STATE OF MINNESOTA
IN COURT OF APPEALS
A21-1456

State of Minnesota,
Respondent,

vs.

Nathan Christopher Braun,
Appellant.

Filed July 17, 2023
Affirmed
Bratvold, Judge

Chisago County District Court
File No. 13-CR-20-514

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

Janet Reiter, Chisago County Attorney, David Classen, John Lovasz, Assistant County Attorneys, Center City, Minnesota (for respondent)

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

Considered and decided by Worke, Presiding Judge; Connolly, Judge; and Bratvold, Judge.

NONPRECEDENTIAL OPINION

BRATVOLD, Judge

This is a direct appeal from appellant's judgment of conviction for fourth-degree assault of a correctional officer. This court stayed the appeal; appellant petitioned for postconviction relief and received an evidentiary hearing. The district court denied the

petition. Appellant challenges the district court's decision to deny his request to withdraw his guilty plea because, he argues, the plea process was coercive. We conclude that the record supports the district court's determination that appellant's plea was voluntary. Thus, we affirm.

FACTS

The following summarizes the district court record, including several hearings. Appellant Nathan Christopher Braun was serving a 91-month sentence at Minnesota Correctional Facility-Rush City on April 20, 2020, when he began to argue with a correctional officer about his telephone privileges. Braun punched the officer several times in the head, causing injuries to the officer. Braun was placed in segregation after the assault.

The Minnesota Department of Corrections (DOC) served Braun with a notice alleging that he had violated seven disciplinary regulations with maximum penalties of up to 405 days in administrative segregation and 530 days of extended incarceration. In May 2020, Braun agreed with the DOC that he would admit all seven violations and waive "all procedural rights including appeal." In exchange, the DOC agreed that Braun would receive a reduced penalty of 170 days in administrative segregation and 60 days of extended incarceration.

In July 2020, respondent State of Minnesota charged Braun with fourth-degree assault of a correctional officer under Minn. Stat. § 609.2231, subd. 3(1) (2018). In May 2021, Braun entered into a plea agreement with the state. Braun agreed to enter a guilty plea and admit that he assaulted the officer by "punching" him "more than once." In exchange, the state agreed to recommend that Braun receive a downward durational

departure. Braun signed and submitted a written plea petition. During the plea hearing, Braun's attorney asked him about the trial rights he was waiving by pleading guilty. Braun agreed that he understood his trial rights, had received enough time to speak with his attorney about his case, was satisfied with his attorney's representation, and had a clear mind and that no one had made threats or promises to induce his plea. Braun admitted the facts of the assault as summarized above. The district court accepted Braun's guilty plea after finding Braun had "made a knowing, intelligent and voluntary waiver" of his rights. The district court sentenced Braun to eight months in prison, to be served consecutively to his previous sentence; this was a downward durational departure.[1]

Braun appealed from the judgment of conviction, and this court stayed the appeal and remanded for postconviction proceedings. Braun petitioned for postconviction relief, arguing that he should be allowed to withdraw his guilty plea because it was not voluntary. The district court held an evidentiary hearing. Braun offered four exhibits, including the DOC offender-discipline policy, the DOC notice of disciplinary violations described above, and several handwritten letters that Braun had sought to file with the district court. Braun testified on his own behalf and was the only witness at the hearing.

Braun testified that he was placed in segregation after the assault. Several weeks later, the DOC served Braun with the notice of disciplinary violations. Braun testified that

[1] Braun's downward durational departure to an eight-month sentence means that the conviction is a gross misdemeanor by operation of law. Minn. Stat. § 609.13, subd. 1(1) (2018). Also, Braun's sentence is presumptively consecutive because he committed the assault while serving an executed prison sentence. *See* Minn. Sent'g Guidelines 2.F.1.a.(1)(i) (Supp. 2019).

he had to accept the DOC's offer and admit the violations because the DOC would not let him enter an *Alford* plea.[2] Braun waived his right to a disciplinary hearing because "[e]very single time that [he had] ever gone through with any of these hearings, even when [he] had proof that [he] didn't commit any of the actual offenses, [he] was always found guilty." Braun discussed the disciplinary proceedings with his trial attorney in the criminal case and wrote his attorney a letter stating that he felt coerced into admitting the disciplinary violations. Braun testified that he "felt that [he] had no choice" because there was "no way that [he was] going to be able to prove [himself] innocent." Braun also testified that he decided to plead guilty in the criminal case because he knew "that by admitting guilt through a disciplinary proceeding in DOC, if [he] would have went to trial, the prosecutor would have been able to use [his] admission of guilt . . . as an exhibit of [his] guilt."

