

United States Court of Appeals
For the Eighth Circuit

No. 13-2451

Gary Christopher Ford

Petitioner - Appellant

v.

Warden James McKinney

Respondent - Appellee

Appeal from United States District Court
for the Northern District of Iowa - Ft. Dodge

Submitted: February 7, 2014

Filed: February 13, 2014

[Unpublished]

Before WOLLMAN, MURPHY, and SMITH, Circuit Judges.

PER CURIAM.

Iowa prisoner Gary Ford, who was convicted after a jury trial of first-degree robbery, appeals the district court's¹ order denying his 28 U.S.C. § 2254 petition after

¹The Honorable Donald E. O'Brien, United States District Judge for the Northern District of Iowa.

an evidentiary hearing. Following careful review, we agree with the district court that the strategic decision of Ford's trial counsel not to offer a flawed alibi defense was neither deficient or prejudicial, and that the state court's resolution of Ford's claim was not contrary to Strickland v. Washington, 466 U.S. 668 (1984). See 28 U.S.C. § 2254(d) (review of habeas claim adjudicated on merits in state court); Strickland, 466 U.S. at 687-89 (with respect to attorney performance, petitioner must overcome strong presumption that counsel's challenged action might be considered sound trial strategy); Cochran v. Dormire, 701 F.3d 865, 867-70 (8th Cir. 2012) (per curiam) (where trial counsel testified generally about her strategy of investigating alibi witnesses and presenting those who could be present and would "come off the best," upholding state court's determination that habeas petitioner failed to support ineffective-assistance claim alleging failure to investigate and call potential alibi witness). Accordingly, we affirm. We also grant counsel's motion to withdraw, subject to counsel informing Ford about procedures for seeking rehearing or filing a petition for certiorari.
