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**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-1438**

State of Minnesota,
Respondent,

vs.

Robert Lee Ranzy,
Appellant.

**Filed July 23, 2018
Affirmed
Hooten, Judge**

Hennepin County District Court
File No. 27-CR-16-13747

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

Michael O. Freeman, Hennepin County Attorney, Linda M. Freyer, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Julie Loftus Nelson, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Schellhas, Presiding Judge; Ross, Judge; and Hooten, Judge.

UNPUBLISHED OPINION

HOOTEN, Judge

Appellant challenges his conviction for violation of a domestic abuse no contact order, arguing that the district court erred in denying his presentence motion to withdraw his guilty plea under the fair-and-just standard. We affirm.

FACTS

On May 23, 2016, the state charged appellant Robert Lee Ranzy with felony violation of a domestic abuse no contact order (DANCO) pursuant to Minn. Stat. § 629.75, subd. 2(d)(1) (2014). Ranzy entered a straight guilty plea. At the plea hearing, he testified that he had reviewed the plea petition with his attorney, was in the right mind to plead guilty, and understood that he was waiving his right to a trial. Upon further questioning by the district court before receiving his plea petition, Ranzy again reiterated that he understood everything in the petition.

After the district court received Ranzy's plea petition, defense counsel established the factual basis for the guilty plea. Ranzy agreed that on March 9, 2016, he was subject to a DANCO forbidding him from having contact with S.B. He admitted that he was with S.B. on March 9, 2016 and that he had two previous qualified domestic violence-related convictions. The district court clarified the factual basis by directly asking Ranzy, "[y]ou knew you weren't supposed to be with [S.B.], right?" to which Ranzy replied, "[y]es."

Prior to sentencing, with the assistance of new counsel, Ranzy filed a plea-withdrawal motion. At the motion hearing, Ranzy's main arguments were that his former defense attorney coerced him into taking the plea and that there was not an adequate factual

basis for the plea. With regard to the coercion argument, Ranzy stated that his attorney told him that if he pleaded guilty, he would get probation without any jail time.

The district court denied Ranzy's motion. Ranzy now appeals, arguing that the district court abused its discretion and should have granted his motion under the fair-and-just standard. See Minn. R. Crim. P. 15.05, subd. 2.

D E C I S I O N

"A defendant has no absolute right to withdraw a guilty plea after entering it." *State v. Raleigh*, 778 N.W.2d 90, 93 (Minn. 2010). However, withdrawal of a plea is allowed in two circumstances. First, a court must allow withdrawal of a guilty plea if "withdrawal is necessary to correct a manifest injustice." Minn. R. Crim. P. 15.05, subd. 1. Second, a court may allow withdrawal "any time before sentencing if it is fair and just to do so." *Id.*, subd. 2. While the district court denied Ranzy's plea-withdrawal motion under both standards, on appeal Ranzy only challenges the district court's denial under the fair-and-just standard.

The fair-and-just standard "requires district courts to give 'due consideration' to two factors: (1) the reasons a defendant advances to support withdrawal and (2) prejudice granting the motion would cause the State given reliance on the plea." *Raleigh*, 778 N.W.2d at 97. The defendant has the burden to provide reasons to support withdrawal of a plea, while the state has the burden to demonstrate prejudice caused by withdrawal. *Id.*; *Kim v. State*, 434 N.W.2d 263, 266 (Minn. 1989). "[T]he 'ultimate decision' of whether to allow withdrawal under the 'fair and just' standard is 'left to the sound discretion of the [district] court, and it will be reversed only in the rare case in which the appellate court can

fairly conclude that the [district] court abused its discretion.”” *State v. Kaiser*, 469 N.W.2d 316, 320 (Minn. 1991) (quoting *Kim*, 434 N.W.2d at 266 (Minn. 1989)). While the fair-and-just standard “is less demanding than the manifest injustice standard, it does not allow a defendant to withdraw a guilty plea for simply any reason.” *State v. Theis*, 742 N.W.2d 643, 646 (Minn. 2007) (quotation omitted).

