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STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1799

Jetaun Helen Wheeler, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

Filed July 20, 2020
Affirmed
Bratvold, Judge

Hennepin County District Court
File No. 27-CR-13-27810

Cathryn Middlebrook, Chief Appellate Public Defender, Chang Y. Lau, Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

Michael O. Freeman, Hennepin County Attorney, Brittany D. Lawonn, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Considered and decided by Bratvold, Presiding Judge; Segal, Chief Judge; and Rodenberg, Judge.

UNPUBLISHED OPINION

BRATVOLD, Judge

Following an evidentiary hearing, appellant challenges the postconviction court's denial of her petition to withdraw her guilty plea to aiding and abetting unintentional

second-degree murder, arguing the manifest-injustice standard. Because the postconviction court did not abuse its discretion by determining that the district court judge's conduct did not make appellant's plea involuntary under the totality of the circumstances, we affirm.

FACTS

Wheeler supported her plea-withdrawal request by arguing that the district court judge "improperly injected herself into plea negotiations" before and during trial and coerced Wheeler's guilty plea. These facts, therefore, are based on the postconviction court's findings and focus on the parties' plea negotiations. The facts are also summarized in the supreme court opinion filed in *Wheeler v. State*, 909 N.W.2d 558 (Minn. 2018) (*Wheeler II*).

Wheeler's offense and district court proceedings

In late July or early August 2013, E.S. was murdered at the home of his girlfriend, appellant Jetaun Helen Wheeler. Police found E.S.'s body in Wheeler's freezer on August 21 when police obtained and executed a warrant to search the home after E.S.'s family reported him missing. Two of Wheeler's children may have witnessed the murder; one later told a therapist of seeing Wheeler and her friend restraining E.S. and striking him. The state charged Wheeler with intentional second-degree murder, which has a presumptive 306-month guidelines sentence for a person with no criminal history.[1] The state notified Wheeler of its intent to seek an upward durational departure at sentencing

[1] The presumptive guidelines sentencing range for second-degree intentional murder is 261 to 367 months for a person with no criminal history. Minn. Sent. Guidelines 4.A (2012).

based on aggravating factors of particular cruelty to the victim and presence of the children during the victim's death.

In the months leading up to trial, Wheeler sought to plead guilty to manslaughter, but the state refused this offer. Two weeks before trial, on July 3, 2014, the district court held a pretrial hearing on evidentiary issues and discussed a competency hearing to determine whether Wheeler's two young children, about nine- and ten-years old, could testify. At the hearing, the judge encouraged the parties to resolve the case, stating that she would "really like someone to extend an offer" because there were "negatives on both sides," "wins and losses on a lot of elements in this case," "[i]t is a pretty serious situation to have children of the defendant having to come to court and testify possibly against their own mother," and "you never know what the jury is going to do."

On July 7, the district court issued its pretrial rulings, reserving only four issues for trial. The postconviction court found that "[e]ach side prevailed on some of their motions." On July 8, prosecutor Judith Hawley informed the judge in an email, with a copy to defense counsel, that the parties had not reached a plea agreement. Hawley's email described the current offers: The state had offered to reduce the charge to second-degree unintentional murder with a prison sentence of 240 months.[2] And Wheeler had offered to plead guilty to

[2] The state's offer is an upward durational departure; second-degree unintentional murder has a presumptive range of 128 to 180 months. Minn. Sent. Guidelines 4.A.

second-degree manslaughter with a sentencing range of probation up to a "double departure" of 96 months in prison.[3]

The judge responded to both parties by email on July 8, describing and rejecting Wheeler's offer by saying the offer "isn't something this court is willing to do." The judge's email also stated: "Given what facts the court is aware of, a plea to unintentional 2nd degree murder with a prison term the parties can agree on (something in the range of x months and 240 months) appears to be more realistic." The case went to trial. The postconviction court found that, on the first day of voir dire, July 14, "the parties put these same offers [made earlier] on the record."

