STATE OF MINNESOTA
IN COURT OF APPEALS
A11-209

State of Minnesota,
Respondent,

vs.

Leon Lamar Spriggs,
Appellant.

Filed January 17, 2012
Affirmed
Kalitowski, Judge

Ramsey County District Court
File No. 62-CR-10-1623

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

John J. Choi, Ramsey County Attorney, Thomas R. Ragatz, Assistant County Attorney, St. Paul, Minnesota (for respondent)

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

Considered and decided by Minge, Presiding Judge; Kalitowski, Judge; and Ross, Judge.

U N P U B L I S H E D O P I N I O N

KALITOWSKI, Judge

Appellant Leon Lamar Spriggs challenges the district court's denial of his motion to withdraw his guilty plea to first-degree aggravated robbery, arguing that (1) the plea

petition conditions were inapplicable because the district court had not accepted the plea agreement; (2) the plea was not intelligent and voluntary; and (3) the district court failed to consider his arguments for withdrawal under the fair-and-just standard. We affirm.

D E C I S I O N

Appellant pleaded guilty to first-degree aggravated robbery in violation of Minn. Stat. § 609.245, subd. 1 (2008). The plea agreement provided that appellant would be conditionally released and sentenced at the low end of the sentencing guidelines presumptive range, but if he failed to abide by the terms of the conditional release, he would be sentenced at the high end of the presumptive range. The plea petition also stated:

> I have been told by my attorney and understand . . . . [t]hat if the court does not approve this agreement: I have an absolute right to then withdraw my plea of guilty and have a trial, **except** if I fail to comply with any of the following: I fail to cooperate with probation in the preparation of the pre-sentence investigation . . . I fail to abide by the terms of the Conditional Release to Project Remand . . . [t]he court will **not** accept the plea agreement and the court will likely sentence me to a more severe sentence than outlined in the plea agreement.

Appellant failed to participate in the presentence investigation and otherwise failed to comply with the terms of conditional release. At the sentencing hearing, appellant made a motion to withdraw his plea. The district court denied the motion and sentenced appellant to 93 months, a duration at the high end of the presumptive range.

A defendant does not have an absolute right to withdraw a plea. *State v. Raleigh*, 778 N.W.2d 90, 93 (Minn. 2010). The district court may allow a defendant to withdraw a

plea before sentencing "if it is fair and just to do so" and must allow a defendant to withdraw a plea at any time if "necessary to correct a manifest injustice." Minn. R. Crim. P. 15.05, subds. 1, 2. But the district court's rejection of a defendant's motion to withdraw "will be reversed only in the rare case in which the appellate court can fairly conclude that the trial court abused its discretion." *Kim v. State*, 434 N.W.2d 263, 266 (Minn. 1989).

Appellant first contends that the district court did not accept the plea agreement, and so the conditions listed on the plea petition were not applicable when he made a motion to withdraw the plea. But appellant does not dispute that he entered the plea. And he admits that the plea petition explicitly provided that he did not have an absolute right to withdraw his plea if he violated the conditions, even if the agreement was not accepted by the district court. Therefore, whether the district court accepted the plea agreement at the time the plea was entered is immaterial to whether he was permitted to withdraw it.

Appellant suggests that because the district court did not accept the plea agreement, imposing the 93-month sentence was an abuse of discretion, and so withdrawal should be permitted. We disagree. Appellant repeatedly acknowledged that the entered plea was not tied to a specific sentence, and he recognized that if he failed to comply with the presentence investigation and other conditions he would be sentenced at the high end of the presumptive range. Because the higher sentence "was expressly contemplated by the plea, and the parties agreed that this sentence would be imposed" if appellant failed to comply with the conditions, he "received precisely what he bargained

for." *State v. Batchelor*, 786 N.W.2d 319, 324 (Minn. App. 2010) (holding that a district court does not abuse its discretion by refusing to allow a defendant to withdraw his plea after the imposition of a longer sentence based on the defendant's failure to meet a condition of the plea agreement), *review denied* (Minn. Oct. 19, 2010).

Appellant also argues that the district court erred in denying his motion to withdraw because his plea was not voluntary and intelligent. A valid plea must be voluntary and intelligent. *State v. Trott*, 338 N.W.2d 248, 251 (Minn. 1983). A plea is voluntary when it is made without improper pressure or inducement and is intelligent when the defendant understands the charges, his legal rights, and the consequences of pleading guilty. *Id.* The manifest-injustice standard of Minn. R. Crim. P. 15.05, subd. 1 "requires withdrawal where a plea is invalid." *State v. Theis*, 742 N.W.2d 643, 646 (Minn. 2007).

At the plea hearing, appellant indicated to the prosecutor and the district court that he suffered from depression and was prescribed anti-depressant medications, but he had not taken the medications while in custody prior to the hearing. Defense counsel specifically asked whether appellant was thinking freely and clearly and able to understand all of the proceedings, despite the fact that he had not taken the medications. Appellant answered in the affirmative.

When he made his motion to withdraw, appellant explained that at the time he entered the plea, he was "just out of [his] mind" and "really not thinking right." And on appeal, he argues that he was not thinking clearly because he had not taken the medications prior to the plea hearing. But there is no evidence that defense counsel, the

prosecutor, or the district court believed that appellant was not thinking freely and clearly and appellant offers no additional evidence as to his mental state at the time of the plea hearing. Appellant acknowledged that he had read the plea petition and discussed it with defense counsel. And the district court repeatedly asked appellant to confirm that he understood the choice to plead guilty and offered appellant multiple opportunities to raise any concerns.

A defendant's failure to indicate that he is not thinking clearly at the time of the plea hearing weighs against subsequent withdrawal on that basis. *See Erickson v. State*, 702 N.W.2d 892, 898 (Minn. App. 2005) (rejecting the defendant's argument that the plea was involuntary because the defendant had testified at the time he entered the plea that he understood the proceedings and was not under the influence of drugs). In addition, here, appellant admitted at the sentencing hearing that he recalled what he had agreed to at the plea hearing.

The district court evaluated appellant's mental clarity at the plea and sentencing hearings and determined that his plea was voluntary and intelligent. We defer to a district court's primary observations and credibility determinations. *State v. Aviles–Alvarez*, 561 N.W.2d 523, 527 (Minn. App. 1997), *review denied* (Minn. June 11, 1997). Appellant brought forth no evidence of improper pressure or inducement. The record establishes that he understood the charges, his legal rights, and the consequences of pleading guilty. Accordingly, the district court did not abuse its discretion in denying appellant's motion to withdraw his plea on the ground that the plea was invalid.

Appellant also contends that the district court erred because it failed to consider his arguments for withdrawal under the fair-and-just standard. We disagree.

In determining whether to allow withdrawal under the fair-and-just standard, the district court is required to "give due consideration to the reasons advanced by the defendant in support of the motion and any prejudice the granting of the motion would cause the prosecution." Minn. R. Crim. P. 15.05, subd. 2. The defendant carries the burden of proving that there is a fair and just reason for allowing withdrawal of the plea. *Raleigh*, 778 N.W.2d at 97.

When appellant made a motion to withdraw, the district court questioned him about the voluntariness of the plea, asked whether he was under the influence of alcohol or drugs, and confirmed that appellant was fully advised of the consequences of the plea. The record establishes that the district court considered appellant's arguments concerning his mental state and, after concluding that the plea was voluntary and intelligent, determined that appellant's arguments were insufficient to warrant withdrawal. Thus, we conclude that the district court gave due consideration to appellant's arguments under the fair-and-just standard.

Affirmed.