

IN THE COURT OF APPEALS OF IOWA

No. 2-973 / 12-0683
Filed November 29, 2012

STATE OF IOWA,
Plaintiff-Appellee,

vs.

LEWELLYN HUGHES,
Defendant-Appellant.

Appeal from the Iowa District Court for Polk County, Cynthia Moisan,
District Associate Judge.

Lewellyn Hughes appeals from his conviction and sentence for operating a
motor vehicle while license is barred as a habitual offender. **AFFIRMED.**

Ryan R. Gravett of Oliver Law Firm, P.C., Windsor Heights, for appellant.

Thomas J. Miller, Attorney General, Linda J. Hines, Assistant Attorney
General, John Sarcone, County Attorney, and Shannon Archer, Assistant County
Attorney, for appellee.

Considered by Potterfield, P.J., and Danilson and Tabor, JJ.

POTTERFIELD, P.J.

Lewellyn Hughes appeals from his conviction and sentence for operating a motor vehicle while license is barred as a habitual offender, an aggravated misdemeanor, in violation of Iowa Code sections 321.560 and 321.561 (2011). Hughes asserts his trial counsel rendered ineffective assistance by permitting him to plead guilty without a factual basis in the record to support the conviction. See *State v. Ortiz*, 789 N.W.2d 761, 764 (Iowa 2010) (“Defense counsel violates an essential duty when counsel permits defendant to plead guilty and waive his right to file a motion in arrest of judgment when there is no factual basis to support defendant’s guilty plea.”).

There are only two elements to the offense of driving while barred: (1) that a person was operating a motor vehicle and (2) the person’s driver’s license was barred. See Iowa Code § 321.561; *State v. Wise*, 697 N.W.2d 489, 492 (Iowa Ct. App. 2005). Upon our de novo review of the record,¹ we find the guilty plea is supported by a factual basis. The defendant admitted he “drove a car when [he] was barred on January 4, 2012,” and the record available to the district court at

¹ See *Ortiz*, 789 N.W.2d at 764 (noting constitutional claims are reviewed de novo). In *Ortiz*, 789 N.W.2d at 767-68, the court noted:

The factual basis must be contained in the record, and the record, as a whole, must disclose facts to satisfy all elements of the offense. A factual basis can be discerned from four sources: (1) inquiry of the defendant, (2) inquiry of the prosecutor, (3) examination of the presentence report, and (4) minutes of evidence. Moreover, we have held the record does not need to show the totality of evidence necessary to support a guilty conviction, but it need only demonstrate facts that support the offense.

the time of the plea indicates he was barred from driving from “6-23-09 → 6-22-14, habitual violator.” His ineffective-assistance-of-counsel claim therefore fails, and we affirm his conviction.

AFFIRMED.