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Minn. Stat. § 480A.08, subd. 3 (2012).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A12-0915**

State of Minnesota,  
Respondent,

vs.

Mongong Kual Maniang Deng,  
Appellant.

**Filed March 25, 2013  
Affirmed  
Worke, Judge**

Mower County District Court  
File No. 50-CR-11-806

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

Kristen M. Nelsen, Mower County Attorney, Christa M. Daily, Assistant County  
Attorney, Austin, Minnesota

David W. Merchant, Chief Appellate Public Defender, Sara J. Euteneuer, Assistant  
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Worke, Presiding Judge; Kalitowski, Judge; and  
Schellhas, Judge.

## UNPUBLISHED OPINION

**WORKE**, Judge

Appellant argues that the district court abused its discretion by denying his motion to withdraw his guilty plea to attempted first-degree murder and possession of a firearm by an ineligible person. We affirm.

### DECISION

On January 27, 2012, appellant Mongong Kual Maniang Deng entered an *Alford* plea to attempted first-degree murder and possession of a firearm by an ineligible person. On February 29, prior to sentencing, appellant moved to withdraw his guilty plea. The district court denied the motion. Appellant argues that the district court abused its discretion by refusing to allow him to withdraw his guilty plea.

A defendant does not have an absolute right to withdraw a guilty plea. *State v. Raleigh*, 778 N.W.2d 90, 93 (Minn. 2010). But a district court may allow a defendant to withdraw a guilty plea at any time “to correct a manifest injustice,” or “before sentence if it is fair and just to do so.” Minn. R. Crim. P. 15.05, subds. 1, 2. Under the fair-and-just standard, a district court considers “the reasons advanced by the defendant in support of the motion and any prejudice the granting of the motion would cause the prosecution by reason of actions taken in reliance upon the defendant’s plea.” *Id.*, subd. 2. “A defendant bears the burden of advancing reasons to support withdrawal.” *Raleigh*, 778 N.W.2d at 97. We will reverse a district court’s ruling on a motion filed pursuant to rule 15.05, subdivision 2, “only if it can fairly be concluded that the district court abused its discretion.” *Barragan v. State*, 583 N.W.2d 571, 572 (Minn. 1998).

Appellant argues that he should have been allowed to withdraw his guilty plea because his attorney pressured him into pleading guilty. Essentially, appellant argues that his plea was invalid because it was not voluntary. *See Raleigh*, 778 N.W.2d at 96 (stating that a guilty plea is not voluntary when it is made in response to improper pressures). It is a “manifest injustice” if the defendant’s guilty plea is not valid, and by implication, an invalid guilty plea is a “fair and just” reason for withdrawing a plea. *Id.* at 94. The validity of a guilty plea is a question of law which is reviewed de novo. *Id.* In determining whether a guilty plea is voluntary, we consider the totality of the circumstances. *Id.* at 96.

Despite appellant’s attempt to show that his attorney coerced him into pleading guilty, the record belies this claim. Appellant was charged with attempted first-degree murder, first-degree assault, first-degree burglary, and prohibited person in possession of a weapon. He pleaded guilty to attempted first-degree murder and possession of a firearm by an ineligible person. When he pleaded guilty, appellant agreed that he had enough time to discuss the matter with his attorney, considered all of his options, understood his trial rights, and was pleading guilty on his own free will. The record shows that appellant voluntarily pleaded guilty.

At the hearing on his motion to withdraw his plea, appellant sought to show that because he had a difficult relationship with his attorney, his attorney was ineffective and coerced him into pleading guilty. But a difficult relationship alone fails to show that appellant’s attorney was ineffective or that he coerced appellant into pleading guilty. First, appellant’s attorney was an experienced public defender who met with appellant at

least 25 times from arraignment through the entry of appellant's plea. Second, the differences between appellant and his attorney stemmed from opposing views on the strength of the evidence against appellant.

Appellant suggested that his attorney was ineffective because he failed to establish a defense. Appellant first urged his attorney to find witnesses to establish that appellant was not at the crime scene. When two co-defendants contradicted that claim, appellant's attorney then planned an alternative-perpetrator defense. But when appellant's DNA profile was identified on a gun with the victim's blood, appellant's concern shifted to the length of his sentence. Appellant may have been dissatisfied with the way his case progressed, but it is not ineffective assistance of counsel for an attorney to provide an honest assessment of the strength of the state's case or to suggest that it may be more advantageous to plead guilty. *See Voorhees v. State*, 627 N.W.2d 642, 651 (Minn. 2001) (stating that we generally do not review matters of trial strategy for competence); *see also State v. Demry*, 260 Minn. 173, 178, 109 N.W.2d 587, 591 (1961) (stating that there is not a viable ineffective-assistance-of-counsel claim when the accused has had fair representation by counsel who proceeded according to his best judgment and the accepted rules of criminal trial practice).

Because appellant failed to establish that his guilty plea was invalid, this is not a "rare case" in which the district court abused its discretion. *See State v. Kaiser*, 469 N.W.2d 316, 320 (Minn. 1991). Because the district court did not abuse its discretion by determining that there was no fair and just reason to allow appellant to withdraw his plea,

there is no need to consider the prejudice, or lack thereof, to the state. *See Raleigh*, 778 N.W.2d at 98.

**Affirmed.**