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**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-0806**

State of Minnesota,
Respondent,

vs.

Erik Charles Knutson,
Appellant.

**Filed March 19, 2018
Reversed and Remanded
Randall, Judge***

Crow Wing County District Court
File No. 18-CR-16-5362

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

Donald F. Ryan, Crow Wing County Attorney, Brainerd, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Michael McLaughlin, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Reyes, Presiding Judge; Jesson, Judge; and Randall,
Judge.

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

UNPUBLISHED OPINION

RANDALL, Judge

On appeal from his conviction for third-degree controlled-substance crime (sale), appellant argues that he should be permitted to withdraw his guilty plea under the manifest-injustice standard. He argues his plea was involuntary and inaccurate. We agree. We reverse and remand to allow appellant to withdraw his plea.

FACTS

Appellant Erik Knutson was charged with third-degree sale of a controlled substance, fifth-degree possession of a controlled substance, and possession of drug paraphernalia. The complaint alleged that on December 23, 2016, a vehicle driven by appellant's girlfriend, Tracy Oddson, in which appellant was a passenger, was stopped for speeding. The complaint also alleged that when police searched the vehicle, a "large clear bag" was discovered on the back seat of the vehicle that contained \$10,000 in cash and a small black lock box. Inside the lock box were "three small baggies of marijuana," "two baggies of methamphetamine," "two hydrocodone pills," "several empty unused baggies," and a "scale; spoon; straw; and a glass pipe." According to the complaint, "Oddson stated [that] the drugs in the lock box were for her and [appellant]."

In addition to charging appellant, respondent State of Minnesota charged Oddson with third-degree sale of a controlled substance. The state later filed a notice of intent to seek an aggravated sentence of 360 months for appellant. The state alleged that because appellant has an extensive criminal history, including several controlled-substance crime

convictions, the state would seek an aggravated durational departure under Minn. Stat. § 609.1095, subd. 4 (2016).

In February 2017, appellant pleaded guilty to one count of third-degree sale of a controlled substance. Under the terms of the plea agreement, the state dismissed the other two counts in the complaint, and agreed to seek a 57-month sentence. Further, the state agreed to dismiss the third-degree sale of a controlled substance charge against Oddson. The district court accepted appellant's plea and sentenced him in accordance with the plea agreement to 57 months in prison. This appeal follows.

DECISION

“Once a guilty plea has been entered, there is no absolute right to withdraw it.” *State v. Mikulak*, 903 N.W.2d 600, 603 (Minn. 2017). But a defendant may challenge his guilty plea on direct appeal from his judgment of conviction. *State v. Miller*, 849 N.W.2d 94, 97 (Minn. App. 2014). A defendant must be allowed to withdraw a guilty plea if “withdrawal is necessary to correct a manifest injustice.” *State v. Raleigh*, 778 N.W.2d 90, 93 (Minn. 2010) (quotation omitted). “A manifest injustice exists if a guilty plea is not valid.” *Id.* at 94. To be valid, a guilty plea must be accurate, voluntary, and intelligent. *Id.*

Appellant challenges the validity of his guilty plea, arguing that it was both involuntary and inaccurate. The defendant bears the burden of establishing the facts that support his claim that the guilty plea is invalid. *Id.* The validity of a guilty plea, however, is a question of law that we review de novo. *Mikulak*, 903 N.W.2d at 603.

To determine whether a plea is voluntary, we examine what the parties reasonably understood to be the terms of the plea agreement. *State v. Brown*, 606 N.W.2d 670, 674

(Minn. 2000). The voluntariness requirement ensures that a defendant is not pleading guilty due to improper pressure or coercion. *State v. Trott*, 338 N.W.2d 248, 251 (Minn. 1983). Whether a plea is voluntary is determined by considering all relevant circumstances. *State v. Danh*, 516 N.W.2d 539, 544 (Minn. 1994).

