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**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0876**

State of Minnesota,
Respondent,

vs.

Terrance James Leason,
Appellant.

**Filed March 2, 2020
Affirmed
Larkin, Judge**

Hennepin County District Court
File No. 27-CR-18-13139

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

Michael O. Freeman, Hennepin County Attorney, Jonathan P. Schmidt, Assistant County Attorney, Minneapolis, 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; Larkin, Judge; and Florey,
Judge.

UNPUBLISHED OPINION

LARKIN, Judge

Appellant challenges the validity of his guilty plea to third-degree criminal sexual conduct, arguing that the district court's unsolicited remarks regarding the state's proposed plea agreement made his plea involuntary. Because appellant has failed to establish that his guilty plea was involuntary under the totality of the circumstances, we affirm.

FACTS

On May 23, 2018, respondent State of Minnesota charged appellant Terrance James Leason with third-degree criminal sexual conduct. The complaint alleged that Leason pushed a 14-year-old child into a closet and had nonconsensual intercourse with her.

At a plea hearing on February 21, 2019, the prosecutor and Leason's counsel advised the district court, on the record, that the case could be resolved with a plea agreement. The terms of that proposal were recited as follows: the state would agree not to pursue a charge of first-degree criminal sexual conduct in exchange for Leason's agreement to plead guilty to third-degree criminal sexual conduct and serve 70 months in prison. Leason was present for that recital and informed the district court that he wanted a "straight plea." The prosecutor responded that if Leason wanted to plead guilty without an agreement, the state would orally amend the complaint to increase the charge to first-degree criminal sexual conduct.

The district court addressed Leason as follows:

DISTRICT COURT: And I'll just tell you, Mr. Leason, because I want to be fair and honest with you, you don't want to straight plead to me. Take the 70 months. Because even the

range for 2 [criminal-history] points goes up to 72 months. And I think 70 accurately reflects what I read in the complaint. I just want to be upfront with you. I mean, you could maybe work out a straight plea, but it's not a good idea. Not with me.

LEASON: All right.

DISTRICT COURT: Okay?

LEASON: Yeah.

DISTRICT COURT: . . . I just want to be straightforward with you. I don't want to sandbag you or, you know, say, well, maybe, you know, who knows. I want to be honest with you. 70 months is where I would probably land, given what I've read. So, okay. Do you want to plead according to that negotiation then?

LEASON: Sure.

Leason pleaded guilty to one count of third-degree criminal sexual conduct pursuant to the plea agreement. Leason waived his right to trial, submitted a plea petition, and provided a factual basis for his plea. The district court deferred acceptance of Leason's guilty plea until sentencing. At a sentencing hearing two weeks later, the district court accepted Leason's guilty plea and sentenced him to serve 70 months in prison.

Leason appeals, claiming that his guilty plea was involuntary and therefore invalid.

DECISION

A defendant can seek plea withdrawal in a direct appeal if the record is sufficiently developed to address the issue. *State v. Newcombe*, 412 N.W.2d 427, 430 (Minn. App. 1987), *review denied* (Minn. Nov. 13, 1987). "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 is permitted post-sentencing "upon a timely motion and proof to the satisfaction of the court that 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 valid. *State v.*

Theis, 742 N.W.2d 643, 646 (Minn. 2007). A defendant has the burden of showing that his plea was invalid. *Raleigh*, 778 N.W.2d at 94. The validity of a plea presents a question of law this court reviews de novo. *Id.*

To be valid, a guilty plea must be “accurate, voluntary, and intelligent.” *Perkins v. State*, 559 N.W.2d 678, 688 (Minn. 1997). Only the voluntariness requirement is at issue here. “The voluntariness requirement ensures a defendant is not pleading guilty due to improper pressure or coercion.” *Raleigh*, 778 N.W.2d at 96. Improper pressure or coercion generally requires a threat or promise. *See, e.g., Brady v. United States*, 397 U.S. 742, 750, 90 S. Ct. 1463, 1470 (1970) (“[A]gents of the State may not produce a plea by actual or threatened physical harm or by mental coercion overbearing the will of the defendant.”); *Nelson v. State*, 880 N.W.2d 852, 861 (Minn. 2016) (noting the fact that a defendant denied that he had been “subjected to threats or promises” was further evidence that his plea was voluntary); *State v. Brown*, 606 N.W.2d 670, 674 (Minn. 2000) (“A guilty plea cannot be induced by unfulfilled or unfulfillable promises . . .”). “[J]udicial participation in plea bargaining negotiations is a specific type of pressure or coercion that is . . . accounted for by the standard voluntariness inquiry.” *Wheeler v. State*, 909 N.W.2d 558, 568 (Minn. 2018).

