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**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1909**

Gerald Alan Buffett, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed July 13, 2020
Affirmed
Bryan, Judge**

Hennepin County District Court
File No. 27-CR-15-17971

Cathryn Middlebrook, Chief Appellate Public Defender, Sara J. Euteneuer, Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

Michael O. Freeman, Hennepin County Attorney, Adam E. Petras, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Considered and decided by Johnson, Presiding Judge; Cochran, Judge; and Bryan, Judge.

UNPUBLISHED OPINION

BRYAN, Judge

Appellant challenges the district court's denial of his postconviction motion to withdraw his guilty plea. Appellant argues that his guilty plea was invalid because, at the

time of his guilty plea, he did not know about a police officer's misconduct in another case. Because the district court had suppressed the only evidence involving that police officer before appellant entered his guilty plea, we conclude that appellant has not demonstrated that his guilty plea was invalid. We affirm the district court's denial of appellant's request to withdraw the guilty plea.

FACTS

In February 2015, Officer Timothy Olson of the Minnetonka Police Department conducted a traffic stop on a vehicle driven by appellant Gerald Alan Buffett. After speaking to both Buffett and his passenger, Olson detained Buffett. Olson also determined that Buffett had an outstanding misdemeanor warrant and that an active domestic abuse no contact order prohibited Buffett from having any contact with the passenger of the vehicle. Olson searched the vehicle and recovered suspected methamphetamine. Olson placed Buffett under arrest and asked him about the methamphetamine. Buffett stated that the methamphetamine was his. Olson then explained that Buffett could avoid charges for the methamphetamine if he cooperated with Detective Travis Serafin. Buffett agreed to speak with Serafin. Serafin interviewed Buffett at the Minnetonka Police Department for almost an hour. Serafin made a four-minute recording of a part of the interview, which included a *Miranda*¹ advisory. Apart from this interview, Serafin had no other involvement gathering evidence from Buffett.

¹ The Fifth Amendment to the United States Constitution requires that statements made by a suspect during a custodial interrogation are admissible only if the police advise the suspect of his or her constitutional protections before the statements were made. *Miranda v. Arizona*, 384 U.S. 436, 444-45, 86 S. Ct. 1602, 1612 (1966).

Respondent State of Minnesota charged Buffett with one count of second-degree controlled substance possession. Buffett moved to suppress evidence and dismiss the case, challenging the admissibility of his statements to Olson and Serafin as well as the search of the vehicle. Following a contested evidentiary hearing, the district court found that Olson failed to advise Buffett of his rights before questioning him about the methamphetamine. For this reason, the district court suppressed the statement Buffett made to Olson. In addition, the district court did not find Serafin's testimony regarding his interview credible. Finding violations of both *Miranda* and *Scales*,² the district court suppressed the statement Buffett provided to Serafin. The district court denied Buffett's motion to suppress the evidence obtained in the warrantless search of the vehicle.

On June 26, 2017, Buffett entered a guilty plea. At the plea hearing Buffett's attorney stated, "we did have a number of hearings before trial to litigate some of the pre-trial issues in this case regarding suppression of evidence," and asked Buffett whether he agreed that "we couldn't raise any more issues in regard to the evidence and suppression of it once you plead guilty, right?" Buffett answered, "Yes." Buffett also signed a plea petition which explained Buffett's rights and the ramifications of pleading guilty. Buffett

² In *State v. Scales*, 518 N.W.2d 587, 592 (Minn. 1994), the Minnesota Supreme Court mandated that all custodial interrogations "including any information about rights, any waiver of those rights, and all questioning shall be electronically recorded where feasible and must be recorded when questioning occurs at a place of detention." When *Scales* applies, the interrogating officer is "legally obliged to tape record not just the so-called 'formal statement' by the defendant but the entire custodial interrogation, including the giving of the *Miranda* warning, the obtaining of a waiver, and that part of the interrogation that [the officer] euphemistically referred to as the 'pre-interview.'" *State v. Thaggard*, 527 N.W.2d 804, 808 (Minn. 1995). District courts should suppress the statement when law enforcement officers violate the requirement of *Scales*. *Scales*, 518 N.W.2d at 592.

pleaded guilty to second-degree drug possession and provided a factual basis for the offense. Buffett stated that he was pulled over on either Highway Seven or Highway Five and that the officer “put me in the backseat of the car.” Buffett admitted that the officer “found the drugs under the seat and they were my drugs.” Buffett acknowledged that the drugs were methamphetamine and consisted of at least six grams. The district court granted Buffett’s motion for a dispositional departure and imposed a stayed sentence of 108 months.

