FILED
MAY 28 1987
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,	)	
Plaintiff-Appellee,	)	Filed May 28, 1987 327
vs.	)	
RAY CHARLES MOELLER,	)	7-177 86-1328
Defendant-Appellant.	)	

Appeal from the Iowa District Court for Johnson County (15492), John R. Sladek, Associate Judge.

Defendant appeals from the district court's order revoking his probation and deferred judgment. **APPEAL DISMISSED.**

Charles Harrington, Chief Appellate Defender, and James F. Whalen, Assistant Appellate Defender, for defendant-appellant.

Thomas J. Miller, Attorney General of Iowa; Lona Hansen, Assistant Attorney General; and Anne M. Lahey, Assistant County Attorney; for plaintiff-appellee.

Considered by Snell, P.J., and Hayden and Sackett, JJ.

PER CURIAM

On January 4, 1985, the defendant was granted a deferred judgment and placed on probation after pleading guilty to third-degree theft. On March 20, 1986, defendant's probation officer filed an application for revocation of probation, adjudication of guilt, and sentencing, alleging defendant had violated the terms and conditions of his probation. Defendant's probation was voluntarily extended for one year and his hearing was continued for four months at a May 2, 1986, hearing. Following a second hearing, the district court revoked defendant's probation and entered judgment and sentence on the guilty plea in an order filed on September 10, 1986. The district court did not make specific findings of fact or conclusions of law either at the probation revocation hearing or in the September 10, 1986, order.

The defendant contends the district court erred in revoking his probation without making specific findings of fact and conclusions of law, as required by Iowa Code section 663A.7 (1985). The State responds defendant's appeal should be dismissed for failure to state a ground upon which relief can be granted since chapter 663A does not apply to a direct appeal from an order revoking deferred judgment and probation.

Our review is at law, for the correction of errors. Iowa R. App. P. 4.

In his appellant brief defendant contends the district court erred in failing to make specific findings of fact and conclusions of law as is required pursuant to postconviction relief section 663A.7, Iowa Code (1985). He contends this failure requires us to remand and direct the trial court to comply with section 663A.7.

"A revocation order in a deferred sentencing proceeding inheres in the subsequent judgment and may be challenged on appeal from the judgment." State v. Jensen, 378 N.W.2d 710 (Iowa 1985).

> An order revoking a defendant's probation when judgment has been deferred is an interlocutory ruling. It materially affects the outcome of the case. Since the ruling is made during the prosecution of the case, it inheres in the subsequent final judgment. Therefore, it is reviewable upon appeal from that judgment.

In the present case defendant was granted a deferred judgment and placed on probation; and from the deferred judgment probation was revoked. The correct method to attack this revocation was by direct appeal pursuant to Iowa Code section 908.11 (1985). Defendant based his direct appeal on chapter 663A, the postconviction relief chapter. We cannot grant relief consistent with defendant's request and we consider his appeal improper and dismiss.

We note in his reply brief defendant requests relief pursuant to Iowa Rule of Criminal Procedure 22(3)(d). A matter raised for the first time in the reply brief will not be considered by the appellate court. State v. Willet, 305 N.W.2d 454, 458 (Iowa 1980); Ames v. Board of Supervisors, 234 Iowa 617, 623, 12 N.W.2d 567, 570-71 (1944).

APPEAL DISMISSED.