STATE OF MINNESOTA
IN COURT OF APPEALS
A23-0121

Sophia Wang Navas, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

Filed July 24, 2023
Affirmed
Larson, Judge

Washington County District Court
File No. 82-CR-17-1287

Beau D. McGraw, McGraw Law Firm, P.A., Lake Elmo, Minnesota (for appellant)

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

Kevin Magnuson, Washington County Attorney, Nicholas A. Hydukovich, Assistant County Attorney, Stillwater, Minnesota; and

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

Considered and decided by Gaïtas, Presiding Judge; Johnson, Judge; and Larson, Judge.

NONPRECEDENTIAL OPINION

LARSON, Judge

Appellant Sophia Wang Navas argues that "[a]s a result of receiving ineffective assistance of counsel at sentencing, [she] entered a guilty plea that was not intelligent." We affirm.

FACTS

Based on allegations that appellant participated in a nationwide sex-trafficking operation, respondent State of Minnesota charged appellant with: (1) one count of racketeering, Minn. Stat. § 609.903, subd. 1(1) (2014); (2) one count of aiding and abetting the sex trafficking of an individual, Minn. Stat. § 609.322, subd. 1a(4) (2014); (3) one count of aiding and abetting promoting the prostitution of an individual, Minn. Stat. § 609.322, subd. 1a(2) (2014); (4) one count of conspiracy to commit labor trafficking, Minn. Stat. § 609.282, subd. 2 (2014);[1] (5) one count of aiding and abetting concealing criminal proceeds, Minn. Stat. § 609.496, subd. 1(1) (2014); and (6) one count of aiding and abetting engaging in the business of concealing criminal proceeds, Minn. Stat. § 609.497, subd. 1 (2014). Later, the state filed a notice of its intent to seek an enhanced sentence for several aggravating factors.

The state and appellant entered into a plea agreement. Appellant agreed to plead guilty to one count of racketeering and one count of aiding and abetting the sex trafficking

[1] In an amended complaint, the state dismissed the labor-trafficking charge.

of an individual. Appellant waived her right to a *Blakely* trial[2] and admitted the facts regarding one aggravating factor—the presence of multiple victims. In exchange for her guilty plea, the state agreed to dismiss the remaining charges and to not seek a sentence above 150 months in prison. Both parties retained the right to file sentencing-departure motions and argue about the racketeering offense's appropriate severity level under the Minnesota Sentencing Guidelines.[3]

The district court held a plea hearing where appellant affirmed that she wished to enter the above-described plea agreement. When the district court addressed the potential consequences of appellant's guilty plea, the following exchange occurred:

> THE DISTRICT COURT: Do you understand that the worst case scenario under the plea negotiation is that you go to prison for 150 months?
> APPELLANT: I know.
> THE DISTRICT COURT: That's 12 and-a-half years. Do you understand that your attorney may argue that you not go to prison and be put on probation?
> APPELLANT: I know.
> THE DISTRICT COURT: Although the attorneys have told me what they're each going to argue, I've made no promises.
> APPELLANT: I know.
> THE DISTRICT COURT: So as you sit here today you have no idea what the ultimate sentence will be, true?
> APPELLANT: Yes, I know.

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[2] A *Blakely* trial is conducted to determine whether aggravating sentencing factors exist, and "[a] criminal defendant has the right to a trial by jury or by the court." *State v. Sanchez-Sanchez*, 879 N.W.2d 324, 330 (Minn. 2016) (citing *Blakely v. Washington*, 542 U.S. 296, 301 (2004)). A defendant may waive their right to a *Blakely* trial and instead admit facts supporting an aggravated sentence. *See* Minn. R. Crim. P. 15.01, subd. 2, 26.01, subd. 1(2)(b).

[3] The sentencing guidelines do not provide a severity level for racketeering offenses. *See* Minn. Sent'g Guidelines 5.A (2015) (listing racketeering as "unranked").

Appellant admitted to the following when she provided the factual basis for her guilty plea. In 2016, appellant began a business relationship with her codefendants.[4] To support the business, appellant "posted thousands of advertisements . . . for prostitution" online, "communicated with commercial sex customers," and "gave them the location and the price" for sex.

Prior to sentencing, both parties submitted sentencing memoranda. The state argued the district court should rank the racketeering offense at severity-level nine, while appellant argued the district court should rank the offense at level eight. Additionally, appellant moved for both downward dispositional and durational departures from the presumptive guideline sentence. Conversely, the state requested an upward durational departure to 150 months in prison.[5]

At the sentencing hearing, appellant's defense counsel referenced recently translated messages between appellant's codefendants to argue the district court should rank the racketeering offense at a severity-level eight. Defense counsel contended these messages proved appellant "was nothing more than an employee" and that her codefendants actually "ran the [sex-trafficking] operation." The state objected to defense counsel referencing the messages because defense counsel failed to include the messages as an exhibit with his sentencing memorandum. The district court allowed defense counsel

[4] Appellant's codefendants pleaded guilty to similar offenses before the same district court judge.