Additional scrutiny, however, is required for a “package deal” in which the plea agreement includes leniency for a defendant’s accomplices. *Butala v. State*, 664 N.W.2d 333, 339 (Minn. 2003); *Danh*, 516 N.W.2d at 542. In *Danh*, the defendant entered into a plea agreement that was linked to, and dependent on, plea agreements with three co-defendants. *Id.* at 540-41. The “package deal” provided, among other things, for a more lenient sentence for the defendant’s younger brother. *Id.* The district court conducted a rule 15.01 inquiry before accepting the plea, but neither party mentioned the contingent nature of the plea. *Id.* at 541. The defendant later moved to withdraw his plea, but the district court denied the motion. *Id.*

On appeal, the supreme court held that such “package deal” agreements, although not per se invalid, are “generally dangerous because of the risk of coercion,” particularly in cases involving related third parties, where “there is a risk that a defendant, who would otherwise exercise his or her right to a jury trial, will plead guilty out of a sense of family loyalty.” *Id.* at 542. Accordingly, the court held that in order to ensure that package-deal plea agreements are voluntarily made, “the state must fully inform the [district] court of the details of the agreements,” and the district court must conduct “further inquiries” beyond the standard rule 15.01 inquiry. *Id.*

The Minnesota Supreme Court has not specified what further inquiry must be made. In *Danh*, the supreme court provided guidance from other jurisdictions, noting that the district court might inquire into seven factors:

Whether the prosecutor had a “reasonable and good faith” case against the third party; the strength of the factual basis for the plea; the nature and degree of coerciveness, for example, whether a third party has threatened the defendant; whether the leniency to a third party was an “insignificant factor” in the defendant’s choice to plead guilty; the age of defendant; whether defendant or the prosecutor had initiated plea negotiations; and whether charges had already been pressed against a third party.

Id. at 543 (quoting *In re Ibarra*, 666 P.2d 980, 986-87 (Cal. 1983), *overruled on other grounds by People v. Howard*, 824 P.2d 1315 (Cal. 1992)). The most important consideration is whether the contingent plea agreement was a significant factor in a defendant’s decision to plead guilty. *See id.* (describing *Ibarra*’s approach as a “significant factor” test and approving of a similar approach in which the plea was involuntary because the defendant entered it primarily because of a contingent agreement). Thus, at a minimum, the district court’s questioning must be sufficient to determine whether the benefit to the other defendant was a significant factor in the defendant’s decision to plead guilty. *Id.*

Appellant asserts that his “guilty plea was induced by a promise that the [state] would dismiss a third-degree sale charge against [appellant’s] co-defendant and girlfriend, Tracy Oddson.” That promise was part and parcel of appellant’s decision to go through with a plea bargain and plead guilty.

The plea agreement here is a “package deal.” In exchange for appellant’s guilty plea, the state agreed to dismiss the third-degree sale of a controlled substance charge against Oddson. In *Danh*, the supreme court stated:

In future cases,^[1] a defendant *must* be allowed to withdraw his or her guilty plea if the state fails to inform the [district] court of the nature of the plea, or if the [district] court fails to adequately inquire into the voluntariness of the plea *at the time of the guilty plea*. This holding is in accordance with those cases which hold that [district] courts must take extra steps to determine the voluntariness of these types of pleas.

516 N.W.2d at 542-43 (footnote emphasis added). The supreme court emphasized that the inquiry must be made at the time of the guilty plea. *Id.* at 542 n.4. Specifically, the supreme court noted that “a later hearing cannot replace a full inquiry into the voluntariness at the time the plea is entered” because “[t]here is no adequate substitute for demonstrating in the record at the time the plea is entered the defendant’s understanding of the nature of the charge against him.” *Id.* (quotations omitted) (emphasis omitted).

Here, unlike in *Danh*, the record reflects that the district court was apprised of the “package deal” at the time of the plea agreement. The district court also conducted a Rule 15.01 inquiry, and asked appellant if the “package deal” was his “understanding of the agreement,” to which appellant replied, “Yes sir. It is.” The district court later asked appellant if, “[b]esides the terms and along with the agreement regarding Ms. Oddson’s case, besides that, did anyone promise you anything or threaten you in any way to get you to plead guilty?” Appellant answered, “No.” After a factual basis for appellant’s plea was

¹ Because of the “unusual circumstances” present in *Danh*, the supreme court remanded for an evidentiary hearing. 516 N.W.2d at 544-45.

stated on the record, the district recognized that appellant has “been very forthright here.” The district court then stated: “And I believe that you would agree that the bag, the cash and the drugs belonged to you and perhaps your girlfriend knew about it but you are taking ownership for those; is that correct?” Appellant answered, “It is.”

We conclude the standard set forth in *Danh* was satisfied here. The district court’s questioning sufficiently demonstrated that the benefit to Oddson was a significant factor in appellant’s decision to plead guilty. See *Danh*, 516 N.W.2d at 543 (providing factors to guide a district court’s “further inquiry” regarding package plea-agreement deals); see also *Butala*, 664 N.W.2d at 339-40 (concluding a guilty plea was voluntary despite the parties’ failure to lay out the entire plea agreement, where the promise not to prosecute the defendant’s family members was revealed following a motion to withdraw the plea; the defendant proposed the third-party deal, and the postconviction court found no coercive effect stemming from the agreement).

