

FILED
MAY 31 1979
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

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STATE OF IOWA,	)	
Plaintiff-Appellee,	)	Filed May 31, 1979
vs.	)	
DENNIS J. McVAY,	)	$\frac{97}{62304}$
Defendant-Appellant.	)	

Appeal from Benton District Court - John L. Hyland and Harold J. Swalles, Judges.

Defendant appeals from judgment entered on his plea of guilty to false uttering of a check in violation of section 713.3, The Code 1977. Affirmed.

Morris L. Eckhart, of Milroy & Eckhart, of Vinton, for appellant.

Thomas J. Miller, Attorney General of Iowa, William R. Armstrong, Assistant Attorney General, and Larry D. Schlue, Benton County Attorney, for appellee.

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

DONIELSON, J.

Defendant appeals from judgment and sentence imposed on his guilty plea to a charge of false uttering of a check in violation of section 713.3, The Code 1977. We affirm.

Defendant first contends that the trial court did not adequately determine if he understood the charge against him, in particular whether defendant understood that one of the essential elements of the crime was an intent to defraud. There are two aspects of the requirement that defendant understand the charge: the judge must explain the charge to the defendant and he must inquire into the defendant's understanding of it. Hoskins v. State, 246 N.W.2d 266, 267 (Iowa 1976).

The information, listing the elements of the crime of false uttering of a check, including "intent to defraud," was read at the outset of the guilty plea hearing. Defendant indicated that he had received a copy of the information and understood the charge. The transcript further records the following portion of the colloquy between defendant and the trial court:

THE COURT: All right. Now I'll tell you what the State would have to prove.

They would have to prove that on September 11, 1977, in Benton County, you made a check payable to Mark Lipeamon in the sum of \$450 on the Merchants National Bank of Cedar Rapids; that you did not have an account with the bank; you didn't have an arrangement with the bank to pay off that check or cover it in any way; that you did this knowing that you didn't have such an arrangement; and that you did it knowing that you didn't have an account there and you did it knowing you had no right to make out this check; and that you did all this with the intent to defraud, that is, with an intent to cheat, to get money that you had no right to.

Those things the State would have to prove. Do you understand that they would have to prove all those things?

THE DEFENDANT: Yes, sir.

THE COURT: Now, those are the elements, are they not, Mr. Milroy?

MR. MILROY: [defense counsel] Yes, Your Honor.

THE COURT: There isn't anything else. They have to prove the time and place and what you did and that you did it knowing that you had no right, Mr. McVay; that you did this on purpose with a design to cheat somebody out of some money. The State has to prove that and has to prove it beyond a reasonable doubt. [Emphasis added].

The trial court, prior to accepting the plea, informed defendant of the elements of the crime with which he was charged by carefully listing them individually, even though this is not required. State v. Reeves, 254 N.W.2d 488, 491 (Iowa 1977); State v.

Townsend, 238 N.W.2d 351, 355 (Iowa 1976). He questioned defendant as to his understanding of the charge. Even without this direct questioning, defendant's understanding of the law in relation to the facts was apparent from the record. State v. Wall, 239 N.W.2d 548, 550 (Iowa 1976); Drainard v. State, 222 N.W.2d 711, 714 (Iowa 1974). Defendant was 23 years old, had a high school equivalency diploma, and had participated in guilty plea proceedings before. Defendant was represented by counsel who assured the trial court that he had discussed the plea with defendant, that he knew of no reason the defendant should not plead guilty, and that the trial court had not overlooked any of defendant's rights or any required proceedings. The trial court was justified in relying on defense counsel's assurances. Manley v. State, No. 62094 (Iowa, filed April 22, 1979); State v. Reaves, 254 N.W.2d at 494. The record clearly shows that defendant understood the charge against him when he entered his plea.

Defendant also contends that the trial court failed to make adequate inquiries to establish a factual basis for defendant's plea, again particularly as to whether defendant had an intent to defraud. The factual basis for a guilty plea may be established at any time prior to entry of judgment and may be based on information other than defendant's testimony. Ryan v. Iowa State Penitentiary, Ft. Madison, 218 N.W.2d 616, 620 (Iowa 1974). Here it was clearly established at the guilty plea hearing.

The transcript of that hearing reveals defendant was aware of and had read the minutes of testimony attached to the information, and acknowledged them to be true. The trial court inquired as to whether defendant's counsel was satisfied there was a factual basis, and received an affirmative answer. During the course of an extensive colloquy, defendant detailed to the court his actions, admitting that he wrote the \$150 check knowing there were insufficient funds in the account (which had actually been closed) and knowing he had no arrangement with the bank to cover an overdraft. Defendant was served with a notice explaining that under section 713.4 it would be presumed his intention was to defraud if he did not cover the check within ten days. There is no requirement that the trial court "wring from defendant a detailed confession satisfying each element of the offense charged." State v. Hansen, 221 N.W.2d 274, 276 (Iowa 1974). The record abundantly supports the trial court's determination that there was a factual basis for defendant's guilty plea.

AFFIRMED.