[5] The state's proposed severity level would result in a presumptive sentence of 86 months in prison, with a 74- to 103-month range. Minn. Sent'g Guidelines 4.A (2015).

to reference the messages in a limited capacity. Ultimately, the district court ranked the racketeering offense at a severity-level nine.

When the district court transitioned to the departure motions, defense counsel again referenced the messages. The state renewed its objection, this time noting that when the state provided these messages to defense counsel they were in Chinese—their original language—and that defense counsel failed to provide the state with a translated version. After defense counsel confirmed he had not provided the translated messages to the state and admitted he first translated the messages that day, the district court ruled defense counsel could not refer to the messages.

After the parties completed their arguments, the district court denied appellant's motion for downward departures and granted the state's motion for an upward departure. Regarding the downward departures, the district court noted that despite there being "some shifting of blame among" the codefendants, "[appellant] was at least an equal partner in this enterprise which . . . went on for a sustained period of time, involving multiple jurisdictions, multiple acts, and vulnerable adults as victims." And as the basis for the upward departure, the district court clarified that it granted the state's motion "based on . . . the number of victims who were involved." The district court then sentenced appellant to 150 months in prison for the racketeering offense and 76 months in prison for the sex-trafficking offense to run concurrently.

Appellant challenged her sentence on direct appeal. *State v. Navas*, A19-0204, 2020 WL 1488332, at *1 (Minn. App. Mar. 23, 2020), *rev. denied* (Minn. June 16, 2020). Specifically, appellant contended the district court erred when it: (1) relied on a legally

invalid basis for departing upward; (2) pronounced an excessive sentence given the conduct and sentences of her codefendants; and (3) improperly *Hernandized*[6] her sex-trafficking sentence. *Id.* We affirmed the district court's upward departure for appellant's racketeering offense but reversed the sex-trafficking sentence because that offense was improperly *Hernandized*. *Id.* We remanded for resentencing. *Id.*

Before the district court resentenced appellant for the sex-trafficking offense,[7] appellant filed a motion to withdraw her guilty plea.[8] Appellant argued she received ineffective assistance of counsel at sentencing because her defense counsel failed to translate the messages in a timely manner and, therefore, failed to introduce the messages at sentencing. Appellant thus contended her plea was unknowing and unintelligent.

In a written order, the district court denied appellant's motion to withdraw her guilty plea. Applying the two-prong *Strickland* test, the district court determined that appellant's defense counsel's performance did not fall below an objective standard of reasonableness and that any potential error did not prejudice appellant. *See Strickland v. Washington*, 466 U.S. 668, 687-88 (1984). The district court also concluded appellant's guilty plea was

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[6] Generally, under *State v. Hernandez*, a district court sentencing a defendant on the same day for multiple convictions can increase the defendant's criminal-history score incrementally as the district court imposes each successive sentence. 311 N.W.2d 478, 481 (Minn. 1981).

[7] In its order denying appellant's motion to withdraw her guilty plea, the district court noted, "This Court did not receive notice of the remand and the matter was not scheduled for resentencing until this Court was alerted to the error on June 20, 2022, when [appellant], represented by yet another attorney, filed a motion for plea withdrawal." After receipt of appellant's motion, the district court resentenced appellant to a concurrent 48-month prison term on the sex-trafficking offense and took the plea-withdrawal motion under advisement.

[8] At oral argument, appellant's counsel claimed appellant requested an evidentiary hearing in her motion to withdraw; however, this request is not reflected in the record.

intelligent because appellant "indicated she fully understood the possible consequences of her plea and the benefit of her bargain."

This appeal follows.

DECISION

Appellant challenges the district court's denial of her motion to withdraw her guilty plea. We review the district court's decision for an abuse of discretion. *See Barragan v. State*, 583 N.W.2d 571, 572 (Minn. 1998); *see also State v. Loyd*, No. A11-1159, 2012 WL 1570077, at *1 (Minn. App. May 7, 2012) (applying abuse-of-discretion standard to plea-withdrawal motion that occurred before resentencing).[9]

