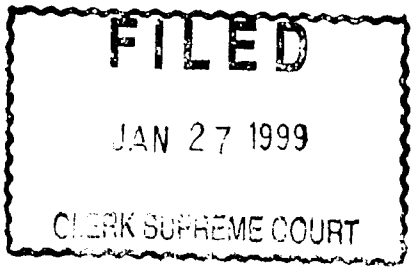
IN THE COURT OF APPEALS OF IOWA

No. 8-666 / 98-0569



STATE OF IOWA,

Plaintiff-Appellee,

vs.

PATRICK ALLEN DOUGLAS,

Defendant-Appellant.

Appeal from the Iowa District Court for Wapello County, Robert Bates and Richard J. Vogel, Judges.

Defendant appeals from the judgment and sentence entered upon his guilty plea to delivery of cocaine, in violation of Iowa Code section 124.401(1)(c)(2)(b) (1997). **AFFIRMED.**

Timothy W. James, Ottumwa, for appellant.

Thomas J. Miller, Attorney General, Thomas S. Tauber, Assistant Attorney General, Victoria Siegel, County Attorney, and Paul Zingg, Southeast Iowa Interagency Drug Task Force, for appellee.

Considered by Sackett, C.J., and Huitink, Streit, Vogel, and Mahan, JJ. Zimmer, J., takes no part.

MAHAN, J.

Patrick Douglas appeals his conviction for delivery of cocaine, in violation of Iowa Code section 124.401(1)(c)(2)(b) (1997). Douglas claims his guilty plea was not voluntary. We affirm on appeal.

On September 8, 1997, Douglas was charged with three counts of delivery of cocaine. Douglas entered into a plea agreement with the State whereby he agreed to plead guilty to one count of delivery of cocaine and the other two counts were dismissed. The State also agreed if the pre-sentence investigation (PSI) recommended probation, it would not resist probation.

The PSI recommended Douglas be sentenced to prison. This became the State's recommendation at sentencing as well. Douglas asked for probation. The district court sentenced Douglas to a term of imprisonment not to exceed ten years. Douglas stated, "I was under the impression I was going to get probation."

Douglas has appealed. He contends the following errors were made during the plea proceedings: (1) the court did not inquire whether the plea was the result of a plea bargain; (2) the court did not address Douglas personally concerning his understanding of the plea agreement; (3) the court did not inform Douglas it was not bound by the plea agreement; (4) the court did not inquire whether any threats or promises induced the plea; and (5) the court erroneously informed him he was required to file a motion in arrest of judgment within fifteen days, instead of forty-five days.

Douglas did not file a motion in arrest of judgment. In order to challenge a guilty plea, a party must file a motion in arrest of judgment. *State v. Carter*, 582 N.W.2d 164, 165 (Iowa 1998). Where a challenge to a guilty plea is not raised by a timely motion in arrest of judgment, it is not preserved for review. *State v. Stanley*, 344 N.W.2d 564, 570 (Iowa App. 1983).

Douglas asserts his failure to file a motion in arrest of judgment was due to ineffective assistance of counsel. The failure to file a motion in arrest of judgment will not bar a challenge to a guilty plea if the failure resulted from the ineffective assistance of counsel. *State v. Brooks*, 555 N.W.2d 446, 448 (Iowa 1996). We find the record before us is insufficient to address Douglas' claims of ineffective assistance. Generally, claims of ineffective assistance of counsel should be reserved for postconviction proceedings. *State v. Allen*, 565 N.W.2d 333, 336 (Iowa 1997). We find this issue would be better addressed in postconviction proceedings.

We affirm Douglas' conviction for delivery of cocaine.

AFFIRMED.