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**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-0832**

State of Minnesota,
Respondent,

vs.

Pedro Antonio Lawler,
Appellant.

**Filed April 15, 2019
Affirmed
Cochran, Judge**

Chisago County District Court
File No. 13-CR-16-567

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Janet Reiter, Chisago County Attorney, David W. Hemming, Assistant County Attorney, Erin C. Stephens, Assistant County Attorney, Center City, Minnesota (for respondent)

Cathryn Middlebrook, Chief Public Defender, Jessica Merz Godes, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Hooten, Presiding Judge; Reyes, Judge; and Cochran, Judge.

UNPUBLISHED OPINION

COCHRAN, Judge

Appellant Pedro Antonio Lawler argues that the district court erred by failing to address a potential conflict of interest between himself and his attorney after he moved to

withdraw his guilty pleas due to ineffective assistance of counsel. Because Lawler's attorney helped him present his request to withdraw his guilty pleas and the district court fully considered and addressed Lawler's request, we affirm.

FACTS

In September 2016, a grand jury indicted Lawler on 13 counts of criminal sexual conduct and child pornography. Ten of those counts carried life sentences. On September 18, 2017, Lawler agreed to plead guilty to two counts of first-degree criminal sexual conduct in an amended public indictment in exchange for the state dismissing the remaining counts. The plea agreement specified that Lawler would receive consecutive 200-month sentences.

During the plea hearing, Lawler's public defender informed the district court that Lawler had been wavering on whether or not to plead guilty, and Lawler then stated that he intended to plead guilty. Lawler indicated that he went through the plea agreement line by line with his public defender. Lawler also indicated that he did not have any additional questions for his public defender, any questions about his public defender's representation, any questions about the pleas, or any questions about his rights. Lawler agreed that he was clear headed and that he was entering his guilty pleas freely and voluntarily. Prior to accepting Lawler's pleas, the district court indicated that once he pleaded guilty and established a factual basis "it's very difficult to withdraw that plea." Lawler indicated that he understood and proceeded to plead guilty.

In response to questions from the prosecutor, Lawler agreed that he had differences of opinion with his public defender over the course of the case. But he indicated that he

was making the decision to plead guilty for himself, based on the evidence and his prospects at trial.

Nearly two months later, on November 2, Lawler sent his public defender a letter stating that he wished to withdraw his guilty pleas because he was under duress during the plea hearing. Lawler's public defender then filed a motion on Lawler's behalf to withdraw his guilty pleas. The public defender attached an affidavit indicating that he "did not perceive [Lawler] to be operating under any type of mental duress; this may have been difficult to detect because of [Lawler's] intelligence and knowledge of his case." The public defender's affidavit further indicated that if he had "observed mental-duress, [he] would not have furthered the plea[s], and [he] would have informed the Court at the time of the plea[s]."

During a hearing on Lawler's motion to withdraw his guilty pleas, Lawler's public defender indicated that Lawler wanted to address the district court. The district court invited Lawler to speak. The public defender told Lawler that he was free to say anything he wanted to the district court and that it would not negatively affect his status because he had already pleaded guilty. Lawler told the district court that, prior to pleading guilty, he informed his public defender that he was under duress and "in no mental shape" to plead guilty. Lawler stated that he had insisted to his public defender that he wanted to go to trial, and that his public defender responded by yelling at him, telling him that he would get life in prison, and stating that "he would make himself as limitedly available [to Lawler] as he possibly could." Lawler then told the district court that he felt that if he did not plead guilty he would "have no representation to speak of with [his public defender] other than

the bare minimum possible.” The public defender told the district court that he had no further argument. Neither Lawler nor his public defender suggested that Lawler should receive different representation either for his motion to withdraw his guilty pleas or later in the case.

The district court denied Lawler’s motion to withdraw his pleas, finding that Lawler’s statements were not credible. The district court’s order noted that (1) aside from Lawler’s statements made long after the plea hearing, the record contained no evidence that Lawler’s public defender coerced him; (2) the district court did not observe that Lawler was under any mental duress during the hearing; and (3) Lawler never indicated any concern or equivocation about his voluntary desire to proceed with his guilty pleas. The district court concluded that Lawler did not meet either the manifest-injustice standard or the fair-and-just standard necessary to withdraw his guilty pleas.

The district court ultimately sentenced Lawler to two consecutive 200-month sentences. Lawler’s public defender continued to represent Lawler for his sentencing hearing.

This appeal follows.

D E C I S I O N

Lawler argues that the district court erred by failing to address the alleged conflict of interest between Lawler and his public defender and by failing to appoint substitute counsel to represent him for his motion to withdraw his guilty plea. A criminal defendant has a constitutional right to counsel. U.S. Const. amend. VI; Minn. Const. art. I, § 6. A defendant’s constitutional “right to counsel includes a fair opportunity to secure an attorney

of choice, but an indigent defendant does not have the unbridled right to be represented by the attorney of his choice.” *State v. Worthy*, 583 N.W.2d 270, 278 (Minn. 1998). “A court will grant an indigent’s request for different counsel only if exceptional circumstances exist and the demand is timely and reasonably made.” *Id.* (quotation omitted).