On Wednesday, July 16, Wheeler's children visited the courtroom to familiarize themselves with it in case they were called to testify. The judge and counsel were present for the children's courtroom visit, but not the jury or Wheeler. The judge spoke with the children and found them competent to testify.

After the first day of trial testimony, on Thursday, July 17, the judge asked about plea negotiations, saying: "I just want[] an update. It's my understanding that the state did get permission to offer to do an unintentional second-degree murder for some range within the box . . . [but] the defendant declined?" Defense counsel told the district court that they would speak to Wheeler about the state's new offer over the weekend. The state put its

[3] The defense offer is an upward durational departure; second-degree manslaughter has a 48-month presumptive sentence. Minn. Sent. Guidelines 4.A.

offer of unintentional second-degree murder for a guidelines sentence of 128 to 180 months on the record by the end of the day.[4]

Trial continued on Friday, July 18. According to later testimony at the postconviction evidentiary hearing, the state called law-enforcement witnesses who testified about finding E.S.'s body and the jury viewed the freezer where his body was found. And the postconviction court found that the state suggested, on Monday, they would be offering photographs of E.S.'s body and intended to call at least one of Wheeler's children as a witness. The postconviction court also found that the state told Wheeler the new offer would be withdrawn if the children testified.

Defense counsel Nancy Laskaris later testified at the postconviction evidentiary hearing that, on Saturday, July 19, she and her co-counsel, Somah Yarney, spent "a couple of hours" with Wheeler explaining to her that they did not feel the case would go well. They were concerned that "the judge's feelings were so strong about resolving" the case due to the children having to testify, the physical evidence was incriminating, and Wheeler would be sentenced harshly if she was convicted. Wheeler eventually decided to plead guilty. Wheeler's attorneys and the prosecutors agreed upon terms over the weekend.

At the beginning of the third day of trial testimony, on Monday, July 21, Wheeler agreed to plead guilty to an amended charge of aiding and abetting second-degree

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[4] The postconviction court found the attorneys had differing recollections about an in-chambers conference concerning the state's new offer. The attorneys' testimony about the in-chambers conference is discussed in detail below.

unintentional murder in exchange for the parties' agreement to request sentencing within the guidelines range of 128 to 180 months.

At a sentencing hearing one month later, the district court imposed a 172-month prison sentence. During the sentencing hearing, the district court judge stated she was "appreciative of the fact that the parties were able to come to some agreement" and that the children were "suffering," which "prompted Ms. Wheeler to enter a plea [of guilty]." The prosecutor stated, "[W]e're all thankful that [the two children] did not have to . . . testify." And defense counsel also stated during the sentencing hearing that Wheeler "gave up her right to trial . . . to protect her children."

Wheeler's first postconviction petition

Over a year later, Wheeler sought to withdraw her guilty plea, asserting in a postconviction petition that the district court judge's participation in the plea negotiations coerced her plea, resulting in a manifest injustice. The postconviction court, the same judge, denied the petition without a hearing. This court affirmed, relying on existing caselaw and reasoning that the district court judge "did not excessively involve [herself]" in plea negotiations because the judge did not offer a specific plea or threaten to impose a specific sentence. *Wheeler v. State*, 889 N.W.2d 807, 816 (Minn. App. 2017) (*Wheeler I*), *rev'd by Wheeler II*. Wheeler sought further review, which the supreme court granted.

