STATE OF MINNESOTA
IN COURT OF APPEALS
A07-2025

Alvin N. King, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

Filed February 10, 2009
Affirmed
Kalitowski, Judge

Isanti County District Court
File No. K9-02-1196

Lawrence Hammerling, Chief Appellate Public Defender, James R. Peterson, Assistant Public Defender, 540 Fairview Avenue North, Suite 300, St. Paul, MN 55104 (for appellant)

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

Jeffrey Edblad, Isanti County Attorney, 555 18th Avenue Southwest, Cambridge, MN 55008; and

Susan Gaertner, Ramsey County Attorney, Mitchell L. Rothman, Special Assistant Isanti County Attorney, 50 West Kellogg Boulevard, Suite 315, St. Paul, MN 55102 (for respondent)

Considered and decided by Halbrooks, Presiding Judge; Kalitowski, Judge; and Stoneburner, Judge.

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

KALITOWSKI, Judge

In this postconviction appeal, appellant Alvin N. King challenges the postconviction court's denial of his motion to withdraw his guilty pleas. Appellant argues that the postconviction court abused its discretion because his pleas were not intelligent and voluntary. We affirm.

D E C I S I O N

We review a postconviction court's decision to deny relief for an abuse of discretion. *State v. Rhodes*, 675 N.W.2d 323, 326 (Minn. 2004) (reviewing a petition for postconviction relief seeking to withdraw a guilty plea). A postconviction petitioner has the burden of establishing the facts alleged in the petition by a fair preponderance of the evidence. *State v. Ecker*, 524 N.W.2d 712, 716 (Minn. 1994) (citing Minn. Stat. § 590.04, subd. 3 (1992)). On appeal, the scope of our review is limited to the question of whether there is sufficient evidence to sustain the findings of the postconviction court. *Id.*

A criminal defendant does not have an absolute right to withdraw a guilty plea once it is entered. *Rhodes*, 675 N.W.2d at 326. "Rather, Minn. R. Crim. P. 15.05, subd. 1, provides that '[t]he court shall allow a defendant to withdraw a plea of guilty upon a timely motion and proof to the satisfaction of the court that withdrawal is necessary to correct a manifest injustice.'" *Id.* A manifest injustice exists if the plea is not accurate, voluntary, and intelligent. *Id.* A plea is intelligent if it is made knowingly and with understanding. *State v. Trott*, 338 N.W.2d 248, 251 (Minn. 1983). Whether a plea is

voluntary is a question of fact that will not be disturbed unless clearly erroneous. *Sykes v. State*, 578 N.W.2d 807, 812 (Minn. App. 1998) (considering challenge of voluntariness of guilty pleas in a postconviction proceeding). And findings of fact are not clearly erroneous if they are supported by reasonable evidence in the record. *Id.*

Appellant argues that his guilty pleas were not intelligent and voluntary. Appellant points to several statements at the plea hearing that he claims demonstrate that he was not thinking clearly at the time of his guilty pleas. Appellant also relies on evidence submitted to the postconviction court that describes the deleterious effects of medications he claims he was taking at the time of his pleas.

Our review of the record indicates that appellant's pleas were intelligent and voluntary and that the evidence is sufficient to sustain the findings of the postconviction court. At the plea hearing, the district court asked appellant on three occasions if he had enough time to discuss the pleas with his attorneys and appellant answered affirmatively on each occasion. Appellant twice affirmed that he was pleading guilty because he was guilty. And when asked if he understood the proceeding, appellant responded that he did. The record also shows that appellant was apprised of and understood his constitutional rights and the consequences of waiving his rights. In addition, appellant stated that he was not under the influence of drugs or medication at the time of the incident. Appellant also indicated that he possessed sufficient clarity of mind to understand the proceeding and the consequences of the proceeding. Significantly, when questioned by the district court some four months later at his sentencing hearing, appellant stated that at the plea hearing he was not under the influence of drugs or medication to the degree that he did

not understand the plea proceedings. But in his petition for postconviction relief, appellant argued that he was under the influence of prescription medications at the time he entered his pleas and submitted evidence supporting this contention.

In its order denying relief, the postconviction court found that appellant was not under the influence of medications at the time of his pleas and found appellant's subsequent assertions that he was under the influence of medications unsupported by the record. We conclude that this record is sufficient to sustain the district court's conclusion that appellant's pleas were voluntary and intelligent. *See Erickson v. State*, 702 N.W.2d 892, 898 (Minn. App. 2005) (rejecting argument that plea was involuntary where appellant claimed to be under the influence of alcohol and Paxil where record shows appellant testified he understood what he was doing and testified he was not under the influence of drugs). Because the record is sufficient to sustain the postconviction court's conclusion that appellant's pleas were intelligent and voluntary, we thus conclude that the postconviction court did not abuse its discretion when it denied appellant's petition for postconviction relief.

In addition to the brief filed by appellant's counsel, appellant filed a pro se supplemental brief accompanied by a four-volume appendix. This court ordered the four-volume appendix struck on the ground that it contained extra-record documents. We conclude that appellant's pro se arguments have no support in the record and are without merit.

Affirmed.