On cross-examination, Braun agreed that before pleading guilty, he had an opportunity to speak with his trial attorney about the criminal case, discuss the evidence against him, and have his questions answered. Braun agreed that he understood he could have gone to trial and contested the state's evidence at trial. Braun agreed that "[n]o one threatened [him]."

The district court issued a written order, finding that "Braun does not allege or present any evidence that the State engaged in any actual or threatened physical harm to him to induce him to enter his guilty plea." The district court also found Braun offered no

[2] An *Alford* plea allows a defendant to plead guilty and maintain their innocence. *See North Carolina v. Alford*, 400 U.S. 25, 38 (1970) (holding that a court may constitutionally accept a defendant's guilty plea even though the defendant maintains their innocence).

evidence of improper pressure during plea proceedings. The district court determined that Braun voluntarily entered a guilty plea and thus was not entitled to withdraw his plea. The district court denied Braun's postconviction petition.

This court dissolved the stay and reinstated Braun's appeal.

DECISION

Braun argues that he should be allowed to withdraw his guilty plea to fourth-degree assault of a correctional officer. Braun's brief to this court suggests, among other arguments, that his admission to disciplinary violations was involuntary. But he has not presented a proper challenge to his disciplinary proceedings; a habeas petition is required. *See, e.g.*, *Carrillo v. Fabian,* 701 N.W.2d 763, 766-68 (Minn. 2005) (discussing a challenge to a prison disciplinary proceeding following a writ of habeas corpus filed in district court). We conclude that Braun's appeal solely challenges the district court's order denying his postconviction petition to withdraw the guilty plea to his criminal conviction.

"A defendant does not have an absolute right to withdraw a valid guilty plea." *State v. Theis*, 742 N.W.2d 643, 646 (Minn. 2007). But a court must allow a defendant to withdraw a guilty plea at any time if "withdrawal is necessary to correct a manifest injustice." Minn. R. Crim. P. 15.05, subd. 1. A "manifest injustice exists where a guilty plea is invalid." *Theis*, 742 N.W.2d at 646. "To be constitutionally valid, a guilty plea must be accurate, voluntary, and intelligent." *State v. Raleigh*, 778 N.W.2d 90, 94 (Minn. 2010) (citing *Alford*, 400 U.S. at 31). A defendant bears the burden of establishing that their plea was invalid. *Id.* An appellate court reviews a postconviction court's factual determinations for clear error and does not reverse those determinations unless they are not supported by

the record. *Nelson v. State*, 880 N.W.2d 852, 857-58 (Minn. 2016). "[A]ssessing the validity of a plea presents a question of law that an appellate court reviews de novo." *Id.* (quotation omitted).

Braun challenges the validity of his plea on one ground, arguing that his plea was not voluntary. "To determine whether a plea is voluntary, the court examines what the parties reasonably understood to be the terms of the plea agreement." *Raleigh*, 778 N.W.2d at 96. "The voluntariness requirement ensures a defendant is not pleading guilty due to improper pressure or coercion." *Id.* (citing *State v. Trott*, 338 N.W.2d 248, 251 (Minn. 1983)). The voluntariness of a plea is determined by considering all the relevant circumstances. *Id.*

Improper pressures or inducements include "actual or threatened physical harm, or . . . mental coercion overbearing the will of the defendant." *Dikken v. State*, 896 N.W.2d 873, 877 (Minn. 2017) (quotations omitted). "[A] plea is involuntary when it is induced by coercive or deceptive action." *Id.* Further, the state cannot induce a plea through a promise that goes unfulfilled or that was unfulfillable from the start. *Id.* Yet, a plea is not involuntary just because a defendant subjectively feels that they have "no meaningful choice." *Id.* (stating that a defendant had meaningful choices, including to strategically continue to trial even though it was "not the specific choice he preferred").

In its postconviction order, the district court determined that Braun's plea was voluntary based on the following evidence: (1) "Braun understood the terms of the plea agreement"; (2) "Braun had legal counsel, reviewed all of the facts and evidence in the case, consulted with his counsel, and was satisfied with the representation of his counsel";

(3) "Braun received the sentence from the Court that the parties agreed upon"—which was a downward durational departure; and

> [(4)] the record supports that in both the DOC disciplinarian proceeding and this criminal matter Braun weighed the benefits and risks of accepting the plea agreement offers, the likelihood of success in prevailing at a hearing or trial in the proceedings and understanding the maximum penalties he faced if he was found to have committed the violation or found guilty of the criminal offense.

