desire to participate prejudiced Reynolds. See Strickland, 466

U.S. at 487. cited the absence

of evidence from Reynolds specific inconsistencies that he believes cross-examination of the experts could

offered that m evidence of prior medical complaint beyond the medical record of the victim

Had Reynolds been

informed of the hearing, he may have offered evidence on these and other

subjects. We conclude he was not afforded an opportunity case. See Manning, 654 N.W.2d at 559. 1

1 The State cites Webb v. State, 555 N.W.2d 824, 826 (Iowa 1996), for the proposition that Reynolds had no constitutional right to be present at a postconviction-relief Webb does not authorize a wholesale denial of the opportunity to participate. See Webb, 555 N.W.2d at 825. The court concluded, process or statutory rights to personally attend the postconviction hearing. He was

accorded opportunities to present testimony in compliance with principles of fundamental fairness and he waived those oppor Id. at 827. postconviction-relief application.

REVERSED AND REMANDED.