

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0759**

Majed Issac Ijong, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed March 14, 2022
Affirmed
Segal, Chief Judge**

Olmsted County District Court
File No. 55-CR-17-7367

Cathryn Middlebrook, Chief Appellate Public Defender, Jennifer Lauermann, Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

Mark A. Ostrem, Olmsted County Attorney, James E. Haase, Assistant County Attorney, Rochester, Minnesota (for respondent)

Considered and decided by Frisch, Presiding Judge; Segal, Chief Judge; and Reyes,
Judge.

NONPRECEDENTIAL OPINION

SEGAL, Chief Judge

In this appeal from the district court's order denying his petition for postconviction relief, appellant argues that his guilty plea was not intelligent and that the district court

therefore erred in denying his request to either modify the terms of his probation or permit withdrawal of his guilty plea to prevent a manifest injustice. We affirm.

FACTS

In October 2017, respondent State of Minnesota charged appellant Majed Issac Ijong with two counts of first-degree criminal sexual conduct and two counts of second-degree criminal sexual conduct. The state alleged that Ijong touched the vaginal area of his girlfriend's four-year-old daughter with his hand on two occasions, and that on two other occasions he engaged in sexual penetration with the child. The state later amended the complaint with an additional count of first-degree criminal sexual conduct and a notice of its intent to seek an aggravated sentence. Ijong was initially found to be incompetent to stand trial, but was declared competent to stand trial in September 2018. In October 2018, Ijong pleaded guilty to one count of second-degree criminal sexual conduct and the remaining charges were dismissed. In December 2018, the district court adjudicated Ijong guilty of second-degree criminal sexual conduct, stayed imposition of sentence, and placed him on probation for 25 years.

In December 2020, Ijong filed a petition for postconviction relief. He explained that at the time he pleaded guilty he was unaware that, as a consequence of his plea, he would not be able to travel to see his father in South Sudan. He asserted that he was only later told, after his plea and the adjudication, that he could not leave the country to travel to South Sudan. He claimed that he would not have pleaded guilty if he had known that this would be a consequence of his plea. He argued that his plea was therefore not intelligent and requested that he be allowed to withdraw his guilty plea or that the

conditions of his probation be modified to allow him to travel to South Sudan. He also argued that he was not competent at the time he entered his guilty plea.

The district court held an evidentiary hearing. At the hearing, Ijong testified that he could not recall exactly if he and his counsel discussed whether Ijong would be able to leave the country as a consequence of the guilty plea. He testified that his counsel “kind of made it seem like [he] would be able to leave; it is just the fact that probation would not be the one to say that [he] could or couldn’t leave.” He testified that he had since asked probation if he could return to South Sudan five or six times and been told no, and that he has learned that many countries will not allow entry to individuals with convictions for sex offenses. The district court asked Ijong to confirm that his counsel told him that probation could not give him approval to travel outside of the country and that he would need to speak with somebody else, and Ijong replied in the affirmative.

Ijong’s probation officer also testified. He confirmed that probation could not authorize Ijong to travel outside of the country, and that such authorization was “up to the courts.” He also testified that he had overseen several probationers who received authorization to leave the United States, but were denied entry by the other country, and that he had not “had anyone successfully . . . with a sex offense conviction visit another country.”

Following the evidentiary hearing, the district court denied the petition. The district court concluded that Ijong was aware of the direct consequences of pleading guilty and his plea was therefore valid, and that the record demonstrated that Ijong was competent at the time he entered his guilty plea. Ijong now appeals.

DECISION

“When a criminal defendant seeks to withdraw a guilty plea under Rule 15.05, after the defendant has been sentenced, the motion to withdraw the plea must be raised in a petition for postconviction relief.” *James v. State*, 699 N.W.2d 723, 727 (Minn. 2005); *see also* Minn. R. Crim. P. 15.05 (allowing for plea withdrawal). We review the denial of a petition for postconviction relief for an abuse of discretion. *Riley v. State*, 819 N.W.2d 162, 167 (Minn. 2012). An abuse of discretion occurs when a district court’s “decision is based on an erroneous view of the law or is against logic and the facts in the record.” *Id.* (quotation omitted). “The burden is on the petitioner at a post-conviction proceeding to prove by a preponderance of the evidence the facts which would warrant withdrawal of his guilty plea.” *Doughman v. State*, 351 N.W.2d 671, 674 (Minn. App. 1984), *rev. denied* (Minn. Oct. 16, 1984).

