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**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-0540**

State of Minnesota,
Respondent,

vs.

Willie Lee Greenwade,
Appellant.

**Filed April 22, 2008
Affirmed
Klaphake, Judge**

Lake County District Court
File No. 38-Cr-06-139

Lori Swanson, Attorney General, 1800 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101-2134; and

Laura M. Auron, Assistant Lake County Attorney, Lake County Courthouse, 601 Third Avenue, Two Harbors, MN 55616 (for respondent)

Lawrence Hammerling, Chief Appellate Public Defender, Cathryn Young Middlebrook, Assistant State Public Defender, 540 Fairview Avenue North, Suite 300, St. Paul, MN 55104 (for appellant)

Considered and decided by Schellhas, Presiding Judge; Klaphake, Judge; and Halbrooks, Judge.

UNPUBLISHED OPINION

KLAPHAKE, Judge

Appellant Willie Lee Greenwade challenges the district court's denial of his motion to withdraw his guilty plea to the offense of terroristic threats, Minn. Stat. § 609.713, subd. 1 (2004). Appellant alleges that he was coerced into pleading guilty because he was being abused in jail and that his plea was not voluntarily made because he was not taking his medication for paranoid schizophrenia at the time of the plea hearing. Because both of these alleged bases for plea withdrawal are directly contradicted by evidence appellant offered at his plea hearing, we conclude that the district court did not abuse its discretion in denying appellant's plea withdrawal motion, and affirm.

DECISION

A district court may receive a guilty plea if it is accurate, voluntary, and intelligent. *State v. Trott*, 338 N.W.2d 248, 251 (Minn. 1983). After acceptance of the plea, but before sentencing, a defendant may not withdraw a guilty plea “for simply any reason,” *State v. Farnsworth*, 738 N.W.2d 364, 372 (Minn. 2007), because such action would alter the “process of accepting guilty pleas [into] a means of continuing the trial to some indefinite date in the future when the defendant might see fit to come in and make a motion to withdraw his plea.” *Kim v. State*, 434 N.W.2d 263, 266 (Minn. 1989) (quotation omitted). Further,

[t]here is no absolute right to withdraw a guilty plea. Instead, the Minnesota Rules of Criminal Procedure provide that when a defendant seeks to withdraw his plea before sentencing, the district court may, within its discretion, permit withdrawal “if it is fair and just to do so, giving due consideration to 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." Minn. R. Crim. P. 15.05, subd. 2. The defendant bears the burden of proving that there is a "fair and just" reason for withdrawing his plea.

Farnsworth, 738 N.W.2d at 371 (other quotations omitted). We review a district court's ruling on a plea withdrawal motion for abuse of discretion. *Id.* at 372.

We first note that appellant quickly moved to withdraw his plea. His plea hearing was held on August 10, 2006, and he moved to withdraw the plea on September 1, 2006. This factor is "relevant to show an absence of prejudicial reliance on his plea by the prosecution." *State v. Abdisalan*, 661 N.W.2d 691, 694 (Minn. App. 2003), *review denied* (Minn. Aug. 19, 2003); Minn. R. Crim. P. 15.05, subd. 2 (enumerating prejudice to prosecution as factor for court to consider in weighing presentence motion to withdraw guilty plea).

Appellant relies on two bases for seeking plea withdrawal. The first is that he was coerced to plead guilty to get out of jail "at any cost" because he was being "abused." A plea agreement that is coerced by the state's actual or threatened physical harm is invalid. *State v. Ecker*, 524 N.W.2d 712, 719 (Minn. 1994). But "the normal trauma associated with being incarcerated following an arrest is not, by itself, a basis to claim coercion." *Sykes v. State*, 578 N.W.2d 807, 813 (Minn. App. 1998), *review denied* (Minn. July 16, 1998). Appellant has not offered any evidence other than a bald assertion that he was abused in jail. Because this claim is directly contradicted by appellant's statement at his plea hearing that he was not pleading guilty for the purpose of being released from

custody, the district court did not abuse its discretion in determining that appellant did not meet his burden of establishing facts to show that he was coerced to plead guilty. *See State v. Lopez*, 379 N.W.2d 633, 638 (Minn. App. 1986) (affirming denial of plea withdrawal motion based, in part, on credibility determination regarding defendant's contradictory statements made at plea hearing and plea withdrawal hearing), *review denied* (Minn. Feb. 14, 1986).

Appellant's second reason for seeking a plea withdrawal is that his plea was not valid because he was not taking his medication for paranoid schizophrenia at the time of the plea hearing. "[N]o one may be tried for or plead guilty to a crime if he is incompetent to stand trial due to mental illness or mental deficiency." *Bruestle v. State*, 719 N.W.2d 698, 704 (Minn. 2006). Again, appellant's claim is directly contradicted by his assertions during the plea proceedings. In his plea petition and plea hearing testimony, appellant stated that he had never been a patient in a mental hospital, that he had not been ill lately, and that he was not taking pills or other medications. His testimony at the plea hearing does not suggest that he was mentally ill, nor did his counsel express any such concerns. In challenging his plea, appellant offers no evidence to support his claim, such as evidence showing that he was prescribed medicine at the time of the plea hearing. Under these circumstances, the district court did not abuse its discretion in denying appellant's plea withdrawal motion. *See Lopez*, 379 N.W.2d at 638.

Affirmed.