FILED
AUG 26 1982
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,)
Plaintiff-Appellee,)
vs.)
JOHN ARTHUR THOMPSON,)
Defendant-Appellant.)

424

Filed August 26, 1982

2-132
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Appeal from Black Hawk District Court, Dennis Damsgaard, Judge.

The defendant appeals from his conviction of second-degree theft, in violation of § 714.2(2), and possession of a controlled substance, in violation of § 204.401(3), The Code. AFFIRMED.

William L. Wegman, Chief Public Defender, Waterloo, for defendant-appellant.

Thomas J. Miller, Attorney General, and Steven M. Foritano, Assistant Attorney General, for plaintiff-appellee.

Heard en banc.

PER CURIAM

The defendant appeals from his conviction of second-degree theft, in violation of § 714.4(2), and possession of a controlled substance, in violation of § 204.401(3), The Code. We affirm

Before trial, defendant filed a motion to suppress certain evidence which he contended was seized in violation of his fourth amendment rights. After a hearing on the matter, the trial court denied the motion. Because the reporter's notes from this hearing were lost, no transcript is available, and the defendant has proffered no record in support of his contention that the trial court erred in denying his motion to suppress. Moreover, defendant's attorney made no statement of the evidence pursuant to Iowa R. App. P. 10(c). Because we have no record before us, we do not know upon what facts the trial court relied in denying defendant's motion.

It is incumbent upon the defendant to provide a record which "affirmatively discloses the error upon which he relies." State v. Mark, 286 N.W.2d 396, 402 (Iowa 1979), citing State v. Bakker, 262 N.W.2d 538, 544 (Iowa 1978). Where the appellant has failed to produce an adequate record, he is deemed to have waived any error alleged to have been committed in that portion of the proceedings covered by the missing record. State v. Mark, supra, at 403. We therefore have nothing further to review in this matter.

AFFIRMED.