Appellant also contends that his plea was involuntary because the state failed to “fully inform the [district] court and [appellant] about facts relevant to its promise not to prosecute Ms. Oddson.” Specifically, appellant claims that “[j]ust two weeks after” the state’s agreement not to prosecute Oddson “induced [his] plea,” the state filed “six new drug sale charges against Ms. Oddson” based on a previous investigation of her. Appellant argues that “[b]y not disclosing its separate drug sale case against . . . Oddson, the state . . . violated its duty to conduct plea negotiations in good faith.” We agree.

To support its claim, appellant refers to several newspaper articles, as well as the district court file involving Oddson, in which charges were filed on March 7, 2017. None

of this material was part of the record below. Although appellant claims that this court should take judicial notice of this material, the state “objects to the inclusion of the news articles/stories as not being a proper part of the record.” The state does not object to the MNCIS records involving Oddson. Even without considering the news articles cited by appellant, we conclude that Oddson’s precarious criminal position was known long before the appellant’s plea agreement.

“[W]hen a plea rests in any significant degree on a promise or agreement of the prosecutor, so that it can be said to be part of the inducement or consideration, such promise must be fulfilled.” *Brown*, 606 N.W.2d at 674 (quoting *Santobello v. New York*, 404 U.S. 257, 262, 92 S. Ct. 495 (1971)). And this court has stated that “[p]lea agreements must be negotiated in good faith, and unqualified promises must be honored in order to maintain public respect for the integrity of the state’s criminal process.” *State v. Anderson*, 520 N.W.2d 184, 188 (Minn. App. 1994).

MNCIS records reflect that on March 7, 2017, two weeks after appellant pleaded guilty and the state dismissed the third-degree drug-sale charge against Oddson, the state filed a new complaint against Oddson, charging her with three counts of second-degree sale of a controlled substance and three counts of third-degree sale of a controlled substance. The charges arose from sales occurring in October and December 2016. The fact that these charges were filed only two weeks after appellant pleaded guilty is prima facie evidence that the state knew of the pending charges and prosecution when they made the plea agreement to “not charge” appellant’s girlfriend Oddson. It is not reasonable to believe that was not the case. The prosecutor’s knowledge of this information proves the

state's plea offer was disingenuous. Under these circumstances, we cannot conclude that appellant's plea was voluntary.

The involuntariness of appellant's plea is further supported by the state's threat of an illegal sentence. Shortly after the complaint was filed, the state filed a notice of intent to seek an aggravated sentence of 360 months. Although the state concedes on appeal that the maximum sentence it could have sought was 240 months, the state argues that its "miscalculations" did not render appellant's plea involuntary.

To be voluntary, a guilty plea may not be based on "any improper pressures or inducements." *Brown v. State*, 449 N.W.2d 180, 182 (Minn. 1989). "Improper pressures or inducements can come in a variety of forms. At one extreme, the government may not produce a plea through actual or threatened physical harm, or by mental coercion overbearing the will of the defendant." *Dikken v. State*, 896 N.W.2d 873, 877 (Minn. 2017) (quotations omitted). The state also cannot induce a guilty plea based on a promise by the prosecutor that goes unfulfilled or was unfulfillable from the start, such as a plea agreement involving the promise of an illegal sentence. *Brown*, 606 N.W.2d at 674. "In short, a plea is involuntary when it is induced by coercive or deceptive action." *Dikken*, 896 N.W.2d at 877.

Here, the state threatened the appellant with an illegal sentence. Although there is no evidence that the state's miscalculations were intentional or meant to be coercive, the prosecutor's threat of an illegal 360-month sentence indicates that appellant's deal was not based on the totality of correct facts. When considered in conjunction with the state's decision to charge Oddson with second- and third-degree controlled-substance crimes two

weeks after agreeing to the package deal involving the dismissal of other charges, it was not based on the totality of correct facts. Even without this element of 360 versus 240, appellant is entitled to withdraw his plea. It was involuntary because appellant actually believed the state “was offering something” by agreeing not to charge Oddson.

We reverse and remand to allow appellant to withdraw his guilty plea to correct this manifest injustice. Because we conclude that appellant’s guilty plea was involuntary, we need not address the accuracy of the plea.

Reversed and remanded.