

IN THE COURT OF APPEALS OF IOWA

No. 2-1054 / 11-1603
Filed January 9, 2013

STATE OF IOWA,
Plaintiff-Appellee,

vs.

TRAVIS COLEMAN,
Defendant-Appellant.

Appeal from the Iowa District Court for Scott County, John D. Telleen,
Judge.

A defendant challenges the factual basis for his plea to being a felon in
possession of a firearm. **AFFIRMED.**

Jack E. Dusthimer, Davenport, for appellant.

Thomas J. Miller, Attorney General, Elisabeth S. Reynoldson, Assistant
Attorney General, Michael J. Walton, County Attorney, and Melisa Zaehringer,
Assistant County Attorney, for appellee.

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

VAITHESWARAN, J.

Travis Coleman entered an *Alford*¹ plea to second-degree burglary and being a felon in possession of a firearm. He later filed a motion in arrest of judgment, alleging in part that the plea lacked a factual basis. The district court denied the motion and imposed sentence, including an enhancement under Iowa Code section 902.7 (2009) for participating in a forcible felony while displaying a dangerous weapon or being armed with a dangerous weapon.²

On appeal, Coleman challenges the factual basis for his plea to the crime of being a felon in possession of a firearm. See *State v. Schminkey*, 597 N.W.2d 785, 788 (Iowa 1999) (“The district court may not accept a guilty plea without first determining that the plea has a factual basis.”). He specifically contends “it is not clear that [he] appropriately acknowledged, or understood he was making a concession he was . . . previously convicted of a felony—such that he had committed the crime of felon in possession.” Our review is for errors of law. *State v. Martin*, 778 N.W.2d 201, 202 (Iowa Ct. App. 2009).

¹ An *Alford* plea allows a defendant to consent to the imposition of prison sentence without admitting participation in the acts constituting the crime. *North Carolina v. Alford*, 400 U.S. 25, 37 (1970).

² That provision states:

At the trial of a person charged with participating in a forcible felony, if the trier of fact finds beyond a reasonable doubt that the person is guilty of a forcible felony and that the person represented that the person was in the immediate possession and control of a dangerous weapon, displayed a dangerous weapon in a threatening manner, or was armed with a dangerous weapon while participating in the forcible felony the convicted person shall serve a minimum of five years of the sentence imposed by law. A person sentenced pursuant to this section shall not be eligible for parole until the person has served the minimum sentence of confinement imposed by this section.

Iowa Code § 902.7.

Iowa Code section 724.26, governing the crime of being a felon in possession of a firearm, states in part: “A person who is convicted of a felony in a state or federal court . . . and who knowingly has under the person’s dominion and control or possession, receives, or transports or causes to be transported a firearm or offensive weapon is guilty of a class “D” felony.” At the plea hearing, the court engaged in the following colloquy with Coleman:

THE COURT: Before you could be found guilty under Section 724.26 of the Iowa Code the State must prove beyond a reasonable doubt the following propositions: on the 6th day of June, 2010, you knowingly possessed a firearm and that at that time you were previously convicted of a felony and I believe in this case it’s burglary in the second degree. They would also need to prove that on the 6th day of June, 2010, you knowingly possessed a firearm. Do you understand what the State would have to prove for that charge?

MR. COLEMAN: Yes.

Coleman’s attorney then asked him the following question:

Now, with regard to the enhancement for the felon—for possession of a firearm during the commission of a forcible felony, do you agree that the testimony of Joe Joe Howard and or the testimony of Tehrrance Burrage could convince a jury beyond a reasonable doubt that you carried a gun during the course of a forcible felony, of burglary in the first degree?

Coleman responded, “Yes.” Coleman’s attorney continued, “That’s why you’re stipulating to the enhancement for the firearm, they could prove it or the jury might very well find that from the evidence, is that correct?”

Again, Coleman responded, “Yes.”

In addition to these statements, the minutes of testimony revealed that the custodian of Scott County’s records would “testify regarding the defendant’s past

felony conviction to include a conviction in December 2000 in FECR234242 for a drug felony, and in June 2003 in FECR257299 for a conviction for Burglary 2nd degree.” *Schminkey*, 597 N.W.2d at 788 (authorizing examination of minutes of testimony to determine existence of factual basis).

We conclude the district court did not err in finding a factual basis for the crime of being a felon in possession of a firearm. Accordingly, we affirm Coleman’s judgment and sentence for that crime.

AFFIRMED.