

IN THE COURT OF APPEALS OF IOWA

No. 8-003 / 96-1898

000455

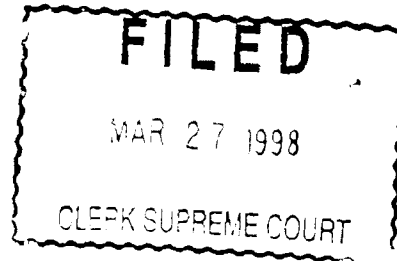
STATE OF IOWA,

Plaintiff-Appellee,

vs.

ROOSEVELT SMITH,

Defendant-Appellant.



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Appeal from the Iowa District Court for Scott County, Gary D. McKenrick and Douglas C. McDonald, Judges.

Defendant appeals from his two convictions for driving while barred as a habitual offender, an aggravated misdemeanor. **AFFIRMED.**

Philip T. Ramirez of Newport, Bell, Leon & Ramirez, Davenport, for appellant.

Thomas J. Miller, Attorney General, Karen Doland, Assistant Attorney General, William E. Davis, County Attorney, and Marc Gellerman and Alan R. Havercamp, Assistant County Attorneys, for appellee.

Considered by Cady, C.J., and Sackett and Mahan, JJ.

**PER CURIAM**

Roosevelt Smith appeals two convictions for driving while barred as a habitual offender in violation of Iowa Code section 321.561 (1995). We affirm on appeal.

In March 1995, Smith was declared a habitual offender under section 321.555(1). Pursuant to section 321.560, he was barred from operating a motor vehicle for a period of three years. Smith was charged with driving on May 17, 1996, and July 29, 1996, while his driver's license was barred. This offense is an aggravated misdemeanor. Iowa Code § 321.561.

Smith signed a written guilty plea for each offense, which provided:

If I claim there are any irregularities or errors in this guilty plea, I must file a Motion in Arrest of Judgment not later than 45 days after this plea of guilty or in any case, not later than five days before the day of sentencing. Failure to do so will preclude my right to assert any defects in any appeal to the Iowa Supreme Court.

Smith did not file a motion in arrest of judgment. The district court accepted his guilty pleas, and he was sentenced.

Smith appeals, claiming his guilty pleas were entered involuntarily. He asserts because the district court did not advise him of the necessity for filing a motion in arrest of judgment, as required by Iowa Rule of Criminal Procedure 8(2)(d), he is not precluded from raising this issue on appeal.

Under rule 8(2)(b), the district court was not required to personally address defendant because the charges were aggravated misdemeanors. *State v. Mensah*, 424 N.W.2d 453, 455 (Iowa 1988). A defendant is not allowed to set aside his guilty plea

merely because he was informed of the matters listed in rule 8(2)(d) in writing instead of orally. *See Patten v. State*, 553 N.W.2d 336, 337 (Iowa App. 1996).

Smith's written guilty plea apprised him of his ability to file a motion in arrest of judgment. There was no need for the district court to address him to determine if he understood he could file a motion in arrest of judgment and the consequences if he failed to do so.

We affirm Smith's convictions for driving while license barred. Costs of this appeal are assessed to Smith.

**AFFIRMED.**