**IN THE COURT OF APPEALS OF IOWA**

No. 0-227 / 99-0731
Filed May 31, 2000

FILED
MAY 3 1 2000
CLERK SUPREME COURT

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

**vs.**

**JAMES WILLIAM DREDGE,**
**Defendant-Appellant.**

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Appeal from the Iowa District Court for Page County, J.C Irvin (guilty plea), James S. Heckerman (sentencing), Judges.

Defendant appeals following his conviction and sentence for operating while intoxicated, fifth offense. He contends the court erred in not providing him the opportunity to withdraw his guilty plea. **AFFIRMED.**

Larry J. Melcher, for appellant.

Thomas J. Miller, Attorney General, Sharon K. Hall, Assistant Attorney General, Verd R. Bailey, County Attorney, and Anthony Almquist, Assistant County Attorney, for appellee.

Considered by Sackett, C.J., and Huitink and Vaitheswaran, JJ.

**SACKETT, C.J.**

Defendant-Appellant, James William Dredge appeals from the judgment and sentence entered upon his guilty plea to operating while intoxicated, fifth offense, in violation of Iowa Code section 321J.2(2)(c) (1997). Defendant contends the district court erred by not allowing him to withdraw his guilty plea when the court rejected the terms of the plea agreement. We affirm.

Defendant was charged by trial information with operating while intoxicated, fifth offense, in violation of Iowa Code section 321J.2(2)(c) (1997). On August 10, 1998 defendant waived his right to a speedy trial and entered a plea of not guilty. On September 21, 1998 defendant changed his plea to guilty. The district court accepted the plea and ordered completion of a presentence investigation report. The district court advised the defendant of the proper procedures should he have second thoughts about his guilty plea. Specifically, the court and defendant engaged in the following colloquy.

> THE COURT: " . . . Mr. Dredge, I need to advise you at this time that should you have second thoughts about this plea of guilty, should you wish to ask permission of the Court to withdraw your plea or to in any way challenge these proceedings, you must do that by filing with the Court a motion. We call it a motion in arrest of judgment. Mr. Whitacre can explain that motion more fully to you, and he can file it for you if you want him to do so. I just need to be sure that you understand that the filing of that motion is the only way in which you could question or challenge or ask permission to have your plea of guilty withdrawn. Do you understand that?
>
> THE DEFENDANT: Yes.
>
> THE COURT: After you're sentenced, you could appeal. But as part of that appeal, you could not question or challenge today's proceedings and your plea of guilty unless you filed that motion. Do you understand that?
>
> THE DEFENDANT: Yes.

> THE COURT: That motion must be filed at least five days prior to sentencing. So in your case, you would have to file it at least five days prior to November 2nd in order to be considered by the Court. Do you understand that?
>
> THE DEFENDANT: Yes.
>
> THE COURT: Do you have any questions, Mr. Dredge, about anything that's taken place here this morning?
>
> THE DEFENDANT: No.

Sentencing in this matter was continued several times. On April 12, 1999, the district court sentenced the defendant to a prison term not to exceed five years.

Defendant contends the district court erred in failing to provide him with an opportunity to withdraw his guilty plea. The State agues that the defendant failed to preserve the issue for appellate review.

In determining whether error has been preserved, it is important to understand the purpose of our error-preservation rules. *State v. Mann*, 602 N.W.2d 785, 790 (Iowa 1999). A helpful starting point is the underlying rationale for the general rule that issues not raised in the district court cannot be raised for the first time on appeal:

> "The orderly, fair and efficient administration of the adversary system requires that litigants not be permitted to present one case at trial and a different one on appeal. One reason is that the trial court's ruling on an issue may either dispose of the case or affect its future course. In addition, the requirement of error preservation gives opposing counsel notice and an opportunity to be heard on the issue and a chance to take proper corrective measures or pursue alternatives in the event of an adverse ruling."

*Id.* (quoting *State v. Tobin*, 333 N.W.2d 842, 844 (Iowa 1983)). The purpose of such an error-preservation rule is to give notice to the court and opposing counsel at a time when corrective action is still possible. *State v. Johnson*, 476

N.W.2d 330, 334 (Iowa 1991). Without this opportunity, we have no decision or action to review. *See State v. Wages*, 483 N.W.2d 325, 326 (Iowa 1992).

Defendant did not file a motion in arrest of judgment nor is there any record of the sentencing hearing to indicate objections or motions filed by defendant concerning the manner in which sentencing or the guilty plea was handled by the district court. The defendant has failed to preserve error for appellate review. We decline ruling on the merits.

**AFFIRMED.**