Identifying the threshold issue on appeal as "what it means for a district court judge to 'participate' in the plea bargaining negotiation itself," the supreme court reversed and remanded to the postconviction court. *Wheeler II*, 909 N.W.2d at 562. The supreme court addressed three points in its analysis. First, the supreme court stated, "The principle that a

district court judge may not participate in the plea bargaining negotiation itself, which we first recognized in *State v. Johnson*, . . . 156 N.W.2d 218 (1968), is not solely a prohibition on judicial plea offers, promises, or threats. It also prohibits unsolicited judicial comments regarding the propriety of the parties' competing settlement offers." *Wheeler II*, 909 N.W.2d at 560.[5]

Second, "A judge does not participate in the plea bargaining negotiation by merely inquiring into the status of the parties' plea negotiations, sharing general sentencing practices, or disclosing nonbinding plea and sentencing information at the joint request of the parties." *Id.* The supreme court applied these standards in determining that the district court had participated improperly in the plea negotiations in the judge's July 8 email "by providing unsolicited comments regarding the parties' competing settlement offers and proposing a plea deal of its own." *Id.* at 567.[6]

And third, "When a defendant proves that a *Johnson* violation has occurred, the plea is invalid only if it is involuntary under the totality of the circumstances." *Id.* at 560. In other words, the supreme court refused to invalidate every plea in which a *Johnson* violation occurs, and instead adopted a totality-of-the-circumstances analysis to determine

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[5] *Wheeler II* overruled earlier court of appeals decisions that had interpreted *Johnson* to mean that a district court judge is prohibited from becoming "excessively involved" in plea negotiations. 909 N.W.2d at 564. The supreme court specifically overruled *State v. Anyanwu*, 681 N.W.2d 411, 414 (Minn. App. 2004) and *Anderson v. State*, 746 N.W.2d 901, 905 (Minn. App. 2008).

[6] We note that the supreme court stated, "[w]e do not reach the issue of whether the district court participated when it encouraged the parties to 'try to resolve' the case to avoid the 'serious situation' of having the Wheeler's children testify." *Id.* at 566 n.5.

whether a plea is involuntary due to the district court's improper participation in plea negotiations. *Id.* at 567-68. The supreme court determined that this analysis mirrors "the standard voluntariness inquiry" in plea-withdrawal cases. *Id.* at 568.

To facilitate proper consideration of the voluntariness of Wheeler's plea, the supreme court remanded to allow Wheeler to amend her postconviction petition under the new rule of law and for the postconviction court to decide whether to grant an evidentiary hearing to develop a factual record. *Id.* at 568-69. The supreme court characterized the voluntariness inquiry as fact-based and dependent on "the nature and extent of the judge's conduct, together with a variety of other factors bearing on the plea's validity." *Id.*

Wheeler's postconviction evidentiary hearing

The remand was assigned to a new district court judge, who held a postconviction evidentiary hearing on January 24, March 4, and March 6, 2019, and heard testimony from two defense counsel, Wheeler, and two prosecutors.

Both defense counsel testified about events leading to Wheeler's guilty plea. Before July 2014, Laskaris stated that she proposed a second-degree manslaughter plea, but the best offer from the state was "bottom of the box for [the] intentional" murder charge. According to Laskaris, Wheeler "absolutely" refused to plead guilty to intentional murder because Wheeler asserted that E.S. was killed while Wheeler was defending herself after E.S. suddenly hit her on the head with a closet rod, knocked her down a flight of stairs, and sat on her to prevent her from calling 911. Wheeler also refused the state's offer of 240 months for a plea to unintentional murder on July 3, 2013, and Laskaris thought Wheeler did not have "any other choice" than to go to trial. Laskaris also testified that, after she

received the July 8 email from the judge suggesting a sentencing range, she withdrew an offer of proof supporting Wheeler's offer to plead guilty to a manslaughter offense.

Laskaris testified about events during the trial. For example, during the children's July 16 courtroom visit, Laskaris testified that one child "was very shutdown, he didn't look good." According to Laskaris, the judge told the parties, outside the children's presence and in chambers on July 17, that it "would be very traumatizing for the children to . . . testify" and urged Wheeler to accept the state's new offer. Laskaris said the judge also told the parties that if Wheeler accepted the state's offer, she would not sentence Wheeler to either the bottom or top of the box.

