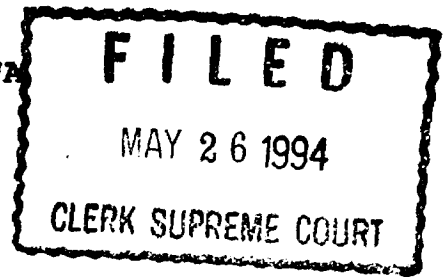


IN THE COURT OF APPEALS OF IOWA

No. 4-128 / 93-1336



STATE OF IOWA,

Plaintiff-Appellee,

vs.

DOUGLAS J. LIPPART,

Defendant-Appellant.

Appeal from the Iowa District Court for Story County,
Thomas R. Hronek, Judge.

Defendant appeals from his conviction, following his
written guilty plea, for driving while barred in violation
of Iowa Code sections 321.560 and 321.561 (1993).

AFFIRMED.

Linda Del Gallo, State Appellate Defender, and Shari
Barron, Assistant State Appellate Defender, for appellant.

Bonnie J. Campbell, Attorney General, Robert P. Ewald,
Assistant Attorney General, Mary E. Richards, County
Attorney, and Molly Frazer, Assistant County Attorney, for
appellee.

Heard by Donielson, C.J., and Sackett and Habhab, JJ.

HABHAB, J.

Defendant, Douglas Lippart, appeals his conviction, following his written plea of guilty, for driving while barred in violation of Iowa Code sections 321.560 and 321.561 (1993). We affirm.

On May 8, 1993, Lippart was stopped by a Story County deputy sheriff while driving a 1983 Chevrolet Monte Carlo. Lippart was the sole occupant of the vehicle. A check of Lippart's driving record revealed his privilege to drive in Iowa had been suspended, revoked and barred.

The State charged Lippart with three counts: (1) driving while barred, in violation of Iowa Code sections 321.560 and 321.561, an aggravated misdemeanor; (2) driving while suspended, in violation of Iowa Code section 321A.32, a serious misdemeanor; and (3) driving while revoked, in violation of Iowa Code section 321J.21, a serious misdemeanor. Lippart filed a written guilty plea to driving while barred pursuant to a plea agreement. A blank space was left in section 2 of the plea where the elements of "Driving while Barred" should have been listed. However, section 12 of the form states:

12. I did, on or about the 8 day of May, 1993, drive a motor vehicle upon a public highway in the State of Iowa, at Highways 65 and 210, in the County of Story, while my privileges to operate a motor vehicle were barred for 2 years pursuant to Chapter 321, Code of Iowa.

Lippart's attorney verified his plea. The district court entered judgment and sentenced Lippart to ninety days in jail. Lippart appeals.

Lippart contends the district court violated Iowa Rule of Criminal Procedure 8(2)(b) by accepting the guilty plea despite the fact the elements of the offense section was not filled in.

Our scope of review is for corrections of errors at law. State v. King, 500 N.W.2d 100, 101 (Iowa App. 1993); Iowa R. App. P. 4. Iowa Rule of Criminal Procedure 8(2)(b) governs the acceptance of pleas of guilty. Strict compliance with rule 8(2)(b) is not necessary; substantial compliance is all that is required. State v. Kirchoff, 452 N.W.2d 801, 804 (Iowa 1990); King, 500 N.W.2d at 101.

Iowa Rule of Criminal Procedure 8(2)(b) requires the trial court, before accepting a plea of guilty, to address the defendant personally in open court and inform the defendant of, and determine that the defendant understands, among other matters, the charge to which the plea is offered. Iowa R. Crim. P. 8(2)(b)(1). However, if the defendant is pleading guilty to a serious or aggravated misdemeanor, the court may, in its discretion and with the approval of the defendant, waive the above procedures. Iowa R. Crim. P. 8(2)(b).

Lippart pled guilty to an aggravated misdemeanor. In his written guilty plea, he stated at paragraph thirteen, "I have discussed with my attorney and I hereby expressly waive my right to be present and personally inform the court of my plea and to speak for myself regarding sentencing, as is my right under rule 8(2)(b)" In

addition, the defendant acknowledged in his written plea of guilty that he understood his constitutional and statutory rights and that he desired to plead guilty to the charge of driving while barred. He also stated that he understood that by pleading guilty he would be waiving those rights he ordinarily would be entitled to under a not-guilty plea. (The written plea of guilty sets forth those rights enumerated in rule 8(2)(b).)

The defendant seeks to set aside his guilty plea on the ground the written plea contained a blank space where the elements of "Driving While Barred" should have been listed.

However, our supreme court stated in State v. Victor, 310 N.W.2d 201, 204 (1981):

Lack of explanation of the elements of an offense is not reversible error if, under all the circumstances, it is apparent the accused understood the charge. State v. Hansen, 221 N.W.2d 274, 276 (Iowa 1974). We think the elements of the charge here were not complex and believe the nature of the offense was fairly apparent from its name. Under the totality of the circumstances, including counsel's assurances that he had explained the charge to his client, we find that defendant sufficiently understood the nature of the offense.

Id.

Like in Victor, we believe the elements of the charge here were not complex and believe the nature of the offense was fairly apparent from its name. In addition, the specifics of how Lippart committed the offense were found in paragraph 12 of the guilty plea. Under the totality of the circumstances, including defense counsel's verification

that she explained the charge to her client, including the elements thereof, we find defendant sufficiently understood the nature of the offense.

We conclude Lippart's plea was not defective. The trial court did not err in accepting it.

AFFIRMED.