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STATE OF MINNESOTA
IN COURT OF APPEALS
A13-0386

State of Minnesota,
Respondent,

vs.

Phongsavanh Saengchanthalath,
Appellant.

Filed April 14, 2014
Affirmed
Hudson, Judge

Benton County District Court
File No. 05-CR-11-1972

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

Philip K. Miller, Benton County Attorney, Foley, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, F. Richard Gallo, Jr., Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Hudson, Presiding Judge; Peterson, Judge; and Randall, Judge.[*]

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[*] Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. IV, § 10.

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

HUDSON, Judge

On appeal from the denial of a motion to withdraw his guilty plea, appellant argues that the district court erred by denying the motion because his mental illness prevented his plea from being entered voluntarily or intelligently. We affirm.

FACTS

Appellant Phongsavanh Saengchanthalath was charged with second-degree assault following an altercation with his brother's girlfriend during which appellant hit her on the back of the head with a shovel. The district court ordered an evaluation pursuant to Minn. R. Crim. P. 20.01 (hereinafter rule 20 report) to determine whether appellant was competent to participate in legal proceedings. Appellant was deemed competent.

After receiving the rule 20 report around December 8, 2011, appellant's counsel requested that the plea hearing be held the week of January 2, 2012, which would coincide with the date appellant would be released from jail pursuant to the length of jail sentence anticipated by the plea agreement. In addition to a cap on the amount of jail time appellant would serve, the plea also provided that appellant would plead guilty to an amended charge of third-degree assault. At the plea hearing on January 5, 2012, appellant stated that he had read the plea petition, which explained all of his trial rights, but that his "brain doesn't pick up the words." The hearing was continued to the next day to give appellant's attorney more time to explain appellant's rights. The next day, appellant agreed that he was in a "better frame of mind" and answered affirmatively when asked if he understood the rights in the petition and that by pleading guilty he was

giving up his right to a trial. Appellant also stated that nobody threatened him or made any promises to him in exchange for his plea. A factual basis for the offense was laid, and appellant also admitted that he had made a mistake and that "[i]t was a bad decision" to strike the victim with a shovel. Appellant entered a guilty plea and was released from custody that day.

Appellant was arrested a few weeks later and charged in Stearns County with theft of a motor vehicle and fleeing a police officer in a motor vehicle. Following his arrest, appellant exhibited symptoms of deteriorating mental health. At sentencing on the assault charge, appellant's attorney moved to withdraw the January 6, 2012 guilty plea, arguing, among other things, that appellant had a "lot of very concerning symptoms" over the two days the plea hearing took place, which were similar to the symptoms exhibited following appellant's arrest in Stearns County. The state opposed the motion, arguing that it was clear from the rule 20 report that appellant was competent close to the time he entered the plea, and that during the plea hearing the court and counsel took appellant's mental health history into consideration, even continuing the matter an additional day to ensure that appellant understood his rights. Appellant stated that he did not remember pleading guilty. The district court rejected the motion to withdraw the plea. This appeal follows.

D E C I S I O N

A defendant does not have an absolute right to withdraw a guilty plea. *State v. Theis*, 742 N.W.2d 643, 646 (Minn. 2007). The Minnesota Rules of Criminal Procedure provide two standards for allowing a defendant to withdraw a guilty plea under different

circumstances. First, the district court must allow a defendant to withdraw a guilty plea, even after sentencing, if "withdrawal is necessary to correct a manifest injustice." Minn. R. Crim. P. 15.05, subd. 1. A manifest injustice exists if a guilty plea is not constitutionally valid; to be valid a plea must be accurate, voluntary, and intelligent. *State v. Raleigh*, 778 N.W.2d 90, 94 (Minn. 2010). Second, the district court has discretion to allow a defendant to withdraw a guilty plea before sentencing if the defendant proves that "it is fair and just to do so." Minn. R. Crim. P. 15.05, subd. 2. Appellant argues that he is entitled to withdraw his plea under both the fair-and-just standard and the manifest-injustice standard because his mental illness rendered his plea invalid.

