

**IN THE COURT OF APPEALS OF IOWA**

No. 8-351 / 06-1814  
Filed June 25, 2008

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

**vs.**

**WILLIE JAMES JOHNSON, JR.,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Scott County, Mark D. Cleve,  
Judge.

Willie James Johnson, Jr. appeals his conviction for possession of a  
firearm by a felon. **AFFIRMED.**

Andrew M. Larson, Moline, Illinois, for appellant.

Thomas J. Miller, Attorney General, Thomas S. Tauber, Assistant  
Attorney General, Michael J. Walton, County Attorney, and Amy Devine and  
Robert L. Cusack, Assistant County Attorneys, for appellee.

Considered by Miller, P.J., and Vaitheswaran and Eisenhauer, JJ.

**MILLER, P.J.**

Willie James Johnson, Jr. appeals his conviction, following jury trial, for possession of a firearm by a felon, in violation of Iowa Code section 724.26 (2005). He claims he was denied effective assistance of counsel. We affirm his conviction and preserve his ineffective assistance of counsel claim for a possible postconviction proceeding.

Johnson claims his trial counsel was ineffective for allowing the specific nature of his previous felony conviction to be disclosed to the jury. He asserts counsel breached an essential duty by asking him about the specific nature of his previous felony conviction on direct examination, because there was no legal reason why the jury should have learned the nature of that conviction. He asserts the introduction of this evidence was extraordinarily prejudicial when considered together with other evidence concerning the facts involved in this case.

We review claims of ineffective assistance of counsel de novo. *State v. Martin*, 704 N.W.2d 654, 668 (Iowa 2005). To prove trial counsel was ineffective the defendant must show that counsel breached an essential duty and that prejudice resulted from counsel's error. *Strickland v. Washington*, 466 U.S. 668, 687, 104 S. Ct. 2052, 2064, 80 L. Ed. 2d 674, 693 (1984); *State v. Griffin*, 691 N.W.2d 734, 736-37 (Iowa 2005). Ordinarily, we preserve ineffectiveness claims raised on direct appeal for postconviction relief to allow full development of the facts surrounding counsel's conduct. *Berryhill v. State*, 603 N.W.2d 243, 245 (Iowa 1999). Only in rare cases will the trial record alone

be sufficient to resolve the claim. *Id.* “Even a lawyer is entitled to his day in court, especially when his professional reputation is impugned.” *State v. Kirchner*, 600 N.W.2d 330, 335 (Iowa Ct. App. 1999) (citing *State v. Coil*, 264 N.W.2d 293, 296 (Iowa 1978)). “Improvident trial strategy, miscalculated tactics, mistake, carelessness or inexperience do not necessarily amount to ineffective counsel.” *State v. Aldape*, 307 N.W.2d 32, 42 (Iowa 1981).

As set forth above, Johnson can succeed on his ineffectiveness claims only by establishing both that his counsel failed to perform an essential duty and that prejudice resulted. *State v. Artzer*, 609 N.W.2d 526, 531 (Iowa 2000). No record has yet been made before the trial court on this issue, trial counsel has not been given an opportunity to explain his possible strategy or reasoning in asking the challenged question on direct examination, and the trial court has not ruled on this claim. Under these circumstances, we pass this issue in this direct appeal and preserve it for a possible postconviction proceeding. See *State v. Bass*, 385 N.W.2d 243, 245 (Iowa 1986). This is not one of those “rare cases” that allow us to determine an ineffective assistance claim on direct appeal without an evidentiary hearing. See *State v. Straw*, 709 N.W.2d 128, 138 (Iowa 2006).

Accordingly, we affirm Johnson’s conviction and preserve his specified claim of ineffective assistance of counsel for a possible postconviction proceeding.

**AFFIRMED.**