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**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0830**

State of Minnesota,
Respondent,

vs.

Alan Danny Woods,
Appellant.

**Filed May 4, 2020
Affirmed
Florey, Judge**

Stearns County District Court
File No. 73-CR-17-7546

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Janelle P. Kendall, Stearns County Attorney, Kyle R. Triggs, Assistant County Attorney,
St. Cloud, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Sara J. Euteneuer, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Worke, Presiding Judge; Florey, Judge; and John Smith,
Judge.*

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

UNPUBLISHED OPINION

FLOREY, Judge

In this direct appeal from the judgment of conviction for sex trafficking and promotion of prostitution, appellant Alan Danny Woods argues that (1) the district court erred in denying his presentencing motion to withdraw his guilty plea on the ground that his counsel had pressured him into accepting the agreement and (2) the district court abused its discretion in denying his motion for a downward departure based on his particular amenability to probation and because the offense was significantly less serious than typical. We affirm.

FACTS

File 1

In March 2017, the roommate of Jamie Drum called 911 to report a domestic assault. The call disconnected, and dispatch called back and spoke to the roommate (D.H.), who reported that appellant Alan Danny Woods was assaulting Drum and taking her phone when she tried to call 911. D.H. also stated that Woods had taken D.H.'s phone when D.H. tried to call 911. Police responded.

Woods was in a relationship with Drum and has a child in common with her. Woods was living at the apartment with Drum and D.H. Drum told police that she and Woods had argued, that Woods called her a “bitch” and other derogatory terms, and that he yelled at her about her weight. Drum also stated that Woods had stolen her phone, her apartment keys, and cash from her tax refund, and that Woods threatened her. Drum stated that she was afraid to cooperate with police. Woods was charged with two counts of felony

domestic assault for both Drum and D.H., gross misdemeanor 911 interference, and felony theft in File No. 73-CR-17-2534 (File 1). A pre-trial Domestic-Abuse No-Contact Order (DANCO) was issued in this case for Drum and her child in common with Woods.

File 2

In June 2017, Drum contacted the police and stated that Woods had violated the DANCO from File 1. Drum stated that Woods attacked her in the parking lot of her home in front of their child, who was 9 months old at the time. Drum stated that Woods had punched her twice in the face and grabbed her throat and choked her. Then, Woods punched her in the stomach. When Drum fell down, Woods stomped on her head. Officers observed and photographed bruises on Drum's neck, significant bruising on her eye, and other injuries. After the assault occurred, Woods began contacting Drum via text message in violation of the DANCO. The texts included threats to kill Drum and her family members. Woods was charged with eight felonies in File No. 73-CR-17-5131 (File 2) including three DANCO violations, three domestic assault—fear/harms, a domestic assault by strangulation, and terroristic threats.

File 3 – the instant case

During the summer of 2017, police investigator Thompson met with a minor who reported that both Woods and Drum had been trafficking her (Child A). Child A told Thompson that she moved in with Drum, who told her that she needed to start making “serious money.” According to Child A, Woods facilitated sexual encounters between her and other individuals and that Drum would keep the money paid in exchange. The sexual encounters occurred at Woods's apartment. Child A stated that she was not allowed to

have a key to the apartment or a phone and that Woods and Drum would hit her and threaten her family and friends if she refused to engage in the sexual encounters. This occurred until Child A was arrested in North Dakota in July 2017.

Investigator Thompson confirmed Child A's allegations by reviewing Backpage listings that he tracked to Drum and another accomplice. Thompson reviewed the text messages from the phone used to arrange the sexual encounters and contacted the individuals who had paid for sexual encounters with Child A. The individuals corroborated the dates and locations of the encounters.

Drum was arrested on August 22 and gave a statement that largely corroborated Child A's report. Drum stated that she had engaged in prostitution with Child A and that she knew that Child A was only seventeen. Drum also confirmed that she worked for Woods and that Woods had purchased the phone, provided the apartment, and transported both Drum and Child A to the encounters. Drum also reported that Woods was trafficking and abusing her, sometimes in retaliation for refusing to engage in prostitution. Police later became aware of Drum's previous reports against Woods in File 1 and File 2.

Woods was charged on August 24 with two counts of sex trafficking in the instant case (File 3). In June, the complaint was amended to add two additional counts of prostitution. On June 11, a global resolution was reached by the parties: Woods pleaded guilty to two counts of sex trafficking from File 3 (Count 2 and 3). The remaining two charges were dismissed, and the two pending domestic files, File 1 and 2 were also dismissed. The state agreed to cap its prison argument at 240 months, and Woods was

allowed to argue for a durational or dispositional departure. The district court accepted Woods's guilty plea.

After the plea hearing, but prior to sentencing, Woods's attorney, Wanda Gierman, moved to withdraw as counsel. The district court granted her motion. Woods moved to withdraw his guilty plea, arguing that his plea was not intelligent or voluntary because Gierman told him that he would lose at trial and that he was facing a maximum sentence of more than 400 months. Woods stated that he believed the maximum he could receive at trial was 240 months and that Gierman had misled him. At a hearing, the district court heard testimony from Woods and Gierman. The district court denied Woods's motion to withdraw his guilty plea, concluding it was both voluntary and intelligent. The district court also credited Gierman's testimony.

