**IN THE COURT OF APPEALS OF IOWA**

No. 0-601 / 99-1570
Filed October 25, 2000

**STATE OF IOWA,**
Plaintiff-Appellee,

**vs.**

**CLARK THOMAS MANNION,**
Defendant-Appellant.

FILED
OCT 25 2000
CLERK SUPREME COURT

---

Appeal from the Iowa District Court for Woodbury County, Timothy T. Jarman, District Associate Judge.

On appeal from his convictions on two counts of operating while intoxicated, sixth offense, Mannion argues his trial counsel was ineffective. **AFFIRMED.**

Patrick Thomas Parry of Forker and Parry, Sioux City, for appellant.

Thomas J. Miller, Attorney General, Linda J. Hines, Assistant Attorney General, and Brigit M. Barnes, County Attorney, for appellee.

Considered by Streit, P.J., and Vogel and Miller, JJ.

**STREIT, P.J.**

Clark Mannion pled guilty to two charges of operating while intoxicated, sixth offense. He claims he received ineffective assistance of counsel and the district court violated his right to a speedy trial. We affirm.

***I. Background Facts & Proceedings.***

Mannion was arrested for operating while intoxicated (OWI) in October of 1998 and in March of 1999. In both cases the State charged Mannion with OWI, sixth offense; with driving while license barred, revoked, and suspended; and as a habitual offender. In August of 1999 Mannion pled guilty to OWI, sixth offense, in the first case and in the second case; all of the other charges against him were dismissed. Mannion appeals, claiming he received ineffective assistance of counsel and his right to a speedy trial was violated.

***II. The Merits.***

We review claims of ineffective assistance of counsel de novo. *State v. Howes*, 525 N.W.2d 874, 876 (Iowa App. 1994). We review constitutional claims of speedy trial violations de novo as well. *State v. Keys*, 535 N.W.2d 783, 786 (Iowa App. 1995).

**A. Ineffective Assistance of Counsel.**

Mannion claims his trial counsel, Brian Buckmeier, was ineffective. To prevail, Haskins must prove by a preponderance of the evidence Buckmeier failed in an essential duty and prejudice resulted. *See State v. Westeen*, 591 N.W.2d 203, 207 (Iowa 1999). Mannion cannot meet this burden.

Mannion argues Buckmeier should have filed a motion to dismiss for lack of a speedy trial because the State failed to file a trial information within forty-five days of his March 27, 1999, arrest as required by Iowa Rule of Criminal Procedure 27(2)(a). A docket sheet entry dated April 6, 1999, was stamped "No T.I.—past 45 days." When the State filed the trial information on April 12, 1999, the filing was well within the time limits set forth in rule 27.[1] Filing a motion to dismiss for lack of a speedy trial would have been an exercise in futility. *See State v. Greene*, 592 N.W.2d 24, 29 (Iowa 1999) (finding trial counsel did not breach an essential duty when he failed to pursue a meritless issue). Because Buckmeier did not fail in an essential duty, Mannion did not receive ineffective assistance of counsel.

Mannion requests we preserve two additional ineffective-assistance-of-counsel claims for postconviction proceedings. Regarding the October 1998 OWI case, Mannion argues Buckmeier was ineffective because he did not inform Mannion filing a motion for plea taking and sentencing would waive his right to a speedy trial. Regarding the March 1999 OWI case, Mannion argues Buckmeier was ineffective because he filed a motion to continue without obtaining Mannion's consent or evaluating his best interests. Any prejudice Mannion may have suffered from Buckmeier's alleged shortcomings did not survive Mannion's two valid guilty pleas to OWI, sixth offense. *See State v. Sharp*, 572 N.W.2d

---

[1] The State could have filed a trial information as late as May 11, 1999. *See State v. Sheets*, 338 N.W.2d 886, 887 (Iowa 1983).

917, 918 (Iowa 1997). We do not preserve Mannion's claims for postconviction proceedings.

**B. Speedy Trial.**

Mannion claims the district court violated his constitutional right to a speedy trial when it granted a motion to continue filed by Buckmeier in the March 1999 OWI case that was not in conformance with Iowa Rule of Civil Procedure 182(b). The Iowa Supreme Court has stated rule 182 applies to both civil and criminal cases.[2] *State v. Ware*, 338 N.W.2d 707, 714 (Iowa 1983). The rule provides "[a]ll motions for continuance in a case set for trial shall be signed by counsel, if any, and *approved in writing by the party represented*, unless such approval is waived by court order." Iowa R. Civ. P. 182(b) (emphasis added). Mannion did not sign the motion. Mannion did, however, subsequently plead guilty to OWI, sixth offense. A valid guilty plea waives all defenses or objections not intrinsic to the plea itself—including alleged violations of the defendant's right to a speedy trial. *State v. Morehouse*, 316 N.W.2d 884, 885 (Iowa 1982). Mannion has waived his speedy-trial claim.

We affirm Mannion's two convictions for OWI, sixth offense.

**AFFIRMED.**

---

[2] This case does not present an opportunity to address either the continuing validity or breadth of the supreme court's statement.