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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 0-504 / 89-1983

493

STATE OF IOWA,

Appellee,

vs.

GARY DEAN MUMFORD SR.,

Appellant.

Appeal from the Iowa District Court for Polk County, Anthony M. Critelli, Judge.

Defendant appeals a corrected sentence. **AFFIRMED.**

George W. Appleby of Roehrick, Hulting & Moisan, Dubuque, for appellant.

Bonnie J. Campbell, Attorney General, Amy M. Anderson, Assistant Attorney General, James Smith, County Attorney, and Jamie Bower, Assistant County Attorney, for appellee.

Considered by Donielson, P.J., and Schlegel and Habhab, JJ.

PER CURIAM

Defendant Gary Mumford appeals a corrected sentence ordering a maximum term of imprisonment consistent with the habitual offender statute. We affirm.

Defendant was charged with two counts of delivery of marijuana and two counts of delivery of cocaine. The trial information charged him with being a habitual offender. As a result of plea negotiations, the charges were reduced to one count of possession of cocaine with intent to deliver. Defendant promised to enter a guilty plea and to testify against codefendants. The "Memorandum of Understanding" between prosecution and defendant stipulated that defendant "qualifies as a Habitual Offender under Iowa Code Section 902.8."

At a May 5, 1989, hearing, Judge Anthony Critelli questioned defendant about the voluntariness of his plea, the nature of the charges, and his understanding of the consequences:

> THE COURT: Do you understand that what you're pleading guilty to, delivery of a controlled substance, that would be ordinarily a ten year--or a class C ten-year--prison term. But you're pleading guilty to it as a habitual offender under section 902.8 of the Code, which means that if you plead guilty to this charge, the maximum sentence which you would receive would be 15 years in prison?
>
> THE DEFENDANT: Yes, sir.
>
> THE COURT: And that you must serve at least a minimum of three years of that. Do you understand all that?
>
> THE DEFENDANT: Yes, I do.

Shortly thereafter, Judge Critelli further questioned defendant:

> THE COURT: Mr. Mumford, I want to make sure you understand all the ramifications . . . . I'm now going to bring to your attention [Iowa Code section] 902.11. . . .
>
> [Section] 902.11 provides that a person serving a sentence for conviction of a felony who has a criminal record of one or more prior convictions of a forcible felony--you have one of those--shall be denied parole or work release unless the person has served at least one half of the maximum term of defendant's sentence. So you're faced with serving one half of your term.
>
> . . . So if you're required to serve one half of this fifteen [year sentence], that's seven and one-half [years]. . . .
>
> [DEFENSE COUNSEL]: . . . Mr. Mumford and I have rediscussed the effects of this, and it's my belief and understanding that Mr. Mumford understands that the prior forcible felony rule, as included in 902.11, means that he would be required to serve one half of his maximum term before being eligible for parole. And I would ask Gary if that is his understanding of the rule that he would be subject to?
>
> THE DEFENDANT: Yes.

On June 26 Judge Critelli found defendant guilty; however, he entered an order sentencing defendant to a maximum of only ten years instead of the fifteen years required by statute and discussed at the May 5 hearing. Judge Critelli did impose a mandatory minimum term in accord with the fifteen year maximum.

Upon being apprised of the error, Judge Critelli ordered a resentencing hearing. At this hearing defendant objected, contending that it was his understanding that he would be sentenced to a maximum of only ten years. After argument, Judge Critelli entered a corrected order. He sentenced defendant to serve a maximum of fifteen years imprisonment and a minimum of three years.

Defendant asserts that his guilty plea was not knowingly, voluntarily, or intelligently made. He urges that he did not expect the sentence based on his plea to include a mandatory fifteen-year sentence. We review for errors of law. Iowa R. App. P. 4.

As we have related in detail above, defendant was fully apprised of his situation during the May 5 hearing. Judge Critelli complied with all aspects of Iowa Criminal Rule of Procedure 8(2)(b) in determining whether defendant made his plea voluntarily and intelligently. Defendant has cited nothing in the record to demonstrate his purported belief that his sentence would be only ten years.

We agree with defendant that he may rely on the statements of the court in accepting the guilty plea. See Stovall v. State, 340 N.W.2d 265, 267 (Iowa 1983). If defendant relied on the statements reproduced above, however, we can divine nothing whatsoever to prejudice defendant. Further, the record amply shows that defendant understood which Code provisions were charged and the ramifications of those provisions. This was in full compliance with our case law. State v. Everett, 372 N.W.2d 235, 236 (Iowa 1985); State v. Boone, 298 N.W.2d 335, 337 (Iowa 1980).

We find that defendant entered the guilty plea knowingly, voluntarily, and intelligently, consistent with the rules of criminal procedure. We hold that the trial court properly overruled defendant's objections.

AFFIRMED.