

IN THE COURT OF APPEALS OF IOWA

No. 2-690 / 12-0374
Filed September 19, 2012

STATE OF IOWA,
Plaintiff-Appellee,

vs.

CRAIG ALAN FREISINGER,
Defendant-Appellant.

Appeal from the Iowa District Court for Scott County, John D. Telleen (plea) and Marlita A. Greve (sentencing), Judges.

Craig Freisinger appeals following his guilty plea. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and David Arthur Adams, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Benjamin M. Parrott, Assistant Attorney General, Michael J. Walton, County Attorney, and Melissa Zaehring, Assistant County Attorney, for appellee.

Considered by Vogel, P.J., and Danilson and Mullins, JJ.

DANILSON, J.

Craig Freisinger appeals, contending trial counsel was ineffective in allowing him to plead guilty, without a factual basis, to the charge of manufacture/possession with intent to manufacture or deliver a controlled substance, methamphetamine, in violation of Iowa Code sections 124.401(1)(c)(6) and 124.206(4)(b) (2011).

Section 124.401(1) provides “it is unlawful for any person . . . to act with, . . . one or more other persons to manufacture . . . a controlled substance.” This stands as a separate alternative method to violate section 124.401(1). *State v. Corsi*, 686 N.W.2d 215, 222 (Iowa 2004); accord *State v. Fintel*, 689 N.W.2d 95, 101 (Iowa 2004). A person may violate section 124.401(1) under this alternative “without actually completing a manufacture of a controlled substance.” *Fintel*, 689 N.W.2d at 101 (citing *Corsi*, 686 N.W.2d at 222). The defendant did admit that he “acted with another person to manufacture less than five grams of methamphetamine.” There is thus a factual basis to support the charge. Trial counsel was not ineffective in failing to move in arrest of judgment on that ground. See *State v. Carroll*, 767 N.W.2d 638, 645 (Iowa 2009) (“[C]ounsel has no duty to pursue a meritless issue.”). We therefore affirm.

AFFIRMED.