IN THE COURT OF APPEALS FOR THE STATE OF WASHINGTON

STATE OF WASHINGTON,	)	
	)	No. 66679-7-I
Respondent,	)	
	)	DIVISION ONE
v.	)	
	)	
MATTHEW BRIAN CASTRO,	)	UNPUBLISHED OPINION
	)	
Appellant.	)	FILED: June 11, 2012

Spearman, A.C.J. — Matthew Castro pleaded guilty to child molestation in the first degree and was informed that his standard-range minimum sentence was 67 to 89 months. Before sentencing, he pleaded guilty to an unrelated felony, which caused his standard-range minimum sentence to increase to 72 to 96 months. Castro appeals, arguing that his plea was not knowing, intelligent, and voluntary because he was not properly informed of the direct sentencing consequences. Because we conclude that Castro was informed that additional convictions could increase his standard-range minimum sentence, we reject Castro's argument and affirm.

FACTS

Castro was initially charged with rape of a child in the first degree. At his October 1, 2010 plea hearing, he pleaded guilty to an amended charge of child

molestation in the first degree. At the hearing, Castro repeatedly affirmed his understanding of the statement of defendant on plea of guilty (plea statement) and that he had read it with his attorney, Carlos Gonzalez, who answered all questions he may have had. The plea statement advised Castro that the crime to which he was pleading guilty carried a standard-range minimum sentence of 67 to 89 months and a maximum term of life in prison. Paragraph 6(d) of the agreement stated:

> If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendations may increase or a mandatory sentence of life imprisonment without [the] possibility of parole may be required by law. Even so, I cannot change my mind and my plea of guilty to this charge is binding on me.

Before sentencing, Castro pleaded guilty to felony violation of a no-contact order, which increased his standard-range minimum sentence on the child molestation charge to 72 to 96 months. On January 12, 2011, Castro was sentenced to a standard-range minimum sentence of 89 months and a maximum of life in prison for the child molestation charge. He was also sentenced to 15 months for the no-contact order violation, to run concurrently with his sentence for child molestation.

DISCUSSION

On appeal, Castro argues that his guilty plea was not knowing, intelligent, and voluntary because he was misinformed of the standard-range minimum

sentence of his crime. We conclude that he was properly informed of the consequences of his plea and affirm.

A guilty plea involves the waiver of important state and federal constitutional rights. A plea must therefore be knowing, intelligent, and voluntary in order to satisfy due process requirements. Boykin v. Alabama, 395 U.S. 238, 243 n.5, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969); In re Pers. Restraint of Montoya, 109 Wn.2d 270, 277, 744 P.2d 340 (1987). We consider the totality of circumstances to determine if a plea was knowing, intelligent, and voluntary. State v. Branch, 129 Wn.2d 635, 642, 919 P.2d 1228 (1996). When the defendant admits to reading, understanding, and signing a plea statement, we begin with the strong presumption that the plea was voluntary. State v. Smith, 134 Wn.2d 849, 852, 953 P.2d 810 (1998). A plea is not voluntary if the defendant is not informed of the direct consequences of the plea, including the sentencing implications. In re Pers. Restraint of Bradley, 165 Wn.2d 934, 939, 205 P.3d 123 (2009). Knowledge of the direct consequences of a guilty plea can be satisfied by the plea documents or by clear and convincing extrinsic evidence. In re Pers. Restraint of Stoudmire, 145 Wn.2d 258, 266, 36 P.3d 1005 (2001).

Castro contends that his guilty plea is involuntary. He argues that the deputy prosecutor misled him during the plea colloquy because while the deputy prosecutor explained that the State's sentencing recommendation could change if Castro had additional criminal history at the time of sentencing, the deputy

prosecutor did not also state that his standard range could also increase. He contends that the deputy prosecutor's omission caused him to mistakenly believe that pleading guilty to a new offense before sentencing would not affect the standard range as set forth in the plea statement. The contention is without merit.

The undisputed record shows that the plea statement advised Castro that his standard range could increase if he was convicted of any additional crimes before sentencing. The record also shows that Castro signed the plea statement only after reading it with his attorney, that he understood it, that he had an opportunity to ask his attorney any questions about the statement, that his attorney answered all of his questions, and that he had no additional questions for the court. Castro cites no authority for the proposition that a deputy prosecutor's failure to reiterate during the plea colloquy a sentencing consequence clearly set forth in the plea statement is either misleading or renders an otherwise voluntary guilty plea involuntary. On the contrary, "[w]hen a defendant completes a plea statement and admits to reading, understanding, and signing it, this creates a strong presumption that the plea is voluntary." Smith, 134 Wn.2d at 852; (citing State v. Perez, 33 Wn. App. 258, 261, 654 P.2d 708 (1982).

Castro relies on Smith, but his reliance is misplaced. Smith was charged with possession of cocaine after being stopped by police officers who found

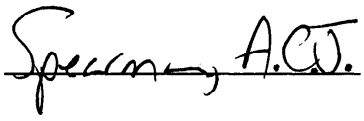
cocaine in his mouth. Smith, 134 Wn.2d at 851. He moved to suppress the evidence on the basis that he had been unlawfully seized. When the trial court denied the motion, defense counsel stated that Smith intended to plead guilty but reserved a right to appeal the suppression ruling. Counsel presented a statement on plea of guilty signed by Smith, which provided that Smith understood he was giving up "a right to appeal a determination of guilt after a trial." Id. At the plea hearing, defense counsel confirmed that she had explained and Smith understood that "'his plea of guilty itself is not appealable' but that "'he has reserved the right to appeal the court's ruling on the pretrial motion.'" Id. at 852. The Washington Supreme Court held that under those circumstances, where defense counsel expressed an erroneous interpretation of the plea statement and was not corrected by the prosecutor or the trial court, Smith did not knowingly, voluntarily, and intelligently give up his right to appeal the suppression ruling. Id. at 853. Here, in contrast, there is no indication that the prosecutor's challenged plea colloquy was legally incorrect or misleading.

Castro further argues that the pertinent section of the plea statement was confusing because it stated that his standard sentence range would increase, not his standard-range minimum sentence. However, the plea statement also stated that under RCW 9.94A.712, for sex offenses committed on or after September 1, 2001, "the judge will impose a maximum term of confinement consisting of the statutory maximum sentence for the offense, and a minimum term of confinement

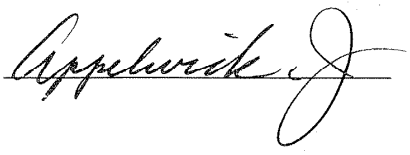
either within the standard range for the offense or outside the standard range if an exceptional sentence is imposed." This paragraph clarified that the maximum sentence would be the statutory maximum and that Castro's minimum term of confinement would fall within the standard range. Thus, an increase in the standard sentence range was equivalent to an increase in his standard-range minimum sentence. This paragraph applies to Castro since he committed a sex offense after September 1, 2001.[1] Castro confirmed his understanding of this paragraph at the plea hearing.

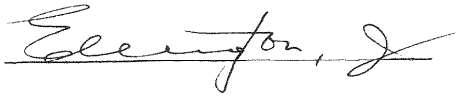
Based on the totality of the circumstances, the record supports the conclusion that Castro was properly informed of the direct sentencing consequences of his plea, and that his plea was therefore voluntary.

Affirmed.



WE CONCUR:





[1] The crime in this case was committed on or about February 20, 2010.