The district court also found that Braun did "not allege or present any evidence that the State engaged in any actual or threatened physical harm to him to induce him to enter his guilty plea." Further, the district court found "[n]o evidence is in the record establishing that the State improperly pressured Braun." The district court concluded: "On this record, Braun was only subjected to similar pressures that all offenders facing DOC violation proceedings and defendants in criminal proceedings face in considering and ultimately deciding to accept a plea agreement."

On appeal, Braun argues that "agents of the state produced his plea through mental coercion and overbearing his will." To support this assertion, Braun emphasizes the circumstances surrounding the DOC disciplinary proceedings and asserts the disciplinary proceedings influenced his decision to plead guilty to the criminal offense. The state argues that Braun has "introduced no evidence that his will was in any way overborn by the state" because a "defendant's subjective views about the fairness of a proceeding is not government action at all."

We reject Braun's arguments for two reasons. First, even if we assume, as Braun claims, that during plea negotiations, the state contended it would use his admission in the

DOC proceeding, we are not persuaded that Braun's plea was involuntary. A threat to prosecute a criminal defendant fully if they do not plead guilty is constitutional, and "a defendant's motivation to avoid a more serious penalty or set of charges will not invalidate a guilty plea." *State v. Ecker*, 524 N.W.2d 712, 719 (Minn. 1994) (citing *Brady v. United States,* 397 U.S. 742, 750-51 (1970)).

Second, the plea-hearing record shows that Braun entered into a guilty plea voluntarily. At the time of the plea hearing, Braun acknowledged that he could have proceeded to trial and that he chose to waive his trial rights. Rather than proceed to trial, he pleaded guilty to fourth-degree assault of a correctional officer in exchange for a downward durational sentencing departure, which he received. Throughout the plea proceeding, Braun demonstrated that he understood the terms of the plea deal and the rights he was waiving by entering a guilty plea to the fourth-degree assault charge, including his right to challenge the evidence the state presented against him. The plea colloquy included the following exchange between Braun and his trial attorney:

> Q: Mr. Braun, . . . do you feel you have had enough time to talk to me about your case?
> A: Yes.
>
> Q: Are you satisfied with my representation?
> A: Yes.
>
> Q: You understand, Mr. Braun, you don't have to offer a plea to the court. You understand we could have a trial in this matter, true?
> A: Yes, I do.
>
> . . . .

> Q: You understand you could contest the state's evidence and witnesses and you could testify at that trial, if you wanted to, true?
> A: Yes, I do.
>
> Q: And aside from this plea agreement, has anyone made any threats or promises to get you to plead guilty today?
> A: No.

The record shows that Braun weighed his options, voluntarily entered into a plea agreement, and received the benefit of that agreement. *See Dikken*, 896 N.W.2d at 877 (categorizing unfulfilled or unfulfillable promises as coercive action). On this record, we conclude that Braun's guilty plea was voluntary because he made a calculated choice after he considered his options.

Braun raises two more arguments in a pro se supplemental brief. First, he argues that he was coerced into admitting the DOC disciplinary violations by being held in segregation, which led to "sleep deprivation," "near starvation," "irritability, and memory loss." But, as mentioned above, Braun's arguments about the DOC's administration of his sentence are not properly before us. *See State v. Schnagl*, 859 N.W.2d 297, 301-04 (Minn. 2015) (holding that a writ of habeas corpus is the proper method for judicial review of decisions by the commissioner of corrections in administering a prisoner's sentence).

Second, Braun argues that he was forced to enter a guilty plea to the fourth-degree-assault charge because his attorney was unprepared. This argument is raised for the first time in this appeal, so we decline to address it. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (stating that generally, appellate courts address only those questions

previously presented to and considered by the district court); *Roby v. State*, 547 N.W.2d 354, 357 (Minn. 1996) (applying this principle to a criminal appeal).

In sum, Braun fails to point to any facts in the record showing that during district court proceedings, the state induced "mental coercion overbearing [his] will." *Dikken*, 896 N.W.2d at 877; *see also Raleigh*, 778 N.W.2d at 97 (concluding that defendant's plea was voluntary because he provided no evidentiary support for the reasons he advanced). Braun has thus failed to show that his guilty plea to fourth-degree assault was involuntary. Because the record does not support Braun's claim that the state induced Braun's plea through improper pressure or coercion, the district court did not err by denying postconviction relief, and we affirm.

Affirmed.