IN THE COURT OF APPEALS OF IOWA

No. 2-549 / 92-396

FILED
NOV 30 1992
CLERK SUPREME COURT

STATE OF IOWA,

Plaintiff-Appellee,

vs.

ERIC BONITA PEPPERS,

Defendant-Appellant.

Appeal from the Iowa District Court for Black Hawk County, L.D. Lybbert, Judge.

Peppers appeals his judgment and sentence, following a guilty plea, for driving while barred in violation of Iowa Code sections 321.560 and 321.561. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Andi S. Lipman, Assistant Appellate Defender, for appellant.

Bonnie J. Campbell, Attorney General, Ann E. Brenden, Assistant Attorney General, Gregory D. Thompson, Legal Intern, Thomas J. Ferguson, County Attorney, and Linda A. Hall, Assistant County Attorney, for appellee.

Considered by Oxberger, C.J., and Hayden and Sackett, JJ.

PER CURIAM

Defendant-appellant Eric Bonita Peppers appeals challenging the adequacy of a guilty plea proceeding. Defendant contends his guilty plea was not entered voluntarily and intelligently and was not supported by a factual basis. We affirm.

In December 1990 defendant was charged with driving while barred, an aggravated misdemeanor, in violation of Iowa Code section 321.561 (1989). On February 24, 1992, defendant entered his plea. There was no written plea.

In accepting defendant's plea, the trial court said it would not go through the full plea of guilty proceedings and stated:

> I want to be assured that, first of all, the defendant understands all of his rights and wishes to waive his right to a trial and that he understands that his plea of guilty is a incriminating act and, therefore, that he must waive his right or privilege against self-incrimination.

Defendant responded affirmatively. The trial court then asked defendant if he understood the offense. Defendant responded that he had no questions about this and he then pleaded guilty. The trial court then stated:

> I accept the defendant's plea of guilty. And I understand the defendant wishes to be sentenced on that offense today and waives the filing of any motion in arrest of judgment attacking the plea of guilty and further waives the 15 days' time before sentencing. Is that all correct?
>
> Defense counsel: That is correct, Your Honor.

Defendant contends his conviction should be reversed because his plea was not entered voluntarily and the trial court accepted defendant's plea without a factual basis for accepting it. Defendant contends his due process rights were violated. A defendant's failure to challenge the adequacy of a guilty plea proceeding by motion in arrest of judgment shall preclude his or her right to assert such challenge on appeal. Iowa R. Crim. P. 23(3)(a). Rule 23(3)(a) must be read in conjunction with Iowa Rule of Criminal Procedure 8(2)(d). See State v. Reese, 301 N.W.2d 692, 693 (Iowa 1981). Error was not preserved. See State v. Worley, 297 N.W.2d 368, 371 (Iowa 1980).

AFFIRMED.