

IN THE COURT OF APPEALS OF IOWA

No. 16-0283
Filed April 5, 2017

STATE OF IOWA,
Plaintiff-Appellee,

vs.

STEPHANY RAMIREZ-HERNANDEZ,
Defendant-Appellant.

Appeal from the Iowa District Court for Scott County, Nancy S. Tabor,
Judge.

Defendant appeals her conviction for ongoing criminal conduct.

AFFIRMED.

Zeke R. McCartney of Reynolds & Kenline, L.L.P., Dubuque, for
appellant.

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

Considered by Mullins, P.J., and Bower and McDonald, JJ. Tabor, J.,
takes no part.

BOWER, Judge.

Stephany Ramirez-Hernandez, along with Liosvany Rodriguez, her co-defendant, committed ongoing credit card fraud throughout Iowa from April 29, to May 11, 2015. After making purchases totaling nearly \$1500, Ramirez-Hernandez and Rodriguez were arrested.

Ramirez-Hernandez and Rodriguez both retained attorney Benjamin Bergmann (attorney Benjamin) to represent them. Ramirez-Hernandez and Rodriguez executed written waivers of any potential conflict of interest attorney Benjamin might encounter during his joint representation. On August 26, before a scheduled change of plea hearing, attorney Benjamin was convinced by a district court judge to end the joint representation. Attorney Benjamin filed a motion to continue the change of plea hearing and subsequently filed a motion to withdraw. The motion to withdraw was granted, and Ramirez-Hernandez was then represented by attorney Beau Bergmann (attorney Beau).

Attorney Beau had been involved in Ramirez-Hernandez's case in a limited capacity for a show cause hearing on June 15.¹ A memorandum of plea agreement negotiated by attorney Benjamin but reviewed and signed by attorney Beau, was entered on October 7, 2015. A plea hearing was held on November 20, in Scott County, and the court specifically discussed double jeopardy related to a companion case in Polk County, Ramirez-Hernandez's ability to understand English, and possible immigration consequences.

¹ The hearing concerned a warrant issued for Ramirez-Hernandez for failure to appear and bond forfeiture against the surety due to an appearance not having been filed by counsel. The warrant and hearing date were canceled by agreement.

However, the district court did not address any issues about possible conflicts of interest.

Ramirez-Hernandez was sentenced on January 14, 2016, to a twenty-five year prison sentence, which was subsequently reconsidered and suspended in July of 2016. Ramirez-Hernandez now appeals her conviction, claiming attorney Beau was ineffective due to attorney Benjamin's conflict of interest, which she claims should be imputed to attorney Beau. Ramirez-Hernandez also claims the district court was required to address any potential conflicts of interest before accepting her plea.

We find the record before this court is not adequate to resolve these claims. Therefore, we affirm Ramirez-Hernandez's conviction but preserve all claims for possible postconviction-relief proceedings. *See State v. DeCamp*, 622 N.W.2d 290, 296 (Iowa 2001) ("Ineffective assistance of counsel claims presented on direct appeal are typically preserved for [postconviction-relief] proceedings to allow for a full development of the facts surrounding the conduct of counsel.").

AFFIRMED.