

**IN THE COURT OF APPEALS OF IOWA**

No. 1-937 / 11-0490  
Filed January 19, 2012

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

**vs.**

**ANTHONY EUGENE HAWKINS,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Scott County, J. Hobart Darbyshire,  
Judge.

The defendant appeals his judgment and sentences for first-degree robbery, felon in possession of a firearm, and trafficking in stolen weapons.

**AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Robert P. Ranschau,  
Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Elisabeth S. Reynoldson, Assistant  
Attorney General, Michael J. Walton, County Attorney, and Melisa K. Zaehringer,  
Assistant County Attorney, for appellee.

Considered by Vaitheswaran, P.J., and Potterfield and Doyle, JJ.

**VAITHESWARAN, P.J.**

Anthony Hawkins appeals his judgment and sentences for first-degree robbery, felon in possession of a firearm, and trafficking in stolen weapons. He argues the district court should have granted him a new trial and his trial attorney was ineffective.

***I. Background Facts and Proceedings***

Hawkins and two of his friends, Jonas Ross and Kinlawyed Hendrix, drove to Davenport, where arrangements were made to enter into a drug transaction with a man named Damon Locke. Ross went to the home of a former girlfriend and gave Locke instructions on how to get there. A few minutes later, Hawkins and Hendrix arrived. At that point, Ross stated, "All hell broke loose."

Locke noticed that Hawkins and Hendrix appeared agitated. He decided to leave but, as he got up, Hawkins grabbed him and said, "[You] ain't going nowhere." Hawkins tackled Locke, hit him on the forehead with a gun, then reached into Locke's pocket and removed his wallet, which contained \$500. Meanwhile, Hendrix knocked Ross down.

Hawkins and Hendrix ran out of the house and drove away. The gun, which was thrown out of the car window, was later retrieved and found to have been stolen in Chicago, where both Hawkins and Hendrix lived.

Hawkins was apprehended. He initially told police Locke robbed him and the robbery took place in a vehicle. When confronted with evidence that the robbery occurred in an apartment rather than a car, Hawkins changed his story.

The State charged Hawkins with first-degree robbery, felon in possession of a firearm, and trafficking in stolen weapons. A jury found him guilty of all three crimes.

Hawkins filed a motion for new trial, arguing in relevant part that the “State failed to produce credible evidence that a crime occurred.” The district court denied the motion and entered judgment and sentence. On appeal, Hawkins contends (1) the district court abused its discretion in denying his motion for new trial, and (2) his trial attorney was ineffective in failing to request an accomplice corroboration instruction.

## ***II. Denial of New Trial Motion***

Hawkins contends “the verdict is contrary to law or evidence.” See Iowa R. Crim. P. 2.24(2)(b)(6). He specifically asserts the

numerous versions of events set out . . . by the prosecution’s lay witnesses . . . are so inconsistent with each other that the district court should have granted a motion for new trial. Few of the details from the witnesses’ testimony are consistent. These inconsistencies combined with the witnesses’ criminal histories cast serious doubt on the veracity of their testimony.

This argument is essentially a request to have us reweigh the evidence and judge the credibility of the witnesses. This is not our role. See *State v. Reeves*, 670 N.W.2d 199, 203 (Iowa 2003). Our role is simply to determine whether the district court abused its discretion in denying the new trial motion. *Id.* (“On a weight-of-the-evidence claim, appellate review is limited to a review of the exercise of discretion by the trial court, not of the underlying question of whether the verdict is against the weight of the evidence.”).

We discern no abuse of discretion. Although Hawkins is correct that the testimony of key witnesses was not entirely consistent, Locke, Hendrix, and Ross all agreed Hawkins attacked Locke. While Ross equivocated on whether Hawkins stole money from Locke, Locke's uncle made a 911 call stating Locke was robbed, and Hawkins's own changing story about the crime implicated him in the robbery. As for the remaining two charges, the gun Hawkins used in the robbery was later recovered, and there was no dispute that the gun was stolen and that Hawkins was a felon when he possessed it. In sum, notwithstanding serious reasons to question the credibility of several witnesses, the district court could have concluded from certain essentially undisputed facts that the evidence did not preponderate heavily against the verdict. See *State v. Shanahan*, 712 N.W.2d 121, 135 (Iowa 2006) (setting forth weight-of-the-evidence test).

### ***III. Ineffective Assistance of Counsel***

Hawkins next claims Ross was an accomplice to the crimes, and his trial attorney was ineffective in failing to request an instruction requiring corroboration of his testimony. See Iowa R. Crim. P. 2.21(3) ("A conviction cannot be had upon the testimony of an accomplice or a solicited person, unless corroborated by other evidence. . . ."). To prevail, he must show that counsel (1) breached an essential duty and (2) prejudice resulted. *Strickland v. Washington*, 466 U.S. 668, 687, 104 S. Ct. 2052, 2064, 80 L. Ed. 2d 674, 693 (1984). Hawkins cannot establish prejudice because, assuming Ross was an accomplice, Ross's testimony was amply corroborated by independent evidence. See *State v. Barnes*, 791 N.W.2d 817, 824 (Iowa 2010) (assuming without deciding that

witnesses were accomplices and rejecting ineffective-assistance claim in light of sufficient corroborating evidence).

Ross testified “a fight happened” after Hawkins and Hendrix arrived, there was money “all over,” and then everyone left. The fact that a fight occurred was corroborated by Locke, a non-accomplice. Locke also provided details not furnished by Ross, such as Hawkins’s use of a gun and theft of money. As noted, police later located the discarded gun. They were also privy to Hawkins’s false statement about the robbery. See *State v. Taylor*, 557 N.W.2d 523, 528 (Iowa 1996) (finding defendant’s assertion of implausible story implicated him in crime and constituted corroborative evidence). In light of this corroborating evidence, the failure of Hawkins’s attorney to request an accomplice corroboration instruction did not result in *Strickland* prejudice, and Hawkins’s ineffective-assistance-of-counsel claim necessarily fails.

**AFFIRMED.**