

IN THE COURT OF APPEALS OF IOWA

No. 19-0983
Filed March 4, 2020

STATE OF IOWA,
Plaintiff-Appellee,

vs.

JORDAN JEREL ADAMS,
Defendant-Appellant.

Appeal from the Iowa District Court for Linn County, Ian K. Thornhill (motion to continue) and Mitchell E. Turner (plea), Judges.

Jordan Adams challenges his conviction for assault with intent to commit sexual abuse with no injury. **AFFIRMED.**

Wallace L. Taylor of Law Offices of Wallace L. Taylor, Cedar Rapids, for appellant.

Thomas J. Miller, Attorney General, and Timothy M. Hau, Assistant Attorney General, for appellee.

Considered by Bower, C.J., and Greer and Ahlers, JJ.

BOWER, Chief Judge.

Jordan Adams appeals his conviction for assault with intent to commit sexual abuse with no injury.¹ We find Adams waived his challenge to the denial of a joint motion to continue upon entering his guilty plea and failed to preserve error on his challenge to the guilty plea. We affirm.

I. Background Facts & Proceedings

On February 27, 2019, Adams was charged by trial information with sexual abuse in the third degree and assault causing bodily injury, with a habitual-offender enhancement added later. Adams exercised his right to a speedy trial, and a jury trial was scheduled to begin on May 6.

On the afternoon of Friday, May 3, the State and Adams filed a joint motion to continue trial as both parties had received new information that might be material to the case. The State learned of multiple medical records that had not been produced by a hospital, despite requests from the State and the local police department, and the records could not be obtained before trial was to start Monday morning. Adams discovered potentially exculpatory messages from a State witness and new information regarding a defense witness. The joint motion stated, “The State is very concerned that should this case proceed to trial as scheduled, the appellate courts will find fault with the fact that potentially exculpatory evidence exists that neither party had time to access prior to trial.” The State went on to

¹ The Iowa legislature amended Iowa Code sections 814.6, effective July 1, 2019, limiting direct appeals from guilty pleas. Iowa Code § 814.6 (2020). The amendment “appl[ies] only prospectively and do[es] not apply to cases pending on July 1, 2019,” and therefore does not apply in this case. *State v. Macke*, 933 N.W.2d 226, 235 (Iowa 2019).

express concern “that prejudice will result if the trial proceeds as currently scheduled.” Adams did not file a waiver of his right to speedy trial.

Late Friday afternoon, the court denied the motion to continue, stating Adams’s new information was not “a sufficient basis to warrant a continuance” and the State had “the ability to obtain and disclose” the medical records for a significant period of time during the pendency of the case. The court went on to order the State to produce the new records at 8:30 a.m. on Monday for review by the judge to consider whether the information warranted additional time for the defense to review and whether the late disclosure warranted exclusion as a sanction.

The morning of May 6, before jury selection started, the State and Adams reached a plea agreement.² Adams entered an *Alford* plea to a lesser-included offense of assault with intent to commit sexual abuse with no injury; the State dismissed the charge of assault causing bodily injury and the habitual-offender enhancement.³ Following the plea, Adams did not file a motion in arrest of judgment.

On May 28, the court sentenced Adams to a two-year term of imprisonment, suspended the prison sentence, and placed him on probation for two years. The court ordered Adams to pay a \$625 fine plus surcharges and suspended the fine. The court also imposed a ten-year special sentence, as provided in Iowa Code

² There is no indication in the record whether the State ever obtained the hospital records.

³ In an *Alford* plea, a defendant enters a guilty plea acknowledging the State has strong evidence of guilt but does not admit participation in the acts constituting the crime. See *North Carolina v. Alford*, 400 U.S. 25, 37–38 (1970); *State v. Burgess*, 639 N.W.2d 564, 567 n.1 (Iowa 2001).

section 903B.2 (2019), and ordered Adams to register as a sex offender as required under chapter 692A.

Adams appeals, challenging the district court's denial of the joint motion to continue.

II. Analysis

Adams claims the district court's refusal to grant a continuance infringed on his constitutional rights to due process, to present a defense, and to a fair trial. "It is well established that a defendant's guilty plea waives all defenses and objections which are not intrinsic to the plea." *State v. Carroll*, 767 N.W.2d 638, 641 (Iowa 2009); see also *Schmidt v. State*, 909 N.W.2d 778, 785 (Iowa 2018) (noting the general rule a guilty plea waives the defendant's rights to "any objection to prior proceedings which may include a violation of his [or her] rights" (alteration in original) (citation omitted)). The waiver includes the right to challenge a ruling on a pre-plea motion to continue. *State v. Goddard*, No. 18-0513, 2019 WL 476508, at *1 (Iowa Ct. App. Feb. 6, 2019) ("Goddard's guilty plea waives his right to challenge the court's rulings on his pre-plea motions to continue trial and waive[s] his right to speedy trial."); *State v. Maxfield*, No. 17-1185, 2018 WL 5292089, at *1 (Iowa Ct. App. Oct. 24, 2018) (finding defendant's guilty plea waived any challenge to the denial of his motion to continue, even when he asserted "he was 'placed in the untenable position of going to trial unprepared or accepting the State of Iowa's plea offer'").

Adams contends under *Schmidt*, his "guilty plea did not foreclose the right to challenge the conviction." He reads too much into *Schmidt*. In *Schmidt*, our supreme court held a guilty plea does not preclude an actual-innocence claim. *Id.*

at 790. The court only addressed freestanding actual-innocence claims in the context of Iowa's postconviction statutes, specifically declining to "decide or specify other vehicles applicants may use to bring their freestanding actual-innocence claims as independent actions." *Id.* at 798. *Schmidt* does not establish a right to challenge the district court's pre-plea rulings on direct appeal.

Adams's challenge to his guilty plea could have been raised in a motion in arrest of judgment.⁴ The court advised Adams during the plea hearing "that any challenges to the plea of guilt such as you've entered here today based on any alleged mistakes or defects in the plea proceedings must first be raised by filing what's called a motion in arrest of judgment." Adams did not file a motion in arrest of judgment following his plea, and when the sentencing court asked if Adams had anything he wanted to say "with regard to this case," Adams answered, "No." Because Adams entered a guilty plea to the amended charge and failed to challenge the plea by filing a motion in arrest of judgment, we affirm his conviction.

AFFIRMED.

⁴ Adams claims "a motion in arrest of judgment is available only to challenge the conduct of the plea proceeding itself." However, Iowa Rule of Criminal Procedure 2.24(3)(a) "serves as a vehicle to bring a variety of claims before the court," not just challenges to the plea colloquy itself. See *State v. Harrington*, 893 N.W.2d 36, 41 (Iowa 2017). Other claims encompassed within a motion in arrest of judgment include requests to withdraw guilty pleas and claims the plea was not voluntary or knowing. See *State v. Speed*, 573 N.W.2d 594, 595–97 (Iowa 1998).