IN THE COURT OF APPEALS OF IOWA

No. 1-786 / 00-1951
Filed December 12, 2001

STATE OF IOWA,
Plaintiff-Appellee,

vs.

KENT ALLEN HARRISON,
Defendant-Appellant.

FILED
DEC 12 2001
CLERK SUPREME COURT

Appeal from the Iowa District Court for Washington County, Lucy J. Gamon, District Associate Judge.

Kent Allen Harrison appeals from the district court's judgment and sentence following his conviction for operating while intoxicated, third offense. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Robert P. Ranschau, Assistant State Appellate Defender for appellant.

Thomas J. Miller, Attorney General, Jean C. Pettinger, Assistant Attorney General, and Barbara Edmondson, County Attorney, for appellee.

Considered by Sackett, C.J., and Mahan and Hecht, JJ.

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MAHAN, J.

Kent Allen Harrison appeals from the district court's judgment and sentence following his conviction for operating while intoxicated, third offense, in violation of Iowa Code section 321J.2(1) (1999). He contends his trial counsel rendered ineffective assistance of counsel by failing to raise a foundational objection to the urinalysis test results. We affirm.

Background Facts and Proceedings.

Harrison was stopped on his motorcycle by a state trooper who observed him weaving and making jerky and erratic movements. The trooper asked him to perform field sobriety tests, and Harrison told him that he had consumed white crosses and black beauties. Harrison was transported to the jail where he provided a urine sample. Laboratory tests were positive for methamphetamine, amphetamine, and marijuana.

Harrison filed a motion to suppress alleging the State could not establish that a clean cup had been used for the urine sample. The district court ruled as follows:

> The Defendant's Motion to Suppress is DENIED. Trooper Thomas Law testified that the container he used to take the sample of the defendant's urine was clean and dry, and there was nothing in the cup. He did not observe any residue of any kind. Pursuant to Iowa Administrative Code 661-7.3(321J), "as soon as practicable after arrest, the subject should provide the sample by being required to urinate into a bottle, cup, or other suitable container which is clean, dry, and free from any visible contamination." Based on Trooper Law's testimony, the Court finds that the foundational requirements for a urine sample test result are met in this case.

At trial Harrison's counsel did not make a foundational objection to the test results. Harrison was found guilty by the district court and now appeals the judgment and sentence.

Ineffective Assistance of Counsel.

Ineffective assistance of counsel claims are reviewed de novo. *State v. Ray*, 516 N.W.2d 863, 865 (Iowa 1994). Our de novo review of this case leads us to the same conclusion as that of the district court in its ruling on the motion to suppress. The foundation requirements for a urine sample test result were established in this case. Harrison's trial counsel did not render ineffective assistance of counsel by failing to make a foundational objection. *State v. Truesdell*, 511 N.W.2d 429, 433 (Iowa Ct. App. 1993).

AFFIRMED.