Several months later, a Hennepin County judge reported Serafin for possible falsification of a search warrant. Although Serafin was not charged with any criminal activity, the Hennepin County Attorney’s Office dismissed dozens of cases in which Serafin was a critical witness. Buffett filed a petition for postconviction relief seeking to withdraw his guilty plea based on Serafin’s involvement in his case. The district court denied the motion, reasoning that it had already suppressed the statements made to Serafin and that Buffett failed to describe how Serafin’s misconduct would warrant any further relief. This appeal follows.

D E C I S I O N

Buffett argues that the district court should have granted his request to withdraw his guilty plea in order to correct a manifest injustice. Specifically, Buffett argues that his plea was not voluntary or intelligent “because the information known at the time of the plea did not appear to encompass the true depth and severity of Detective Serafin’s misconduct in this investigation and others.” We disagree and cannot identify a manifest injustice in this

case because Serafin's involvement was limited to the custodial interrogation, which the district court suppressed prior to Buffett's guilty plea.

"A defendant has no absolute right to withdraw a guilty plea after entering it." *State v. Raleigh*, 778 N.W.2d 90, 93 (Minn. 2010) (citation omitted). Instead, a court may permit withdrawal after imposition of a sentence only when withdrawal is necessary to correct a manifest injustice. *Id.* "A manifest injustice exists if a guilty plea is not valid. To be constitutionally valid, a guilty plea must be accurate, voluntary, and intelligent." *Id.* at 94 (citations omitted). Here, Buffett argues that his plea was invalid because it was not voluntary or intelligent, given his lack of knowledge regarding Serafin's misconduct. "To be voluntary, a guilty plea may not be based on any improper pressures or inducements." *Dikken v. State*, 896 N.W.2d 873, 876-77 (Minn. 2017) (quoting *Brown v. State*, 449 N.W.2d 180, 182 (Minn. 1989)). "To be intelligent, a guilty plea must represent a knowing and intelligent choice among the alternative courses of action available." *Id.* at 877 (quoting *State v. Goulette*, 258 N.W.2d 758, 761 (Minn. 1977)). The existence of a signed, written plea petition supports a conclusion that a plea is voluntary and intelligent. *State v. Propotnik*, 216 N.W.2d 637, 638 (Minn. 1974). "A defendant bears the burden of showing his plea was invalid. Assessing the validity of a plea presents a question of law that we review de novo." *Raleigh*, 778 N.W.2d at 94 (citations omitted).

In this case, we do not agree that Buffett's lack of knowledge regarding Serafin's misconduct rendered his plea involuntary or unintelligent for two reasons. First, the district court suppressed the only evidence related to Serafin: the custodial interview. Buffett does not identify any additional evidence that Serafin obtained. Second, the facts admitted at

the time of the plea occurred before Serafin began his custodial interview. At the plea hearing, Buffett admitted that Olson pulled him over, detained him, and recovered at least six grams of his methamphetamine from the vehicle, all of which occurred before Serafin became involved. At no point in the plea hearing did Buffett make admissions regarding facts that occurred after his arrest.

Buffett relies on *Shorter v. State*, 511 N.W.2d 743, 746 (Minn. 1994). In that case, Shorter pleaded guilty to first-degree criminal sexual conduct, but nine days later, retained new counsel, filed a presentence motion to withdraw his plea, and maintained his innocence. *Id.* at 744-45. The district court denied his motion, but after Shorter was sentenced, the Minneapolis Police Department reopened the investigation and located two witnesses who provided potentially exculpatory statements. *Id.* Shorter made a postconviction motion to withdraw his guilty plea, but this motion was also denied. *Id.* at 746. Pursuant to its supervisory powers, the Minnesota Supreme Court ordered the district court to grant Shorter's motion to withdraw his guilty plea. *Id.* The court concluded that withdrawal of Shorter's plea was necessary to correct a manifest injustice caused by a substandard and incomplete investigation. *Id.* at 746-47. The analysis in *Shorter*, however, does not compel a similar outcome here. Buffett does not challenge the adequacy of the investigation, identify information that could exonerate him, or explain how Serafin's misconduct in other cases would affect the evidence in this case. Given that Serafin had limited involvement in this case, and that the district court had already suppressed Buffett's statement to Serafin, no manifest injustice occurred.

Affirmed.