

IN THE COURT OF APPEALS OF IOWA

No. 7-027 / 06-0420
Filed February 28, 2007

STATE OF IOWA,
Plaintiff-Appellee,

vs.

JEREMY DENNIS HAZEN,
Defendant-Appellant.

Appeal from the Iowa District Court for Mahaska County, James Q. Blomgren (plea proceedings) and Annette J. Scieszinski (motion in arrest of judgment; sentencing), Judges.

Jeremy Hazen appeals from his convictions on three counts of willful injury. **AFFIRMED.**

Patricia Reynolds, Acting State Appellate Defender, and Stephan J. Japuntich, Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Mary E. Tabor, Assistant Attorney General, Rose Ann Mefford, County Attorney, and Douglas D. Hammerand, Assistant Attorney General, for appellee.

Considered by Vogel, P.J., and Vaitheswaran and Eisenhauer, JJ.

VOGEL, P.J.

Based on an incident in which he punched Bobbie Milford and repeatedly stabbed Milford's boyfriend, Jason Craig, the State charged Jeremy Hazen with attempted murder. At a December 29, 2005 plea hearing, Hazen asked that his attorney, Jeffrey Smith, be replaced. The court denied this request and proceeded to accept Hazen's plea to three counts of willful injury; two class "C" felonies in violation of Iowa Code section 708.4(1), and one class "D" felony in violation of section 708.4(2). On February 8, 2006, Hazen filed a motion in arrest of judgment alleging he "did not fully understand and appreciate the legal consequences of his plea." The court denied this motion and sentenced Hazen to consecutive terms of imprisonment totaling twenty-five years. Hazen appeals.

Motion in Arrest. Hazen argues the court abused its discretion in overruling his motion in arrest of judgment. In particular, he asserts that because counsel failed to adequately explain the concept of a lesser included offense, he did not voluntarily and intelligently enter the guilty plea. We review this claim for abuse of discretion and will reverse only if the ruling was based on reasons that are clearly unreasonable or untenable. *State v. Speed*, 573 N.W.2d 594, 598 (Iowa 1998).¹

In *State v. Higginbotham*, 351 N.W.2d 513, 516 (Iowa 1984), the defendant argued he did not sufficiently understand the plea he entered, primarily because he was "unaware of the lesser included offenses of which he may have been convicted at a trial." The court rejected this contention, concluding that the defendant's understanding of the offense to which he pled, coupled with

¹ To the extent Hazen raises this as an ineffective-assistance-of-counsel claim, we review it de novo. *State v. Tate*, 710 N.W.2d 237, 239 (Iowa 2006).

“defendant’s stated and valid fear that a jury might well convict him of first-degree murder, makes it unnecessary that he understand the details of lesser included offenses.” *Higginbotham*, 351 N.W.2d at 516. In this case, the record made during the plea hearing makes plain that Hazen was fully aware of the nature of the charges against him. Moreover, based on the facts set forth in the minutes of testimony and Hazen’s admissions at the hearing, he maintained a “valid fear” that the jury might convict him of attempted murder. Accordingly, the court did not abuse its discretion in denying his motion in arrest of judgment.

Conflict of Interest. On December 29, 2005, Hazen filed a letter with the court in which he voiced concern that his attorney, Jeffrey Smith, had previously represented a prosecution witness in a lawsuit against her business. Hazen now maintains “the district court erred and denied [him] the right to counsel by failing to thoroughly inquire about the existence of a conflict of interest of counsel.”

We agree with the State that Hazen waived this claim by pleading guilty. *See State v. LaRue*, 619 N.W.2d 395, 399 (Iowa 2000). Clearly, a “trial court has the duty sua sponte to inquire into the propriety of defense counsel’s representation when it knows or reasonably should know that a particular conflict exists.” *See State v. Powell*, 684 N.W.2d 235, 238 (Iowa 2004). However, once a defendant has waived his right to a trial by pleading guilty, the State is entitled to expect finality in the conviction. *State v. Mann*, 602 N.W.2d 785, 789 (Iowa 1999). “A guilty plea taken in conformity with Iowa Rule of Criminal Procedure 2.8(2)(b) waives all defenses and objections.” *State v. Antenucci*, 608 N.W.2d 19, 19 (Iowa 2000). Thus, Hazen has waived this contention.

AFFIRMED.