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**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1537**

State of Minnesota,
Respondent,

vs.

Rafael Buenfil,
Appellant.

**Filed August 10, 2020
Affirmed
Cochran, Judge**

Clay County District Court
File No. 14-CR-19-825

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

Brian J. Melton, Clay County Attorney, Elisabeth Mary Kirchner, Assistant County Attorney, Moorhead, Minnesota (for respondent)

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

Considered and decided by Cochran, Presiding Judge; Johnson, Judge; and Frisch, Judge.

UNPUBLISHED OPINION

COCHRAN, Judge

In this direct appeal from the judgment of conviction for fleeing a peace officer in a motor vehicle, appellant argues that the district court abused its discretion when it denied his presentence motion to withdraw his guilty plea. We affirm.

FACTS

In March 2019, according to the state's complaint, a police officer attempted to stop a car that was being driven without license plates. When the officer turned on his flashing lights to stop the car, the car fled through a red light. The car continued to flee at speeds up to 80 miles per hour until it ultimately slid into a snowbank. The driver and passenger exited the car and fled on foot. The officer dispatched his police dog, who apprehended the driver. The driver was identified as appellant Rafael Buenfil.

Respondent State of Minnesota charged Buenfil with fleeing a peace officer in a motor vehicle under Minn. Stat. § 609.487, subd. 3 (2018), and three other crimes. Buenfil agreed to plead guilty to fleeing a peace officer in a motor vehicle in exchange for the state's dismissal of the remaining charges.

At the plea hearing, Buenfil entered a plea of guilty and answered a series of questions from the state's attorney. In response to questioning, Buenfil acknowledged that he understood the rights he was waiving by pleading guilty. Buenfil also confirmed that

he did not make any claim that he was innocent. He then engaged in the following colloquy with the state's attorney:

Q: Okay, let's go back to March 1st of this year, at approximately 2:23 in the morning, were you in the area of 8th Street and 30th Avenue South, here in Moorhead, Minnesota?

A: Yes.

Q: And you were in Clay County, Minnesota, is that correct?

A: Yes.

Q: And shortly after that time, did an officer try to make contact with you?

A: Yes.

Q: What happened?

A: Vehicle—officer—displayed their lights—it was a speed chase all the way up to 20th Avenue. Basically, I fled, fled on foot out of the vehicle. A K-9 was ordered to, to detain—and brought to the county jail.

Q: Okay, so were you a driver in a vehicle that fled from one of the officers here in Moorhead?

A: Yeah. When I—when I jumped out of the vehicle.

Q: And you had been driving that vehicle before you jumped out, is that correct?

A: Yeah. I jumped—yep.

Q: And where did you drive before you got out of the vehicle?

A: Down—I'm, I'm not sure—it was 18th Street.

Q: Okay. And you knew that that officer was following you, is that correct?

A: Yeah. This officer—the officer’s lights were going through the whole—through the whole chase.

....

Q: And then you stopped the vehicle and you ran from him. Is that correct?

A: Yes, I jumped out of the vehicle and ran.

Q: And then he deployed his K-9?

A: Yes.

After the state completed its questions, Buenfil’s attorney asked Buenfil if he understood that he could go to prison for the crime. Buenfil responded that he understood.

The district court then asked Buenfil, “when you first started answering questions, you seemed a little hesitant and, and you’ve answered all the questions, I just want to make sure that you are comfortable proceeding in this fashion?” Buenfil responded, “I am, Your Honor.” Buenfil also had signed and submitted a plea petition, which indicated that he understood the rights he was waiving. After considering Buenfil’s testimony and the plea petition, the district court found that Buenfil knowingly, voluntarily, and intelligently gave up his rights and provided a factual basis for his guilty plea. The district court then ordered a presentence investigation report and deferred acceptance of the plea until sentencing.

Four days after pleading guilty—and before the sentencing hearing—Buenfil sent a letter to the court requesting that the court allow him to withdraw his guilty plea. In support of his request, Buenfil claimed that another individual was driving the car when it fled the

police. He further alleged that the individual had sent him a letter in which the individual stated that he, not Buenfil, was the driver of the car.

After receiving Buenfil's request, the district court held a hearing and the parties agreed to brief the issue. Buenfil argued that the district court should allow him to withdraw his plea because it was "fair and just" to do so. He maintained that "it would not be just to allow a defendant to enter a plea to a particular charge if another individual has asserted that he committed the crime." Buenfil did not file the letter which he claimed he had received from the individual taking responsibility for the crime or any other supporting documentation with his brief.

The state opposed the withdrawal. The state argued that the plea was valid and that the letter was of questionable evidentiary value. In support of its argument, the state filed the letter, which Buenfil claimed was written by the other individual, as well as a letter that Buenfil himself had written. The state argued that the handwriting on the letter that Buenfil claimed he received from the individual was "identical" to Buenfil's own handwriting. In response, Buenfil argued that (1) he should be allowed to withdraw his plea because another person had claimed responsibility for the crime, (2) the state would not be prejudiced by the withdrawal of his plea, and (3) the credibility of the letter is a question of fact for the jury to decide after the case proceeds to trial. Buenfil again provided no further evidence—such as an affidavit—to support his claim of innocence.