At sentencing, Woods argued for both downward durational and dispositional departures. The district court concluded that there were "no grounds to depart whatsoever" and sentenced Woods to 165 months for count 2 and 240 months concurrent for count 3. Woods appeals.

D E C I S I O N

First, Woods asserts that the district court erred by refusing to allow him to withdraw his guilty plea.

A defendant has no absolute right to withdraw a guilty plea after entering it. Withdrawal is permitted in two circumstances. First, a court must allow withdrawal of a guilty plea if withdrawal is necessary to correct a manifest injustice. Second, a court may allow withdrawal any time before sentencing if it is fair and just to do so.

State v. Raleigh, 778 N.W.2d 90, 93 (Minn. 2010) (citations omitted).

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. A defendant bears the burden of advancing reasons to support withdrawal. The State bears the burden of showing prejudice caused by withdrawal. We review a district court's decision to deny a withdrawal motion for abuse of discretion, reversing only in the rare case.

Id. at 97 (citations omitted).

Woods argues that his plea was not voluntary. A guilty plea must not be based on “any improper pressures or inducements.” *Brown v. State*, 449 N.W.2d 180, 182 (Minn. 1989). “[A] plea is involuntary when it is induced by coercive or deceptive action.” *Dikken v. State*, 896 N.W.2d 873, 877 (Minn. 2017). Woods argues that he was improperly pressured and was “between a rock and a hard place” with respect to taking the plea or going to trial. As the state correctly points out, a plea is not involuntary simply because the defendant does not like his choices. *Id.* (“[Defendant] had meaningful choices, just not the specific choice he preferred.”).

Here, Woods had meaningful options, including the option to go to trial. Woods confirms that he discussed those options with Gierman. Woods also testified that he had not been threatened or coerced into making his plea. We conclude Woods has not shown that his plea was involuntary. Accordingly, we reject this argument.

Second, Woods argues that his plea was not intelligent. To be intelligent, a plea “must represent a knowing and intelligent choice among the alternative courses of action available.” *Id.* (citation omitted). “Whether a plea is intelligent depends on what the

defendant knew at the time he entered the plea—specifically . . . whether [he] understood the charges against him, the rights he waived, and the consequences of the plea.” *Id.* (quotation omitted).

Here, despite Woods’s representations that he did not understand the consequences of his plea because he believed Gierman exaggerated the maximum sentence he faced, the record reflects that Woods understood the charges against him, that he was waiving his rights, and the consequences of doing so. The district court credited Gierman’s testimony that she had explained his potential maximum sentence, including the possibility of consecutive sentencing. We conclude that the district court did not abuse its discretion by finding that Woods’s plea was intelligent.

Third, Woods argues that he received ineffective assistance of counsel which somehow renders his plea invalid. The district court heard testimony from Gierman, which it credited. The district court did not credit Woods’s testimony with respect to Gierman’s representation. We conclude that the district court did not abuse its discretion in rejecting Woods’s petition to withdraw his guilty plea because Woods did not make the required showing that it would be “fair and just” to allow withdrawal.

Finally, Woods asserts that the district court abused its discretion by denying his motion for a downward durational and dispositional departure. “We ‘afford the [district] court great discretion in the imposition of sentences’ and reverse sentencing decisions only for an abuse of that discretion.” *State v. Soto*, 855 N.W.2d 303, 307-08 (Minn. 2014) (quoting *State v. Spain*, 590 N.W.2d 85, 88 (Minn. 1999)). A district court may refuse a

sentencing departure as long as it considers the departure's basis. *See State v. Van Ruler*, 378 N.W.2d 77, 80-81 (Minn. App. 1985).

Here, Woods argues that the court should have granted him a dispositional departure because he showed remorse, demonstrated a motivation to change, and is particularly amenable to probation. Woods also argues that his young age, community support, and motivation to be a good father all support the grant of a dispositional departure. The record belies this argument. Woods repeatedly violated his prior probation and was already on supervision from the Domestic Violence Court when the trafficking violations at issue here occurred. The district court considered Woods's arguments for a dispositional departure and rejected them. Based on the record, we conclude that this decision was not an abuse of discretion.

Similarly, Woods argues that he is entitled to a durational departure because his offense was less serious than is typical. His support for this argument is that his victim was seventeen and almost eighteen when he trafficked her, and that he only trafficked her for a period of months, not years. He points to cases where the trafficked children were younger and trafficked for longer. However, the mere fact that other trafficking victims were younger does not negate the seriousness of Woods's conduct nor render it "less serious than is typical." *See State v. Herrmann*, 479 N.W.2d 724, 728 (Minn. App. 1992).

Woods also argues that he is entitled to a departure because his co-defendants received less-serious sentences. As the state points out, Woods's sentence of 240 months is already below the presumptive range. And Woods had a significantly higher criminal-history score than his co-defendants, making his comparison to their sentences unhelpful

in this instance. Once again, the district court heard and rejected these arguments. Woods agreed to a plea deal, and as part of that deal, the state was limited to asking for a maximum sentence of 240 months. Woods was allowed to request departures, but was not entitled to receive them. We conclude that the district court did not abuse its discretion by rejecting Woods's motion for a departure from his sentence.

Affirmed.