

IN THE COURT OF APPEALS OF IOWA

No. 9-455 / 08-1736
Filed July 2, 2009

STATE OF IOWA,
Plaintiff-Appellee,

vs.

AARON STACY ROBERTS,
Defendant-Appellant.

Appeal from the Iowa District Court for Black Hawk County, Nathan A. Callahan, District Associate Judge.

Aaron Stacy Roberts appeals following conviction and sentence for third-offense possession of marijuana. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Thomas Gaul, Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Sharon Hall, Assistant Attorney General, Thomas J. Ferguson, County Attorney, and Michelle Wagner, Assistant County Attorney, for appellee.

Considered by Mahan, P.J., and Eisenhauer and Mansfield, JJ.

MAHAN, P.J.

Waterloo police arrested Aaron Stacy Roberts on February 3, 2008, regarding a harassment complaint filed by Roberts' cousin. During a search incident to the arrest, police found a plastic bag of marijuana, a metal pipe, and a lighter in Roberts' pants pocket. On February 15, 2008, the State filed a trial information charging Roberts with third-offense possession of marijuana in violation of Iowa Code section 124.401(5) (2007), an aggravated misdemeanor. Roberts filed a written plea of guilty on October 16, 2008. At a hearing on further proceedings, the court inquired about the plea as follows:

THE COURT: This is Black Hawk County case number AGCR152296, State of Iowa versus Aaron Stacy Robert. Mr. Roberts is in custody and appears today for a hearing on further proceedings. He appears with counsel, Dennis Guernsey. The State is represented by Assistant County Attorney Michelle Wagner. Prior to going on record the court was provided with a written guilty plea that's signed by Mr. Roberts, and it also includes a waiver of delay in sentencing and any motions challenging the plea. There is no agreement in regards to disposition. So, Mr. Roberts, is that your signature on the written plea?

THE DEFENDANT: Yes, Your Honor.

The court thereafter accepted Roberts's plea.

On appeal, Roberts argues his plea of guilty was not voluntarily or intelligently given as the district court failed to comply with Iowa Rule of Criminal Procedure 2.8(2). The States contends Roberts waived his right to challenge his guilty plea because he failed to file a motion in arrest of judgment as required by Iowa Rule of Criminal Procedure 2.24(3)(a). We agree. Roberts's written plea of guilty provided:

I further understand that if I wish to challenge this guilty plea, I must file a motion in arrest of judgment not later than forty-five days after entry of my plea and also at least five days before the date set for

sentencing, and that failure to so file such challenges shall preclude the right to assert them on appeal. I also understand I have a right to a 15 day delay before being sentenced. I waive these rights and request that judgment and sentence be pronounced upon receipt of this plea.

We find Roberts's written plea adequately advised him that failure to file a motion in arrest of judgment would preclude him from later raising issues regarding his guilty plea on appeal. See Iowa R. Crim. P. 2.24(3)(a); *State v. Straw*, 709 N.W.2d 128, 132 (Iowa 2006) (holding the court conveyed the pertinent information and the defendant's failure to move in arrest of judgment barred a direct appeal of his conviction); *State v. Barnes*, 652 N.W.2d 466, 467-68 (Iowa 2002) (finding written pleas stating the consequences of failing to file a motion in arrest of judgment are sufficient under Iowa Rule of Criminal Procedure 2.8(2)(d) in prosecutions for serious or aggravated misdemeanors). The judgment of the district court is affirmed.

AFFIRMED.