The district court denied Buenfil's motion to withdraw his guilty plea. In its order, the district court found that Buenfil's plea was knowing, voluntary, and intelligent. The district court also determined that Buenfil provided an adequate factual basis at the plea

hearing when he “acknowledged that he was the driver of a motor vehicle and that he fled in that motor vehicle when he saw the officer’s lights.” The district court concluded that the plea was made with deliberation and that Buenfil failed to show that his plea was invalid or that it would be fair and just to allow him to withdraw it.

The district court accepted Buenfil’s plea and sentenced him to 17 months’ imprisonment, stayed for four years.

Buenfil appeals.

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). A plea withdrawal under Minn. R. Crim. P. 15.05 may occur “if one of two standards is met.” *State v. Lopez*, 794 N.W.2d 379, 382 (Minn. App. 2011). First, a district court “must allow” a defendant to withdraw a plea at any time if it is necessary to correct a “manifest injustice.” Minn. R. Crim. P. 15.05, subd. 1. Second, a district court “may allow” a defendant to withdraw a plea before sentencing “if it is fair and just to do so.” *Id.*, subd. 2. The fair-and-just standard is less demanding than the manifest-injustice standard, but does not permit withdrawal “for simply any reason.” *State v. Townsend*, 872 N.W.2d 758, 764 (Minn. App. 2015) (quoting *State v. Theis*, 742 N.W.2d 643, 646 (Minn. 2007)).

Before the district court, Buenfil did not argue under the manifest-injustice standard. Instead, Buenfil argued that it would have been “fair and just” to allow him to withdraw his guilty plea before sentencing because another individual had taken responsibility for the crime. Under the “fair and just” standard, the district court must consider 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. In addition, the district court may consider “the entire context in which [the defendant’s] plea of guilty occurred, as demonstrated by the record.” *State v. Abdisalan*, 661 N.W.2d 691, 695 (Minn. App. 2003), *review denied* (Minn. Aug. 19, 2003). The defendant bears the burden to provide reasons for withdrawal, and the burden is on the state to demonstrate that withdrawal would cause prejudice. *Raleigh*, 778 N.W.2d at 97. We review a district court’s decision to deny a plea-withdrawal motion for an abuse of discretion, reversing only in the “rare case.” *Id.* (quotation omitted).

Buenfil argues that the district court abused its discretion because it would have been fair and just to allow him to withdraw his plea when another individual had taken responsibility for the crime. We first review the district court’s assessment of the reasons Buenfil gave to support withdrawal of his plea. *Raleigh*, 778 N.W.2d at 97. Here, Buenfil did not provide any evidentiary support for the reasons he advanced—such as the letter or an affidavit from the individual. Buenfil bears the burden of advancing the fair and just reasons to support withdrawal. *Raleigh*, 778 N.W.2d at 97. Because Buenfil failed to produce any evidence to support his assertion that someone else had taken responsibility for the crime, we conclude that the district court did not abuse its discretion when it determined that Buenfil failed to demonstrate a “fair and just” reason to withdraw his plea.

Moreover, when deciding whether to grant a plea withdrawal motion, a district court may consider “the entire context in which [the defendant’s] plea of guilty occurred, as demonstrated by the record.” *Abdisalan*, 661 N.W.2d at 695. As the state points out, the

record clearly demonstrates that Buenfil acknowledged his guilt at the plea hearing. *See State v. Tuttle*, 504 N.W.2d 252, 256-57 (Minn. App. 1993) (affirming a denial of a plea-withdrawal motion where a victim recanted their statement due, in part, because the defendant acknowledged his guilt and showed remorse). At no point during the plea hearing did Buenfil indicate that he was innocent of the charge. Instead, Buenfil established his own guilt by admitting that he drove the car to flee from the police. *See* Minn. Stat. § 609.487, subd. 3 (defining fleeing a peace officer in a motor vehicle as one who by means of a motor vehicle flees “a peace officer who is acting in the lawful discharge of an official duty, and the perpetrator knows or should reasonably know the same to be a peace officer”). The district court carefully evaluated the validity of the plea, noting that Buenfil was represented by counsel, questioned about giving up his right to a trial, and confirmed that he made no claim that he was innocent.

The district court must also consider the prejudice to the state if the defendant is allowed to withdraw his plea. *Raleigh*, 778 N.W.2d at 97. Buenfil argues that the district court did not find prejudice to the state and that the district court therefore should have allowed him to withdraw his plea. But the district court does not need to find prejudice to deny a plea-withdrawal motion when the defendant fails to provide any “substantiated reasons for withdrawal of his plea.” *Raleigh*, 778 N.W.2d at 98; *see also State v. Cubas*, 838 N.W.2d 220, 224 (Minn. App. 2013) (“Even 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.”), *review denied* (Minn. Dec. 31, 2013).

In sum, Buenfil did not meet his burden of presenting a fair and just reason to withdraw his plea. The district court did not abuse its discretion when it concluded that Buenfil did not show that it would have been fair and just to allow him to withdraw his guilty plea. *See Raleigh*, 778 N.W.2d at 97 (holding that a district court did not abuse its discretion in denying plea withdrawal under the fair-and-just standard when the defendant “failed to provide any valid reason why withdrawal would be ‘fair and just’”).

Affirmed.