Laskaris testified that, at this point, she believed Wheeler was under pressure to resolve the case because the district court had ruled the children were competent to testify, and Wheeler did not want them to testify. Also, Laskaris believed that if Wheeler did not plead guilty, "any trial rulings, [and] sentencing if [Wheeler] were convicted[,] would not have been favorable."

About the "couple" hour meeting that she and Yarney had with Wheeler on Saturday, July 19, Laskaris testified she told Wheeler that she had a strong likelihood of being convicted and serving "an excessive amount of time" in prison. She also explained to Wheeler that "the judge's feelings were so strong about resolving" the case and "they were putting it all on [Wheeler]." According to Laskaris, "it was what we told [Wheeler] about the judge's attitude and how the trial would go that . . . swayed her."

As for what happened after the jail meeting with Wheeler on Saturday, July 19, Laskaris testified that the defense offered that Wheeler would plead guilty to aiding and

abetting unintentional second-degree murder for "a 150-month-middle-of-the-box sentence to allow closure." She added that the prosecutors had to obtain supervisor permission before they could agree to the offer. Wheeler later amended the offer to a guidelines range of 128 to 180 months.

Yarney testified consistently with Laskaris's testimony, describing how Wheeler "very much wanted to go to trial" and turned down initial offers. She also testified that Wheeler's oldest son "was very emotional" when he came to court on July 16. His foster mother had told the defense attorneys that the oldest son had started wetting the bed "in anticipation of the trial." Yarney testified that the judge had a "very visible emotional response to the idea of the kids testifying, and she made it clear that she wanted us to resolve the case" and "push[ed]" for Wheeler to plead guilty.

Yarney testified that on Saturday, July 19, she and Laskaris told Wheeler "about the [j]udge's reaction to the children and our fears of potential trial tax or more severe penalty if she were to be convicted after trial." Yarney agreed that it was "only" after this discussion that Wheeler decided to accept the plea. Yarney defined a "trial tax" as "after trial if a defendant is convicted . . . the [j]udge is going to give a harsher penalty because of forcing witnesses to come to court and go through the trial process." Yarney testified that Wheeler would not have accepted the state's offer if the judge had not "specifically said that she didn't want those children to have to testify."

Wheeler's testimony was less specific than her attorneys' testimony. She testified that she was not guilty of the charged offense and, based on the advice of counsel, she believed the state's case, at most, proved second-degree manslaughter. Wheeler also

testified that, at first, she wanted to go to trial because she knew she was not guilty of second-degree murder, even though her children might have to testify and the state reduced her proposed prison time in successive offers. She stated that "the major factor in me pleading guilty is because I felt like the [j]udge will be harsh on me if I had not took a plea" and because the judge insisted the case be resolved. But Wheeler also stated that she felt "pressed" to take a plea because the judge and prosecutors kept rejecting defense counsels' plea offers. And Wheeler testified that she felt "overwhelmed by everything" at trial. Wheeler also testified that she "relied on [her attorneys] completely." The postconviction court found that Wheeler's testimony about how she was "influence[d] varied throughout the postconviction hearing."

The prosecutors, Hawley and Sarah Stennes, also testified. Hawley verified the sequence of plea offers by the parties. She testified that when Wheeler's oldest child practiced sitting in the witness stand, he became "very, very distressed" and assumed a fetal position. She also testified that, after seeing the child's demeanor, she reduced the prison time on the offer of unintentional second-degree murder from 240 months to 180 months, and added that the offer would be withdrawn if the children were called to testify at trial. Hawley agreed that the judge was not responsible for the new offer and she did not "feel pressure from the judge" to settle. She explained that more severe punishment is a risk in any case that goes to trial because the district court may learn of evidence during trial that would not have been revealed during a plea hearing.

