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STATE OF MINNESOTA
IN COURT OF APPEALS
A11-1578

State of Minnesota,
Respondent,

vs.

Steven Carter Dahle,
Appellant.

Filed October 9, 2012
Affirmed
Connolly, Judge

Waseca County District Court
File No. 81-CR-10-43

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Paul Dressler, Waseca County Attorney, Rachel V. Cornelius Androli, Assistant County Attorney, Waseca, Minnesota (for respondent)

David W. Merchant, Chief Appellate Public Defender, Cathryn Middlebrook, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Connolly, Presiding Judge; Stoneburner, Judge; and Harten, Judge.[*]

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

UNPUBLISHED OPINION

CONNOLLY, Judge

On appeal from his conviction of second-degree driving while impaired, appellant argues that the district court abused its discretion in denying his motion to withdraw his guilty plea prior to sentencing because the reasons advanced in support of the request established that it would have been fair and just to allow appellant to withdraw his plea. Because the district court acted within its discretion when it denied appellant's motion, we affirm.

FACTS

Appellant Steven Carter Dahle was charged with two counts of driving while impaired in the second degree. Following two days of jury trial, appellant decided to plead guilty to count two. At the plea hearing, appellant acknowledged that he was giving up the right to complete his jury trial. Appellant and his attorney then had the following discussion on the record:

> Q: I have not put any pressure on you to get you to plead guilty today; have I?
> A: No.
> Q: And, in fact, it's your decision to plead guilty and you've indicated to me that there are certain reactions of the jurors that you've seen that makes you think that the case won't go well if the case goes to the jury; is that right?
> A: Yes.
> Q: And based on that, that's what you're basing your decision to enter the plea of guilty; is that correct?
> A: Correct.

Appellant then pleaded guilty to count two, and count one was dismissed.

Before sentencing, appellant made a motion to withdraw his guilty plea. Appellant's attorney filed an affidavit in support of the motion to withdraw, alleging that his client chose to plead guilty because of a court ruling that "was based on the prosecutor's misconduct." The affidavit explained that appellant had been involved in a previous incident with the arresting officer and appellant had referred to this incident during his testimony.[1] The affidavit stated that the prosecution objected to the testimony and the district court sustained the objection, finding that the testimony was an unfair surprise for the state, and instructed the jury to disregard that line of questioning. The affidavit stated that it was due to this ruling that appellant pleaded guilty. The affidavit further stated that, after appellant pleaded guilty, appellant's attorney learned that the prosecutor had knowledge of appellant's previous encounter with the arresting officer, despite denying such knowledge at trial. Appellant's attorney argued that this was prosecutorial misconduct and that his client's decision to plead guilty was not voluntary. Finally, the affidavit averred that the arresting officer testified falsely when he stated that he had not met appellant before the driving-while-impaired stop.

At the sentencing hearing, the district court heard appellant's motion to withdraw his guilty plea. At the hearing, appellant's attorney argued that appellant's plea was not knowingly and voluntarily made, in part because the prosecutor engaged in misconduct by failing to provide the defense with information about the incident. From appellant's perspective, "what happened on that prior incident provided the motive for the stop."

[1] The previous incident was an arrest for disorderly conduct, to which appellant pleaded guilty.

Addressing appellant's motion, the district court judge noted that "the defendant had more information" about the incident than the prosecutor, the incident was "a matter of public record," and the court was "at a loss to understand why any discovery was needed." The judge also stated that he had reviewed the arresting officer's testimony, and did not believe that the officer had testified falsely: "What I did see was a comment that dealt with identification at the time and [the arresting officer] indicated that he identified the defendant by looking at his driver's license, which I believe is different than saying 'I've never met this person before or had any contact with him.'"

The district court denied appellant's motion, finding that it was not fair and just to allow appellant to withdraw his plea, and sentenced appellant to 365 days in jail, stayed 335 days for two years, and placed him on probation. This appeal follows.

D E C I S I O N

A criminal defendant does not have an absolute right to withdraw his guilty plea. *State v. Raleigh*, 778 N.W.2d 90, 93 (Minn. 2010). This court reviews a district court's denial of a motion to withdraw a guilty plea for an abuse of discretion. *Barragan v. State*, 583 N.W.2d 571, 572 (Minn. 1998).

