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**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-0308**

Raymond Ernest DeGroat, Sr., petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed November 13, 2018
Reversed and remanded
Ross, Judge**

Itasca County District Court
File No. 31-CR-17-120

Cathryn Middlebrook, Chief Appellate Public Defender, Chang Y. Lau, Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

John J. Muhar, Itasca County Attorney, Matti R. Adam, Assistant County Attorney, Grand Rapids, Minnesota (for respondent)

Considered and decided by Florey, Presiding Judge; Ross, Judge; and Reyes, Judge.

UNPUBLISHED OPINION

ROSS, Judge

Raymond DeGroat Sr. faced two counts of first-degree criminal sexual conduct for having sexual intercourse with his 15-year-old daughter. He and the state entered into a

plea agreement reducing the charges to second-degree criminal sexual conduct on the understanding that a 111-month executed prison term fell within the presumptive-sentence range. The district court accepted DeGroat's guilty pleas and sentenced him to 111 months in prison. The commissioner of corrections noticed that the presumptive sentences on the reduced charges were actually only 36 and 48 months stayed, not 111 months executed. DeGroat moved to correct his sentence. The state conceded that the 111-month sentence was in error. The district court denied DeGroat's motion anyway; it *sua sponte* vacated DeGroat's convictions and guilty pleas and *sua sponte* reinstated the state's original charges. Because the district court abused its discretion by vacating the guilty pleas and convictions on its own initiative, expressly disregarding binding supreme court precedent and the constitutional protection against double jeopardy to do so, we reverse.

FACTS

Raymond DeGroat Sr. twice raped his 15-year-old daughter. The state charged DeGroat with two counts of first-degree criminal sexual conduct under Minnesota Statutes, section 609.342, subdivision 1(g) (2016). The parties entered into a plea agreement. At DeGroat's plea hearing, the prosecutor amended the charges from first- to second-degree criminal sexual conduct. DeGroat pleaded guilty to both counts. The parties expressly agreed to a presumptive sentence and believed, mistakenly, that a sentence of 111 months in prison would fall at the bottom of the presumptive range under the sentencing guidelines. The district court accepted the parties' sentence calculation and accepted DeGroat's guilty pleas. It ordered a presentence investigation and report, and the report adopted the idea that a 111-month executed prison term fell within the presumptive range. The district court

sentenced DeGroat based on the same understanding. Specifically, it sentenced DeGroat to an executed 90-month prison term and ten years of conditional release on the first count and an executed 111-month term with a lifetime conditional-release period on the second count.

But the commissioner of corrections noticed an error. Although DeGroat's presumptive prison sentence might have been 111 months executed, which is the bottom of the presumptive range for the initial plea agreement to second-degree criminal sexual conduct under section 609.343, subdivision 1(e)(ii), he admitted to facts that instead establish second-degree criminal sexual conduct under section 609.343, subdivision 1(b), which carries a presumptive stayed prison term between 36 and 48 months. The lawyers apparently thought that all second-degree criminal sexual conduct offenses are treated the same by the guidelines and did not realize that subdivision 1(b) is a severity level D offense rather than B, like subdivision 1(e). In other words, it seemed that rather than serving nearly ten years in prison and a lifetime on conditional release, DeGroat would potentially serve no time in prison. DeGroat moved for a corrected sentence. Counsel for both parties acknowledged they had made the extraordinary error in calculating the sentence. And they agreed that the pleas could not be undone. They suggested that the district court sentence DeGroat to 36- and 48-month prison terms and also depart upward dispositionally by executing the presumptively stayed sentences.

But the district court denied DeGroat's motion for a corrected sentence. The district court recognized that it had erred by sentencing DeGroat to a 111-month executed prison term. It minimized its responsibility for the error by pointing out that it was "the State, the

Defendant, the Guardian ad Litem, the Corrections Officer who completed Defendant's pre-sentence investigation report *and the Court*" who were mistaken. (Emphasis added.) But rather than correct DeGroat's sentence, the district court *sua sponte* vacated DeGroat's guilty pleas and convictions and also reinstated the state's original charges against him. DeGroat appeals.

D E C I S I O N

DeGroat challenges the district court's *sua sponte* vacating his guilty pleas and convictions and its reinstating the dismissed charges. He maintains that the district court lacked authority to invalidate his convictions and that its reinstatement of charges violates the Double Jeopardy Clause. The state essentially concedes, refusing to respond and resting on the record below. DeGroat's arguments prevail.

