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**STATE OF MINNESOTA
IN COURT OF APPEALS
A12-0832**

Andre Eugene Jarrett, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed May 6, 2013
Affirmed
Peterson, Judge**

Hennepin County District Court
File No. 27-CR-10-21959

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

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

Michael O. Freeman, Hennepin County Attorney, Lee W. Barry, Assistant County
Attorney, Minneapolis, Minnesota (for respondent)

Considered and decided by Ross, Presiding Judge; Peterson, Judge; and Chutich,
Judge.

UNPUBLISHED OPINION

PETERSON, Judge

In this appeal from the denial of his postconviction petition to withdraw his guilty plea, appellant argues that, because his attorney improperly pressured him into pleading guilty, his plea was not voluntarily made and, therefore, the plea is invalid. We affirm.

FACTS

Appellant Andre Eugene Jarrett completed a written petition to enter a plea of guilty and pleaded guilty to kidnapping. As part of a plea agreement, respondent State of Minnesota dismissed a first-degree criminal-sexual-conduct charge and agreed to a 60-month sentence for the kidnapping offense. At the plea hearing, appellant admitted his guilt and testified to facts that established a factual basis for the plea. The district court accepted appellant's plea and sentenced him to 60 months' imprisonment.

Appellant filed a petition for postconviction relief, seeking to withdraw his guilty plea on the basis that the plea was not knowing, intelligent, and voluntary. In support of his petition, appellant submitted an affidavit in which he stated that his attorney coerced him into pleading guilty. After an evidentiary hearing at which appellant and his attorney testified, the postconviction court denied appellant's petition. The court found that appellant entered his guilty plea knowingly and voluntarily. The court concluded that appellant failed to show that his plea was the result of an improper inducement by his attorney and that the advice that appellant received from his attorney encouraging him to plead guilty was legal advice that appellant voluntarily followed.

DECISION

We review a postconviction court's denial of relief to determine whether the court abused its discretion. *James v. State*, 699 N.W.2d 723, 728 (Minn. 2005). "Our review of factual findings is limited to determining whether there is sufficient evidence in the record to support the findings of the postconviction court." *Rickert v. State*, 795 N.W.2d 236, 239 (Minn. 2011).

After sentencing, a defendant may withdraw a guilty plea if he can establish that withdrawal is necessary to correct a manifest injustice. Minn. R. Crim. P. 15.05, subd. 1. A manifest injustice exists if a guilty plea is not valid. *State v. Theis*, 742 N.W.2d 643, 646 (Minn. 2007). To be valid, a guilty plea must be accurate, voluntary, and intelligent. *State v. Raleigh*, 778 N.W.2d 90, 94 (Minn. 2010). The validity of a guilty plea is a question of law, which this court reviews de novo. *Id.* A defendant bears the burden of showing that his plea was invalid. *Id.*

The postconviction court noted that, although appellant alleged in his petition that his plea was not made knowingly, intelligently, and voluntarily, the memorandum of law that appellant submitted in support of the petition argued only that the plea was not made voluntarily. Similarly, the brief that appellant submitted to this court argues only that appellant's plea was not voluntary.

"The purpose of the voluntariness requirement is to insure that the defendant is not pleading guilty because of improper pressures." *State v. Trott*, 338 N.W.2d 248, 251 (Minn. 1983). "Whether a plea is voluntary is determined by considering all relevant circumstances." *Raleigh*, 778 N.W.2d at 96. Whether a plea was voluntarily made is a

question of fact, and we will not disturb the postconviction court's finding of fact unless it is clearly erroneous. *See State v. Danh*, 516 N.W.2d 539, 544 (Minn. 1994) (reviewing denial of presentence motion to withdraw plea); *see also Sanchez v. State*, 816 N.W.2d 550, 560 (Minn. 2012) (applying clearly erroneous standard of review to postconviction court's finding of fact). "Findings of fact are not clearly erroneous if there is reasonable evidence to support them." *Id.*

Appellant contends that his attorney coerced him into pleading guilty by repeatedly telling him that, if he went to trial, he would likely be convicted of first-degree criminal sexual conduct; that, if convicted, he would possibly face a 20-year prison sentence; and that the state might seek to commit appellant as a sexually dangerous person. Appellant contends that his attorney's repeated statements "instilled fear in appellant" and were "improperly persuasive" and, as a result, he felt he had no choice but to plead guilty.

The postconviction court found that appellant voluntarily pleaded guilty. The record reasonably supports this finding. Appellant completed and swore to a written petition to enter a plea of guilty, in which he acknowledged that he understood the charges brought against him, the rights he waived by pleading guilty, and the consequences of pleading guilty. At his plea hearing, appellant acknowledged on the record that, under the plea agreement, he would likely be sentenced to 60 months in prison for the kidnapping offense, he would likely serve two-thirds of that time in prison, he would have to register as a predatory offender, and that the plea agreement might become the basis for the state to petition to commit appellant as a sexually dangerous

person. Appellant also acknowledged that the plea agreement was of substantial benefit to him because he would avoid the 15- to 20-year sentence that was possible if he was convicted of first-degree criminal sexual conduct.

Appellant testified at the plea hearing that no one had promised or threatened him to elicit his plea and that his decision to enter a guilty plea was a free and voluntary one. Appellant also testified that he had sufficient time to discuss his case with his attorney, he was satisfied with his attorney's representation of his interests, and he wanted to proceed by pleading guilty.

At the evidentiary hearing on appellant's postconviction petition, appellant testified that his attorney repeatedly met with him and kept him informed about the status of his case. Appellant also testified that his attorney encouraged him to accept the plea agreement and told him that it was his opinion that appellant had a 50% chance of prevailing if he went to trial on the charge of first-degree criminal sexual conduct. Appellant testified that his attorney did not threaten him.

Because reasonable evidence supports the district court's finding that appellant's guilty plea was voluntarily made, the finding is not clearly erroneous. And because appellant's guilty plea was voluntarily made, appellant did not meet his burden of showing that his plea was invalid, and the postconviction court did not abuse its discretion when it denied appellant's petition to withdraw the plea.

Affirmed.