**IN THE COURT OF APPEALS OF IOWA**

No. 3-303 / 12-1345
Filed May 15, 2013

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

**vs.**

**WILLIAM EDWARD BLAKEMAN III,**
Defendant-Appellant.

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Appeal from the Iowa District Court for Dubuque County, Michael J. Shubatt, Judge.

Defendant argues his guilty plea was not knowing or voluntary because the district court failed to inform him of the minimum fine. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Vidhya K. Reddy, Assistant Appellate Defender, for appellant.

William Blakeman III, Dubuque, pro se.

Thomas J. Miller, Attorney General, Tyler J. Buller, Assistant Attorney General, Ralph Potter, County Attorney, and Brigit Barnes and Timothy Gallagher, Assistant County Attorneys, for appellee.

Considered by Eisenhauer, C.J., and Potterfield and Tabor, JJ.

**EISENHAUER, C.J.**

William Blakeman III appeals his judgment and sentence for third-degree burglary, an offense subject to "confinement for no more than five years and in addition" a fine of at least $750 "but no more than" $7500. *See* Iowa Code § 902.9(5) (2011). Blakeman argues his guilty plea was not knowing or voluntary because the district court failed to inform him of the minimum fine. He requests we reverse his conviction and sentence and remand the case so he can plead anew. We affirm.

**I. Background Facts and Proceedings.**

After the State charged Blakeman with third-degree burglary and also alleged he was a habitual offender, the parties reached a plea agreement. Blakeman agreed to enter a plea of guilty to third-degree burglary. The State agreed to delete the habitual offender enhancement and to recommend suspension of the prison sentence and suspension of the minimum fine.

At the guilty plea hearing, the court informed Blakeman of the "maximum penalty of five years in prison and a maximum fine of $7500." Blakeman acknowledged he understood the maximums. The prosecutor acknowledged the State, under the plea agreement, would be recommending the minimum fine along with suspension of the fine. The court then stated:

> So, Mr. Blakeman, I'm going to recite what I understand the terms of the plea agreement to be . . . . At sentencing the State would recommend that any prison sentence in this matter would be suspended. The prison sentence for a Class D felony is not to exceed five years. The State would recommend that you receive a $750 fine but that be suspended as well, so that you would not pay it unless you violated your probation.

Blakeman agreed with the court's statement of the terms of the plea. Blakeman acknowledged the plea agreement is not binding on the court and the court "could, if it thought it was appropriate for any reason, impose a sentence up to and including the maximums." Blakeman pleaded guilty to third-degree burglary, and the court accepted his plea.

Subsequently, Blakeman was sentenced in accordance with the plea agreement. This appeal followed.

**II. Scope and Standards of Review.**

We review a claim of error in a guilty plea proceeding for the correction of errors at law. *State v. Meron*, 675 N.W.2d 537, 540 (Iowa 2004).[1]

**III. Merits.**

Blakeman argues the court's failure to personally advise him of the minimum applicable fine of $750 rendered his guilty plea unknowing and involuntary. He asserts the court's recitation of a $750 fine as a part of the plea agreement "did not amount to substantial compliance with the court's obligation to personally advise Blakeman of the minimum $750 fine during the plea proceeding."

A plea of guilty must be made knowingly, voluntarily, and intelligently. *Id.* at 542. Iowa Rule of Criminal Procedure 2.8(2)(b) states:

> *Pleas of guilty*. . . . Before accepting a plea of guilty, the court must address the defendant personally in open court and

[1] Blakeman did not file a motion in arrest of judgment as is generally required for a defendant to preserve a challenge to a guilty plea on appeal. *See Meron*, 675 N.W.2d at 540. On appeal, however, the State admits the district court did not adequately advise Blakeman of the consequences of a failure to file a motion in arrest of judgment. The State acknowledges the result of this failure is the rules of error preservation do not apply to Blakeman's direct appeal of his guilty plea. *See id*.

> inform the defendant of, and determine that the defendant understands, the following:
>
> . . . .
>
> (2) The mandatory minimum punishment, if any, and the maximum possible punishment provided by the statute defining the offense to which the plea is offered.

We apply a "substantial compliance" standard. *See State v. Kress*, 636 N.W.2d 12, 21 (Iowa 2001) (stating "[s]ubstantial-not-strict-compliance with the rule is all that is required"). "Under the substantial-compliance standard, a trial court is not required to advise a defendant of his rights using the precise language of the rule; it is sufficient that the defendant be informed of his rights in such a way that he is made aware of them." *State v. Myers*, 653 N.W.2d 574, 578 (Iowa 2002).

The trial court specifically informed Blakeman of the applicable maximum fine, and it further identified the $750 amount as the agreed-upon fine immediately after the prosecutor stated the State agreed to and would be recommending the minimum fine. Under these circumstances, the necessary information was communicated to Blakeman on the record, and he was aware of his rights. We will not set aside Blakeman's plea because of a hyper-technical defect in the specificity of the court's colloquy about a minimum fine that was never actually imposed. We conclude the court substantially complied with its "obligation to ensure [Blakeman's] knowledge and understanding of the nature of the charges and the potential punishments." *See State v. Loye*, 670 N.W.2d 141, 153 (2003).

**AFFIRMED.**