

**IN THE COURT OF APPEALS OF IOWA**

No. 9-318 / 08-0511  
Filed May 29, 2009

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

**vs.**

**JESS WILLARD WILLIAMS,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Washington County, Lucy J. Gamon, Judge.

Defendant appeals his conviction and sentencing for violation of the pseudoephedrine purchase requirements. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Dennis D. Hendrickson, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Martha E. Trout, Assistant Attorney General, and Barbara A. Edmondson, County Attorney, for appellee.

Considered by Mahan, P.J., and Eisenhauer and Mansfield, JJ.

**EISENHAUER, J.**

Jess Williams appeals his conviction and sentencing for violating pseudoephedrine purchase limitations. He argues the court erred in admitting into evidence electronic pharmacy logs, in comparing handwriting samples itself without expert testimony, and in failing to grant a deferred judgment. We review for correction of errors at law. Iowa R. App. P. 6.4. Finding no error, we affirm.

**I. Electronic Pharmacy Logs.**

Williams argues the court erred in admitting electronic logs from several pharmacies. Pharmacies are required to keep a logbook in which purchasers of pseudoephedrine sign for their purchase and also legibly print their name and address. Iowa Code § 126.23A(1)(b)(3) (2007). Further, “[t]he logbook may be kept in an electronic format upon approval by the department of public safety.” *Id.* § 126.23A(5). Williams claims the State did not present evidence the electronic logs had been approved by the department of public safety. The State argues the department of public safety gave blanket authorization for electronic logbooks in the administrative code, which provides:

A logbook of retail sales of products containing pseudoephedrine, as required in 2005 Iowa Acts, Senate File 169, *may be recorded in any electronic format*, provided that the retailer maintaining the logbook provides to any peace officer a printed copy of the information required to be maintained in the same manner as would be provided if the logbook were maintained on paper.

Iowa Admin. Code r. 661-174.1 (emphasis added). We find no error and adopt the following ruling of the district court: “[T]his administrative code section permits all pharmacies to use electronic logbooks in their discretion.”

## **II. Handwriting Comparison.**

The court compared the handwritten signatures on the records of pseudoephedrine purchases with three authenticated signatures of Williams. The court concluded all the signatures at issue were executed by Williams. Williams argues the court erred “in allowing itself to compare handwriting unguided by any expertise.”

The applicable legal standard for handwriting comparison provides: “Evidence respecting handwriting may be given by experts, by comparison, or by comparison by the jury, with writings of the same person which are proved to be genuine.” Iowa Code § 622.25. Therefore, expert testimony is not required. Because Williams requested a bench trial, the court acted as the fact finder rather than a jury. As the fact finder, the court may compare signatures known to be genuine with the signatures on the logbook purchase records. We find no error.

## **III. Sentencing.**

Williams specifically requested a deferred judgment at sentencing and the court denied his request. Williams now seeks resentencing and deferred judgment claiming the sentencing court misinterpreted the deferred judgment statute. See Iowa Code § 907.3(1). We will not overturn a sentence absent an abuse of discretion. *State v. Liddell*, 672 N.W.2d 805, 815 (Iowa 2003).

We need not remand for resentencing because Williams is ineligible for a deferred judgment due to his previous felony conviction. Williams’ 1983 conviction for second-degree burglary is a class “C” felony. See Iowa Code §

713.5 (1983). Deferred judgment is not a sentencing option when “[t]he defendant previously has been convicted of a felony.” *Id.* § 907.3(1)(b) (2007).

Accordingly, Williams’ sentence is affirmed.

We have considered all arguments raised and those not addressed are without merit.

**AFFIRMED.**