

IN THE COURT OF APPEALS OF IOWA

No. 13-1829
Filed August 13, 2014

STATE OF IOWA,
Plaintiff-Appellee,

vs.

PATRICK LETSCHER,
Defendant-Appellant.

Appeal from the Iowa District Court for Hancock County, DeDra L. Schroeder, Judge.

Patrick Letscher appeals from his conviction and sentence for possession of methamphetamine, third offense. **AFFIRMED.**

John Slavik of Elwood, O'Donohoe, Braun, White, L.L.P., Charles City, for appellant.

Thomas J. Miller, Attorney General, Sharon K. Hall, Assistant Attorney General, David C. Solheim, County Attorney, and Karen Kaufman Salic, Assistant County Attorney, for appellee.

Considered by Danilson, C.J., and Vogel and Bower, JJ.

VOGEL, J.

Patrick Letscher appeals from his conviction and sentence following his guilty plea for possession of methamphetamine, third offense, in violation of Iowa Code sections 124.401(5) and 124.206(4)(b) (2011). Letscher argues trial counsel was ineffective for failing to file a motion to suppress evidence following the search of his person. Because the record is not adequate for our review, we affirm his conviction and preserve his ineffective-assistance-of-counsel claim.

On December 7, 2012, Sherriff's Deputy Andrew Klein stopped Letscher's vehicle due to one of the headlights being out. A search of his person revealed marijuana in Letscher's jacket pocket. Letscher was arrested and transported to the Hancock County Sheriff's Office where he was again searched. Methamphetamine was found in his sock.

On January 15, 2013, the State charged Letscher with two counts of possession of a controlled substance, third offense, in violation of Iowa Code sections 124.401(5) and 124.206(4)(b).¹ Letscher failed to attend a pretrial conference, and a warrant was issued for his arrest. Letscher's counsel withdrew, citing Letscher's failure to appear as well as the fact she had had no contact with him in the past thirty days.² Letscher was arrested on August 26, 2013, and the next day pled guilty to one count of possession of methamphetamine, third offense. He was sentenced to a term of incarceration

¹ Count two, possession of a controlled substance, third offense, (marijuana) in violation of Iowa Code section 124.401(5) and 124.204(4)(m), was dismissed as part of the guilty plea entered on the methamphetamine charge.

² The record indicates Letscher was represented by counsel at his plea hearing, and the notice of appeal was signed by the same counsel who earlier had been allowed to withdraw.

not to exceed five years on November 19, 2013. Letscher appeals, asserting trial counsel was ineffective for failing to file a motion to suppress the results of the search of his person, claiming a lack of voluntary consent.

A defendant may raise an ineffective-assistance claim on direct appeal if the record is adequate to address the claim. *State v. Straw*, 709 N.W.2d 128, 133 (Iowa 2006). We may either decide the record is adequate and issue a ruling on the merits, or we may choose to preserve the claim for postconviction proceedings. *Id.*

As the proceedings were not reported, the only available facts are from the trial information, the minutes of testimony, and the deputy's detailed notes. This record is inadequate for our review. Consequently, Letscher's ineffective-assistance-of-counsel claim is preserved, but we affirm his conviction and sentence.

AFFIRMED.