

IN THE COURT OF APPEALS OF IOWA

FILED

JUN 25 1985

CLERK SUPREME COURT

462

STATE OF IOWA,)

Plaintiff-Appellee,)

Filed June 25, 1985

vs.)

DONALD H. KELLER,)

Defendant-Appellant.)

5-130
84-649

Appeal from the Iowa District Court for Union County - Richard D. Morr
and Michael J. Streit, Judges.

Defendant appeals from his conviction for manufacture of a controlled
substance in violation of Iowa Code section 204.401(1). AFFIRMED.

Patricia M. Hulting, Des Moines, Iowa, for defendant-appellant.

Thomas J. Miller, Attorney General of Iowa, and David Dorff, Assistant
Attorney General, for plaintiff-appellee.

Heard by Snell, P.J., Hayden, and Sackett, JJ.

HAYDEN, J.

Defendant appeals from his conviction for manufacture of a controlled substance in violation of Iowa Code section 204.401(1). He claims that his guilty plea was coerced by the trial judge and therefore involuntary and that his motion in arrest of judgment was sufficient to preserve error on the voluntariness issue. We affirm.

Defendant and his wife were charged by information with manufacture of a controlled substance (marijuana) in violation of Iowa Code section 204.401(1). On the scheduled date of trial plea bargain discussions were commenced which led to an agreement that defendant would plead guilty, that the State would not oppose probation if that was the recommendation of the presentence investigation, and that probation would be for two years with a \$1,000 fine. Defendant's wife was permitted to plead guilty to a charge of simple possession.

During the plea colloquy the trial court asked defendant if he intended to harvest the marijuana; he was told that he would have to give better answers to the court. Defendant then admitted that he intended to harvest and dry the marijuana and his guilty plea was accepted.

Defendant's attorney filed a motion in arrest of judgment alleging that the trial court had improperly required defendant to admit matters not an element of the offense and that this additional matter could form a basis for enhanced punishment. An amendment to the motion alleged discovery of new evidence and defendant's failure to understand the implications of a guilty plea. The court, through another judge, overruled the motion and sentenced defendant to a five-year prison term, which was suspended, and placed him on probation for two years. The sentencing order stated that there was no showing or inference that defendant had been selling marijuana.

On limited remand ordered by the Supreme Court, depositions were taken of defendant, his wife, and trial counsel. Counsel testified that the guilty plea court,

in chambers, had insisted that defendant would have to state what he was going to do with the marijuana. Upon communicating defendant's reluctance to the court a statement was made which counsel interpreted as stating a likelihood that defendant would go to prison if he did not make the statement and plea as sought by the court. Defendant entered his plea after counsel told him that making the statement would probably keep him from going to prison. Defendant then brought this appeal.

"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). Moreover, failure to raise a specific issue in a motion in arrest of judgment results in waiver of that issue on appeal. See, e.g., State v. Stanley, 344 N.W.2d 564, 570 (Iowa Ct. App. 1983). Defendant's motions in arrest of judgment raised various issues but not the one raised in this appeal; i.e. the voluntariness of his plea. Nor does he establish any sufficient reason for failing to raise the voluntariness claim in either his original or amended motion. Under these circumstances, defendant has failed to preserve any error for our review.

Defendant's conviction and sentence are affirmed.

AFFIRMED.