Stennes also verified the timing of the plea offers from the state to Wheeler. She testified that, when the parties were far apart in their initial negotiations, the judge "was

frustrated with both sides, that neither side was willing to budge." She also described the judge as having "a very strong control over her courtroom" and appearing "formal." And she stated that the state's managing attorney controlled the offers and approved the state's offer of 240 months on unintentional second-degree murder during the early days of trial. According to Stennes, the judge had no "memorable changes in her demeanor at all" on Friday, July 18, and "[s]he maintained professionalism throughout the trial." Stennes also saw nothing "unusual" in the judge's demeanor on Monday, July 21, when the court received Wheeler's guilty plea.

The postconviction court made detailed factual findings in its order following the evidentiary hearing, including a precise chronology of plea negotiations leading up to Wheeler's final decision to accept the state's plea offer, and long quotes from the trial transcripts and the testimony offered during the postconviction evidentiary hearing. Applying the totality-of-the-circumstances test set out in *Wheeler II*, the postconviction court found that Wheeler "pled guilty due to the overwhelming odds of being convicted at trial" and "the trial court's actions did not make [Wheeler's] plea involuntary based on an evaluation of the totality of the circumstances." This appeal follows.

D E C I S I O N

This court reviews for abuse of discretion a district court's order denying a request for postconviction relief. *Reed v. State*, 793 N.W.2d 725, 729 (Minn. 2010). "Under this standard of review, a matter will not be reversed unless the postconviction court exercised its discretion in an arbitrary or capricious manner, based its ruling on an erroneous view of the law, or made clearly erroneous factual findings." *Id.* As to "factual matters, [appellate]

review is limited to whether there is sufficient evidence in the record to sustain the postconviction court's findings." *Butala v. State*, 664 N.W.2d 333, 338 (Minn. 2003). A postconviction court's credibility determinations are entitled to deference and will be disturbed "only when, after a thorough review of the record, [the appellate court is] left with the definite and firm conviction that a mistake has been made." *Andersen v. State*, 940 N.W.2d 172, 177 (Minn. 2020). A postconviction petitioner must prove the facts alleged in the petition by a preponderance of evidence. *State v. Hurd*, 763 N.W.2d 17, 34 (Minn. 2009).

"Guilty pleas facilitate the efficient administration of justice, and more than a change of heart is needed to withdraw a guilty plea." *State v. Lopez*, 794 N.W.2d 379, 382 (Minn. App. 2011). "A defendant does not have an absolute right to withdraw a guilty plea once it has been entered." *Dikken v. State*, 896 N.W.2d 873, 876 (Minn. 2017) (quotation omitted). But "the court must allow a defendant to withdraw a guilty plea upon a timely motion and proof to the satisfaction of the court that withdrawal is necessary to correct a manifest injustice." Minn. R. Crim. P. 15.05, subd. 1. An involuntary plea demonstrates manifest injustice. *Butala*, 664 N.W.2d at 339. "A plea is involuntary when it is induced by coercive or deceptive action." *Johnson v. State*, 925 N.W.2d 287, 289 (Minn. App. 2019) (quotation omitted); *see State v. Ecker*, 524 N.W.2d 712, 719 (Minn. 1994) (stating that "the government may not produce a plea . . . by mental coercion overbearing the will of the defendant") (quoting *Brady v. United* States, 397 U.S. 742, 750, 90 S. Ct. 1463, 1470 (1970)).

Wheeler argues that the district court judge's involvement during pretrial and trial proceedings "significantly influenced [her] decision" to plead guilty. She contends that the trial judge coerced her guilty plea by weighing in on specific negotiations, urging resolution of the case so that the children would not have to testify, and leading her to conclude, based on the trial judge's demeanor, that she would pay a "trial tax" and be sentenced more harshly if she did not plead guilty. The postconviction court addressed Wheeler's assertions in its analysis of the totality of the circumstances that led to her guilty plea. We address each of Wheeler's arguments in turn.

