

IN THE COURT OF APPEALS OF IOWA

MAR 22 1979
CLERK SUPREME COURT

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STATE OF IOWA,

)

Appellee,

)

Filed March 22, 1979

vs.

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GARY LEE BRICE,

)

Appellant.

)

Appeal from Mitchell District Court - John F. Stone, Judge.

Defendant appeals from denial of his application for postconviction relief, asserting that his return to Wisconsin before disposition of the Iowa charge for which he had been extradited deprived the Iowa court of jurisdiction to proceed further against him by virtue of section 759A.1, The Code, 1973. AFFIRMED.

Ben Kempinen and Steven D. Ebert of Madison, Wisconsin, for appellant.

Thomas J. Miller, Attorney General, and Ann Fitzgibbons, Assistant Attorney General, for appellee.

Submitted to Oxberger, C.J., and Donielson, Snell, Carter and Johnson, JJ.

Defendant, convicted of the crime of false pretenses under section 713.1, The Code, 1973, appeals from denial of his application for postconviction relief. He asserted in said application that his return to Wisconsin before disposition of the Iowa charge for which he had been extradited deprived the Iowa court of jurisdiction to proceed further against him by virtue of section 759A.1, The Code, 1973. The State urges that the deficiency, if any, in the proceedings against defendant was waived by his guilty plea and thus insulated from collateral attack. We agree and affirm the trial court.

Defendant seeks to avoid the consequences of his guilty plea by asserting that he was unaware of his rights under section 759A.1, The Code 1973, when he entered his plea of guilty. We find such circumstance, even if true, does not constitute a sufficient basis for relieving defendant of the consequences of his plea under the standards set forth in Tollett v. Henderson, 411 U.S. 258, 265-67, 93 S.Ct. 1602, 1607-08, 36 L.Ed.2d 235, 24243 (1973). As stated in United States v. Bluso, 519 F.2d 473, 474 (4th Cir. 1975): "while it is sometimes said that a waiver is a voluntary surrender of known rights, it may also be intended as a voluntary surrender of all rights, known and unknown. A guilty plea is normally understood as a lid on the box, whatever is in it, not a platform from which to explore further possibilities."

Defendant contends that the effect of section 759A.1, The Code, 1973, when applied to the facts of his case, was to deprive the court of jurisdiction to proceed further against him. While we find no decisions of our supreme court which touch upon this issue, we note a similar argument was rejected in People v. Squitieri, 91 Misc. 2d 290, 295, 397 N.Y.S. 2d 888, 892 (Sup. Ct. 1977). We conclude, as did the court in the cited case, that the provision of the detainer's act upon which defendant relies is not self-executing, and a violation of that statute is not a jurisdictional defect which may survive a plea of guilty.

We have considered all issues presented and find no ground requiring reversal.

AFFIRMED.