

**IN THE COURT OF APPEALS OF IOWA**

No. 7-846 / 07-0059  
Filed December 12, 2007

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

**vs.**

**WESLEY RUNDELL WASHINGTON,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Black Hawk County, Jon Fister,  
Judge.

Wesley Washington appeals his perjury conviction. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Jason Shaw, Assistant  
Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Sharon K. Hall, Assistant Attorney  
General, Thomas J. Ferguson, County Attorney, and Joel A. Dalrymple, Assistant  
County Attorney, for appellee.

Considered by Vogel, P.J., and Mahan and Zimmer, JJ.

**MAHAN, J.**

Wesley Washington was charged and convicted of perjury in violation of Iowa Code section 720.2 (2005) as a result of his inconsistent eye-witness testimony regarding a shooting in Waterloo on January 17, 2006. He was sentenced to five years in prison. He claims his due process rights were violated by ineffective assistance of defense counsel. We affirm his conviction and preserve his ineffective assistance claims for possible postconviction relief proceedings.

Claims of ineffective assistance of counsel are reviewed de novo. *State v. Bergman*, 600 N.W.2d 311, 313 (Iowa 1999). We generally preserve such claims for postconviction relief actions to allow full development of the facts surrounding counsel's conduct. *State v. Atley*, 564 N.W.2d 817, 833 (Iowa 1997). However, we will resolve the issues on appeal if the record is adequate to show either that the defendant cannot prevail on the claim as a matter of law or that the elements of the ineffective assistance claim are present and an evidentiary hearing would not alter the conclusion. *State v. Graves*, 668 N.W.2d 860, 869 (Iowa 2003).

Washington claims his defense counsel was ineffective, depriving him of his right to due process, by failing to (1) conduct proper discovery, (2) file a motion in limine to exclude certain evidence, and (3) object to prosecutorial misconduct. To prevail on a claim of ineffective assistance of counsel Washington must prove that (1) his defense counsel failed to perform an essential duty and (2) the failure resulted in prejudice. *State v. Martinez*, 679 N.W.2d 620, 625-26 (Iowa 2004). If he cannot make such a showing as a matter of law, we will affirm his conviction. *Graves*, 668 N.W.2d at 869. If he can make

such a showing, we will reverse and remand for a new trial. *Id.* However, if the record is inadequate to make such a determination, we will reserve for postconviction relief. *Martinez*, 679 N.W.2d at 625-26. “Even a lawyer is entitled to his day in court, especially when his professional reputation is impugned.” *State v. Coil*, 264 N.W.2d 293, 296 (Iowa 1978).

In this case we conclude the record is inadequate to decide the postconviction relief claims raised and therefore preserve said claims for possible postconviction relief proceedings. We affirm the conviction.

**AFFIRMED.**