FILED
JAN 25 1979
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,	)	
Plaintiff-Appellee,	)	Filed January 25, 1979
vs.	)	
WILLIAM LEE LAZZARI,	)	674 / 60800
Defendant-Appellant.	)	

Appeal from Polk District Court - Luther T. Glanton, Jr., Judge.

Defendant appeals his conviction of possession of a controlled substance with intent to deliver in violation of § 204.401(1), The Code 1975. Affirmed.

Mark W. Bennett & Leslie Babich, of Des Moines, counsel for appellant.

Thomas J. Miller, Attorney General of Iowa, J. Susan Allender, Assistant Attorney General, and Dan Johnston, Polk County Attorney, counsel for appellee.

Heard by Oxberger, C. J., Donielson, Snell, Carter and Johnson, JJ.

DONIELSON, J.

Defendant William Lee Lazzari appeals from judgment of conviction and sentence for possession of a controlled substance with intent to deliver, § 204.401(1), The Code. He contends the trial court erred in admitting certain evidence and in allowing the State to impeach him with his prior felony convictions, and that he was denied the effective assistance of counsel. We affirm the trial court.

I. Defendant first asserts that the trial court erred when it admitted into evidence over defendant's objection a piece of yellow paper found in defendant's residence with the word "hash" and other notations written on it. He contends that the evidence should have been excluded since its probative value, if any, was greatly outweighed by its prejudicial effect. See State v. Wallace, 259 Iowa 765, 769-771, 145 N.W.2d 615, 618-619 (1966). It is for the trial court to decide whether the offered evidence has some probative force, and to balance the value of that evidence against the danger of its prejudicial or wrongful effect upon the jury. The trial judge's decision involves an exercise of his discretion, and we reverse only when we find he has abused that discretion. State v. Harmon, 238 N.W.2d 139, 145 (Iowa 1976).

Agent Richard Benson of the Division of Drugs and Narcotics testified that he found the paper in a waste basket in defendant's residence while conducting a search pursuant to a warrant:

> Whenever I search a residence I always look for—if it's related to drugs—I look for any type of other paraphernalia that may indicate dealings, and this includes any written record. And based on past experience I have, I found that a trash bucket is one of the most likely places to find written records and numerous times have an abundance of information.

Further testimony indicated that "hash" is a street term for marijuana, and is considered a form of that controlled substance. See State v. Kaufman, 265 N.W.2d 610, 618 (Iowa 1978). Other evidence admitted included several bags of marijuana which were found in various locations pointed out by defendant throughout the house. Defendant was arrested while actually engaged in a drug transaction with an undercover agent. Finally, defendant himself testified that he made the notations on the paper but did so in regard to obtaining "hash" for his personal use. The trial court did not abuse its discretion in finding the probative value of the evidence was not substantially outweighed by the danger of unfair prejudice. We find no reversible error.

II. Defendant also contends that the trial court erred in allowing the State to impeach him with his prior felony convictions. Section 622.17, The Code. The trial court overruled defendant's motion in limine asking that his 1968 conviction for false checks over twenty dollars and 1973 conviction for conspiracy "involving bad checks" be excluded as too remote in time from his March 1977 trial and not involving truth and veracity. Defendant complains that the requirements of State v. Martin, 217 N.W.2d 536 (Iowa 1974) were not met. **Martin** named four factors to be considered in making a determination that a prior conviction does not create a danger of prejudice which outweighs its probative value. 217 N.W.2d at 542. In the case before us, the nature of the convictions and their bearing on veracity both weigh in favor of allowing the evidence. See Gordon v. United States, 383 F.2d 936, 940 (D.C. Cir. 1967) ("acts of deceit, fraud, cheating or stealing . . . universally regarded as conduct which reflects adversely on a man's honesty and integrity."); State v. Conner, 241 N.W.2d 447, 455 (Iowa 1976). The recency of the convictions also weighs in favor of admission. Both were within the prior eight years and indicate a continuing pattern of involvement in acts involving dishonesty and false statement. State v. Miller, 229 N.W.2d 762, 769 (Iowa 1975). We cannot say that the admission of testimony concerning defendant's prior felony convictions was an abuse of discretion by trial court.

III. Finally, defendant contends that he was denied the effective assistance of counsel when his trial counsel did not file a motion in limine and did not object to testimony concerning the presence of "pills" and "white tablets" in defendant's residence.

The right to counsel means effective assistance of an attorney. Cleeson v. State, 258 N.W.2d 330, 332 (Iowa 1978). Effective assistance of counsel has been defined as including a "conscientious, meaningful representation wherein the accused is advised of his rights and honest, learned and able counsel is given a reasonable opportunity to perform the task assigned to him." Zacek v. Brewer, 241 N.W.2d 41, 51 (Iowa 1976). But effective assistance of counsel does not mean every mistake in judgment or error in trial strategy by an attorney serves to deprive an accused of a constitutional right. Long v. Brewer, 253 N.W.2d 549, 558 (Iowa 1977). The benchmark is whether under all the circumstances counsel's performance was within the range of normal competency. Cleeson v. State, supra at 332.

It is settled that in order to warrant finding a deprivation of due process, a defendant must present an affirmative factual basis demonstrating counsel's inadequacy of representation, State v. Massey, 207 N.W.2d 777, 780 (Iowa 1973), and make some showing of prejudice as a result of that representation. United States ex rel Johnson v. Johnson, 531 F.2d 169, 178 (3 Cir. 1976), cert. den. 425 U.S. 997 (1976). Defendant is unable to do so here. He complains of counsel's failure to make a pre-trial motion and to object to brief testimony at trial concerning "white tablets" found pursuant to the search warrant. The tablets were not introduced as evidence, nor was any testimony offered as to their content to determine if they were a controlled substance. They were mentioned at trial only in conjunction with admissions by defendant. In looking at all the circumstances, trial counsel's performance was well within the range of normal competency. State v. Kellogg, 263 N.W.2d 539 (Iowa 1978).

AFFIRMED.