

IN THE COURT OF APPEALS OF IOWA

No. 2-1163 / 12-0879
Filed February 13, 2013

STATE OF IOWA,
Plaintiff-Appellee,

vs.

SAMUEL LEE HARRIS,
Defendant-Appellant.

Appeal from the Iowa District Court for Polk County, William A. Price,
District Associate Judge.

Samuel Lee Harris appeals following his guilty plea, judgment, and sentence, to the charge of domestic abuse assault with the intent to commit serious injury. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Martha Lucey, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Tyler Buller, Assistant Attorney General, John Sarcone, County Attorney, and Michael Salvner, Assistant County Attorney, for appellee.

Considered by Doyle, P.J., and Mullins and Bower, JJ.

MULLINS, J.

Samuel Lee Harris, the defendant, appeals following his guilty plea, judgment, and sentence, to the charge of domestic abuse assault with the intent to commit serious injury. Harris contends trial counsel provided ineffective assistance by allowing him to enter an *Alford* plea where the record failed to establish a factual basis for the charge. We affirm.

I. Background Facts & Proceedings

On March 25, 2012, police officers responded to a report of a domestic disturbance. The police report sets forth the events that unfolded as follows:

Upon arrival we observed the suspect Samuel Harris walking away from the residence. Officers Sims stopped and began to talk to him in front of the residence. [The reporting officer] made contact with Roma Harris, the victim. Roma stated that she and her husband that she lives with at 1806 Arlington #1 were having a verbal argument. Roma stated that Samuel became more upset with her and the argument turned physical. Samuel grabbed some kind of stick and began to strike Roma with the stick. Roma had visible swelling to her right forearm and the right side of her forehead where she was struck. Roma's injuries were photographed at the scene. Roma stated that this is the first time he has ever been physical with her and she believes that it was because he was drinking all day. Samuel was arrested at the scene and transported to PCJ by the wagon. Roma requested a no contact order.

The reporting officer described Roma Harris's degree of injury and condition as "Minor/Stable," and indicated that she refused transport to the hospital.

The State charged Harris with domestic abuse assault with the intent to inflict serious injury. Pursuant to a plea agreement, Harris agreed to enter an

Alford plea as charged.¹ In turn, the State agreed not to pursue additional charges stemming from six no-contact-order violations. After an extended colloquy with the defendant, the court accepted the plea and outlined its reasoning on the record as follows:

[T]he Court has reviewed the Defendant's signed, written plea as well as considered the colloquy between the Court and Mr. Harris. The Court finds that the Defendant understands the charge, [its] penalty consequences, and the constitutional rights being waived, and the plea colloquy. The Court finds that the Defendant has concluded that it's in his best interests to enter a guilty plea. Upon review of the file, including the trial information, the Court finds that there is strong evidence of the actual guilt, and that the Defendant has nothing to gain by a trial and much to gain by the entry of a plea of guilty. The Court, therefore, accepts the plea, pursuant to *North Carolina v. Alford*, of Mr. Harris to the charge of domestic abuse assault with intent to inflict serious injury.

Harris requested immediate sentencing, and waived his right to make a motion in arrest of judgment. He also requested the imposition of a prison sentence, rather than probation. The court sentenced the Harris to a prison term not to exceed two years.

II. Standard of Review

We review lack-of-a-factual-basis challenges to a guilty plea for correction of errors of law. *State v. Martin*, 778 N.W.2d 201, 202 (Iowa 2009). However, where the defendant raises such a claim in an ineffective-assistance-of-counsel context our review is de novo. *Id.* On direct appeal, we will address the merits of an ineffective-assistance claim where the record is adequate. *Id.*

¹ An *Alford* plea allows a defendant to consent to the imposition of a sentence without admitting to participating in the crime. See *North Carolina v. Alford*, 400 U.S. 25, 37 (1970).

III. Analysis

To accept a guilty plea, the district court must first determine whether “the plea has a factual basis.” *State v. Schminkey*, 597 N.W.2d 785, 788 (Iowa 1999). Where trial counsel allows the defendant to plead guilty without a factual basis to support the charge, prejudice is inherent in counsel’s deficient performance. *Id.* The court “must only be satisfied that the facts support the crime, ‘not necessarily that the defendant is guilty.’” *State v. Keene*, 630 N.W.2d 579, 581 (Iowa 2001) (citation omitted). The “record, as a whole, must disclose facts to satisfy the elements of the crime.” *Id.*

Harris argues the record as a whole, including the minutes of testimony, does not support an inference that he intended to inflict serious bodily injury. To support a conviction for domestic abuse assault with intent to inflict a serious injury, the State must establish the following elements: (1) the defendant did an act which was meant to cause pain or injury to, or which was intended to result in physical contact which would be insulting or offensive to, the victim; (2) the defendant had the apparent ability to do the act; (3) at that time the defendant intended to cause a serious injury to the victim; and (4) the assault came within one or more of the circumstances set forth in Iowa Code section 236.2(2)(a)–(e) (2011). See Iowa Code §§ 708.1(1), .2A(1), .2A(2)(c); Iowa Crim. Jury Instruction 830.4. “Serious injury” is defined, in relevant part, as a bodily injury creating a “substantial risk of death,” causing “serious permanent disfigurement,” or causing “protracted loss or impairment of the function of any bodily member or organ.” Iowa Code § 702.18. It is well-settled Iowa law “that an actor will

ordinarily be viewed as intending the natural and probable consequences that usually flow from his or her voluntary act.” *State v. Taylor*, 689 N.W.2d 116, 132 (Iowa 2004).

We find the record adequate to address the ineffective-assistance claim. *Martin*, 778 N.W.2d at 202-04. The minutes of testimony incorporated the police report. The police report indicated that Harris hit his wife about the head and arm with a stick resulting in visible swelling. While the injuries appeared to be minor, the natural and probable consequences of using a weapon to strike a person in the head during a physical confrontation evidence an intent to inflict serious injury. Upon our de novo review, we find the facts sufficient to support Harris’s plea of guilty to domestic abuse assault with the intent to inflict serious injury. As a result, we find no deficiency in counsel’s performance. See *Schminkey*, 597 N.W.2d at 788.

AFFIRMED.