

**IN THE COURT OF APPEALS OF IOWA**

No. 3-428 / 10-1749  
Filed August 7, 2013

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

**vs.**

**ISIAC JOSEPH BROWN,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Woodbury County, Jeffrey A. Neary, Judge.

Isiac Brown appeals his judgment and sentence for two counts of forgery and one count of third-degree theft. **AFFIRMED.**

Judy L. Freking of Judy L. Freking P.C., Le Mars, for appellant.

Thomas J. Miller, Attorney General, Martha E. Trout, Assistant Attorney General, Patrick Jennings, County Attorney, and James Loomis, Assistant County Attorney, for appellee.

Considered by Vogel, P.J., and Vaitheswaran and Bower, JJ.

**VAITHESWARAN, J.**

Isiac Brown appeals his judgment and sentence for two counts of forgery and one count of third-degree theft. He contends: (1) there is insufficient evidence to support the jury's finding of guilt on one of the forgery counts, (2) the district court erred in overruling his foundational objection to the admission of a trial exhibit, and (3) his trial attorney provided ineffective assistance.

***I. Sufficiency of the Evidence***

The jury was instructed that the State would have to prove the following elements of one of the forgery counts:

1. On or about the 16th day of June, 2009, the defendant made, completed, executed, authenticated, issued or transferred check #1449 on the account of Magdalene Lucas Revocable Trust with Central Bank;

2. Without Bruce Lucas' and/or Magdalene Lucas Revocable Trust's authority the defendant made check #1449 appear to be the act of Bruce Lucas and/or Magdalene Lucas Revocable Trust.

3. a. The Defendant specifically intended to defraud or injure Bruce Lucas and/or Magdalene Lucas Revocable Trust and/or Central Bank.

and/or

b. The Defendant knew the act would facilitate fraud or injury.

Brown contends the evidence was insufficient to establish that he was the person who forged the check. A reasonable juror could have found otherwise.

Apartment Manager Bruce Lucas discovered that his locked office had been ransacked. He identified former tenant Brown as a suspect in the office invasion based on the apparent theft of an emergency set of keys to the apartment Brown had recently occupied. Lucas later discovered that two checks

from the Magdalene Lucas Revocable Trust account<sup>1</sup> were also missing from the office: check number 1449 and check number 1450. Lucas reported the missing checks to the police and called the bank to stop payment on them.

That afternoon, a bank teller assisted a car that pulled up to a drive-through window. The driver—Javier Cheron—asked to cash check #1449 for \$400 written on the Magdalene Lucas revocable trust account. Earlier that day, the teller had been notified that checks from the Magdalene Lucas revocable trust account were reported stolen. When she saw check #1449, she confirmed it was one of the reportedly stolen checks and informed Cheron that she would not be able to cash it. Cheron expressed surprise and stated he had no idea the check was stolen. Meanwhile, one of the passengers in the backseat of the vehicle exited the car and walked away.

Cheron confirmed the bank teller's testimony, adding that "[s]ome guy" waved him down and asked if he would cash a check for him in exchange for cash. When Cheron agreed, the man retrieved the check from a nearby house and got into the backseat of Cheron's car. As Cheron was waiting to have the check cashed, the man "kind of started getting nervous and decided to leave the scene."

While neither the bank teller nor Cheron identified Brown as the man in the back seat, a police investigator testified that he spoke to Cheron after the fact, Cheron identified the building the man entered to retrieve the check, and police apprehended Brown at that building. The jury also heard evidence that

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<sup>1</sup> The Magdalene Lucas Revocable Trust account was in the name of Lucas's mother. The only authorized signatories on the account were Lucas and his sister.

Brown may have been upset with Lucas for withholding a portion of his deposit after he moved out and he viewed check #1449 as payback. Finally, the jury could have considered evidence tying him to the writing of stolen check #1450 just an hour after Cheron attempted to cash check #1449.

The record contains substantial evidence to support the jury's finding of guilt on the forgery count relating to check #1449. See *State v. Hennings*, 791 N.W.2d 828, 832-33 (Iowa 2010) (setting forth standard of review).

## **II. Evidentiary Challenge**

Brown claims the district court erred in overruling his attorney's foundation objection to a copy of Brown's Missouri identification card. Brown acknowledges this issue was not properly preserved because trial counsel's objection "failed to identify the specific way that the exhibit lacked foundation." *Carter v. Wiese Corp.*, 360 N.W.2d 122, 132 (Iowa Ct. App. 1984) ("The Supreme Court of Iowa has held that where the objection to evidence is based on a claim of 'no proper foundation' but does not state in what respect(s) the foundation is lacking, the objection is insufficient to provide a basis for review on appeal." (quoting *Thompson v. Bohlken*, 312 N.W.2d 501, 509 (Iowa 1981)); *Shinrone, Inc. v. Tasco, Inc.*, 283 N.W.2d 280, 288 (Iowa 1979). Accordingly, we have nothing to review. See *State v. Howard*, 509 N.W.2d 764, 769 (Iowa 1993) (finding no error in trial court's admission of a statement where the defendant did not specify his grounds for objection at trial "nor [claim] that his trial counsel was ineffective for failing to object to the introduction of the exhibit as containing hearsay").<sup>2</sup>

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<sup>2</sup> Brown does not assert that counsel was ineffective in failing to lodge a proper objection to the exhibit. See *State v. Fountain*, 786 N.W.2d 260, 263 (Iowa 2010) ("Ineffective-

**III. Ineffective Assistance of Counsel**

Brown claims his trial attorney was ineffective in failing to: (1) take several pretrial actions in preparation of a defense and (2) object to testimony and documentary evidence offered by a bank teller supervisor, Rheanna Jenness. We find the record inadequate to address these claims.<sup>3</sup> See *State v. Taylor*, 689 N.W.2d 116, 134 (Iowa 2004). Accordingly, we preserve them for postconviction relief. *State v. Brothorn*, 832 N.W.2d 187, 197 (Iowa 2013).

**AFFIRMED.**

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assistance-of-counsel claims are an exception to the traditional error-preservation rules.”).

<sup>3</sup> The record on one of Brown’s trial-preparation claims, Brown’s assertion that he was forced to file a motion to suppress because his attorney did not, reveals that the motion concerned an unrelated search. While we might be able to resolve this claim on direct appeal, we preserve it for postconviction relief to allow Brown and his attorney to clarify whether this is the sum and substance of the claim.