STATE OF MINNESOTA
IN COURT OF APPEALS
A18-2164

State of Minnesota,
Respondent,

vs.

Charles Ricardo O'Neal,
Appellant.

Filed January 10, 2022
Affirmed; motion granted
Rodenberg, Judge[*]

Ramsey County District Court
File No. 62-CR-17-7979

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

John J. Choi, Ramsey County Attorney, Alexandra Meyer, Assistant County Attorney, St. Paul, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Christopher L. Mishek, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Smith, Tracy M., Presiding Judge; Gaïtas, Judge; and Rodenberg, Judge.

[*] Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

RODENBERG, Judge

Appellant Charles Ricardo O'Neal pleaded guilty to simple robbery as part of a plea agreement whereby, among other things, he was granted conditional release from custody and the state agreed to remain silent concerning appellant's request for a dispositional departure from the Minnesota Sentencing Guidelines, which called for a presumptive prison sentence. Appellant, who has a significant criminal history and suffers from mental illness and substance-use issues, argued in postconviction proceedings at the district court and argues on appeal that the district court violated his rights by failing to order a competency evaluation. He also claims that his having been held in solitary confinement coerced him to plead guilty.

Despite appellant's mental- and chemical-health issues, the district court did not abuse its discretion by not ordering a rule 20 examination. And because record evidence supports the postconviction court's finding that appellant's guilty plea was voluntary, it did not abuse its discretion by declining to set aside that guilty plea. As such, we affirm. Finally, we grant the state's motion to strike appellant's rule 128.05 notice of supplemental authorities.

FACTS

Appellant attacked a man and stole his wallet. The state charged appellant with one count of simple robbery in 2017. While in jail awaiting trial on that charge, appellant was kept in administrative segregation. After spending over 50 days in isolation, appellant pleaded guilty. As part of his plea agreement, the state joined in a recommendation that

appellant be conditionally released until sentencing, and the state agreed not to oppose a downward dispositional departure at sentencing if appellant did well on conditional release.

At his plea hearing in January 2018, the district court reviewed the plea agreement with appellant:

> COURT: All right. Mr. O'Neal, do you understand the agreement?
>
> DEFENDANT: Yes, Ma'am.
>
> . . .
>
> COURT: Okay. Now, have you had enough time to speak with [your attorney]?
>
> DEFENDANT: Yes.
>
> COURT: Has she answered all of your questions?
>
> DEFENDANT: Yes, Ma'am.
>
> COURT: Are you thinking clearly today?
>
> DEFENDANT: Yes, Ma'am.
>
> COURT: Is anyone forcing you to enter this plea of guilty?
>
> DEFENDANT: No, Ma'am.

After confirming that he understood and voluntarily agreed to the plea agreement, the district court put appellant under oath. Appellant gave a military-style salute while taking the oath and identified himself as "Reverend Doctor Charles Ricardo O'Neal, legally[,]" spelling out "Reverend" and "Doctor." Appellant pleaded guilty and provided a factual basis for the plea.

At the plea hearing, appellant's mental-health needs took center stage. His attorney asked appellant about his medications:

> ATTORNEY: Okay. Now, normally, when you're not in jail, are you on any medication for mental health issues?
>
> DEFENDANT: Yes.
>
> ATTORNEY: And so you're not taking them now?
>
> DEFENDANT: No.
>
> ATTORNEY: Now, are you thinking clearly today?
>
> DEFENDANT: Yes.
>
> ATTORNEY: Do you understand everything that is going on?
>
> DEFENDANT: Yes.
>
> ATTORNEY: Are you entering this plea freely and voluntarily?
>
> DEFENDANT: Yes.
>
> . . .
>
> ATTORNEY: The fact that you're not on other medications for mental health issues, that's not interfering with your ability to think clearly today or to enter a plea in this matter?
>
> DEFENDANT: No, Ma'am.
>
> ATTORNEY: So, you know what you're doing? You're doing it freely and voluntarily?
>
> DEFENDANT: Yes.
>
> ATTORNEY: Other than the plea agreement, has anybody made any promises or threats to you or your family to make you plead guilty?
>
> DEFENDANT: No.

