IN THE COURT OF APPEALS OF IOWA

No. 3-1054 / 13-0180
Filed December 5, 2013

STATE OF IOWA,
Plaintiff-Appellee,

vs.

SANDRAUEL MARIEUEL TIDWELL,
Defendant-Appellant.

Appeal from the Iowa District Court for Polk County, Odell G. McGhee II and James D. Birkenholz, District Associate Judges.

Defendant challenges the validity of her plea and the district court's denial of her motion in arrest of judgment. **AFFIRMED.**

John Heinicke of Kragnes & Associates, P.C., Des Moines, for appellant.

Thomas J. Miller, Attorney General, Jean Pettinger, Assistant Attorney General, John P. Sarcone, County Attorney, and Maurice Curry, Assistant County Attorney, for appellee.

Considered by Vogel, P.J., and Mullins and McDonald, JJ.

McDONALD, J.

Defendant Sandrauel Tidwell appeals after pleading guilty to, being convicted of, and being sentenced for operating while intoxicated, a first offense. On appeal, she challenges the validity of her plea and the court's denial of her motion in arrest of judgment.

I.

Tidwell pleaded guilty pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970), to operating while intoxicated, a first offense, in violation of Iowa Code section 321J.2 (2011). The court accepted and entered her plea of guilty on December 6, 2012, and set sentencing to occur on January 28, 2013. Prior to the time of sentencing, Tidwell timely filed her motion in arrest of judgment. Following a hearing on the motion, at which Tidwell was present and heard, the court denied the motion. Subsequently, the court sentenced Tidwell to forty-five days' incarceration, with credit for time served, and imposed a fine in the amount of $1250.

II.

Tidwell first contends that the district court erred in accepting her plea because she was misinformed of the minimum and maximum fine that could be imposed as part of her sentence. Specifically, the guilty plea form Tidwell signed at the time of her plea incorrectly stated that the minimum fine is $315 and the maximum fine is $1875 when the only permissible fine is $1250. *See* Iowa Code 321J.2(3)(c). This misinformation was not corrected during the plea colloquy. Tidwell also contends the district court erred in accepting her guilty plea because

there was no factual basis for it. We conclude that Tidwell did not preserve these issues for appellate review.

The written guilty plea informed Tidwell of the requirement that she file a motion in arrest of judgment to challenge her guilty plea and informed her of the consequences for failing to do so. In a misdemeanor case, the provision of written notice is sufficient to apprise a defendant of her obligation to file a motion in arrest of judgment. *See State v. Barnes*, 652 N.W.2d 466, 467-68 (Iowa 2002). Thus, to preserve the challenges to her guilty plea, Tidwell was required to raise the challenges in a motion in arrest of judgment. *See* Iowa R. Crim. P. 2.24(3) ("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.").

The requirement that a defendant challenge a guilty plea proceeding by first filing a motion in arrest of judgment requires more than the filing of a catch-all motion that asserts unidentified "error." To adequately preserve a claim for appellate review, rule 2.24(3) requires the defendant to identify the alleged errors in the plea proceeding with sufficient specificity to allow the motion court the opportunity to decide the issue in the first instance. *See State v. Barbee*, 370 N.W.2d 603, 605 (Iowa Ct. App. 1985) ("Defendant having failed to specify in his motion in arrest of judgment what errors occurred in the taking of the plea, he is ordinarily precluded from asserting any alleged errors on appeal."). In this case, Tidwell did, in fact, timely file a motion in arrest of judgment. The motion only states, however, that Tidwell "believes this plea was accepted in error" without identifying the alleged error or errors. At hearing on the motion, Tidwell did not

identify either of the alleged errors for which she now seeks relief. Her bald assertion that the court committed "error," without more, is not sufficiently specific to preserve her claim for appellate review. *See id.*, 370 N.W.2d at 605.

Our error preservation rules are not intended to be legal bramble bush that serve no purpose other than ensnaring unwitting litigants. Indeed, there is a preference to address claims on the merits. That being said, our error preservation rules are, arguably, statutorily required. *See* Iowa Code 602.5103(1) (providing that the court of appeals is a "court for the correction of errors at law"). If a litigant fails to present an issue to the district court and obtain a ruling on the same, it cannot be said that we are correcting an error at law. Independently, the rules serve other valuable purposes, one of which is preserving judicial resources by allowing district courts to correct error to eliminate the need for appeal.