Pretrial plea negotiations

First, Wheeler argues that the judge's improper involvement in the early plea negotiations affected her attorneys and their advice for her to plead guilty. *Wheeler II* provides important context to this argument because the supreme court determined, based on uncontroverted facts, that the district court judge was improperly involved in the plea negotiations. 909 N.W.2d at 567. The supreme court found that the district court improperly gave "unsolicited feedback" in the July 8 email about both Wheeler's "proposed charges and sentences," which "took away some of Wheeler's bargaining power." *Id.* at 566. And *Wheeler II* determined that the judge's email suggested sentencing parameters of between "x months and 240 months" as a "more realistic" sentence. *Id.* at 566-67. But the supreme court did not determine whether Wheeler's plea was involuntary and remanded for an evidentiary hearing to determine whether "a manifest injustice exists [due to] . . . the nature and extent of the judge's conduct, together with a variety of other factors bearing on the plea's validity." *Id.* at 568.

The postconviction court found that the July 8 email, while improper, had little effect on Wheeler's plea because, between July 8 and the first day of voir dire, on July 14, the parties did not alter their proposals. The postconviction court found that the 172-month sentencing result ultimately achieved by Wheeler's plea was much better than the high end of the range—240 months—suggested by the trial judge in the July 8 email and repeated in the state's offer on the first day of trial. And the postconviction court found that Wheeler "was even able to bargain for 'aiding and abetting' and arguing sentencing within the range."

The postconviction court observed that the July 8 email occurred after the district court had issued most pretrial rulings and before the children had visited the courtroom on July 16. The postconviction court determined that the July 8 email was merely "a factor contributing to [Wheeler's] desire to resolve the case, but it was not the reason she entered the voluntary plea agreement." The postconviction court emphasized that, in considering the totality of the circumstances leading to Wheeler's guilty plea, the district court judge's email "did not suggest any form of punishment or bias would later be held against one side or another." The postconviction court's findings are supported by record evidence and not clearly erroneous.

Concern about the children testifying

Second, Wheeler argues that the district court judge's repeated statements about the children unfairly affected the negotiations. Laskaris testified the judge told the parties, off the record, that they "needed to resolve [the] case so that [Wheeler's] children wouldn't have to testify." But the postconviction court found that all four attorneys and the judge

were affected by Wheeler's oldest child's response to visiting the courtroom on July 16 and that this consideration was not improper.

Prosecutor Hawley testified that, after observing the child in the courtroom, she changed her plea offer and reduced the sentence range "because it was the right thing to do." And the state's new offer occurred on the day after the children's visit to court, the first day of trial testimony. Hawley also testified that she made the offer contingent on the children not testifying and that the children were scheduled to begin testifying after the weekend recess. Based on this and other testimony, the postconviction court found that seeing the children in the courtroom "led the attorneys to renew settlement discussions . . . and seriously negotiate the case," and that "preventing the children from testifying was the paramount concern of the attorneys, the judge, and at the time of the trial, [Wheeler]."

According to the postconviction court, Wheeler's focus on her children was evident in how the defense conveyed their final offer. While the state's new plea offer was pending, Wheeler told the prosecutors that she intended to accept the offer if the state reduced the charge to aiding and abetting. Defense counsel then asked the prosecution on Wheeler's behalf that her children be "notified immediately . . . so they know they will not have to testify." The postconviction court found that the defense repeated the same request twice by email while Wheeler waited to hear whether the prosecution would amend the charge. And Wheeler entered her plea, as agreed, on Monday, a day that the state had mentioned they might call the oldest child as a witness. The postconviction court concluded that "the

well-being of the children was of utmost concern to the Defense attorneys" during final plea negotiations.