After that colloquy with his attorney, the district court also broached the topic of appellant's mental health. Appellant's responses to the district court's questions about his prescriptions were cogent. And after reviewing appellant's medications with him, the district court requested that appellant observe a session of Ramsey County's mental health specialty court.[1] The parties agreed with that suggestion, and the district court accepted the guilty plea and conditionally released appellant.

Ten days later, appellant observed mental-health court. By this time, appellant's mental health had deteriorated. He was not a mental-health court participant, but nevertheless handed the district court judge a "motion to dismiss." He expounded on that motion in a long soliloquy. It is evident from the transcript that appellant's mental-health issues were then symptomatic. Appellant claimed that he was being maliciously prosecuted, that his constitutional rights had been violated, and that the FBI was investigating his treatment at the jail. Appellant stated that he planned to fire his public defender because she "left me in a situation where I was being harmed by staff members in the jail." He claimed to be "Reverend Doctor Charles in the state of Minnesota . . . and all 50 states[,]" and that he was "under the government as a public minister, . . . because I'm with the ambassadors and the pope." Despite the district court's efforts to redirect him, appellant continued to expound on a wide variety of topics.

Appellant's irrational behavior continued at his next hearing, which was scheduled as a sentencing hearing in May 2018. Appellant had violated his release conditions and

[1] Appellant was ineligible for the mental-health court, but the district court believed that he could benefit by observing that court in operation.

again accused jail staff of violating his rights and claimed that the federal court had voided the charges against him. But appellant admitted at this hearing that a urinalysis would show that he had been using drugs. The district court postponed appellant's sentencing for two months.

After appellant failed to appear for his rescheduled sentencing hearing, he appeared for another rescheduled sentencing hearing in October 2018. By that time, appellant had regained his lucidity. He had undergone a diagnostic assessment of his mental health, he was working with a treatment team, and he was back on his prescribed medication. Appellant also underwent a substance-abuse assessment and had been accepted to an inpatient-treatment program. With a plan in place to address his issues, appellant requested a downward dispositional departure. As had been previously agreed, the state did not oppose the request.

Appellant addressed the district court about his need for rehabilitation, medication, and treatment. He reflected on his mental-health and substance-abuse issues and that those issues would be better addressed by a course of appropriate services than by incarceration. Appellant stated that he was no longer using illicit drugs and understood his need for appropriate medication, and he acknowledged his need for continuing treatment. He then accepted responsibility for his actions and thanked the district court, the prosecutor, his public defender, and his dispositional advisor. The district court agreed with appellant's self-assessment and noted that when appellant is on his medications "you are substantially better than when I've seen you ever before in court. I mean you've put together a lot more

cogent thinking. You're not as paranoid. . . . So there is clearly a real need for medication around specifically an anti-psychotic."

Based on appellant's plea agreement and his statement at his sentencing, the district court convicted appellant and sentenced him to 57 months in prison. But the district court granted appellant's motion for a downward dispositional departure, stayed the execution of the sentence, and placed appellant on probation for ten years.

After he was taken into custody for a probation violation, appellant appealed his conviction. We stayed that appeal to permit appellant to seek postconviction relief. Appellant petitioned for postconviction relief in July 2019, and an evidentiary hearing was held in September 2020, at which appellant produced evidence concerning the validity and voluntariness of his guilty plea.

At the evidentiary hearing, appellant reiterated his allegations that jail staff mistreated him. He testified that jail officials put him in segregated housing "for no reason [at] all" other than that he had threatened to sue a nurse during a previous detention. Appellant told the postconviction court that he felt pressured by his public defender to plead guilty when she asked him, "[Y]ou want to go home, don't you?" He testified that she told him, "All you got to do is plead guilty. I'm like well, I'm not guilty."

Dr. Andrea Lockett, Ph.D., testified that, in preparation for the hearing on appellant's postconviction petition, she evaluated appellant and diagnosed him as suffering from schizophrenia with psychosis. Given those diagnoses, she testified that she had "significant questions about" whether appellant could rationally consult his attorney. She also questioned appellant's understanding of the nature of the proceedings. Dr. Lockett

described how appellant's delusions were wrapped up with his criminal case and must have altered his perception of the plea agreement. Dr. Lockett also concluded that appellant's segregation was a significant factor in his pleading guilty.

