

IN THE COURT OF APPEALS OF IOWA

No. 18-0452
Filed October 24, 2018

STATE OF IOWA,
Plaintiff-Appellee,

vs.

OMAR ALEJANDRO CONTRERAS-GONZALEZ,
Defendant-Appellant.

Appeal from the Iowa District Court for Woodbury County, Timothy T. Jarman, District Associate Judge.

The defendant challenges his sentences for possession of a controlled substance and theft in the third degree. **AFFIRMED.**

Priscilla E. Forsyth, Sioux City, for appellant.

Thomas J. Miller, Attorney General, Kevin R. Cmelik, Israel J. Kodiaga, and Kelli A. Huser (until withdrawal), Assistant Attorneys General, for appellee.

Considered by Potterfield, P.J., and Bower and McDonald, JJ.

McDONALD, Judge.

In this consolidated appeal, Omar Contreras-Gonzalez challenges his sentences upon conviction for two misdemeanor offenses—theft in the third degree and possession of a controlled substance, methamphetamine. On appeal, Contreras-Gonzales contends the district court denied him the right of allocution prior to imposing sentence. We review sentencing procedures for an abuse of discretion. See *State v. Craig*, 562 N.W.2d 633, 634 (Iowa 1997).

The defendant's argument in this case is wholly without merit. Pursuant to Iowa Rule of Criminal Procedure 2.23(3)(d), a defendant has the right to address the court personally "to make a statement in mitigation of punishment." However, this right is waivable. See *State v. Marshall*, No. 16-1729, 2017 WL 1733257, at *2 (Iowa Ct. App. May 3, 2017) ("A defendant may waive the right of allocution." (citing *State v. Jones*, 817 N.W.2d 11, 19 (Iowa 2012))). Here, the defendant entered a written guilty plea and waiver of rights in both misdemeanor cases. Each plea and waiver contained an express waiver in bold print, stating, "I waive my right to be present at sentencing and I waive my right to allocution." This is sufficient to effect a knowing and voluntary waiver of the right of allocution. See *id.*; *State v. Culberson*, No. 13-2049, 2015 WL 6509754, at *1 (Iowa Ct. App. Oct. 28, 2015); *State v. Shadlow*, Nos. 11-2047, 11-2048, 2013 WL 263340, at *1-3 (Iowa Ct. App. Jan. 24, 2013).

We affirm the defendant's sentences.

AFFIRMED.