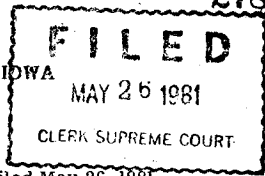


IN THE COURT OF APPEALS OF IOWA



STATE OF IOWA,)
Plaintiff-Appellee,)
vs.)
WILLIAM DENNIS BASS,)
Defendant-Appellant.)

Filed May 26, 1981

1-118
65264

Appeal from Humboldt District Court - Ray E. Clough, Judge.

Defendant appeals his conviction and sentence imposed pursuant to his guilty plea of theft in the third degree, an aggravated misdemeanor, in violation of section 714.1(6), The Code. AFFIRMED.

David J. Lawler, Fort Dodge, Iowa, for defendant-appellant.

Thomas J. Miller, Attorney General of Iowa, and Richard Cleland, Assistant Attorney General, for plaintiff-appellee.

Submitted to Oxberger, C.J., and Donielson, Snell, Carter and Johnson, JJ.

PER CURIAM

Defendant appeals his conviction and sentence imposed pursuant to his guilty plea of theft in the third degree, an aggravated misdemeanor, in violation of section 714.1(6), The Code. He challenges the acceptance of his guilty plea and the propriety of his sentence of two years imprisonment under section 903.1(1), The Code. We affirm.

I. Defendant first argues that the trial court erred in accepting his guilty plea because there was an insufficient showing that he understood the constitutional rights he waived, the nature of the offense charged, and the sentence which could be imposed. Defendant did not, however, file a motion in arrest of judgment, pursuant to Iowa R. Crim. P. 23(3)(a), in order to challenge the adequacy of his guilty plea. Such a motion is required in order to preserve error in this regard if the trial court informed defendant of the necessity of such motion to preserve his right to appeal. See Iowa R. Crim. P. 8(2)(d); State v. Taylor, 301 N.W.2d 692, 693 (Iowa 1981); State v. Smith, 300 N.W.2d 90, 91 (Iowa 1981). The court in this case did inform defendant of the necessity of filing a motion in arrest of judgment. Defendant's failure to do so precludes our review of his arguments regarding the adequacy of his guilty plea.

II. Defendant also challenges the legality of his sentence. First, he claims his two-year determinate sentence is not allowed by section 903.1(1), The Code. That section provides that imprisonment for an aggravated misdemeanor (including third-degree theft--see section 714.2(3)) "is not to exceed two years." The court may not impose an indeterminate sentence under chapter 903. Section 903.1, The Code; State v. Wilson, 294 N.W.2d 824, 826 (Iowa 1980). Defendant's two-year determinate sentence is therefore valid under section 903.1(1).

Defendant also claims that his sentence is invalid because it was based on impermissible factors--his functional illiteracy and his problem with alcohol abuse. The record does not support this claim. Instead, the court's sentence was based on defendant's continuing problems with the law and the fact that prior probation periods were unsuccessful. Finding no abuse of discretion, we affirm defendant's conviction and sentence.

AFFIRMED.