The postconviction court reasoned that Wheeler's desire to enter a plea and "spare her children from testifying . . . does not amount to an improper inducement." The postconviction court found that, while the district court judge desired "to avoid having the children testify," "there is no evidence suggesting that [the judge] would have done anything to force settlement or dismissal to prevent them from being called." And the postconviction court found that the district court judge's "pressure to settle was applied to all attorneys and focused on the children." For example, when Wheeler entered her plea, the prosecutor noted that "[a]ll parties were concerned about calling those children as witnesses." We conclude that the record supports the postconviction court's finding that the district court did not coerce Wheeler to plead guilty by discussing concerns about the children testifying.

In-chambers conference during trial

Third, Wheeler appears to contend that the trial judge attempted to convince her attorneys that she should plead guilty during an in-chambers discussion. On the record on July 17, the district court said, "I just want[] an update." On the record, Laskaris responded that she planned to spend most of Saturday speaking with Wheeler about the state's latest offer. Only Laskaris testified that, in an off-the-record conversation, the judge urged that the parties "really needed to resolve this case."

Prosecutor Hawley testified there was an in-chambers discussion and she did not have a "totally clear recollection" of it. Hawley also testified she did not remember that the

judge was involved in plea negotiations and specifically testified that the judge "was not responsible for [the state's plea] offer and she was not responsible for any timeframe at which it would be withdrawn."[7] The postconviction court found the attorneys' recollections differed about whether, during the in-chambers discussion, the trial judge agreed not to sentence Wheeler at the top or bottom of the presumptive range.

Based on the conflicting testimony about the in-chambers discussion, we cannot conclude that the postconviction court erred by relying on the prosecutor's testimony that the judge's conduct was not improper during the in-chambers discussion. The postconviction court reasoned that "even if this Court accepts that the trial judge agreed not to sentence at the top or bottom of the box during a conversation in-chambers, that statement does not amount to improper inducement as it is still substantially lower than what [Wheeler] faced if convicted at trial."

Wheeler II prohibits "judicial participation in the plea bargaining process itself," including "generat[ing] and propos[ing] a plea deal not presented by the parties." 909 N.W.2d at 567. But *Wheeler II* clarifies that "[a] judge does not violate this bright-line rule, however, by inquiring into the status of negotiations, sharing general sentencing practices, or disclosing nonbinding plea and sentencing information at the joint request of the parties." *Id.* at 565. The postconviction court found that the trial judge sought an update on negotiations on Friday, July 17, and urged the parties to resolve the case, but it did not

[7] Testimony from co-counsel did not clarify the conflict between Laskaris's and Hawley's testimony. Defense co-counsel Yarney was not sure of the dates of plea offers during the first week of trial. Prosecutor Stennes could not remember the specifics of plea negotiations.

find that the trial judge participated in plea discussions during the in-chambers meeting. This finding is not clearly erroneous.

"Trial tax" and judicial demeanor

Fourth, Wheeler contends that the district court judge improperly influenced her to plead guilty because of the "trial tax" or penalty she would suffer if she decided to go to verdict, and because of the trial judge's overall demeanor. The postconviction court found that, after her attorneys conversed with Wheeler on Saturday, July 19, and reviewed the trial to date, "including the judge's attitude," they recommended that Wheeler plead guilty because trial rulings and sanctions would not be "favorable" if she continued. But Wheeler herself testified that other factors also influenced her decision to plead guilty, including her attorneys' advice, her own confusion, and her realization that the state had declined repeatedly her attorneys' prior plea offers.

The postconviction court specifically rejected Wheeler's claim about the trial judge's demeanor and conduct, stating "[g]eneral concern over a judge's demeanor is not the same as being induced to enter a plea based upon a judicial officer's participation in the plea-bargaining process." The postconviction court reasoned that, while defense counsel may have feared adverse trial rulings and a harsher sentence if the trial went to verdict, counsel did not "specify any anticipated negative rulings during their postconviction testimony." And the postconviction court found that defense counsel's concern about a "trial tax" was not based on any statement "directly uttered by the trial judge." The postconviction court also rejected Wheeler's claim about receiving a harsher sentence if she went to verdict, identifying this concern as "inherent in every plea

negotiation" and stating Wheeler's case is "no exception to this general rule." These findings and conclusions are supported by the record.