If “the defendant voices serious allegations of inadequate representation, the district court should conduct a searching inquiry before determining whether the defendant’s complaints warrant the appointment of substitute counsel.” *State v. Munt*, 831 N.W.2d 569, 586 (Minn. 2013) (quotation omitted). “[W]hen an attorney informs the district court of a probable risk of conflict, and the court fails to take adequate steps to ascertain whether an impermissible conflict exists, the defendant’s conviction must be reversed without inquiry into prejudice resulting from the alleged conflict.” *State v. Paige*, 765 N.W.2d 134, 140-41 (Minn. App. 2009) (quotation omitted).

The Minnesota Supreme Court addressed whether a defendant should receive substitute counsel on a motion to withdraw a guilty plea in *Butala v. State*, 664 N.W.2d 333, 341 (Minn. 2003). In that case, Butala sought to withdraw his guilty pleas, arguing in part that he was “under emotional and mental stress at the time of the pleas” and that he “had received inadequate representation.” *Butala*, 664 N.W.2d at 340. Butala brought his motion pro se, and his attorneys declined to speak in support of the motion, citing conflicts of interest should the motion be granted. *Id.* at 341. The district court denied the motion to withdraw the guilty pleas, and Butala later brought a petition for postconviction relief through independent counsel. *Id.* at 341. After the postconviction court denied Butala’s petition, he appealed. *Id.* at 338. The supreme court affirmed his conviction, stating that,

although the better procedure would have been to appoint substitute counsel for the motion to withdraw the guilty pleas, the district court gave the motion serious consideration, and the defendant was able to present his claims to the postconviction court with independent counsel. *Id.* at 341.

This court considered a similar issue in *Paige*. In that case, Paige pleaded guilty while represented by private counsel. *Paige*, 765 N.W.2d at 136. Paige then wrote to the district court, indicating that he wanted to withdraw his plea and fire his counsel, and alleging that he only pleaded guilty because of his counsel's "verbal coercion and persuasion." *Id.* at 136-37. The district court then held a hearing "to understand on the record what [Paige's] wishes are," but stated that it was not hearing any motions. *Id.* at 137 (quotation marks omitted). The district court indicated that it could not take any action on Paige's request to withdraw his plea unless he had another attorney ready to substitute. *Id.* The district court also indicated that Paige could re-apply for a public defender but took no further action on the issue. *Id.*

Paige's attorney did not file any motion on his behalf and made no argument during a combined sentencing and withdrawal hearing. *Id.* Paige's attorney indicated during the hearing that, because Paige was arguing ineffective assistance of counsel, he was "a little bit in a difficult position in terms of what [he could] and [could not] do in this case." *Id.* This court distinguished the case from *Butala*, writing that "counsel's comments at the January 8, 2008, hearing, combined with his failure to file any motion or make any arguments on appellant's behalf, were sufficient to bring the district court's attention to the fact that a potential conflict of interest existed that could materially limit counsel's

representation of appellant.” *Id.* at 141. This court noted that the absence of representation in *Butala* “was attributable solely to the nature of [Butala’s] plea-withdrawal claim” while in *Paige*, the issue could not be “divorced from the district court’s failure to clarify and address appellant’s request to discharge counsel.” *Id.* at 142.

Lawler argues that this case is similar to *Paige* and that this court should remand to district court for a new plea-withdrawal hearing with conflict-free counsel. But this case is distinguishable from *Paige* in several significant ways. First, *Paige* had a private attorney. *Id.* at 136. Lawler was represented by the public defender’s office. A defendant does not have an unbridled right to a different public defender, and, unlike *Paige*, Lawler never requested a new attorney. *See Worthy*, 583 N.W.2d at 278 (explaining that the court will only grant a request for a different public defender under exceptional circumstances).

Second, *Paige*’s attorney moved to withdraw and indicated that he was limited in his ability to represent *Paige*. *Paige*, 765 N.W.2d at 137. In contrast, Lawler’s public defender did not move to withdraw or indicate any difficulty representing Lawler. In fact, Lawler’s public defender continued to represent Lawler through his sentencing.

Third, *Paige*’s attorney did not file a motion or argue on his behalf. *Id.* at 136-37. Lawler’s public defender filed a motion indicating Lawler’s position and arranged for Lawler to explain his position to the district court in his own words. Lawler was able to present his position and his version of the facts to the district court. Lawler argues that his public defender’s affidavit undermined his position. But the affidavit’s statement that the public defender did not observe any mental duress was a simple statement of fact, and the affidavit also noted that the public defender may not have noticed signs of duress. Lawler’s

public defender, as an officer of the court, has a duty to the administration of justice as well as to his client. *Rucker v. Schmidt*, 794 N.W.2d 114, 120 (Minn. 2011). The public defender's affidavit complied with both of these duties by informing the district court that, although he did not observe any mental duress, signs of mental duress may have been difficult to notice due to Lawler's intelligence and knowledge of the case.

Finally, and most importantly, in *Paige*, the district court did not consider Paige's requests. 765 N.W.2d at 137. Here, the district court considered Lawler's plea-withdrawal request, including his claim that he was under duress when he pleaded guilty. The district court found that Lawler's statements were not credible, that the district court did not observe any mental duress during the hearing, and that Lawler never indicated any concern or equivocation about his request to plead guilty. The district court thoroughly considered Lawler's claims under both the manifest-injustice standard and the fair-and-just standard. The district court did not err by denying Lawler's request to withdraw his guilty pleas without appointing substitute counsel.

Affirmed.