

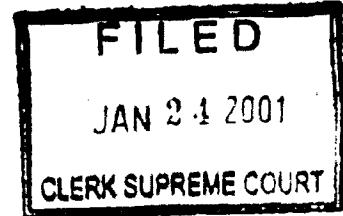
IN THE COURT OF APPEALS OF IOWA

No. 0-803 / 00-0102
Filed January 24, 2001

STATE OF IOWA,
Plaintiff-Appellee,

vs.

ROGER B. ENNENGA,
Defendant-Appellant.



Appeal from the Iowa District Court for Polk County, Artis Reis, Judge.

The defendant appeals from the entry of his guilty pleas to the offenses of conspiracy to possess a controlled substance with intent to deliver, eluding, fourth-degree theft, and two counts of forgery. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and James G. Tomka, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Sharon K. Hall, Assistant Attorney General, John P. Sarcone, County Attorney, and Gary Kendell, Assistant County Attorney, for appellee.

Considered by Huitink, P.J., and Vogel and Mahan, JJ.

MAHAN, J.

The defendant appeals from the entry of his guilty pleas to the offenses of conspiracy to possess a controlled substance with intent to deliver, eluding, fourth-degree theft, and two counts of forgery. He argues his counsel was ineffective in failing to object to the lack of a factual basis for the pleas. We affirm.

Background Facts and Proceedings. Roger Ennenga pled guilty on September 29, 1999 to the offenses of conspiracy to possess a controlled substance with intent to deliver in violation of Iowa Code section 124.401(1)(c) (1999), eluding in violation of Iowa Code section 321.279, fourth degree theft in violation of Iowa Code sections 714.1 and 714.2(4), and two counts of forgery in violation of Iowa Code sections 715A.2(1)(c) and 715A.2(2)(a)(3). At the guilty plea proceeding the district court informed Ennenga of the elements of each offense and he then admitted on the record that he committed each of the offenses and a sufficient factual basis existed for the district court to accept his pleas. He failed to file a motion in arrest of judgment although said right was fully explained to him on the record.

Ennenga has appealed. He claims trial counsel was ineffective in allowing him to plead guilty to offenses for which no factual basis existed and for failing to file a motion in arrest of judgment.

Ineffective Assistance of Counsel. We review claims of ineffective assistance of counsel de novo. *State v. Brooks*, 555 N.W.2d 446, 448 (Iowa 1996).

The defendant bears the burden of demonstrating ineffective assistance of counsel. *State v. Morgan*, 559 N.W.2d 603, 612 (Iowa 1997); *Dunbar v. State*, 515 N.W.2d 12, 15 (Iowa 1994); *State v. Kone*, 557 N.W.2d 97, 102 (Iowa App. 1996). A defendant receives ineffective assistance of counsel when (1) the defense attorney fails in an essential duty and (2) prejudice results. *Strickland v. Washington*, 466 U.S. 668, 687, 104 S. Ct. 2052, 2064, 80 L. Ed. 2d 674, 693 (1984); *State v. Bugely*, 562 N.W.2d 173, 178 (Iowa 1997). An ineffective assistance of counsel claim may be disposed of if the defendant fails to prove either prong. *State v. Cook*, 565 N.W.2d 611, 614 (Iowa 1997).

A factual basis for a guilty plea may be established from a defendant's statements, prosecutor's statements, and the minutes of testimony. *State v. Gonzalez*, 582 N.W.2d 515, 517 (Iowa 1998); *State v. Brooks*, 555 N.W.2d 446, 448-49 (Iowa 1996); *State v. Hightower*, 587 N.W.2d 611, 614 (Iowa App. 1998). The district court may consider the entire record in establishing a factual basis. *State v. Schminkey*, 597 N.W.2d 785, 788 (Iowa 1999). The district court in this case carefully informed Ennenga of the elements of each offense. Ennenga then admitted on the record he committed each offense. He also admitted a sufficient factual basis existed for the court to accept his pleas. Our review of the entire record in this case establishes a factual basis upon which the district court could accept Ennenga's pleas of guilty. Trial counsel did not breach an essential duty and Ennenga's claim of ineffective assistance of counsel must fail.

AFFIRMED.