A court may consider a withdrawal of a guilty plea in two situations. First, a district court has discretion to allow a defendant to withdraw his guilty plea at any time in order to correct a "manifest injustice." Minn. R. Crim. P. 15.05, subd. 1. Second, a district court may also, in its discretion, grant a defendant's presentence motion to withdraw a guilty plea if the district court determines that it would be "fair and just" to allow withdrawal. *Id.*, subd. 2. "The 'fair and just' standard requires district courts to

give ‘due consideration’ to two factors: (1) the reasons a defendant advances to support withdrawal and (2) prejudice granting the motion would cause the State given reliance on the plea.” *Raleigh*, 778 N.W.2d at 97 (citing Minn. R. Crim. P. 15.05, subd. 2). But if the defendant does not convince the district court that it would be fair and just to allow withdrawal of the plea, the district court does not have to consider the prejudice to the state. *Id.* at 98.

Appellant moved to withdraw his plea prior to sentencing, arguing that his plea was not valid. The district court denied the motion, finding that withdrawal was not required under the “fair and just” standard. A guilty plea is not valid if it is not accurate, voluntary, and intelligent. *Id.* at 94. The defendant has the burden of establishing that his guilty plea is invalid. *Id.* The validity of a guilty plea is a question of law which is reviewed de novo. *Id.* It is a “manifest injustice” if the defendant’s guilty plea is not valid, and by implication, an invalid guilty plea is a “fair and just” reason for withdrawing a plea. *Id.*; *State v. Theis*, 742 N.W.2d 643, 646 (Minn. 2007) (declining to consider the “discretionary fair-and-just standard because the manifest injustice standard of subdivision 1 requires withdrawal where a plea is invalid”).

Appellant argues that it would be fair and just to allow him to withdraw his guilty plea. He argues that his guilty plea was not knowing and voluntary because he felt that the arresting officer testified falsely, claiming that he did not know appellant, and the prosecutor improperly withheld information about the previous incident involving appellant and the arresting officer. He does not raise the issue that was raised below, alleging that the plea was entered into because of an improper ruling by the district court.

“The requirement that the plea be knowingly and understandingly made is designed to insure that the defendant understands the charges, the rights being waived and the consequences of the guilty plea.” *Brown v. State*, 449 N.W.2d 180, 182 (Minn. 1989). At the time that appellant entered his guilty plea, he was already well into the second day of his jury trial. He acknowledged that he was giving up his right to finish the jury trial, that in exchange for pleading guilty to count two, count one would be dismissed, and replied, “Yes” when asked by the court, “Did you sign this [plea agreement] knowingly and voluntarily?” Because appellant understood the rights being waived and the consequences of pleading guilty, his plea was knowingly made.

“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 that a guilty plea is not in response to improper pressures or coercion. *Id.* In determining whether a guilty plea is voluntary, courts employ a totality-of-the-circumstances approach. *Id.*

Appellant argues that his plea was not voluntary because it was made due to improper pressure caused by the arresting officer’s testimony and the prosecution’s failure to produce discovery relating to appellant’s previous incident with the arresting officer. First, this argument is directly contradicted by appellant’s own testimony at the plea hearing. Appellant stated on the record that he was choosing to plead guilty because, based on his observation of juror reactions to testimony, he thought the case would not go well for him if it went to the jury. Second, appellant does not cite to any portion of the officer’s transcript that he claims is false. Finally, as the district court

noted, appellant does not explain why the prosecutor was required to provide the defense with information about appellant's previous encounter with the arresting officer. The incident was an arrest for disorderly conduct to which appellant pleaded guilty. It was a matter of public record and was obviously within appellant's knowledge.

This is not the "rare case" of an abuse of discretion by the district court. *See State v. Kaiser*, 469 N.W.2d 316, 320 (Minn. 1991). To the contrary, the district court was acting well within its discretion when it denied appellant's motion. Because the district court did not abuse its discretion by determining that there was no fair and just reason to allow appellant to withdraw his plea, there is no need to consider the prejudice, or lack thereof, to the state. *See Raleigh*, 778 N.W.2d at 98.

Affirmed.