Manifest injustice

If appellant's plea was invalid, the manifest-justice standard requires that defendant be allowed to withdraw his plea. *See id*., subd. 1 (stating "[t]he court shall allow a defendant to withdraw a guilty plea" upon proof of a manifest injustice). The validity of a plea is a question of law reviewed de novo. *Raleigh*, 778 N.W.2d at 94. The defendant bears the burden of showing his plea was invalid. *Id*. The accuracy prong is not at issue here.

To determine whether a plea is voluntary, the totality of the circumstances must be considered. *State v. Danh*, 516 N.W.2d 539, 544 (Minn. 1994). The voluntariness prong requires that the defendant is not pleading guilty due to improper pressure or coercion. *State v. Trott*, 338 N.W.2d 248, 251 (Minn. 1983). The intelligence prong requires that a defendant understand "the charges against him, the rights he is waiving, and the [direct]

consequences of his plea": the maximum sentence and fine. *Raleigh*, 778 N.W.2d at 96 (citation omitted).

Pursuant to Minn. Stat. § 611.026 (2012), "no 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). The Minnesota Supreme Court has stated that "evidence of irrational behavior, any prior medical opinion on competence, and the defendant's demeanor" are all relevant factors for determining whether there is reason to doubt a defendant's competence. *Bonga v. State*, 797 N.W.2d 712, 720 (Minn. 2011). Here, the rule 20 report concluded that appellant was competent to participate in legal proceedings. Appellant argues that the report was outdated because it was completed on December 8 and the plea hearings were not held until January 5 and 6. Rule 20.01 does not impose a time limit for reliance on a mental-health evaluation but simply states that if the defendant is found competent, "the criminal proceedings must resume." Minn. R. Crim. P. 20.01, subd. 6(a). Here, appellant's circumstances remained the same between the time of the report and the hearing—he was in custody, where he was not using controlled substances and had regular access to medications. In addition, rule 20.01 allows ten days for either party to challenge the outcome of the evaluation, but no such challenge occurred here. *Id.*, subd. 5(a).

Appellant's attorney also claims that appellant was exhibiting "concerning symptoms." But importantly, no concerns about appellant's mental health were raised at the plea hearing beyond the judge's concern that appellant fully understood the rights he was waiving by pleading guilty. *See id.*, subd. 3 (stating that any party or the court who

doubts the defendant's competency "must make a motion challenging competency, or the court on its own initiative must raise the issue"); *see also Fox v. State*, 474 N.W.2d 821, 826 (Minn. 1991) (denying postconviction relief and noting that no one had challenged the defendant's competency at the time of trial). Finally, appellant argues that a second rule 20 evaluation that was completed following his arrest in Stearns County showed that appellant was incompetent, thus calling into question appellant's competency at the time of the plea hearing. But a copy of that report was not produced, and at the time, appellant had been out of custody for a few weeks and it is unknown whether he had been taking prescribed medications or using controlled substances. Thus, the district court did not err in concluding that appellant's plea was entered voluntarily and intelligently.

Fair and just

The fair and just standard requires district courts to "[give] 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 providing reasons supporting withdrawal, while the state bears the burden of showing it would be prejudiced by withdrawal. *Raleigh*, 778 N.W.2d at 97. A district court's decision to deny a motion to withdraw a guilty plea under this standard is reviewed for an abuse of discretion and will rarely be reversed. *Id*. As discussed above, the district court considered and properly rejected appellant's claim that he was incompetent at the time of the plea. In addition, the state argued at the hearing that it would be prejudiced if the district court allowed withdrawal because a year had passed

since the incident, placing a burden on the state due to "fading recollections of witnesses in the matter." Based on the record, the district court did not abuse its discretion by denying appellant's motion under the fair-and-just standard.

Affirmed.