A criminal defendant does not have an absolute right to withdraw a guilty plea. *State v. Raleigh*, 778 N.W.2d 90, 93 (Minn. 2010). But Minn. R. Crim. P. 15.05, subd. 1, provides that “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.” “[A] manifest injustice exists if a guilty plea is not valid. To be valid, a guilty plea must be accurate, voluntary, and intelligent.” *Taylor v. State*, 887 N.W.2d 821, 823 (Minn. 2016) (quotation and citation omitted).

Ijong argues that his plea was not valid because it was not intelligent. “The purpose of the requirement that the plea be intelligent is to insure that the defendant understands the charges, understands the rights he is waiving by pleading guilty, and understands the

consequences of his plea.” *State v. Trott*, 338 N.W.2d 248, 251 (Minn. 1983). “But a defendant need not know *every* consequence of his plea for the plea to be intelligent.” *State v. Brown*, 896 N.W.2d 557, 561 (Minn. App. 2017), *rev. denied* (Minn. July 18, 2017). Rather, the defendant must be aware of the direct consequences of his plea, which are those consequences that are “definite, immediate and automatic.” *Kaiser v. State*, 641 N.W.2d 900, 903, 907 (Minn. 2002).

Ijong argues that his plea was not intelligent because he did not understand the consequences of his plea. He argues that “it was not clear from [his] testimony whether or not he consulted with the probation officer about who makes the decision on whether or not he can leave the country before the district court accepted his plea.” But as the district court observed, Ijong “did discuss the effect of a guilty plea on his ability to travel outside the United States with defense counsel before entering his plea” and “understood that he would need to seek permission of someone, not his probation officer, in order to visit South Sudan.” Ijong was therefore aware that his guilty plea might have an impact on his ability to travel outside the United States because he would need to obtain permission before leaving the country.

We also agree with the district court that several of the obstacles Ijong faced in returning to South Sudan were collateral consequences of his guilty plea. As noted above, direct consequences are those that are “definite, immediate and automatic.” *Id.* at 907. Restrictions that other countries may place on travel, including the possibility that Ijong may not be permitted to enter another country based on that country’s policies, are not “definite, immediate and automatic” consequences of his plea. As the district court stated,

such restrictions “are outside the scope of the State of Minnesota’s control and their application to [Ijong] are not punitive consequences of his plea.” The fact that Ijong may not have been aware of such collateral consequences of his plea does not render his plea unintelligent. *See Taylor*, 887 N.W.2d at 823 (“[A] defendant’s lack of awareness of a *collateral* consequence of a guilty plea does not render the guilty plea unintelligent and entitle a defendant to withdraw it.”).

Ijong further argues that he may not have been “in the right state of mind to understand and to be able to voice concerns to counsel and the court” about potential future travel to see his father. The district court, however, liberally construed his postconviction petition as including a challenge to his competency at the time he entered his guilty plea, and, after a thorough and careful review of the record, concluded that Ijong was competent to enter the plea. Among the records reviewed by the district court include Ijong’s competency evaluations, civil-commitment records, and mental-health diagnoses prior to the plea, as well as his testimony at the evidentiary hearing. Ijong does not meaningfully challenge this determination on appeal. We therefore conclude any challenge to his competency is without merit.

Finally, Ijong argues that he alternatively requested that the district court modify the conditions of his probation to allow him to travel to South Sudan, but that the district court failed to address his request. Ijong contends that the district court thus failed to exercise its discretion and that this failure constitutes an abuse of discretion. *See State v. Mendoza*, 638 N.W.2d 480, 484 (Minn. App. 2002) (noting that the court was reversing and remanding a case because “an exercise of discretion may not have occurred”), *rev. denied*

(Minn. Apr. 16, 2002). But, it appears that Ijong's petition to the district court only requested plea withdrawal or the modification of the conditions of his probation as alternative remedies to cure the allegedly unintelligent plea. His petition for postconviction relief asserts that his plea was unintelligent and concludes that "Ijong requests plea withdrawal or modification of the terms of his probation to allow a trip to see his father in South Sudan to prevent a manifest injustice." Ijong never made a request to travel that was independent of his claim for relief from an unintelligent plea.

We therefore conclude that the district court properly exercised its discretion in analyzing the substantive claim before it and did not abuse its discretion in denying the petition for postconviction relief.

Affirmed.