Filed 7/11/02 by Clerk of Supreme Court

IN THE SUPREME COURT
STATE OF NORTH DAKOTA

2002 ND 105

State of North Dakota, Plaintiff and Appellee

v.

Michael Darnell Jackson, Defendant and Appellant

Nos. 20010298–20010299

Appeal from the District Court of Cass County, East Central Judicial District, the Honorable Norman J. Backes, Judge.

AFFIRMED.

Opinion of the Court by Sandstrom, Justice.

Lisa K. Fair McEvers, Assistant State's Attorney, Courthouse, P.O. Box 2806, Fargo, N.D. 58108-2806, for plaintiff and appellee; submitted on brief.

Richard E. Edinger, P.O. Box 1295, Fargo, N.D. 58107-1295, for defendant and appellant; submitted on brief.

State v. Jackson
Nos. 20010298–20010299

Sandstrom, Justice.

[¶1] Michael Darnell Jackson appeals from two East Central Judicial District Court judgments of conviction for failure to register as a convicted sex offender in violation of N.D.C.C. § 12.1-32-15, alleging he was denied the effective assistance of counsel because his trial attorney did not move for a judgment of acquittal, under N.D.R.Crim.P. 29(a).

[¶2] The issue of ineffective assistance of counsel is best raised in a post-conviction relief proceeding, except in rare cases. State v. Norman, 507 N.W.2d 522, 525 (N.D. 1993) (a claim of ineffective assistance of counsel should generally be raised in a post-conviction proceeding). This is a rare case.

[¶3] We hold, as a matter of law, it is not ineffective assistance for counsel to fail to move for a judgment of acquittal, under N.D.R.Crim.P. 29(a), when the prosecution has presented a prima facie case. State v. Kroeplin, 266 N.W.2d 537, 543 (N.D. 1978). Here, the State presented a prima facie case. Jackson did not receive ineffective assistance of counsel.

[¶4] The district court's judgments of conviction are affirmed.

[¶5] Dale V. Sandstrom
William A. Neumann
Mary Muehlen Maring
Carol Ronning Kapsner
Gerald W. VandeWalle, C.J.