

**IN THE COURT OF APPEALS OF IOWA**

No. 9-039 / 07-1971  
Filed March 11, 2009

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

**vs.**

**MICHAEL KENNEDY FORD,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Black Hawk County, Bruce Zager,  
Judge.

A defendant appeals following his convictions of two counts of forgery as a  
habitual offender and third-degree theft. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and E. Frank Rivera, Assistant  
Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Jean C. Pettinger, Assistant Attorney  
General, Thomas J. Ferguson, County Attorney, and James Katcher, Assistant  
County Attorney, for appellee.

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

**VOGEL, P.J.**

Following a jury trial, Michael Ford was convicted of two counts of forgery as a habitual offender in violation of Iowa Code sections 715A.2(1)(c), 715A.2(2)(a)(3), and 902.8 (2007) and third-degree theft in violation of Iowa Code sections 714.1(1), 714.1(3), 714.1(6), and 714.2(3). On appeal, he raises several vague ineffective-assistance-of-counsel claims and asserts that his convictions were not supported by sufficient evidence.

We review Ford's ineffective-assistance-of-counsel claims de novo. *State v. Martin*, 704 N.W.2d 665, 668 (Iowa 2005). In order to show ineffective assistance of counsel, a defendant is required to prove that (1) counsel failed to perform an essential duty, and (2) prejudice resulted. *Strickland v. Washington*, 466 U.S. 668, 687, 104 S. Ct. 2052, 2064, 80 L. Ed. 2d 674, 693 (1984).

Ford, through counsel and pro se, argues that his trial counsel failed to object to several hearsay statements and object to evidence admitted in violation of the motion in limine ruling. However, Ford does not point to what specific statements he asserts are hearsay. *See Dunbar v. State*, 515 N.W.2d 12, 15 (Iowa 1994) (stating a defendant must "state the specific ways in which counsel's performance was inadequate and identify how competent representation probably would have changed the outcome"). Further, even giving Ford the benefit of the doubt that the State may have minimally overstepped the ruling on the motion in limine, by introducing evidence that police officers made efforts to contact Ford and those efforts were unsuccessful, Ford cannot show prejudice from the alleged violation. *See Martin*, 626 N.W.2d at 669 (citing *State v. Liddell*,

672 N.W.2d 805, 809 (Iowa 2003) (recognizing failure to prove either prong of test is fatal to ineffective-assistance-of-counsel claim)).

Ford also asserts that his trial counsel was ineffective for failing to offer a written statement from Ford's fiancée. However, Ford's fiancée testified at trial and was questioned by Ford's trial counsel. He does not point out how a written statement would have been helpful to him in light of her testimony. Regarding his ineffective-assistance-of-counsel claims, Ford does not state how he was prejudiced by the alleged errors. See *id.* (“[T]he defendant must show that there is reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” (quoting *Strickland*, 466 U.S. at 694, 104 S. Ct. at 2068, 80 L. Ed. 2d at 698)). Thus, we conclude Ford cannot prevail on any of his ineffective-assistance-of-counsel claims.

We review Ford's challenge to the sufficiency of the evidence supporting a jury verdict for correction of errors at law. Iowa R. App. P. 6.4; *State v Corsi*, 686 N.W.2d 215, 218 (Iowa 2004). Ford asserts that sufficient evidence did not support his convictions because the State did not prove that he intended to defraud or intended to deprive or steal.<sup>1</sup> Upon our review of the record, we

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<sup>1</sup> Following trial, Ford's trial counsel filed a motion for new trial, which in addition to asserting that “[t]here was no evidence Ford intended to defraud any person or institution,” asserted that “Mr. Ford did not forge any documents since he signed his own name on a check to a third party payee.” On appeal, appellate counsel does not raise this issue and neither does Ford in his pro se brief, but Ford generally denies that he committed forgery. We note that our supreme court has discussed this issue in *State v. Phillips*, 569 N.W.2d 816 (Iowa 1997). “An essential element of the crime of forgery under Iowa Code section 715A.2(1)(b) is that the defendant make, complete, execute, authenticate, issue, or transfer a writing ‘so that it purports to be the act of another.’” *Phillips*, 569 N.W.2d at 820. There was insufficient evidence to support a forgery conviction because the defendant signed his own name to a check as the drawer and “did not represent that he signed the check as agent or with the authority of [the account holder].” *Id.* However, in the present case, testimony demonstrated that Ford purported

conclude that the jury had sufficient evidence to satisfy all the elements of forgery and third-degree theft. Thus, we affirm pursuant to Iowa Court Rule 21.29(1) (a), (b), and (e).

**AFFIRMED.**

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to be on the account and purported to have authorization from the account holder; thus, he represented that he signed the check with the authority of the account holder.