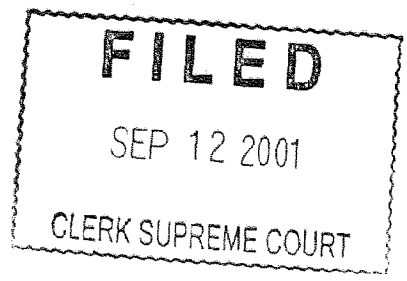
IN THE COURT OF APPEALS OF IOWA

No. 1-564 / 00-1869
Filed September 12, 2001



RICHARD THOMAS SMITH III,
Applicant-Appellant,

vs.

STATE OF IOWA,
Respondent-Appellee.

Appeal from the Iowa District Court for Warren County, Peter A. Keller, Judge.

Richard Thomas Smith III appeals the district court's denial of his application for postconviction relief. **AFFIRMED.**

Kevin E. Hobbs of Harding, Harding, Griffin, Rosien & Hobbs, Des Moines, for appellant.

Thomas J. Miller, Attorney General, Chris Odell, Assistant Attorney General, Kevin Parker, County Attorney, and Gary Kendell, Assistant County Attorney, for appellee.

Considered by Mahan, P.J., and Zimmer and Hecht, JJ.

ZIMMER, J.

Richard Smith appeals from the district court's denial of his application for postconviction relief following his guilty plea and sentence for the charge of conspiracy to manufacture more than five grams of methamphetamine in violation of Iowa Code section 124.401(1)(b) (1995). He claims he was denied his right to effective assistance of counsel because his trial counsel failed to challenge a search warrant. We affirm.

I. Background Facts and Proceedings.

On September 28, 1998, law enforcement officers obtained a search warrant and searched property in Warren County belonging to Max Wayne Jackson because they suspected methamphetamine was being manufactured on the property. Based in part on information obtained when the warrant was executed, the State charged Richard Smith III, and six other codefendants with a number of drug offenses in a nine count trial information filed October 5, 1998. Smith was named in four counts of the trial information. He was charged with conspiracy to manufacture more than five grams of methamphetamine, conspiracy to manufacture more than five grams of methamphetamine with intent to deliver, possession of more than five grams of methamphetamine with intent to deliver, and failure to affix a controlled substance tax stamp.

Smith was represented by counsel throughout the original criminal proceedings. His attorney filed various pre-trial motions, but did not challenge the search warrant executed at the Jackson property.

On January 11, 1999, Smith pled guilty to conspiracy to manufacture methamphetamine, a Class B felony, as part of a plea agreement. Pursuant to

Smith's agreement with the State, three other charges against Smith were dismissed and the State agreed not to resist the defendant's request for a one-third reduction in his mandatory minimum sentence because of his guilty plea.

At the time of the plea proceeding Smith requested immediate sentencing. He waived his right to file a motion in arrest of judgment, his right to the use of a pre-sentence investigation report at sentencing, and his right to time before sentencing. Smith was sentenced to a maximum indeterminate term not to exceed twenty-five years in prison, with a mandatory minimum one-third pursuant to Iowa Code section 124.413. The court reduced his mandatory minimum sentence by one-third because he pled guilty. Smith did not file a direct appeal.

After Smith's charges were resolved by his guilty plea, two of Smith's co-defendants successfully challenged the search warrant that precipitated the criminal proceedings brought against Smith and his six co-defendants.

Smith brought an action for postconviction relief approximately one year after being sentenced. He alleged trial counsel rendered ineffective assistance by failing to file a motion to suppress evidence discovered pursuant to the allegedly invalid search warrant. The district court denied Smith's application for postconviction relief, and he appeals.

II. Analysis.

On appeal Smith alleges that his counsel was ineffective for failing to challenge the search warrant. The State claims that Smith waived his claim based on his guilty plea, his failure to file a motion in arrest of judgment following his guilty plea, and his failure to file a direct appeal. We agree.

It is well established that entry of a guilty plea pursuant to Iowa Rule of Criminal Procedure 8(2)(b) waives all defenses and objections which are not intrinsic to the plea itself. *State v. Speed,* 616 N.W.2d 158, 159 (Iowa 2000) (citations omitted). The record in this case reveals the district court fully complied with the requirements of Rule 8(2)(b) in accepting Smith's guilty plea, and Smith makes no allegation to the contrary. Our supreme court has previously found that claims arising from the denial of a motion to suppress, or from counsel's failure to investigate a motion to suppress, do not survive the entry of a guilty plea. *See State v. Sharp,* 572 N.W.2d 917, 918-19 (Iowa 1997); *State v. Freilinger,* 557 N.W.2d 92, 93-94 (Iowa 1996); *State v. Culbert,* 188 N.W.2d 325, 326 (Iowa 1971). "Any subsequently discovered deficiency in the State's case that affects a defendant's assessment of the evidence against him, but not the knowing and voluntary nature of the plea, is not intrinsic to the plea itself." *State v. Speed,* 573 N.W.2d 594, 596 (Iowa 1998). Accordingly, any alleged failure of counsel to secure suppression of the search warrant is not a circumstance that bears on the knowing and voluntary nature of Smith's plea of guilty. *Speed,* 616 N.W.2d at 159.

We affirm the denial of Smith's application for postconviction relief.

AFFIRMED.