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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,)

Plaintiff-Appellee,) Filed September 29, 1981

vs.)

JAMES CLYDE MATHIS,) 1-171/63732

Defendant-Appellant.)

Appeal from Scott District Court - Lawrence D. Carstenson, Judge.

The defendant appeals from his conviction, pursuant to a guilty plea, to a charge of burglary in the second degree in violation of section 713.3, The Code 1979. AFFIRMED.

John O. Moeller, Davenport, for defendant-appellant.

Thomas J. Miller, Attorney General of Iowa, and Michael Jordan, Assistant Attorney General, for plaintiff-appellee.

Considered by Oxberger, C.J., and Donielson, Snell, Carter, and Johnson, JJ.

PER CURIAM

The defendant appeals from his conviction, pursuant to a guilty plea, to a charge of burglary in the second degree in violation of section 713.3, The Code 1977. He contends the trial court should not have accepted his guilty plea because the record did not establish that he understood the charge or that a factual basis existed for the plea. We affirm.

Ordinarily, in such proceedings our review is not de novo. State v. Master, 196 N.W.2d 548, 550 (Iowa 1972). However, when, as here, issues as to violation of constitutional safeguards are raised this court is obliged to make an independent evaluation of the totality of the relevant circumstances shown by the entire record under which rulings on those constitutional rights were made. That is, when a constitutional issue is presented, the evidence relevant to the issue is reviewed de novo. Rinehart v. State, 234 N.W.2d 649, 658 (Iowa 1975).

I.

On September 19, 1978, defendant was charged with the crime of burglary in the second degree in violation of section 713.3, The Code 1977. Defendant plead not guilty at his arraignment. Defendant's first guilty plea was heard and accepted by the court on December 8, 1978, and withdrawn on February 2, 1979. The guilty plea now on appeal was accepted by the trial court on April 10, 1979. On that date, the trial judge advised the defendant that he would not accept the plea of guilty unless the judge determined that defendant's plea was made voluntarily and intelligently, that defendant understood his rights, and that the plea had a factual basis. The judge explained to defendant his right to a jury trial and the various procedural protections that a jury trial could provide. The trial judge next explained to defendant the range of penalties for a class C felony and told defendant that he was charged with burglary in the second degree in violation of § 713.3, The Code 1977. Neither the trial information nor § 713.3 were read to the defendant, but the trial court did give a detailed explanation of the elements of the crime the prosecution would have to prove in order to convict the defendant. The explanation clearly related the elements of the crime to the alleged illegal acts of the defendant. Defendant then told the judge he had broken into the pharmacy and that he was drunk and on drugs at the time. The trial court offered to explain anything that defendant did not understand. Defendant's plea was accepted after the trial court made

sure that no threats or promises were made to influence defendant's plea.[1]

II.

We have closely examined the transcripts of the plea proceeding in this case and find that the trial court did substantially comply with the requirements of State v. Sisco, 169 N.W.2d 542 (Iowa 1969). A rigid formula complying with Sisco is not required. Brainard v. State, 222 N.W.2d 711, 714 (Iowa 1974). The statements and questions directed to the defendant by the trial court were sufficient to explain the charge to the defendant and to insure he understood the charge. We also find that the trial court established a sufficient factual basis for the charge, and that the trial court identified and disclosed the sources of the factual basis as required by State v. Williams, 224 N.W.2d 17 (Iowa 1974).

AFFIRMED.

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1 The county attorney stipulated that if the case went to trial, the state would not file habitual criminal charges.