**IN THE COURT OF APPEALS OF IOWA**

No. 1-343 / 00-0916
Filed July 18, 2001

FILED
JUL 18 2001
CLERK SUPREME COURT

**STATE OF IOWA,**
Plaintiff-Appellee,

**vs.**

**JOSEPH TERRANCE FARMER,**
Defendant-Appellant.

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Appeal from the Iowa District Court for Black Hawk County, K. D. Briner, Judge (plea hearing), and J. G. Johnson, District Associate Judge (sentencing).

Farmer appeals from the judgment and sentence entered upon his guilty plea to possession of cocaine. **AFFIRMED.**

L. Jay Irwin III of L. Jay Irwin III P.L.C., Des Moines, for appellant.

Thomas J. Miller, Attorney General, Richard J. Bennett, Assistant Attorney General, Thomas J. Ferguson, County Attorney, and Danielle Davis, Assistant County Attorney, for appellee.

Considered by Sackett, C.J., and Huitink and Streit, JJ.

**STREIT, J.**

Joseph Terrance Farmer pled guilty to possession of cocaine. *See* Iowa Code § 124.401(5) (1999). His sentence included 365 days of incarceration in the county jail with all but fourteen of those days being suspended. On appeal, Farmer claims the district court imposed his sentence using erroneous information from the presentence investigation (PSI) report and thus denied him due process of law. *See* U.S. Const. amend. V, XIV. He also claims his attorney did not alert the district court to this erroneous information and thus denied him effective legal assistance. *See* U.S. Const. Amend VI.

The PSI report includes some information that may be applicable to a Joseph Allen Farmer rather than to Joseph Terrance Farmer, the defendant-appellant in this case. Farmer and his attorney did not object at the sentencing hearing to any of the information in the PSI report. *Cf. State v. Townsend*, 238 N.W.2d 351, 358 (Iowa 1976) (sentencing court properly considered unchallenged matters in PSI report). We cannot determine from the record whether the district court relied on any erroneous information from the PSI report.[1] We affirm the district court on Farmer's first claim.

As noted above, Farmer's attorney did not alert the district court to the apparently erroneous information in the PSI report. We cannot determine from the record whether Farmer's attorney's failure to object to this information prejudiced Farmer. *See Strickland v. Washington*, 466 U.S. 668, 687, 104 S. Ct.

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[1] The appendix includes a letter from the sentencing judge to Farmer's attorney stating he did "not recall that [the erroneous] portion of the PSI had any impact on [his] decision." This letter was written after Farmer filed his appeal and is not part of the record on appeal. *See* Iowa R. App. P. 10(a). It has no bearing on our decision.

2052, 2064, 80 L. Ed. 2d 674, 693 (1984) (stating what a criminal defendant must prove to prevail on an ineffective-assistance-of-counsel claim). We preserve Farmer's second claim for a postconviction relief proceeding, if any.

**AFFIRMED.**

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