In response, the state called appellant's defense attorney to testify. She testified that, although she understood appellant to be mentally ill, she believed that he understood their discussions about the plea agreement, and she had no reason to believe that appellant was not competent. Similarly, the prosecutor who negotiated appellant's plea deal testified that she too had no reason to doubt appellant's competence.

The postconviction court denied appellant's petition for postconviction relief. It acknowledged that "a rule 20.01 should have been ordered" after appellant's mental-health court appearance, but further determined that there was no reason to doubt appellant's competence at the time of his guilty plea that preceded his appearance in mental-health court. The postconviction court also concluded that appellant's guilty plea was voluntary, finding that he did not meet his burden of proving that his solitary confinement caused him to plead guilty.

We dissolved the stay and reinstated appellant's direct appeal.

DECISION

Appellant argues that his conviction should be vacated for two reasons, both related to due process: first, because the district court did not order a rule 20 competency evaluation; and second, because his guilty plea was involuntary.

We review rulings on postconviction-relief petitions for abuse of discretion. *Pearson v. State*, 891 N.W.2d 590, 596 (Minn. 2017). Our abuse-of-discretion standard

requires us to review the postconviction court's findings of fact for clear error and its legal conclusions de novo. *Id.*

We begin our analysis with the postconviction court's denial of postconviction relief. Appellant argues that, because the district court did not order a rule 20 examination despite acknowledging that one "should have been ordered," it violated his right to due process of law.

Because criminal defendants have a due-process right not to be tried while incompetent, *Bonga v. State*, 797 N.W.2d 712, 718 (Minn. 2011), Minnesota Rule of Criminal Procedure 20.01 requires the district court to order a competency evaluation if it "doubts the defendant's competency" at any time. Minn. R. Crim. P. 20.01, subd. 3. Whether a defendant is competent is a question of fact. But the threshold question—whether sufficient doubt supports ordering a competency evaluation—is a different and narrower question of law that we review de novo. *State v. O'Neill*, 945 N.W.2d 71, 78 (Minn. App. 2020), *rev. denied* (Minn. Aug. 11, 2020). On our de novo review, we do not find sufficient reason to doubt appellant's competence either at the time of his plea or at his sentencing hearing.

A defendant is incompetent and has the right not be tried if he "lacks ability to: (a) rationally consult with counsel; or (b) understand the proceedings or participate in the defense." Minn. R. Crim. P. 20.01, subd. 2. That right is protected by district courts, which must order a competency evaluation when there is sufficient[2] doubt that the defendant is

[2] The parties frame the test as whether the district court had a "bona fide" reason to doubt appellant's competency. The Eighth Circuit rejected this terminology, and instead ruled

incompetent. *Bonga*, 797 N.W.2d at 719. To determine whether a doubt is sufficient to order an evaluation, district courts look to the defendant's demeanor in court and any earlier medical opinions. *Id.* Appellant contends that the postconviction court abused its discretion by declining to set aside his guilty plea because sufficient doubt existed concerning his competency.

A mental illness does not necessarily make a defendant incompetent. *Wold v. State*, 430 N.W.2d 171, 178 (Minn. 1988). Likewise, the symptoms of that mental illness do not necessarily create sufficient reason to doubt his competence. *Bonga*, 797 N.W.2d at 720. Instead, a court must consider all of appellant's court appearances and determine whether the symptoms of appellant's mental illness raise doubt that he could consult counsel or rationally understand the proceedings. *Id.* After reviewing the record, we find no reason to doubt appellant's ability to participate in his defense or understand the proceedings at the relevant points in time—when he pleaded guilty and when he appeared for sentencing and did not request to withdraw his plea, but instead acknowledged his earlier plea and requested and was granted a downward dispositional sentencing departure.

