IN THE COURT OF APPEALS OF IOWA

No. 2-627 / 11-1215
Filed August 22, 2012

STATE OF IOWA,
Plaintiff-Appellee,

vs.

JAMES ANTHONY TAYLOR,
Defendant-Appellant.

Appeal from the Iowa District Court for Polk County, Douglas F. Staskal, Judge.

A defendant contends his right to a speedy trial was violated and the district court erred in denying his motion to dismiss on that ground; in the alternative, he contends counsel was ineffective in failing to ensure that he had a speedy trial date. **AFFIRMED.**

Andrea M. Flanagan of Sporer & Flanagan, P.L.L.C., Des Moines, for appellant.

Thomas J. Miller, Attorney General, Benjamin M. Parrott, Assistant Attorney General, John P. Sarcone, County Attorney, and Mark Sandon, Assistant County Attorney, for appellee.

Considered by Vaitheswaran, P.J., and Potterfield and Bower, JJ.

VAITHESWARAN, P.J.

The State charged James Taylor with several crimes arising from a stand-off with police and a domestic confrontation. After a number of postponements, including postponements to establish his competency, Taylor pleaded guilty to threats, second-degree criminal mischief, unauthorized possession of an offensive weapon, and interference with official acts. The district court imposed sentence.

On appeal, Taylor contends his right to a speedy trial was violated and the district court erred in denying his motion to dismiss on that ground. *See* Iowa R. Crim. P. 2.33(2)(b) ("If a defendant indicted for a public offense has not waived the defendant's right to a speedy trial the defendant must be brought to trial within 90 days after indictment is found or the court must order the indictment to be dismissed unless good cause to the contrary be shown."). The State responds that Taylor waived this defense when he pleaded guilty. *See State v. McGee*, 211 N.W.2d 267, 268 (Iowa 1973) (stating a guilty plea "'waives all defenses and irregularities except that the information or indictment charges no offense and the right to challenge the plea itself'" and holding that defendant waived delay in trial by pleading guilty (quoting *State v. Burtlow*, 210 N.W.2d 438, 439 (Iowa 1973))).

Anticipating this response, Taylor also raises the issue under an ineffective-assistance-of-counsel rubric, contending: "At best, the district court's ruling on [his] Motion to Dismiss provides adequate information for [his] claim that he had ineffective assistance of counsel that failed to ensure he had a speedy trial date and agreed to continuances due to scheduling conflicts." *See*

Strickland v. Washington, 466 U.S. 668, 687 (1984) (requiring proof that counsel breached an essential duty and that prejudice resulted to establish ineffective assistance of counsel). While the State argues this bare assertion, without citation to authority, does not amount to a proper presentation of the ineffective-assistance-of-counsel issue, we believe Taylor sufficiently raised the claim that counsel was ineffective in failing to ensure he was brought to trial within the speedy trial deadline. *See Ennenga v. State*, 812 N.W.2d 696, 702 (Iowa 2012) ("If Ennenga's attorney did not ensure that the State abided by rule 2.33, and allowed his client to plead guilty to charges that could have been dismissed with prejudice, then he failed to perform an essential duty.").

Although the claim was properly raised, the record is inadequate for us to address it. *See State v. Truesdell*, 679 N.W.2d 611, 616 (Iowa 2004) ("Ordinarily, ineffective assistance of counsel claims are best resolved by postconviction proceedings to enable a complete record to be developed and afford trial counsel an opportunity to respond to the claim."). Accordingly, we preserve it for postconviction relief proceedings.

AFFIRMED.