

IN THE COURT OF APPEALS OF IOWA

No. 14-0518
Filed February 10, 2016

STATE OF IOWA,
Plaintiff-Appellee,

vs.

VOSHON THOMAS DENNIS,
Defendant-Appellant.

Appeal from the Iowa District Court for Polk County, Michael D. Huppert (guilty plea and first sentencing) and Richard B. Clogg (second sentencing), Judges.

A defendant challenges the factual basis to support his guilty plea to possession of marijuana with intent to deliver. **AFFIRMED.**

David Barajas of Guadineer & George, L.L.P., West Des Moines, for appellant.

Thomas J. Miller, Attorney General, and Kevin Cmelik and Alexandra Link, Assistant Attorneys General, for appellee.

Considered by Danilson, C.J., and Mullins and McDonald, JJ.

MULLINS, Judge.

Voshon Dennis appeals following his guilty plea to possession of marijuana with intent to deliver, claiming his counsel provided ineffective assistance by permitting him to plead guilty without a factual basis to support the plea.¹ Specifically, he claims the plea colloquy does not establish that he knowingly possessed a substance he knew to be marijuana and that he intended to deliver the marijuana to another. When a defendant challenges the factual basis to support his guilty plea, “the entire record before the district court may be examined.” *State v. Finney*, 834 N.W.2d 46, 62 (Iowa 2013). We do not confine our review to just the plea colloquy between the court and the defendant.

The minutes of testimony establish that during the execution of a search warrant in Dennis’s home, the police discovered a digital scale and baggies. The officers located six grams of marijuana under a vehicle. Dennis admitted to the officers that he owned the baggies and digital scale and that he threw the baggie containing marijuana under the vehicle while he was running away from the police. He admitted to selling marijuana for the past month and stated he typically sells \$50.00 bags of marijuana three or four times a week. He further stated he was going to sell the baggie he threw under the vehicle to a kid for \$20.00. In addition, the officers searched Dennis’s cell phone and found numerous text messages discussing marijuana and the distribution of marijuana. Police also discovered \$343.00 in cash on Dennis’s person.

¹ The court originally granted Dennis a deferred judgment with two years’ probation following his guilty plea. However, Dennis’s deferred judgment and probation were revoked in 2014, and Dennis was sentenced to serve five years in prison.

When we review the entire record, we have little trouble concluding there was a factual basis to support the conclusion Dennis knowingly possessed marijuana and intended to deliver that marijuana. See *id.* (“Our cases do not require that the district court have before it evidence that the crime was committed beyond a reasonable doubt, but only that there be a factual basis to support the charge.”). Because there is a factual basis to support the guilty plea, counsel was not ineffective in failing to challenge the guilty plea through a motion in arrest of judgment. See *State v. Rodriguez*, 804 N.W.2d 844, 849 (Iowa 2011) (concluding if there is a factual basis for a plea, an ineffective-assistance claim attacking the factual basis must fail because “counsel has no duty to raise an issue that lacks merit”).

We affirm Dennis’s conviction.

AFFIRMED.