

**IN THE COURT OF APPEALS OF IOWA**

No. 3-169 / 11-0187  
Filed March 27, 2013

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

**vs.**

**ANDRES OCHOA VASQUEZ,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Story County, James B. Malloy,  
District Associate Judge.

A defendant appeals his conviction and sentence for operating a motor  
vehicle while under the influence, third offense. **AFFIRMED.**

Andreas Ochoa Vazquez, Fort Dodge, appellant pro se.

Mark C. Smith, State Appellate Defender, and Rachel C. Regenold,  
Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Martha E. Trout, Assistant Attorney  
General, Stephen Holmes, County Attorney, and Tim Meals, Assistant County  
Attorney, for appellee.

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

**VOGEL, P.J.**

The defendant, Andres Vasquez Ochoa,<sup>1</sup> appeals his conviction, sentence, and judgment for operating a motor vehicle while under the influence (OWI), third offense, a class “D” felony, in violation of Iowa Code section 321J.2 (2009). He claims his trial counsel was ineffective by failing to ensure he voluntarily and intelligently stipulated to his prior OWI convictions. “Only in rare cases will the trial record alone be sufficient to resolve the claim on direct appeal.” *State v. Straw*, 709 N.W.2d 128, 133 (Iowa 2006). Postconviction proceedings allow an adequate record to be developed and allow the attorney charged with providing ineffective assistance an opportunity to respond to the defendant’s claims. *State v. Biddle*, 652 N.W.2d 191, 203 (Iowa 2002). Because we find the record insufficient to resolve this claim on direct appeal, we affirm the conviction pursuant to Iowa Court Rule 21.29(a) and (e), and preserve the issue for possible postconviction proceedings.

**AFFIRMED.**

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<sup>1</sup> On appeal, this case has been docketed as *State v. Andres Ochoa Vasquez*. In the written arraignment, the defendant indicated his true name is Andres Vasquez Ochoa. The State amended the trial information accordingly. We will therefore refer to him as Vasquez Ochoa throughout this opinion.