

**IN THE COURT OF APPEALS OF IOWA**

No. 3-1142 / 12-2128  
Filed January 9, 2014

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

**vs.**

**RICHARD DAVIS,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Monroe County, James Q. Blomgren, Judge.

A defendant contends he received ineffective assistance of counsel when his attorney failed to object to the submission of second-degree murder to the jury as a general intent crime. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Dennis D. Hendrickson, Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Tyler J. Buller and Susan Krisko, Assistant Attorneys General, and Steven E. Goodlow, County Attorney, for appellee.

Considered by Danilson, C.J., and Vaitheswaran and Potterfield, JJ.

**VAITHESWARAN, J.**

Richard Davis appeals his judgment and sentence for second-degree murder. He contends his trial attorney “was ineffective for failing to object to submission of murder in the second degree to the jury as a general intent crime.” Davis concedes that, before his case was tried, the Iowa Supreme Court considered and rejected the identical issue. See *State v. Lyman*, 776 N.W.2d 865, 877 (Iowa 2010) (“Neither the killing of another person nor malice aforethought requires specific intent under section 707.3. Consequently, the district court was correct in refusing to give a specific intent instruction for second-degree murder.”). His sole contention is that *Lyman* should be “revisited.” That is not our prerogative. See *State v. Eichler*, 83 N.W.2d 576, 578 (Iowa 1957) (“If our previous holdings are to be overruled, we should ordinarily prefer to do it ourselves.”).

Because the district court gave an instruction that comported with Iowa law, Davis’s attorney did not breach an essential duty in failing to object to it. See *Strickland v. Washington*, 466 U.S. 668, 687 (1984).

We affirm Davis’s judgment and sentence for second-degree murder.

**AFFIRMED.**