**STATE OF MINNESOTA**
**IN COURT OF APPEALS**
**A07-1651**

State of Minnesota,
Respondent,

vs.

Willie Ponder,
Appellant.

**Filed July 1, 2008**
**Affirmed**
**Worke, Judge**

Hennepin County District Court
File No. 02052794

Lori Swanson, Attorney General, 1800 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101; and

Michael O. Freeman, Hennepin County Attorney, Michael K. Walz, Assistant County Attorney, C-2000 Government Center, Minneapolis, MN 55487 (for respondent)

Lawrence Hammerling, Chief Appellate Public Defender, Ngoc Nguyen, Assistant Public Defender, 540 Fairview Avenue North, Suite 300, St. Paul, MN 55104 (for appellant)

Considered and decided by Stoneburner, Presiding Judge; Worke, Judge; and Muehlberg, Judge.*

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

**WORKE,** Judge

On appeal from the denial of his postconviction petition challenging his

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

attempted-second-degree-murder conviction, appellant argues that his guilty plea was not voluntary and intelligent. We affirm.

**D E C I S I O N**

Appellant Willie Ponder argues that the district court abused its discretion in denying his petition for postconviction relief. "We review a postconviction court's findings to determine whether there is sufficient evidentiary support in the record. We afford great deference to a district court's findings of fact and will not reverse the findings unless they are clearly erroneous." *Dukes v. State*, 621 N.W.2d 246, 251 (Minn. 2001) (citation omitted). We will not disturb the decision of a postconviction court unless the court abused its discretion. *Id.*

In 2002, appellant pleaded guilty to attempted-second-degree murder and was sentenced to 150 months in prison. In 2007, appellant filed a motion to withdraw his guilty plea, which the district court treated as a postconviction petition. In denying appellant's motion, the district court found that appellant acknowledged several times at his plea hearing that he intended to plead guilty and did not want to withdraw his guilty plea despite his belief that his attorney had not sufficiently investigated a prior injury that affected appellant's memory. Appellant also acknowledged that he intended to cause the victim's death and was not claiming that he was innocent of attempting to cause her death. The district court found that appellant was specifically informed of the consequences of pleading guilty to attempted-second-degree murder, and concluded that appellant failed to establish by a preponderance of the evidence that he is entitled to postconviction relief.

Once a guilty plea has been entered, a defendant does not have an absolute right to withdraw it. *Kaiser v. State*, 641 N.W.2d 900, 903 (Minn. 2002). "Public policy favors the finality of judgments and courts are not disposed to encourage accused persons to play games with the courts by setting aside judgments of conviction based upon pleas made with deliberation and accepted by the court with caution." *Id.* (quotation omitted). But a defendant may 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 constitutionally valid guilty plea "must be accurate, voluntary and intelligent (i.e., knowingly and understandingly made)." *State v. Ecker*, 524 N.W.2d 712, 716 (Minn. 1994). The absence of any of the three requisites, if proven by the defendant, results in a "manifest injustice" and allows the defendant to withdraw the plea. *Id.* at 715-16.

Appellant argues, through counsel and his pro se supplemental brief, that his guilty plea was not voluntary or intelligent. The requirement that a guilty plea be voluntary ensures that a plea "is not in response to improper pressures or inducements[.]" *Alanis v. State*, 583 N.W.2d 573, 577 (Minn. 1998). The requirement that a guilty plea be made intelligently ensures that "the defendant understands the charges, the rights being waived and the [direct] consequences of the guilty plea." *Brown v. State*, 449 N.W.2d 180, 182 (Minn. 1989). "[D]irect consequences are those which flow definitely, immediately, and automatically from the guilty plea[.]" *Alanis*, 583 N.W.2d at 578. Collateral consequences result from actions taken by other government agencies, including deportation. *Id.*; *see also State v. Mendoza*, 638 N.W.2d 480, 483 (Minn. App. 2002) ("*Alanis* and its progeny makes it clear that deportation is 'collateral' because

immigration consequences are not controlled by Minnesota courts."), *review denied* (Minn. Apr. 16, 2002).

Appellant acknowledged during the plea hearing that he had not been threatened or coerced into pleading guilty and was pleading guilty of his own free will. Appellant failed to submit evidence of any pressure or inducement; therefore, the district court's finding that the guilty plea was voluntary is not clearly erroneous. Appellant also acknowledged that he understood the charges, the rights he was waiving, and the consequences of pleading guilty. The district court informed appellant of the consequences of pleading guilty to attempted-second-degree murder and questioned him extensively regarding whether it was his intent to enter a guilty plea. The district court's finding that appellant's guilty plea was intelligent is not clearly erroneous. Because the record supports the district court's finding that appellant's guilty plea was accurate, voluntary and intelligent, the district court did not err in denying appellant's postconviction petition.

**Affirmed.**