IN THE COURT OF APPEALS OF IOWA

No. 0-468 / 99-1209
Filed September 27, 2000

STATE OF IOWA,
Plaintiff-Appellee,

vs.

KEITH DESHON EURING, SR.,
Defendant-Appellant.

FILED
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CLERK SUPREME COURT

Appeal from the Iowa District Court for Scott County, Bobbi M. Alpers, David E. Schoenthaler and J. Hobart Darbyshire, Judges.

Keith Euring appeals his conviction following a guilty plea to deliver a controlled substance. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Stephan J. Japuntich, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Denise A. Timmins, Assistant Attorney General, William E. Davis, County Attorney, and Don Frank, Assistant County Attorney, for appellee.

Considered by Sackett, C.J., and Streit and Vaitheswaran, JJ.

VAITHESWARAN, J.

Keith Euring pled guilty to delivery of a schedule II controlled substance (cocaine) and was sentenced to a prison term not to exceed ten years. On appeal, he alleges: (1) his trial counsel was ineffective in failing to challenge the adequacy of the minutes of testimony and in waiving his rights to speedy indictment and trial and (2) the district court erred in failing to include an accounting of credit for time served in its sentencing order. We affirm.

I. Ineffective Assistance of Counsel/Waiver of Error

The State contends Euring's guilty plea resulted in a waiver of his objections to the minutes, and his speedy indictment and trial rights and submits he cannot now resurrect those objections under the rubric of an ineffective assistance of counsel claim. We agree.

Our supreme court has held a valid guilty plea waives all defenses and objections except assertions that: (1) the information or indictment charges no offense or (2) the plea itself contains irregularities. *State v. Mattly*, 513 N.W.2d 739, 740-41 (Iowa 1994). Challenges to the minutes of testimony and speedy trial rights are among the objections that are waived. *See State v. Morehouse*, 316 N.W.2d 884, 885 (Iowa 1982) (holding guilty plea waived defendant's constitutional right to speedy trial); *State v. Kobrock*, 213 N.W.2d 481, 483 (Iowa 1973) (holding guilty plea resulted in waiver of all questions relating to admissibility or sufficiency of evidence and any claimed insufficiency of the minutes of testimony was therefore waived); *State v. Warmuth*, 532 N.W.2d 163, 166 (Iowa App. 1995) (suggesting defendant would have waived her speedy trial right if her guilty plea had been accepted by the court). It is clear, therefore, that

by entering a guilty plea, Euring waived his right to directly challenge the minutes of testimony and delays in proceeding to trial.

The only remaining question is whether Euring may raise those challenges via an ineffective assistance of counsel claim. We conclude he may not. Challenges based on constitutional rights also may be waived. *See State v. Yodprasit*, 564 N.W.2d 383, 387 (Iowa 1997) (noting ineffective assistance of counsel claim involved a personal right that could be waived by entering a guilty plea); *State v. Delano*, 161 N.W.2d 66, 73 (Iowa 1968) (noting constitutional right, like any other right, may be waived). Euring's ineffective assistance of counsel claim raises objections that have nothing to do with the factual basis for the plea or the plea proceeding itself. Therefore, his guilty plea resulted in a waiver of that claim, just as it resulted in a waiver of the underlying objections.

Euring nevertheless maintains we should consider his ineffective assistance of counsel claim because our courts have not applied error preservation principles to such claims. *See State v. Lucas*, 323 N.W.2d 228, 232 (Iowa 1982). However, the question here is not whether Euring failed to preserve error but rather, whether he waived error as a matter of law by virtue of his guilty plea. While we readily concede our highest court has excepted ineffective assistance of counsel claims from our ordinary rules of error preservation, it has done so to permit challenges that are otherwise authorized, rather than challenges that have been waived. *Cf. State v. Gant*, 597 N.W.2d 501, 505 (Iowa 1999) (permitting challenge to factual basis for a guilty plea via an ineffective assistance of counsel claim); *State v. Miller*, 590 N.W.2d 724, 725 (Iowa 1999) (permitting challenge to guilty plea through an ineffective assistance

of counsel claim). For these reasons, we decline to consider Euring's ineffective assistance of counsel claims.

II. Accounting of Credit for Time Served

Euring maintains Iowa Code section 901.6 required the district court to include an accounting of credit for time served in its sentencing order. He asserts the absence of such an accounting in the court's order amounted to reversible error. *See State v. Edgington*, 601 N.W.2d 31, 32 (Iowa 1999) (reviewing a challenge to the district court's application of sentencing statutes for corrections of errors at law). A recent Iowa Supreme Court opinion requires us to reject Euring's contention. *See State v. Hawk*, ____ N.W.2d ____ (Iowa 2000). In *Hawk*, the court held neither the plain language of Iowa Code section 901.6 nor the practicalities of sentencing dictated inclusion of credit for time served in a sentencing order. ____ N.W.2d at ____. This opinion is dispositive. *See also State v. Kepple*, ____ N.W.2d ____ (Iowa 2000).

We affirm Euring's judgment and sentence.

AFFIRMED.