

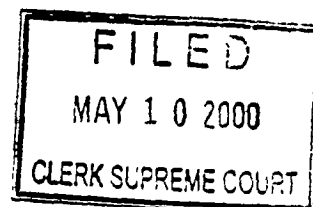
IN THE COURT OF APPEALS OF IOWA

No. 0-098 / 99-0632
Filed May 10, 2000

STATE OF IOWA,
Appellee,

vs.

RONALD STEENHOEK,
Appellant.



Appeal from the Iowa District Court for Linn County, Patrick Grady, Judge.

Ronald Steenhoek appeals following his guilty pleas to and sentencing on the charges of stalking in violation of Iowa Code sections 708.11(2) and 708.11(3)(b)(1), and extortion in violation of Iowa Code section 711.4 (1999).

AFFIRMED.

John A. Stitely, Cedar Rapids, for appellant.

Thomas J. Miller, Attorney General, Chris Odell, Assistant Attorney general, and Denver D. Dillard, County Attorney, for appellee.

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

000509

VOGEL, P.J.

Ronald Steenhoek appeals following his guilty pleas to and sentencing on the charges of stalking in violation of Iowa Code sections 708.11(2) and 708.11(3)(b)(1), and extortion in violation of Iowa Code section 711.4 (1999). Because we find Steenhoek failed to preserve error on his voluntariness claim and the trial court did not abuse its discretion in setting the appeal bond, we affirm.

Background facts. Steenhoek was arrested in November 1998 on the charges of stalking and extortion of his wife, Sheryl Steenhoek. Steenhoek entered an Alford plea to both charges on March 1, 1999, receiving a five-year incarceration term on each charge, with the sentences to run concurrently. He was sentenced accordingly on April 9, 1999, with appeal bond to remain set at \$25,000 cash only. Steenhoek now contends his Alford plea was not knowingly and voluntarily made and the court erred in refusing to reduce his bond.

Scope of review. Generally, review of criminal proceedings is for correction of errors at law. *See State v. Cullison*, 227 N.W.2d 121, 126-27 (Iowa 1975); *See Iowa R. App. P. 4*. However, when an appellant asserts a violation of constitutional safeguards, we make our own evaluation based on the totality of the circumstances. *Hinkle v. State*, 290 N.W.2d 28, 30 (Iowa 1980). This is the equivalent of a de novo review. *Id.*

Alford plea was not made voluntarily. Steenhoek alleges his Alford plea was not made voluntarily, as is constitutionally required. The prosecutor informed Steenhoek the day before his first trial was scheduled that he would

000510

~~seeking that offender enhanced sentencing if Steenhoek did not accept the offered plea bargain.~~ Steenhoek alleges his guilty plea was an involuntary reaction prompted by fear over the possibility of harsher sentencing, having received this information the day before his trial was to start.

Before we can reach the merits of this issue, we must ascertain whether Steenhoek has preserved error. Iowa Rule of Criminal Procedure 23(3) requires a motion in arrest of judgment be filed when a defendant intends to attack a guilty plea. "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). This rule is read in conjunction with Iowa Rule of Criminal Procedure 8(2)(d), compelling the trial court to inform the defendant of this requirement during the plea proceedings. *State v. Gant*, 597 N.W.2d 501, 503-04 (Iowa 1999).

The trial court, in its colloquy with Steenhoek, specifically met this requirement when it stated:

Mr. Steenhoek, between now and sentencing if you change your mind and decide you want to withdraw your pleas of guilty or you think something else went on here today that was inappropriate, you need to file what's called a Motion in Arrest of Judgment. It's a document that tells the Court why you want to withdraw your plea or what you think went wrong. You need to file that within 45 days of today's date or in any event not less than five days before the date set for trial – before the date set for sentencing in order to protect your right to attack any of these proceedings today.

Having been so fully instructed on this issue, Steenhoek's failure to file a motion in arrest of judgment bars him from raising this issue for the first time on appeal. *State v. Miller*, 590 N.W.2d 724, 725 (Iowa 1999).

000511

Steenhoek claims he filed the equivalent to a motion in arrest of judgment. He did write a letter sometime between the plea proceedings and the sentencing and attempted to submit it to the court, although it did not reach its destination. During the sentencing hearing, Steenhoek's attorney presented the letter to the court and explained that it was to be attached to the presentence investigation report. Although the record does not contain a copy of this letter, we can glean from the transcript its content and purpose. The letter was a request for leniency by Steenhoek. There was no indication that Steenhoek was attacking the plea proceedings by a pro se motion in arrest of judgment. As reflected by the sentencing hearing transcript, Steenhoek did not raise this issue before the trial court, allowing an opportunity to determine whether this letter could suffice as a motion in arrest of judgment.

Because Steenhoek failed to file a motion in arrest of judgment as he was appropriately instructed, we find he failed to preserve error as to whether his plea was knowing and voluntary. Therefore, we cannot address the merits of Steenhoek's assertions.

Appeal bond. When reviewing the amount set for an appeal bond, our review is for an abuse of discretion. *State v. Kellogg*, 534 N.W.2d 431, 433 (Iowa 1995); *State v. Mussman*, 178 N.W.2d 319, 320 (Iowa 1970). Steenhoek claims the \$25,000 cash only bond set in his case is excessive and effectively denies bail. The State contends the bond amount was set to fit the nature of the crime and to protect the safety of the victim and the community. Steenhoek's wife, Sheryl, was the recipient of the threats issued in this case. She testified she was

terrified of repercussions if the defendant was released on bond. The court also heard testimony of an additional threat made against Sheryl as Steenhoek was leaving the sentencing hearing, reinforcing to the court Sheryl's opinion that Steenhoek would act vindictively toward her if released from confinement. Therefore, we find the court did not abuse its discretion in establishing the appeal bond amount. Accordingly, we affirm.

AFFIRMED.

000513