Ranzy argues his plea was inadequate because the factual basis did not establish that he knew of the DANCO’s existence. A guilty plea is not accurate if it is not supported by a proper factual basis. *Raleigh*, 778 N.W.2d at 94. Ranzy pleaded guilty to violating Minn. Stat. § 629.75, subd. 2(d)(1) (2014), which provides that “[a] person is guilty of a felony . . . if the person violates this subdivision within ten years of the first of two or more previous qualified domestic violence-related offense convictions or adjudications of delinquency,” with reference to subd. 2(b) stating that “a person who knows of the existence of a domestic abuse no contact order issued against the person and violates the order is guilty of a misdemeanor.”

To establish the factual basis, the following exchange occurred at the plea hearing:

DEFENSE COUNSEL: Mr. Ranzy, the allegations in this case are that on March 9, 2016 you had then pending against you what’s called a Domestic Abuse No Contact Order forbidding you from having contact with a person named [S.B.]. Do you understand those allegations?

RANZY: Yes.

DEFENSE COUNSEL: Are they true?

RANZY: Yes.

DEFENSE COUSEL: You had been previously served with that piece of paper indicating that, correct?

RANZY: I don’t remember. But yes.

DEFENSE COUNSEL: And you signed that piece of paper. You and I have seen that?

RANZY: Yes.

The district court followed up with Ranzy to make clear that he knew of the DANCO:

COURT: Mr. Ranzy, I just have one question. I need to—you need to make it clear to me, sir, that you are telling me that you knew and understood you weren't supposed to have contact with this girl and you did so anyway; is that correct?

RANZY: I guess so, yeah. He showed me a paper I signed. But I don't remember signing it. But, yeah. I guess so.

COURT: That's not the question I asked you. I just—

RANZY: Yes.

COURT: You knew you weren't supposed to be with her, right?

RANZY: Yeah.

COURT: Yes?

RANZY: Yes.

COURT: Okay. That's your answer to me?

RANZY: Yes.

Ranzy acknowledged that he signed the DANCO and that he knew that he was not supposed to be with S.B. While he may not remember the act of being served, he knew that he could not have contact with S.B. Therefore, the district court did not abuse its discretion in rejecting Ranzy's lack of a factual basis argument for plea withdrawal.

Ranzy further argues that because he only pleaded guilty after believing he was going to be released from jail that day, plea withdrawal is necessary under the fair-and-just standard. However, there was no plea offer from the state regarding jail time and Ranzy cites to nothing in the record to suggest his belief was warranted. Additionally, Ranzy checked the box on the plea petition stating, "I do not make the claim that the fact I have been held in jail since my arrest and could not post bail caused me to decide to plead guilty in order to get the thing over with rather than waiting for my turn at trial." Ranzy testified at the plea hearing that he was in the right mind to make important decisions and that he

understood everything within the petition, corroborating the fact that he knew he checked that box. Therefore, the district court did not abuse its discretion in rejecting Ranzy's second argument for plea withdrawal.

Ranzy correctly points out that the district court will also consider "prejudice granting the motion would cause the State given reliance on the plea." *See Raleigh*, 778 N.W.2d at 97. He claims that because the state did not offer any argument that withdrawal would cause prejudice, his motion must be granted. However, "[e]ven when there is no prejudice to the state, a district court may deny plea withdrawal under rule 15.05, subdivision 2, if the defendant fails to advance valid reasons why withdrawal is fair and just." *State v. Cubas*, 838 N.W.2d 220, 224 (Minn. App. 2013), *review denied* (Minn. Dec. 31, 2013); *see Raleigh*, 778 N.W.2d at 98. Because Ranzy failed to advance valid reasons why the withdrawal of his plea is fair and just, we conclude that the district court did not abuse its discretion in denying his plea-withdrawal motion.

Affirmed.