Although a criminal defendant does not have an "absolute right" to withdraw a guilty plea, the district court must allow withdrawal "to correct a manifest injustice." *State v. Raleigh*, 778 N.W.2d 90, 93 (Minn. 2010) (quotation omitted); Minn. R. Crim. P. 15.05, subd. 1; *see also State v. Munn*, No. A13-1067, 2014 WL 1516480, at *3 (Minn. App. Apr. 21, 2014) (applying manifest-injustice standard to plea-withdrawal motion that occurred after remand, but before resentencing), *rev. denied* (Minn. July 15, 2014). "A manifest injustice exists if a guilty plea is not valid." *Raleigh*, 778 N.W.2d at 94. "To be constitutionally valid, a guilty plea must be accurate, voluntary, and intelligent." *Id.* (citing *North Carolina v. Alford*, 400 U.S. 25, 31 (1970)). Additionally, ineffective assistance of counsel may render a plea constitutionally invalid. *State v. Ellis-Strong*, 899 N.W.2d 531,

[9] "Nonprecedential opinions . . . are not binding authority except as law of the case, res judicata or collateral estoppel, but nonprecedential opinions may be cited as persuasive authority." Minn. R. Civ. App. P. 136.01, subd. 1(c).

541 (Minn. App. 2017). A defendant bears the burden of showing their plea was invalid and assessing the validity of a plea presents a legal question that we review de novo. *Raleigh*, 778 N.W.2d at 94.

Appellant first argues that "[a]s a result of receiving ineffective assistance of counsel at sentencing, [she] entered a guilty plea that was not intelligent." Appellant relies on her defense counsel's failure to timely translate and then introduce the messages at sentencing to support her claim. We are not persuaded.

"The intelligence requirement ensures that a defendant understands the charges against [them], the rights [they are] waiving, and the consequences of [their] plea." *Id.* at 96. "Counsel, however, is not required to advise the defendant of *every* consequence for the defendant's plea to be intelligent." *Taylor v. State*, 887 N.W.2d 821, 823 (Minn. 2016). "Only *direct consequences* are relevant in assessing the intelligence of a guilty plea." *State v. Bell*, 971 N.W.2d 92, 101 (Minn. App. 2022) (emphasis added) (quotation omitted), *rev. denied* (Minn. Apr. 27, 2022); *see also Kaiser v. State*, 641 N.W.2d 900, 904 (Minn. 2002) (explaining that "direct consequences are those related to punishment that flow definitely, immediately and automatically from the plea" and include "the maximum sentence and fine"). "A defendant's lack of knowledge about the *collateral consequences* of a guilty plea does not render the guilty plea unintelligent and entitle a defendant to withdraw it." *Bell*, 971 N.W.2d at 101 (emphasis added) (quotation omitted) ("Collateral consequences, by contrast, are those that do not punish, 'serve a substantially different purpose' than to punish, and 'are imposed in the interest of public safety.'" (quoting *Kaiser*, 641 N.W.2d at 905)).

Here, appellant fails to explain how her defense counsel's failure to timely translate and then introduce the messages caused her to not understand the charges against her, the rights she waived, or the consequences of her plea. *See Raleigh*, 778 N.W.2d at 96. In fact, the record demonstrates appellant continually affirmed that she understood the consequences of her guilty plea. Most notably, appellant affirmatively responded when the district court asked her, "Do you understand that the worst case scenario under the plea negotiation is that you go to prison for 150 months?" This affirmation clearly demonstrates that appellant understood the "direct consequences" of her guilty plea with regards to sentencing. *See Bell*, 971 N.W.2d at 101. Defense counsel's later failure to timely translate and submit the messages does not negate appellant's express understanding.

Appellant's second argument that her defense counsel rendered ineffective assistance in a manner that invalidated her guilty plea is similarly unpersuasive. To prove ineffective assistance of counsel, a defendant must show: "(1) [their] attorney's performance fell below an objective standard of reasonableness, and (2) a reasonable probability exists that the outcome would have been different, but for counsel's errors." *State v. Mosley*, 895 N.W.2d 585, 591 (Minn. 2017) (quotation omitted); *see also Strickland*, 466 U.S. at 687-88. "We need not address both the performance and prejudice prongs if one is dispositive." *Andersen v. State*, 830 N.W.2d 1, 10 (Minn. 2013).

Appellant fails to show a "reasonable probability" the outcome would have been different if defense counsel had introduced the messages. *See Swaney v. State*, 882 N.W.2d 207, 217 (Minn. 2016). Here, the same judge presided over appellant's and her codefendants' cases, including accepting the guilty pleas of her codefendants. After

reviewing the extensive information turned over in this case, the district court determined appellant "was at least an equal partner in this enterprise." The record also shows the district court understood the content of the messages, allowing defense counsel to reference them during argument on the proper ranking for the racketeering offense. And defense counsel vigorously argued, both in his written and oral submissions, that appellant played a lesser role than her codefendants. Finally, and arguably most importantly, the district court imposed the upward departure not for appellant's "role" in the operation, but for the operation having "multiple victims." Thus, appellant fails to show how the messages would have changed the outcome of this matter.

For these reasons, the district court did not abuse its discretion when it denied appellant's motion.

Affirmed.