There are four hearings that are relevant here. Beginning with the plea hearing, appellant showed that, when sober, he had the ability to consult with his attorney and understand the proceedings. At that plea hearing, appellant appropriately answered all

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that "sufficient doubt" is preferable because it "seems to be the phrase used most often by the Supreme Court." *Griffin v. Lockhart*, 935 F.2d 926, 929 n.2 (8th Cir. 1991). Likewise, the Minnesota Supreme Court and our Rules of Criminal Procedure use the phrase "sufficient doubt," "sufficient reason to doubt," or just "reason . . . to doubt." *Bonga*, 797 N.W.2d at 717-720; Minn. R. Civ. P. 20.01, subd. 3. We follow *Bonga* here.

questions put to him, he confirmed that he had conferred with his attorney about the plea deal, and testified that he understood and agreed to its terms. He also confirmed that his attorney explained the plea petition paragraph-by-paragraph. He confirmed that he understood his obligations after being conditionally released. Neither of the attorneys expressed any doubt of appellant's competence at the plea hearing, and what few symptoms appellant displayed at that hearing were not reason for the district court to doubt appellant's competence.

Turning next to appellant's mental-health court appearance, appellant was suffering from the symptoms of his mental illness after his conditional release. He was not a mental-health court participant and was only there as an observer. As the postconviction court noted, appellant had resumed self-medicating with drugs. While the postconviction court agreed that it should have ordered an evaluation after appellant's mental-health court appearance, we must assess the entire record of the proceedings. The mental-health-court appearance was after appellant had pleaded guilty with the advice of counsel when he was, by all appearances, competent.

We turn next to appellant's first sentencing hearing in May. At this hearing, appellant's demeanor was similar to that at his mental-health-court appearance. The record reflects that appellant was again using illicit drugs. Accordingly, the district court did not sentence him but postponed his sentencing until the symptoms of his drug use had subsided.

Finally, we turn to appellant's sentencing hearing in October, nine months after he pleaded guilty. At that hearing, like at his plea hearing, appellant appeared lucid and sober. Although he had previously exhibited symptoms of his mental illness, those symptoms

proved transitory. At that sentencing hearing, appellant demonstrated the ability to consult with counsel. He answered questions appropriately and addressed the district court quite eloquently about his need for appropriate medication and treatment. He made no request to withdraw his plea. His overall presentation was entirely consistent with understanding the prior plea agreement and asking that the agreement be honored. He was then abstaining from non-prescribed drugs. Nothing about that hearing suggests that appellant was not competent.

When viewing these appearances in context, appellant's drug use and transitory symptoms were not sufficient reason to doubt his competence in pleading guilty. At the most critical points of the proceedings—when he pleaded guilty in January and when he was sentenced in October—the district court had no reason to doubt appellant's competence. The postconviction court credited appellant's own statements and his attorney's testimony by determining that he was able to rationally consult with counsel and understand the proceedings when he pleaded guilty and when he was convicted and sentenced. The record amply supports this determination.

We see no reversible error by the postconviction court in not permitting plea withdrawal despite appellant's behavior during the mental-health-court appearance and at his first scheduled sentencing hearing. At those hearings held after his plea and before his sentencing, appellant's competence was questionable, but neither lawyer questioned appellant's competency at the time of his guilty plea based on these intervening hearings. Instead, appellant's attorney, the prosecutor, and the district court worked cooperatively to meet appellant's treatment needs by designing and effectuating a plea agreement and

disposition tailored to appellant's treatment needs. Appellant's time on conditional pre-sentencing release would be a "trial run" to determine whether appellant could live in the community with appropriate supports as an alternative to incarceration. It was during that trial run that appellant decompensated, used illicit drugs, and appeared at two court appearances to be less-than-fully lucid.

The postconviction court properly gave more weight to appellant's critical appearances and less weight to those appearances showing his transitory mental-health symptoms. Because there was no reason to doubt appellant's competency at those critical hearings, the district court did not abuse its discretion by not ordering a rule 20 competency evaluation based only on the intervening ones.

We turn to appellant's second due-process challenge. Appellant contends that his solitary confinement while in jail awaiting trial rendered his guilty plea involuntary. The postconviction court found that appellant failed to prove that his isolation caused him to plead guilty and declined to allow him to withdraw his guilty plea.

Whether a plea is voluntary is a legal determination that we review de novo. *Johnson v. State*, 925 N.W.2d 287, 289 (Minn. App. 2019).

A defendant may withdraw a guilty plea after his sentence "to correct a manifest injustice." Minn. R. Crim. P. 15.05, subd. 1. An involuntary guilty plea is a manifest injustice, and the court must set it aside. *Perkins v. State*, 559 N.W.2d 678, 688 (Minn. 1997).