In *Wheeler*, the Minnesota Supreme Court reaffirmed “the principle that a district court judge should not participate in the plea bargaining negotiation itself.” *Id.* at 564. The supreme court explained that

a district court “participates” in the plea bargaining negotiation when it provides unsolicited comments regarding the propriety of the parties’ competing settlement offers. . . . [W]hen a

defendant successfully challenges the validity of a guilty plea because of the district court's participation, the remedy is not automatic invalidation and vacatur of the plea. Rather, *the plea is only invalid if it was involuntary under the totality of the circumstances.*

Id. at 560 (emphasis added).

The supreme court “decline[d] to adopt [a] blanket rule of per se invalidity and automatic plea vacatur.” *Id.* at 567. It explained:

Plea withdrawal is appropriate when a manifest injustice occurs, but we are not persuaded that a manifest injustice exists every time a judge participates in the plea bargaining negotiation itself. See Minn. R. Crim. P. 15.05. Instead, a manifest injustice occurs only when the court's participation in the plea bargaining negotiation makes the defendant's plea involuntary. Whether such a manifest injustice exists depends on the nature and extent of the judge's conduct, together with a variety of other factors bearing on the plea's validity.

Id. at 567-68. In determining whether the district court's participation in a plea-bargaining negotiation made the defendant's guilty plea involuntary, courts consider “all of the relevant circumstances surrounding” the plea. *Id.* at 568 (quoting *Brady*, 397 U.S. at 749, 90 S. Ct. at 1469).

Leason argues that he “must be permitted to withdraw his guilty plea because it was not voluntarily entered due to the district court's unsolicited participation in plea negotiations.” The parties disagree regarding whether the district court inappropriately participated in the plea negotiation in this case. See *id.* at 565 (stating that a judge may inquire into the status of negotiations, share general sentencing practices, and disclose nonbinding plea and sentencing information at the joint request of the parties). We need

not resolve that dispute because Leason has failed to establish that his guilty plea was involuntary under the totality of the circumstances.

Even though Leason acknowledges the totality-of-the-circumstances standard set forth in *Wheeler*, he relies only on the district court's statements at the plea hearing to show that his plea was involuntary. Specifically, he asserts that the district court "persuaded" him to accept the state's offer instead of pleading guilty without the benefits of the offer. He further asserts that the district court "undermined" his "bargaining position" and that he "had no reasonable choice but to accept the state's offer," instead of entering a straight plea. Leason does not cite authority indicating that a loss of bargaining power is a form of improper pressure or coercion that can render a guilty plea involuntary. And he does not address any of the other circumstances surrounding his guilty plea.

The state, however, addresses the totality of the circumstances. As to the totality of the circumstances, the state argues:

The record established Leason went through the plea petition with his attorney "in its entirety," signed the petition in the presence of his attorney and the court, agreed there were no threats or promises that made him enter into the plea, and he had time to consult with his attorney and discuss his rights. The colloquy demonstrated that Leason's plea was voluntary and not secured as the result of improper pressure, coercion, or inducement.

In addition, the district court reserved accepting the guilty plea until sentencing, which occurred two weeks after the plea hearing. At sentencing, Leason expressed no concerns about the voluntariness of his plea or the court's words during the plea hearing. Instead, defense counsel reiterated the agreed-upon 70-month sentence. Leason only raised issues about his jail credit time, but did not discuss the plea itself. When asked if he had anything else to tell the court besides the

jail credit, Leason said “no.” Leason’s actions and words—at the plea hearing and at sentencing—show the voluntary nature of the plea.

The state also argues that “the fact Leason expressed his firm desire to plead guilty—either with a 70-month agreement or without an agreement as to his sentence—and at no point raised a concern about his plea, is strong evidence of the voluntary nature of Leason’s plea.” We agree. On this record, Leason has not met his burden to show that his plea was involuntary under the totality of the circumstances. We therefore conclude that even if the district court’s statements were improper, Leason’s guilty plea was valid.

Affirmed.