IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON, Respondent, v. STEVEN MCDOUGAL RIGGS, Appellant.	No. 42030-9-II UNPUBLISHED OPINION

Hunt, J. — Steven McDougal Riggs appeals his guilty plea conviction for unlawful solicitation to possess marijuana. He argues that his plea was not knowing, intelligent and voluntary. Pro se, he asserts that he was coerced into pleading guilty. We affirm.

FACTS

The State initially charged Riggs with unlawful manufacture of marijuana, a felony. As a result of a plea agreement, the State amended its charge to unlawful solicitation to possess marijuana, a gross misdemeanor. Riggs signed a statement on plea of guilty, which informed him that (1) the maximum sentence he faced was 365 days in jail and a $5,000 fine, and (2) the State would ask for a sentence of 365 days in jail with 322 days suspended and the remaining 43 days converted to community service, 2 years of probation, payment of legal financial obligations, and limitations on his behaviors involving controlled substances.

During the plea colloquy with the court, Riggs stated that his attorney had read the

statement on plea of guilty to him and that he understood it. The following exchange then occurred:

> THE COURT: The consequences of pleading guilty, this is a misdemeanor; it carries with it a maximum of 365 days in jail and a $5,000 fine. The prosecutor in this case is going to recommend 365 days with 322 suspended, converting the 43 days to 344 hours of community service, $500 crime victim fee, $200 DAC recoupment, $200 court costs, $200 fine.
>
> . . . Do you understand that to be the recommendation of the prosecutor?
>
> THE DEFENDANT: Yes, ma'am.
>
> THE COURT: And do you understand that the sentencing judge has no obligation to follow that recommendation but can impose any sentence up to the maximum of 365 days.
>
> THE DEFENDANT: Yes, ma'am.

Verbatim Transcript of Proceedings (Mar. 10, 2011) at 34. The court accepted Riggs' *Alford*[1] plea and later sentenced him consistent with the State's recommendation. Riggs appeals.

ANALYSIS

Riggs argues that his plea was not knowing and voluntary because he was mistakenly advised about the direct consequences of his plea. *State v. Mendoza*, 157 Wn.2d 582, 591, 141 P.3d 49 (2006). More specifically, he asserts that, because the plea court referred to his crime as a "misdemeanor" rather than as a "gross misdemeanor," and because the form he signed is captioned "Statement of Defendant on Plea of Guilty (Misdemeanor)," he was mistakenly advised about a direct consequence of his plea.[2] Riggs' challenge fails.

The record shows, as Riggs' asserts, that the plea court misspoke when referring to the crime as a "misdemeanor" rather than a "gross misdemeanor" and that his statement on plea of

[1] *North Carolina v. Alford*, 400 U.S. 25, 37, 91 S. Ct. 160, 27 L. Ed. 2d 162 (1970).

[2] Br. of Appellant at 4.

guilty form used the term "misdemeanor."[3] But the record also shows that both during the colloquy and on his plea form, Riggs was correctly advised about the direct consequences of his guilty plea to the reduced charge of unlawful solicitation to possess marijuana, namely a maximum sentence of one year in the county jail and a $5,000 fine.[4] Former RCW 9A.20.021(2) (Laws of 2003, ch. 288, § 7). Thus, although referring to the amended charge as a "misdemeanor," the plea court correctly advised Riggs about the consequences his pleading guilty to a gross misdemeanor. We hold, therefore, that Riggs fails to show that his plea was not knowing, voluntary, and intelligent, and that a manifest injustice supports a withdrawal of his plea. *State v. Branch*, 129 Wn.2d 635, 641, 919 P.2d 1228 (1996).

In his statement of additional grounds, Riggs asserts that he was coerced into pleading guilty by his medical condition, his attorney's frequent requests for continuance, and difficulty in contacting his attorney. The record, however, does not support this assertion. In his statement of plea of guilty and in his plea colloquy, Riggs expressly denied having been coerced into pleading

[3] Br. of Appellant at 6.

[4] In contrast, no place in the record shows that Riggs was incorrectly advised that he was subject to the maximum sentence for a misdemeanor, 90 days in the county jail and a $1,000 fine. Former RCW 9A.20.021(3).

guilty. Again, he fails to present any grounds for withdrawing his guilty plea.

We affirm.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.

Hunt, J.

We concur:

Penoyar, C.J.

Quinn-Brintnall, J.