



IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,	)	Filed June 30, 1981
Plaintiff-Appellee,	)	1-108
vs.	)	2-64717
BOBBIE MAX PHIPPS, JR.,	)	
Defendant-Appellant.	)	

Appeal from Scott District Court. J. H. Darbyshire, Judge.

Post-conviction applicant Phipps appeals the denial of his application seeking post-conviction relief from his 1978 guilty-plea conviction of first degree robbery.

AFFIRMED.

Patrick Brady, of Appellant Defender Office, Des Moines, Ia., for defendant-appellant.

Thomas J. Miller, Attorney General of Iowa, and Merle Wilna Fleming, Assistant Attorney General, for plaintiff-appellee.

Heard by Oxberger, C. J., and Donielson, Snell, Carter and Johnson, JJ.

PER CURIAM

Defendant, Bobbie Phipps, Jr., appeals the denial of his application for post-conviction relief. We affirm.

Phipps filed application for post-conviction relief on the grounds that his guilty plea to a charge of robbery in the first degree, involving a firearm, was not voluntarily and knowingly made and that he should be allowed to withdraw the entered plea. After hearing on the matter, the trial court dismissed the application. Phipps appeals that judgment. Our review is on error assigned. Iowa R. App. P. 4.

Phipps asserts trial court erred in refusing to allow him to withdraw the plea. He argues he was not informed in the proceedings that he was ineligible for probation on a forcible felony charge. He further asserts he was not aware of the minimum five year incarceration required for forcible felonies involving a firearm.

There is adequate support in the record that Phipps was informed of the mandatory nature of the sentence for use of a firearm. Furthermore, he did not challenge the plea prior to sentencing. Phipps asserts as he relied on the possibility of probation, he did not alert the sentencing court to his confusion on the sentence possibilities. His attorney testified he made no promises or indications to Phipps that probation would be granted. The trial court found insufficient evidence that Phipps was misled into the belief that probation was a viable possibility. We find the record supports that finding. Therefore we affirm. See Iowa R. App. P. 14(f)(1).

As to Phipps assertion the court at the guilty plea did not inform him concerning possible parole after incarceration, we do not find any requirement to do so. The consequences of which a defendant must be apprised are the mandatory minimum, if any, and the maximum possible punishment provided by the statute defining the offense. Iowa R. Crim. P. 8(2)(b)(2). Furthermore, it is not within a court's knowledge or power to predict parole possibilities. We find no merit in this argument.

We, therefore, affirm the trial court's judgment.

AFFIRMED.