Appellant relies on voluntary-confession cases in support of his argument that his guilty plea was not voluntary. In those cases, courts must consider a defendant's age,

maturity, intelligence, education, experience, and ability to comprehend when determining whether a confession is given voluntarily. *State v. Thaggard*, 527 N.W.2d 804, 808 (Minn. 1995).

The factors applicable to the voluntariness of a confession do not directly apply to plea agreements. First, the burden of proving that a confession is voluntary lies with the state. *State v. Zabawa*, 787 N.W.2d 177, 182 (Minn. 2010). Here, appellant bears the burden of proving a "manifest injustice" when challenging an involuntary plea. Minn. Stat. 590.04, subd. 3 (2020). And second, unlike confessions, plea agreements such as this carefully considered agreement are brokered by counsel, after the benefit of discovery, are made in open court, and occur under the district court's oversight. The Minnesota Supreme Court has not applied the voluntary-confession factors in determining whether a plea is given voluntarily. Instead, in *State v. Nessler*, 196 N.W.2d 597, 598 (Minn. 1972), the supreme court looked only to the reasonableness of the defendant's solitary confinement to determine that it was not a factor in coercing the defendant to plead guilty. And in *Camillo v. Wyrick*, 640 F.2d 931, 935 (8th Cir. 1981), the Eighth Circuit relied on the defendant's plea colloquy and determined that he voluntarily pleaded guilty, finding that a defendant's solitary confinement and other mistreatment did not render his plea involuntary. We take the same approach here.

We agree with the postconviction court that appellant's guilty plea was voluntary. As in *Camillo*, appellant testified in open court that he was not pressured to plead guilty and that he had ample opportunity to speak with his attorney about the deal. The district

court observed that testimony and assessed appellant's credibility and competence before accepting his plea.[3]

Appellant's attorney testified at his postconviction hearing that the case against appellant was strong and that the negotiated plea agreement allowed appellant to be released from custody and seek treatment—which is what he said he wanted. And, as noted, neither appellant's lawyer nor the prosecutor expressed any doubt about appellant's competence at the time of the plea. At the plea hearing, appellant gave reasoned and reasonable responses to all questioning.

Considering the entire record, we see no reversible error in the postconviction court's determination that appellant's having been in segregated confinement before his plea did not render his plea involuntary. Appellant's guilty plea—which allowed appellant the opportunity to obtain treatment that he clearly expressed that he needed and wanted and to avoid a lengthy prison sentence—resulted from rational, voluntary decision-making.

Finally, we address the state's motion to strike appellant's rule 128.05 notice of supplemental authority. Shortly before oral argument in this appeal, appellant's counsel filed a notice of supplemental authority, citing two new documents in the district court record: a newly completed rule 20 evaluation and an order by the district court after the

[3] Relevant in this context is that the district court judge who took the plea is the judge who at the time was presiding in the Ramsey County Mental Health Court and observed appellant in that court. This strongly suggests that the particular judge before whom appellant pleaded guilty was not only aware of appellant's mental-health issues, but was well-positioned to make a determination that there was no reason at the time of the plea to doubt appellant's competence. And the transcript clearly reflects this district court judge's care and concern for appellant's overall life situation.

rule 20 evaluation. The state moved to strike the notice of supplemental authority, arguing that it was improper because the information is outside the record on appeal.

The state is correct. Rule 128.05 does not allow parties to supplement the record on appeal. Instead, it provides as follows: "If pertinent and significant authorities come to a party's attention after the party's brief has been filed or after oral argument but before decision, a party may promptly file a letter with the clerk of the appellate courts setting forth the citations." Minn. R. Civ. App. P. 128.05. That rule relates to "supplemental *legal* authority." *In re Hibbing Taconite Mine and Stockpile Progression*, 888 N.W.2d 336, 344 n.1 (Minn. App. 2016). It does not allow a party to supplement the factual record, which is provided for in another section of the rules. *See* Minn. R. Civ. App. P. 110.05. Because appellant's rule 128.05 notice does not cite supplemental legal authority, we grant the state's motion to strike.

Affirmed; motion granted.