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**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0121**

Everett Savoy Vaughn, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed July 27, 2020
Affirmed
Ross, Judge**

Hennepin County District Court
File No. 27-CR-16-25849

Cathryn Middlebrook, Chief Appellate Public Defender, Sara L. Martin, 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 Reyes, Presiding Judge; Ross, Judge; and Slieter, Judge.

UNPUBLISHED OPINION

ROSS, Judge

Everett Vaughn is serving an 84-month prison sentence after pleading guilty to second-degree possession of a controlled substance. Minn. Stat. § 152.022, subd. 2(a)(1) (2012). Vaughn petitioned for postconviction relief, seeking to withdraw his guilty plea as

involuntary because he expected a lesser sentence. The district court denied the petition without an evidentiary hearing, a decision that Vaughn challenges on appeal. Because the record conclusively shows that Vaughn cannot establish that his guilty plea was involuntary even if his factual allegations were true, we affirm.

D E C I S I O N

Vaughn challenges the district court's denial of his postconviction petition without an evidentiary hearing, leading us to review for an abuse of discretion. *See Fort v. State*, 829 N.W.2d 78, 82 (Minn. 2013). The district court must hold an evidentiary hearing on a postconviction petition unless the petition and the record "conclusively show that the petitioner is entitled to no relief." Minn. Stat. § 590.04, subd. 1 (2018). No hearing is necessary if the allegations are insufficient to show entitlement to the requested relief. *Bobo v. State*, 820 N.W.2d 511, 516 (Minn. 2012).

Vaughn's petition sought to withdraw his guilty plea. The district court must allow a defendant to withdraw his guilty plea if withdrawal is "necessary to correct a manifest injustice," like when the plea is invalid. Minn. R. Crim. P. 15.05, subd. 1; *State v. Theis*, 742 N.W.2d 643, 646 (Minn. 2007). To be valid, a guilty plea must be accurate, voluntary, and intelligent. *State v. Raleigh*, 778 N.W.2d 90, 94 (Minn. 2010). Whether a plea is valid is a question of law that we review de novo. *Id.*

Vaughn challenges only the voluntariness of his guilty plea. A plea is involuntary if it is based on "improper pressures or inducements" or was procured through "coercive or deceptive action." *Dikken v. State*, 896 N.W.2d 873, 876–77 (Minn. 2017) (quotation omitted). Vaughn identifies no promise or agreement that induced him to plead guilty.

Vaughn expressly entered a “straight plea,” meaning that he pleaded guilty with no agreement about sentencing. *See State v. Sanchez-Sanchez*, 879 N.W.2d 324, 327 (Minn. 2016). His plea petition stated, and his plea colloquy affirmed, that no one had made any promises to induce his plea.

Vaughn’s affidavit asserts that he did not believe he could be imprisoned more than 61 months. His mistaken belief does not render his plea involuntary because his belief did not arise from any promise or agreement. *See State v. Brown*, 606 N.W.2d 670, 674 (Minn. 2000) (recognizing that a defendant’s plea is involuntary when the state breaks a promise that led the defendant to plead guilty). Vaughn alleges that the state at one point did proffer a plea deal that contemplated only a 61-month sentence. But even accepting the allegation as true, his affidavit also clarifies that he rejected that offer to seek a lower sentence. Although “the government must be held to the promises it made, it will not be bound to those it did not make.” *Id.* (quotation omitted). Having gambled with his sentence and lost, Vaughn cannot rely on the postconviction proceeding to unroll the dice.

Because Vaughn’s allegations, taken as accurate, do not show that his guilty plea was involuntary, the district court did not abuse its discretion by denying his postconviction petition without an evidentiary hearing.

Affirmed.