IN THE COURT OF APPEALS OF IOWA

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CLERK SUPREME COURT

STATE OF IOWA,)

Plaintiff-Appellee,) Filed December 26, 1984

vs.)

RICHARD JOHNSON, JR.,) 4-427
84-111

Defendant-Appellant.)

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Appeal from the Iowa District Court for Polk County - James P. Denato, Judge.

Defendant appeals the trial court order denying his motion for arrest of judgment. AFFIRMED.

Alfredo G. Parrish, Des Moines, Iowa, for defendant-appellant.

Thomas J. Miller, Attorney General of Iowa, and Rebecca L. Claypool, Assistant Attorney General, for plaintiff-appellee.

Heard by Snell, P.J., Schlegel, and Hayden, JJ.

SCHLEGEL, J.

Defendant, Richard Johnson, appeals the trial court order denying his motion for arrest of judgment. Johnson asserts that his guilty plea should have been found invalid because of failure to comply with the standards set forth in Iowa Rule of Criminal Procedure 8(2)(b). We affirm.

I. Background. Johnson was arrested and charged with first degree burglary and with assault while participating in a felony, in violation of Iowa Code sections 713.1, .4 and 708.1, .3 (1983). It was alleged that he broke into the home of Geri Dunn and committed an assault by attempting to force her to have sex with him. As the result of a bargain that reduced the burglary charge to one of second degree, Johnson pled guilty.

The trial court, before accepting Johnson's guilty plea, engaged in a long discussion with Johnson. The court first made sure that Johnson understood the nature of the plea bargain. Then Johnson described in detail how he committed the offenses being charged. When he finished his description, the following exchange occurred:

> THE COURT: Is there any feeling on your part, Mr. Johnson, that your mind was overcome by drugs or alcohol or anything of that sort to the point that you didn't know what you were doing or anything like that?
>
> THE DEFENDANT: No, Your Honor.

The court then informed Johnson of his right to trial and informed him of the maximum penalties that could result from his guilty plea. Johnson indicated he understood all of what the court had said. The court then accepted his plea of guilty as a knowing and voluntary waiver of his rights to a trial. Judgment was entered against Johnson.

Approximately three weeks later Johnson decided he wanted to stand trial and present a defense of diminished capacity due to the influence of intoxicants. He therefore filed a motion for arrest of judgment. A hearing was held, and the trial court denied the motion. Johnson appeals that decision.

Our review in this criminal case is for assigned error only. State v. Irvin, 334 N.W.2d 312, 314 (Iowa Ct. App. 1983).

II. Sufficiency of the Guilty Plea. The proper procedure for taking a guilty plea is set forth in Iowa Rule of Criminal Procedure 8(2)(b). That rule provides in part:

> Before accepting a plea of guilty, the court must address the defendant personally in open court and inform the defendant of, and determine that the defendant understands, the following:
>
> (1) The nature of the charge to which the plea is offered.
>
> (2) The mandatory minimum punishment, if any, and the maximum possible punishment provided by the statute defining the offense to which the plea is offered.
>
> (3) That the defendant has the right to be tried by a jury, and at trial has the right to assistance of counsel, the right to confront and cross-examine witnesses against the defendant, the right not to be compelled to incriminate oneself, and the right to present witnesses in the defendant's own behalf and to have compulsory process in securing their attendance.
>
> (4) That if the defendant pleads guilty there will not be a further trial of any kind, so that by pleading guilty the defendant waives the right to a trial.

Johnson asserts that his plea was invalid because the trial court allegedly did not determine whether he understood the nature of the charges. He argues that the trial court should have informed him of the elements of each charge, especially the elements of specific intent.

The record shows the trial court did not inform Johnson of each element of the two crimes charged. Nor did the trial court specifically ask Johnson if he understood the charges. Nonetheless, we must reject his argument.

In reviewing Johnson's contention, we need only determine whether the trial court substantially complied with rule 8(2)(b)(1). State v. Worley, 297 N.W.2d 368, 371 (Iowa 1980). "[T] he rule does not require any particular form of explanation of the charge." Id. The Iowa Supreme Court "[has] never required discussion of each

essential element [of the crime]." State v. Killpack, 276 N.W.2d 368, 370 (Iowa 1979). "[I] f under the whole record the defendant's understanding of the charge is apparent, a failure to ask him if he understands the charge is not sufficient to vitiate the conviction." Brainard v. State, 222 N.W.2d 711, 715 (Iowa 1974). Because the record clearly shows that Johnson understood the nature of the charges, we affirm the denial of the motion for arrest of judgment.

AFFIRMED.