We first address DeGroat's challenge to the district court's *sua sponte* actions. Whether the district court has the authority to *sua sponte* vacate a guilty plea and conviction is a question of law we review de novo. *State v. Spraggins*, 742 N.W.2d 1, 3 (Minn. App. 2007). DeGroat convincingly argues that our holding in *Spraggins* prevents the district court from *sua sponte* vacating his guilty pleas and convictions. We observed in *Spraggins* that the district court should not vacate the guilty plea of a defendant who has not requested to withdraw his plea except "for substantial and compelling reasons and after notice and the opportunity for briefing and hearing by all parties." *Id.* at 5. Here the district court did not invite briefing and a hearing on its intent to vacate DeGroat's pleas, announcing its decision ostensibly as its answer to DeGroat's motion for a corrected sentence. This unfair process fails under *Spraggins*.

Equally fatal to its decision, the district court's remedy is unconstitutional. Although our observation in *Spraggins* suggests that a district court could, in some cases, *sua sponte* vacate a plea agreement, this power can never be exercised in violation of a defendant's rights under the Double Jeopardy Clause. DeGroat's double-jeopardy argument challenges the district court's reinstatement of the original charges as the remedy to the district court's erroneous, 111-month prison sentence. The Double Jeopardy Clause prohibits twice subjecting a person to the risk of punishment for the same offense. U.S. Const. amend V. We review double-jeopardy challenges de novo. *State v. Leroy*, 604 N.W.2d 75, 77 (Minn. 1999). Double jeopardy attaches in plea agreements when the district court accepts the defendant's guilty plea and finds him guilty. *State v. Martinez-Mendoza*, 804 N.W.2d 1, 7–8 (Minn. 2011). A later attempt to retry the defendant would violate his right to be free of twice being put in jeopardy for the same offenses. So in this case, the district court's decision would be erroneous even if the district court had followed proper procedure by inviting briefing. The district court lacked constitutional authority to reinstate DeGroat's original charges for trial on the same conduct that established the guilty pleas and convictions.

The district court compounded its errors. In order to avoid the consequence that both parties believed necessarily resulted from the sentencing error (a prison term far shorter than 111 months), the district court reinstated DeGroat's original charges based on a legal theory it knew had already been rejected by the supreme court. The district court recognized that the supreme court's reasoning in *Martinez-Mendoza* prohibited the reinstatement of DeGroat's original charges by its holding that jeopardy attaches when the

trial court accepts and records a guilty plea, prohibiting a court from granting a motion by the state to withdraw from the plea agreement. *Martinez-Mendoza*, 804 N.W.2d at 7–8. After acknowledging this holding, the district court failed to honor the adage that “[t]he district court . . . is bound by supreme court precedent.” *State v. M.L.A.*, 785 N.W.2d 763, 767 (Minn. App. 2010). The district court commenced an eight-page description and lengthy block quoting of what it called a “vigorous dissent” by justices in *Martinez-Mendoza*, along with a discussion about decisions in other jurisdictions that have reached a conclusion contrary to the *Martinez-Mendoza* holding. The district court then dismissed the holding altogether, saying, “The Court considers the arguments advanced by the dissenting justices in the *Martinez-Mendoza* decision persuasive.” Based on the reasoning of those dissenting justices rather than the reasoning of the supreme court, the district court concluded that the parties’ pre-plea, mutual mistake about the length of DeGroat’s presumptive sentence authorized it to craft the unrequested remedy of invalidating the convictions and reinstating the original first-degree criminal sexual conduct charges. In other words, over the cautioning legal arguments of both DeGroat’s counsel and the prosecutor, and in the face of known contrary supreme court precedent, the district court chose to apply the reasoning expressly rejected by the supreme court.

We recognize that the district court’s attempt to save a sentence that the parties and court had approved might seem like a more just result than granting DeGroat’s unopposed motion for a sentence that comports with the law. But the law is the law. The district court cannot erroneously disregard one law to fix its erroneous application of another law for the sake of preserving an outcome that would have resulted if the court had properly construed

the law and rejected DeGroat's guilty pleas in the first place. We hold that the district court abused its discretion by *sua sponte* invalidating DeGroat's guilty pleas and convictions. We remand for the district court to properly address DeGroat's motion for a corrected sentence.

Reversed and remanded.