Other factors

Finally, the postconviction court also identified four other factors that influenced Wheeler's decision to plead guilty, none of which involved the district court judge. First, the postconviction court described the strong evidence presented by the state on Friday, July 18, recounting that witnesses testified about finding E.S.'s severely injured body folded inside a small freezer. Witnesses also testified about Wheeler's conduct to cover up E.S.'s death, including lying to E.S.'s family by saying he had gone to Chicago and destroying E.S.'s property. The jury also viewed the freezer during trial on July 18. The state planned to continue this line of proof on Monday, July 21, by introducing photographs of E.S.'s body and calling the children to testify. The postconviction court considered the evidence presented at trial, as well as evidence under consideration for admission, and determined that Wheeler pleaded guilty "due to the overwhelming odds of being convicted at trial."

Second, the postconviction court found that the trial judge was not involved in final plea negotiations, which occurred over the weekend and included emails between the defense and prosecuting attorneys, and not the trial judge.

Third, despite Wheeler's claim that the trial judge's July 8 email and the in-chambers discussion hamstrung the defense during plea negotiations, defense counsel procured a favorable plea agreement, specifically, a reduced charge of aiding and abetting and a reduced sentence duration (from an upward departure of 240 months on Monday,

July 14, to a guidelines sentence of 128-180 months on Thursday, July 17). The postconviction court also observed that this defense offer followed the state's offer of "a more generous deal after days of trial when the case [was] going well for the State [which] is an unusual occurrence."

Based on the final plea agreement, the postconviction court also determined that, contrary to Laskaris's testimony at the evidentiary hearing, the defense team did not believe the trial judge was "completely hostile to their side of the case." As the postconviction court noted, the plea agreement reached by the parties fell between their July 7 offers, agreed the state would not seek aggravating factors, and agreed the parties would argue a durational range to the trial judge, meaning that defense counsel believed the trial judge would consider their requested sentence.

Fourth, on Monday, July 21, Wheeler provided a factual basis for the plea and responded "no" when asked by her attorney if she had been threatened "in any way" in deciding to plead guilty. *See Andersen v. State*, 830 N.W.2d 1, 11 (Minn. 2013) ("Solemn declarations in open court carry a strong presumption of verity." (quotation omitted)).[8] The postconviction court found Wheeler's testimony during the plea hearing merited credence.

Ultimately, the totality of the circumstances support the postconviction court's determination that the trial judge's demeanor and conduct over the course of the

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[8] Wheeler cites caselaw that invalidates guilty pleas as involuntarily entered even though the district court followed the formalities of Minn. R. Crim. P. 15.01 in accepting the guilty pleas. We do not find this caselaw helpful. Under the *Wheeler II* test, which considers all the facts surrounding a defendant's plea, compliance with rule 15.01 is one factor in determining whether Wheeler's plea was voluntary.

proceedings did not coerce Wheeler to plead guilty or otherwise make her plea involuntary. The postconviction court reviewed the trial and postconviction evidence and the overall timeline of plea offers and statements by the district court judge, as well as Wheeler's testimony about what influenced her decision to plead guilty. The postconviction court's factual findings and conclusions are well-supported by record evidence and not clearly erroneous. While some evidence offered at the postconviction evidentiary hearing could have supported a different conclusion, we do not reweigh the evidence or determine witness credibility on postconviction review. *See Opsahl v. State*, 710 N.W.2d 776, 782 (Minn. 2006) ("[O]ur standard of review reminds us that the postconviction court is in a unique position to assess witness credibility, and we must therefore give the postconviction court considerable deference in this regard.").

We conclude that the postconviction court did not abuse its discretion by denying Wheeler's petition to withdraw her guilty plea because the record supports the court's determination that Wheeler's plea was voluntary based on the totality of the circumstances.

Affirmed.