

IN THE COURT OF APPEALS OF IOWA

No. 17-1804
Filed March 6, 2019

STATE OF IOWA,
Plaintiff-Appellee,

vs.

MICHAEL JOSEPH LABARBERA,
Defendant-Appellant.

Appeal from the Iowa District Court for Washington County, Randy S. DeGeest, Judge.

Defendant appeals his conviction and sentence for the manufacture, delivery, or possession with intent to manufacture or deliver marijuana.

AFFIRMED.

Eric D. Tindal of Keegan Tindal & Mason, Iowa City, for appellant.

Thomas J. Miller, Attorney General, and Tyler J. Buller, Assistant Attorney General, for appellee.

Considered by Vogel, C.J., and Vaitheswaran and McDonald, JJ.

VOGEL, Chief Judge.

Michael Labarbera appeals his conviction for the manufacture, delivery, or possession with intent to manufacture or deliver marijuana, in violation of Iowa Code section 124.401(1)(d) (2016). He asserts his counsel was ineffective for failing to object to the prosecutor's comments and witness's testimony that he claims improperly inflamed the jury, thereby denying him the right to a fair trial. "If an ineffective-assistance-of-counsel claim is raised on direct appeal from the criminal proceedings, we may decide the record is adequate to decide the claim or may choose to preserve the claim for postconviction proceedings." *State v. Straw*, 709 N.W.2d 128, 133 (Iowa 2006) (citing Iowa Code § 814.7(3) (2005)). On this record, we affirm Labarbera's conviction but preserve his ineffective-assistance claim for possible postconviction relief, "where a full evidentiary hearing may be had and where counsel will have an opportunity to respond to defendant's charges." *State v. Coil*, 264 N.W.2d 293, 296 (Iowa 1978) ("Even a lawyer is entitled to his [or her] day in court, especially when his [or her] professional reputation is impugned.").

AFFIRMED.