The value of our error preservation rules are demonstrated by the facts and circumstances of this case. If Tidwell had identified in her motion in arrest of judgment that the she was challenging the factual basis supporting her plea, the State would have been afforded the opportunity to establish a factual basis prior to the court ruling on the motion. *See* Iowa R. Crim. P. 2.24(3)(d). The State was not given the opportunity to remedy the alleged defect, and the motion court was not given the opportunity to pass on the issue. Likewise, if the motion court were made aware of the error in communicating information about the fine, the court could have had the opportunity to correct the error at the time it was made or make a record on the issue of whether the fine was a material inducement of

Tidwell's plea. These issues were not presented to the court, however, and we need not address them further.

III.

Tidwell contends the court erred in denying her motion in arrest of judgment with respect to her claim that her plea was unknowing and involuntary because she was not of sound mind at the time of the plea. "We review a district court's grant or denial of a motion in arrest of judgment and a motion to withdraw a plea for abuse of discretion." *State v. Smith*, 753 N.W.2d 562, 564 (Iowa 2008) (citations omitted). "An abuse of discretion will only be found where the trial court's discretion was exercised on clearly untenable or unreasonable grounds." *Id.* (citation omitted). "A ruling is untenable when the court bases it on an erroneous application of law." *Id.* (citation omitted). A motion in arrest of judgment shall be granted when upon the whole record no legal judgment can be pronounced. *See* Iowa R. Crim. P. 2.24(3)(a).

"Fundamental due process requires a guilty plea be voluntary and intelligent." *State v. Speed*, 573 N.W.2d 594, 597 (Iowa 1998) (quotations and citation omitted). It is not sufficient for Tidwell to establish that she was ill or under stress; instead, she must establish that her plea was unknowing or involuntary. *See State v. Myers*, 653 N.W.2d 574, 581 (Iowa 2002) (holding that district court did not abuse its discretion in denying defendant's motion in arrest of judgment where defendant claimed diminished capacity due to depression but the record demonstrated that defendant understood the plea proceedings); *Speed*, 573 N.W.2d at 597-98 (holding that district court did not err in denying motion in arrest of judgment where defendant claimed he felt pressured to plead

guilty); *State v. Blum*, 560 N.W.2d 7, 9 (Iowa 1997) (refusing to find that alleged stress and pressure from defendant's long confinement in jail prevented his entering a voluntary and intelligent plea); *State v. Bullock*, No. 11-1523, 2012 WL 1864769, at *5 n.5 (Iowa Ct. App. May 23, 2012) (rejecting claim that defendant did not have capacity to waive rights based on "bare assertion" that he was under stress); *Trobaugh v. State*, 786 N.W.2d 268, 2012 WL 1875723, at *2 (Iowa Ct. App. May 12, 2010) (holding that defendant who suffered head injury prior to tendering guilty plea did not establish that the injury impaired his ability to plead guilty).

There is nothing in the record supporting Tidwell's claim that she was of unsound mind or that her plea was otherwise not knowing and voluntary. The written guilty plea, signed by Tidwell, states she is knowingly and voluntarily pleading guilty by way of *North Carolina v. Alford*. During the colloquy, Tidwell was lucid and answered the court's questions appropriately. She acknowledged during the colloquy that she understood her rights, that she was waiving her rights, and that she wanted to plead guilty. Further, at the hearing on her motion in arrest of judgment, Tidwell did not assert she was of unsound mind at the time of the plea. Instead, she stated she was suffering from back pain due to an accident and she was under stress. She also acknowledged that she did, in fact, understand the plea proceeding:

> THE COURT: . . . But anyway, what I'm concerned with at this time, are you saying you didn't know what was going on in the courtroom?
>
> DEFENDANT: I'm saying I was under a lot of stress and a lot—a lot of things was going on at that time.
>
> . . . .
>
> THE COURT: And you came to court; is that correct?

DEFEFNDANT: Yes, I did.
THE COURT: And you understood what went on inside the courtroom; is that correct?
DEFENDANT: You're correct, Your Honor.

The court did not err in finding that Tidwell knowingly and voluntarily pleaded guilty to this offense. Because Tidwell did not present any legally sufficient claim in support of her motion in arrest of judgment, the court did not abuse its discretion in denying the same.

AFFIRMED.