STATE OF MINNESOTA
IN COURT OF APPEALS
A08-1640

State of Minnesota,
Respondent,

vs.

Mohammed Shahidullah,
a/k/a Sam Ulland,
Appellant.

Filed January 5, 2010
Affirmed
Crippen, Judge[*]

Mcleod County District Court
File No. 43-CR-08-650

Jody L. Winters, Gavin Olson Winters Twiss Theis Long Ltd., 1017 Hennepin Avenue North, Glencoe MN 55336 (for respondent)

Sam Ulland (pro se appellant)

Considered and decided by Wright, Presiding Judge; Ross, Judge; and Crippen, Judge.

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

CRIPPEN, Judge

Appellant Mohammed Shahidullah, also known as Sam Ulland, challenges his conviction for public nuisance and the district court's order denying a motion to

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

withdraw his guilty plea. Appellant argues that he was coerced to plead guilty and that he should be allowed to withdraw his plea to prevent a manifest injustice. We affirm.

FACTS

Appellant is a homeowner in Winsted, Minnesota. In October 2007, acting on complaints received by the city, a municipal building inspector conducted a site inspection of appellant's building. The inspector advised appellant that the roof was in disrepair to the detriment of his neighbors' property, and that the city would take action if the problems were not remedied. Appellant unsuccessfully challenged the city council's declaration that his roof was a public nuisance and was given 60 days to repair it. When appellant failed to do so, the city charged him with misdemeanor public nuisance in violation of city ordinance.

On July 15, 2008, appellant pleaded guilty to the nuisance charge, following his discussion with the prosecutor and the district court judge and after a discussion on the record about appellant's rights. The court accepted the plea but decided to withhold sentencing for 45 days to allow appellant to fix his roof and abate the underlying public nuisance.

On August 29, 2008, the court stayed imposition of a sentence and also stayed eight of ten days of the probationary jail time so long as appellant paid a fine and finished his roof repairs, both by September 19. On September 19 appellant reported that his repairs remained incomplete, and he moved to withdraw his plea. Finding no manifest injustice requiring otherwise, the court denied the withdrawal motion.

D E C I S I O N

A defendant does not have an absolute right to withdraw a guilty plea once it is entered. *Carey v. State*, 765 N.W.2d 396, 399 (Minn. App. 2009), *review denied* (Minn. Aug. 11, 2009). In order to withdraw a guilty plea after sentencing, a defendant must establish that withdrawal is necessary to correct a "manifest injustice." Minn. R. Crim. P. 15.05, subd. 1; *State v. Theis*, 742 N.W.2d 643, 646 (Minn. 2007). This court reviews a postconviction court's application of the manifest injustice standard for an abuse of discretion. *Carey*, 765 N.W.2d at 400.

1.

Appellant argues that his guilty plea was the result of coercion by the district court. A manifest injustice occurs when a criminal defendant is coerced into pleading guilty; the defendant must be allowed to withdraw his guilty plea in such an instance. *State v. Kaiser*, 469 N.W.2d 316, 319 (Minn. 1991).

As proof of coercion, appellant claims that the judge told him off the record, "if you go to trial I shall give you twenty days jail time and many more," and that this caused appellant to be fearful and plead guilty. Because appellant failed to prove this conversation occurred, we are precluded from reviewing the claim. *See* Minn. R. Crim. P. 28.02, subd. 8 (stating that "[t]he record on appeal shall consist of the papers filed in the trial court, the offered exhibits, and the transcript of the proceedings, if any"); *see also State v. Brown*, 709 N.W.2d 313, 319 n.3 (Minn. App. 2006) (noting review would be precluded where the judge had allegedly participated in plea negotiations but negotiations occurred off the record and no record had been made).

2.

Appellant also argues that there was a manifest injustice because he "was confused and did not plead anything." If a defendant's guilty plea was not accurate, not voluntary, or not intelligent, a manifest injustice has occurred, and a district court must permit the defendant to withdraw his plea. *Theis*, 742 N.W.2d at 650. The "intelligent requirement insures that the defendant understands the charges, his or her rights under the law, and the consequences of pleading guilty." *Alanis v. State*, 583 N.W.2d 573, 577 (Minn. 1998).

At the July 15 hearing, appellant first stated, "me and [the prosecutor] we agreed to plead guilty as we discussed in the chambers." The court observed that during the conference in chambers the court said a guilty plea would be followed in about 45 days by sentencing, permitting appellant to eliminate the nuisance. The court asked if he wanted to go ahead with the plea with that understanding, and appellant said "Yeah."

The court then asked how appellant would plead, but appellant said he was "getting confused" because he wanted assurance that he would not be charged again when "the roof is done." The court repeated appellant's options for a trial or a plea and appellant repeated his wish for assurances from the city about future charges. The court told appellant that the court could not make assurances for the city but that he would assure him that there would be no further charges during the 45-day repair period. Appellant thanked the court and then offered that "it satisfies me to go ahead and plead guilty." When asked if this was true, he repeated, "Yeah," and the court accepted his plea.

The district court concluded that appellant's plea was intelligent, and this court will sustain the district court's findings if they are supported by sufficient evidence in the record. *Williams v. State*, 760 N.W.2d 8, 11 (Minn. App. 2009). The record at the sentencing hearing supports the district court's finding that appellant's plea was intelligent. Appellant agreed to plead guilty, and he proceeded to reaffirm his desire to plead guilty three times. That appellant did at one point suggest that he was confused was in reference to an issue that was resolved on the record and it is not enough to make his plea unintelligent. Appellant intelligently opted to plead guilty.

Minn. R. Crim. P. 15.02 outlines the questions to be asked of defendant before accepting a plea of guilty to any offense punishable by incarceration. The on-record exchanges between the court and the defendant suggest that the court failed to fully advise appellant regarding the meaning of a right to trial, to question appellant in a manner ensuring that he understood the charge, and to obtain an admission by appellant that his actions occurred. But we are satisfied on the record that appellant understood the charge, that the charge was read, that appellant agreed on the record to plead guilty, and that he reaffirmed three times on the record that he intended to plead guilty. The record supports a finding that appellant's plea was intelligent and voluntary, and the district court did not abuse its discretion in denying appellant's petition to withdraw his guilty plea.

3.

Appellant lists five additional legal issues for the court to consider. But appellant fails to fully explain these issues or provide legal authority for his claims. Allegations of

error based on "mere assertion," without legal argument or authority to support them, are deemed waived unless prejudicial error is obvious on mere inspection. *State v. Ouellette*, 740 N.W.2d 355, 361 (Minn. App. 2007), *review denied* (Minn. Dec. 19, 2007). Because prejudicial error is not obvious on mere inspection of the record, we do not consider appellant's list of further claims.

Affirmed.