IN THE COURT OF APPEALS OF IOWA

No. 3-361 / 12-1144
Filed May 15, 2013

STATE OF IOWA,
Plaintiff-Appellee,

vs.

DANIEL DEE LEWIS,
Defendant-Appellant.

Appeal from the Iowa District Court for Muscatine County, Bobbi M. Alpers (guilty plea) and Gary D. McKenrick (sentencing), Judges.

Challenging the imposition of a sentencing enhancement pursuant to Iowa Code section 124.411 (2011), Daniel Lewis appeals from his sentence for manufacturing methamphetamine. **AFFIRMED.**

Daniel Dee Lewis, Mount Pleasant, appellant pro se.

Mark C. Smith, State Appellate Defender, and Nan Jennisch, Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Linda J. Hines, Assistant Attorney General, Alan Ostergren, County Attorney, and Kevin McKeever and Korie Shippee, Assistant County Attorneys, for appellee.

Considered by Doyle, P.J., and Danilson and Mullins, JJ.

DOYLE, P.J.

Daniel Lewis was charged with a multiplicity of offenses including manufacturing methamphetamine, theft, criminal mischief, and traffic violations. In a complex plea agreement with the State, Lewis pled guilty to some of the offenses, including manufacturing methamphetamine in violation of Iowa Code section 124.401(1)(c)(6) (2011), a class "C" felony. The charge of manufacturing methamphetamine pled to by Lewis was a "second or subsequent offense" pursuant to section 124.411 and further enhanced by habitual offender status pursuant to section 908.2 as provided in the second amended trial information. In exchange, the State dismissed the remaining charges. Thereafter, the district court sentenced Lewis to twenty-four years in prison on the manufacturing methamphetamine conviction, applying a sentencing enhancement pursuant to section 124.411, which provides:

> 1. Any person convicted of a second or subsequent offense under this chapter, may be punished by imprisonment for a period not to exceed three times the term otherwise authorized . . . .
>
> 2. For purposes of this section, an offense is considered a second or subsequent offense, if, prior to the person's having been convicted of the offense, the offender has ever been convicted under this chapter or under any state or federal statute relating to narcotic drugs or cocaine, marijuana, depressant, stimulant, or hallucinogenic drugs.

At issue here is imposition of the sentencing enhancement. Lewis asserts his sentence was illegal because there was insufficient proof he had a prior drug conviction to trigger the section 124.411 enhancement. We review his claim for correction of errors at law. *Tindell v. State*, 629 N.W.2d 357, 359 (Iowa 2001). "Illegal sentences may be challenged at any time, notwithstanding that the

illegality was not raised in the trial court or on appeal." *State v. Lathrop*, 781 N.W.2d 288, 293 (Iowa 2010).

During the plea colloquy, the court stated:

> [I]t's my understanding you're willing to plead guilty to manufacture of methamphetamine, you are going to be acknowledging that you have previous felony-level convictions with drugs, and you understand that the recommendation of the State would be that you get a sentence of [twenty-four] years and that you would then have to do a mandatory minimum of eight years before being eligible for parole. That's my attempt at plain English on this. Is that what you think is going on today?

Lewis responded, "Yes." During the colloquy Lewis agreed he had previously been twice convicted of a felony, once in 1985 in Scott County, and once in 1995 in Muscatine County. Later in the colloquy, the court clarified its inquiry:

> THE COURT: I need to know from you, Mr. Lewis, if you had a prior conviction of a controlled substance when you were involved in the activity that is the basis of [the current methamphetamine charge]. . . . Had you previously been convicted of a second or more offense?
>
> [LEWIS]: I had a felony meth charge in 1985, a methamphetamine charge.[1]
>
> THE COURT: So you had a felony on the meth; is that correct?
>
> [LEWIS]: Yes.

Additionally, Lewis's presentence investigation report, which was reviewed by the sentencing court and not challenged by Lewis, indicated Lewis was convicted in 1995 of "possession of cocaine/Crystal Meth W/intent to deliver" and sentenced to ten years in prison for the offense. Based upon Lewis's own statement to the court, as well as the information contained in the presentence investigation

[1] Lewis is undoubtedly referring to his 1995 conviction of possession with intent to deliver. According to the presentence investigation report, Lewis was convicted of burglary in the second degree in Scott County in 1985 and of possession of cocaine/crystal meth with intent to deliver in Muscatine County in 1995.

report, the court had sufficient evidence to invoke and impose the sentencing enhancement under section 124.411. Lewis's sentence was therefore not illegal.

In addition to the brief filed by his counsel, Lewis filed a pro se brief—a two paragraph letter to the court. It makes an unsubstantiated allegation and prays for relief unavailable in this forum. Further, the brief advances no argument, makes no reference to the record, and cites no authorities. We refuse to consider Lewis's pro se brief as it does not comply with any of the applicable rules of appellate procedure. *See In re Estate of DeTar*, 572 N.W.2d 178, 180 (Iowa Ct. App. 1997) ("Substantial departures from applicable procedures cannot be permitted on the basis that a non-lawyer is handling [their] own appeal.").

Because Lewis's sentence was not illegal, we affirm Lewis's conviction and sentence for manufacturing methamphetamine.

AFFIRMED.