

**IN THE COURT OF APPEALS OF IOWA**

No. 1-360 / 10-1790  
Filed May 25, 2011

**STATE OF IOWA,**  
Plaintiff-Appellee,

**vs.**

**CHRISTY ANN NIDA,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Jasper County, Thomas W. Mott,  
District Associate Judge.

Defendant appeals her conviction, based on her guilty plea, for assault  
causing bodily injury. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Rachel C. Regenold,  
Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Kyle Hanson, Assistant Attorney  
General, Michael K. Jacobsen, County Attorney, and Susan Wendel, Assistant  
County Attorney, for appellee.

Considered by Vogel, P.J., Vaitheswaran, J., and Huitink, S.J.\* Tabor, J.,  
takes no part.

\*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2011).

**HUITINK, S.J.**

Christy Nida was charged with assault causing bodily injury, in violation of Iowa Code sections 708.1 and 708.2(2) (2009), based on the State's allegation that she was involved in an altercation with another woman outside a bar in Newton, Iowa. Nida entered a written guilty plea to the charge on September 29, 2010. The written guilty plea does not reference a plea agreement.

At the November 3, 2010 sentencing hearing, the State recited Nida's criminal history and recommended a one-year suspended sentence, one year of probation, and the minimum fine. Defense counsel asked "that she be sentenced according to the plea agreement." The court sentenced her to one year in jail, with all but sixty days suspended, two years of probation, and a fine of \$500.

Nida appeals her conviction, claiming she received ineffective assistance of counsel. We review claims of ineffective assistance of counsel de novo. *State v. Bergmann*, 600 N.W.2d 311, 313 (Iowa 1999). To establish a claim of ineffective assistance of counsel, a defendant must show (1) the attorney failed to perform an essential duty and (2) prejudice resulted to the extent it denied defendant a fair trial. *State v. Carroll*, 767 N.W.2d 638, 641 (Iowa 2008). We strongly presume counsel has "rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Cullen v. Pinholster*, \_\_\_ U.S. \_\_\_, \_\_\_, 131 S. Ct. 1388, 1403, \_\_\_ L. Ed. 2d \_\_\_, \_\_\_ (2011) (citation omitted). A defendant must also show that but for counsel's unprofessional errors, there is a substantial likelihood there would have been a different result to the proceeding. *Id.* at \_\_\_, 131 S. Ct. at 1403, \_\_\_ L. Ed. 2d at \_\_\_.

Nida claims she received ineffective assistance because defense counsel did not object when the prosecutor breached the plea agreement by reciting her criminal history at the sentencing hearing. Aside from defense counsel's single statement asking that defendant be sentenced according to the plea agreement, there is no evidence in the record showing there was a plea agreement, and if there was, the terms of the agreement.

Ordinarily, we preserve claims of ineffective assistance of counsel for postconviction relief proceedings. *State v. Reyes*, 744 N.W.2d 95, 103 (Iowa 2008). The record in this appeal is inadequate to address defendant's claims of ineffective assistance of counsel. We conclude this issue must be preserved for possible postconviction proceedings.

We affirm Nida's conviction for assault causing bodily injury.

**AFFIRMED.**