STATE OF MINNESOTA
IN COURT OF APPEALS
A08-1978

Catherine Renee McQueen, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

Filed December 15, 2009
Affirmed
Kalitowski, Judge

Anoka County District Court
File No. 02-K9-06-010765

Marie L. Wolf, Interim Chief Appellate Public Defender, Michael W. Kunkel, 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

Stoney Hiljus, Coon Rapids City Attorney, David J. Brodie, Assistant City Attorney, 11155 Robinson Drive, Coon Rapids, MN 55433 (for respondent)

Considered and decided by Wright, 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

Appellant Catherine Renee McQueen challenges the district court's denial of her motion to withdraw her guilty plea, arguing that the district court abused its discretion because her plea was not voluntarily or intelligently entered. We affirm.

D E C I S I O N

Appellant pleaded guilty to third-degree driving while impaired, in violation of Minn. Stat. §§ 169A.20, subd. 1(1) and 169A.26, subds. 1(a), (2) (2006). Pursuant to a plea agreement, appellant was sentenced to one year in the Anoka County jail, stayed, with 15 days executed on home electronic monitoring. Shortly after sentencing, appellant filed a motion to withdraw her guilty plea. The district court denied appellant's motion.

District courts have broad discretion in deciding whether to permit withdrawal of a guilty plea, and a reviewing court will reverse only if the district court abused its discretion. *Barragan v. State*, 583 N.W.2d 571, 572 (Minn. 1998). In deciding whether there was an abuse of discretion, this court must consider all the facts and circumstances that formed the basis of the district court's determination. *State v. Hayes*, 276 Minn. 384, 386, 150 N.W.2d 552, 553-54 (1967). We will sustain the district court's findings if they are supported by sufficient evidence in the record. *Williams v. State*, 760 N.W.2d 8, 11 (Minn. App. 2009). When credibility determinations are crucial, "a reviewing court will give deference to the primary observations and trustworthiness assessments made by the district court." *State v. Aviles-Alvarez*, 561 N.W.2d 523, 527 (Minn. App. 1997), *review denied* (Minn. June 11, 1997).

A criminal defendant does not have an absolute right to withdraw a guilty plea once it is entered. *Perkins v. State*, 559 N.W.2d 678, 685 (Minn. 1997). But Minn. R. Crim. P. 15.05, subd. 1, provides that any time before or after sentencing, a court shall allow withdrawal of a guilty plea "upon a timely motion and proof to the satisfaction of the court that withdrawal is necessary to correct a manifest injustice." A manifest injustice exists where the plea was not accurate, voluntary, and intelligent. *Perkins*, 559 N.W.2d at 688. "The voluntariness requirement insures that the guilty plea is not in response to improper pressures or inducements; and the intelligent requirement insures that the defendant understands the charges, his or her rights under the law, and the consequences of pleading guilty." *Alanis v. State*, 583 N.W.2d 573, 577 (Minn. 1998). Withdrawal is not warranted if the defendant understood the nature and seriousness of the offense charged at the time of pleading. *Perkins*, 559 N.W.2d at 689.

Voluntariness

We reject appellant's argument that because she felt ill and dizzy at the plea hearing, feared the onset of a seizure, and pleaded guilty so that she could take care of her health, her plea was not voluntary. In *Perkins*, the defendant asserted that because his ears were seriously infected, his temperature was at 102 degrees, and he was feeling "miserable," he hastily pleaded guilty in order to leave the jail and receive better medical care at a state facility. 559 N.W.2d at 690. The Minnesota Supreme Court rejected the argument that defendant's plea was not voluntary or intelligent, noting that he received appropriate medical care in jail, he stated that he was competent to understand the proceedings at the time of the hearing, and he had opportunities to express any concerns

regarding his health or the guilty plea. *Id*. at 691. *See also Williams*, 760 N.W.2d at 14 (rejecting appellant's argument that her plea was involuntary due to depression, stress, and being rushed).

Here, the evidence in the record supports the district court's finding that appellant's plea was voluntary. According to the testimony of appellant's attorney at the plea hearing, the attorney met with appellant three separate times throughout the day of the plea, including "for the entire noon hour." Appellant had multiple opportunities to inform her attorney or the district court that she was not feeling well, that she did not understand what was going on, or that she felt she had no meaningful choice. *See Perkins*, 559 N.W.2d at 691 (noting that appellant did not tell the court or his attorney at any point that he did not understand what was going on, nor did he "express any concerns regarding his health and the guilty plea").

Moreover, during the plea colloquy, appellant stated that she was voluntarily entering a plea, was "clearheaded," and that she believed her attorney "did a good job." Appellant's signed plea petition also stated that she was pleading voluntarily, that she had not been ill recently, and that she had the option of pleading not guilty and proceeding to trial.

Significantly, the district court concluded the withdrawal hearing by recalling that the negotiation of appellant's plea was a "very constructive, healthy, thoughtful process." Addressing appellant, the district court also stated, "As I recall, you and I know specifically when I asked you those questions I didn't feel that you were being railroaded

into anything or you didn't understand." We conclude that there is sufficient evidence in the record to support the district court's finding that appellant's plea was voluntary.

Intelligence

Appellant argues that her guilty plea was not intelligent because she did not appreciate the nature and consequences of her actions due to her poor physical condition and focus on her health. Appellant points to her testimony at the withdrawal hearing that she was not aware that she was pleading guilty at the time, and afterward, could not remember making the plea or the district court imposing the sentence.

The record supports the district court's finding that appellant's plea was intelligent. At the plea hearing, appellant stated that she understood that she had the option to go to trial but that she chose not to, that she was not taking any medications, and that she understood the proceedings. The plea petition that appellant signed stated that she understood the charges against her, that she had sufficient time to discuss the case with her attorney, and that she was giving up her right to a trial. The petition also set forth the specific terms of the plea agreement.

Appellant's attorney at the plea hearing testified that appellant appeared "relatively calm" and as if she understood what was going on around her. The attorney testified that they reviewed the plea petition "line by line," and discussed appellant's right to a trial and the "weight of the decision" to enter a plea. *See Brown v. State*, 449 N.W.2d 180, 182 (Minn. 1989) (holding that defendant's opportunities to consult with his attorney supported the voluntariness and intelligence requirements). In light of appellant's multiple and substantive interactions with counsel and the district court's

observation of the "thoughtful" process that took place on the day of the plea hearing, the record supports the conclusion that appellant understood the charge, her rights under the law, and the consequences of pleading guilty.

We conclude that a manifest injustice did not occur when appellant pleaded guilty, and the district court did not abuse its discretion in denying appellant's motion to withdraw her guilty plea.

Affirmed.