

**IN THE COURT OF APPEALS OF IOWA**

No. 9-460 / 08-1950  
Filed July 22, 2009

**STATE OF IOWA,**  
Plaintiff-Appellee,

**vs.**

**JIMARUS WESTLY PUCKETT,**  
**a/k/a JIMARUS COOK,**  
Defendant-Appellant.

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

Defendant appeals following his guilty pleas to possession of cocaine base, possession of marijuana, and public intoxication. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Bradley M. Bender, Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Cristen Douglass, Assistant Attorney General, Tom Ferguson, County Attorney, and Michelle Wagner, Assistant County Attorney, for appellee.

Considered by Vaitheswaran, P.J., and Doyle, J., and Zimmer, S.J.\*

\*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2009).

**ZIMMER, S.J.**

A defendant appeals after being sentenced for three misdemeanor offenses. He contends his convictions should be reversed because the district court did not have subject matter jurisdiction to accept his pleas of guilty and impose sentence. We affirm the defendant's convictions and sentences.

**I. Background Facts & Proceedings**

Criminal complaints were filed against Jimarus Puckett on October 8, 2008, accusing him of possession of crack/cocaine, second offense, in violation of section 124.401(5); possession of marijuana, second offense, in violation of section 124.401(5); and public intoxication, second offense, in violation of Iowa Code section 123.46(2) (2007). He was charged with an aggravated misdemeanor and two serious misdemeanors.<sup>1</sup>

Puckett filed a written guilty plea on October 31, 2008, to these charges, which contained a plea agreement as to sentencing. Puckett's written plea requested "that judgment and sentence be pronounced upon receipt of this plea." The district court accepted Puckett's guilty plea on November 6, 2008. The court followed the plea agreement and sentenced Puckett to two years in prison on the crack/cocaine charge, one year in jail on the marijuana charge, and one year in jail on the public intoxication charge, all suspended. Puckett was placed on probation for one to two years. A trial information formally charging Puckett with the three offenses he had already pled guilty to was filed on November 19, 2008.

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<sup>1</sup> Second offense possession of crack/cocaine is an aggravated misdemeanor. Iowa Code § 124.401(5). Second offense possession of marijuana is sentenced under section 903.1(1)(b), as a serious misdemeanor. *Id.* A second conviction for public intoxication is a serious misdemeanor. Iowa Code § 123.91(1).

Puckett appealed, claiming the court did not have subject matter jurisdiction in this case because the court accepted his guilty plea prior to the time the trial information was filed.

## **II. Standard of Review**

Challenges to a court's subject matter jurisdiction are reviewed as a matter of law. *State v. Emery*, 636 N.W.2d 116, 119 (Iowa 2001). Our review is for the correction of errors at law. Iowa R. App. P. 6.4.

## **III. Merits**

Puckett points out that “[c]riminal offenses other than simple misdemeanors may be prosecuted to final judgment either on indictment or on information.” Iowa R. Crim. P. 2.4(2). This case does not involve simple misdemeanors, and he asserts that because there was no formal indictment or information at the time he pled guilty, the district court did not have subject matter jurisdiction over the case.

A guilty plea waives all defenses and objections that are not intrinsic in the plea itself. *State v. Everett*, 372 N.W.2d 235, 237 (Iowa 1985). Generally, a party seeking to challenge a guilty plea must file a motion in arrest of judgment in order to preserve error. “A defendant’s failure to challenge the adequacy of a guilty plea proceeding by motion in arrest of judgment shall preclude the defendant’s right to assert such challenge on appeal.” Iowa R. Crim. P. 2.24(3)(a).

Puckett contends, however, that because he is challenging the court’s subject matter jurisdiction, there is no error preservation requirement for his

claims. A subject matter jurisdictional challenge may be made at any time. *State v. Oetken*, 613 N.W.2d 679, 686 (Iowa 2000).

“Subject matter jurisdiction is the power of a court ‘to hear and determine cases of the general class to which the proceedings in question belong, not merely the particular case then occupying the court’s attention.’” *State v. Yodraprasit*, 564 N.W.2d 383, 385 (Iowa 1997) (citation omitted). A court obtains jurisdiction through the constitution or by statute, and jurisdiction cannot be conferred by consent, waiver, or estoppel. *Id.*

Subject matter jurisdiction is distinguishable from authority. *State v. Mandicino*, 509 N.W.2d 481, 482 (Iowa 1993). A court may lack authority when the statutory procedures for involving the court’s authority have not been followed. *Emery*, 636 N.W.2d at 119. Unlike subject matter jurisdiction, a party may waive its objection to the court’s lack of authority. *Mandicino*, 509 N.W.2d at 483. “[A] subsequent guilty plea waives all objections, including any objections to the court’s authority to hear the case.” *Emery*, 636 N.W.2d at 120.

Puckett’s guilty plea proceedings were in the Iowa District Court for Black Hawk County. Under the Iowa Constitution, district courts “have jurisdiction in civil and criminal matters arising in their respective districts, in such manner as shall be prescribed by law.” Iowa Const. art. V, § 6. A district court has “exclusive, general, and original jurisdiction” of criminal cases, except where another court has exclusive or concurrent jurisdiction. Iowa Code § 602.6101. The matter was heard by a district associate judge, who had jurisdiction of indictable misdemeanors, such as those involved here. See Iowa Code §

602.6306(2). We conclude the court clearly had subject matter jurisdiction over this case. See *State v. Taggart*, 430 N.W.2d 423, 426 (Iowa 1988) (finding the district court had subject matter jurisdiction because it was empowered to hear the general class of criminal cases).

“A judgment of conviction upon a voluntary plea of guilty to a crime for which one was not indicted is not necessarily void.” *State v. Meyers*, 256 Iowa 801, 804, 129 N.W.2d 88, 90 (1964). “[A]lthough the requirement that the accused be furnished with a copy of the indictment or information is mandatory, it can be waived.” *State v. Hochmuth*, 585 N.W.2d 234, 236 (Iowa 1998). A defendant may waive an objection to the lack of a formal charge by pleading guilty to the uncharged offense.<sup>2</sup> *Id.* A voluntary guilty plea waives a claim that the defendant was not technically charged with the crime giving rise to the plea. *Herman v. Brewer*, 193 N.W.2d 540, 545 (Iowa 1972).

Puckett does not claim he was prejudiced by the lack of a formal indictment or information prior to his guilty plea. He was aware of the charges against him, and his written guilty plea establishes the same charges as those found in the trial information filed after the plea proceedings.

This case involves authority, not subject matter jurisdiction. Therefore, Puckett’s challenge based on the lack of the filing of a formal trial information prior to the court’s acceptance of a guilty plea may be waived. Puckett’s guilty plea “waives all objections, including any objection to the court’s authority to hear

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<sup>2</sup> In *Hochmuth*, 585 N.W.2d at 236, the Iowa Supreme Court distinguished between instances in which a defendant was convicted by a jury of an uncharged offense, see *State v. Adcock*, 426 N.W.2d 639, 640 (Iowa Ct. App. 1988), and where a defendant pleads guilty to an uncharged offense.

the case.” See *Emery*, 636 N.W.2d at 120. His failure to raise this issue before the district court during the plea proceedings, or by a motion in arrest of judgment, means he has not preserved this issue for appeal.

We conclude Puckett’s convictions based on his guilty pleas should be affirmed.

**AFFIRMED.**