

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0752**

Todd Deon Rolack, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed February 14, 2022
Affirmed
Johnson, Judge**

Dakota County District Court
File No. 19HA-CR-12-3304

Cathryn Middlebrook, Chief Appellant Public Defender, Benjamin J. Butler, Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

Kathryn M. Keena, Dakota County Attorney, Heather Pipenhagen, Assistant County Attorney, Hastings, Minnesota (for respondent)

Considered and decided by Reilly, Presiding Judge; Johnson, Judge; and Larkin, Judge.

NONPRECEDENTIAL OPINION

JOHNSON, Judge

In 2013, Todd Deon Rolack pleaded guilty to fourth-degree criminal sexual conduct. In 2020, he petitioned for post-conviction relief and argued that his guilty plea is invalid because, at the time of the plea, he was suffering from a mental illness that prevented him

from intelligently entering a guilty plea. The post-conviction court denied the petition on the grounds that it is untimely and without merit. We conclude that Rolack has not established that his guilty plea was not intelligently entered. Therefore, we affirm.

FACTS

In September 2012, the state charged Rolack with fourth-degree criminal sexual conduct, in violation of Minn. Stat. § 609.345, subd. 1(d) (2010). The complaint alleged that, in February 2012, when Rolack was 20 years old, he sexually assaulted an intoxicated and incapacitated 16-year-old girl in his bedroom during a party at his home.

In December 2012, a psychosexual evaluation of Rolack was conducted. The psychologist who evaluated Rolack reviewed the then-pending allegations, Rolack's criminal history, his family relationships and other relationships, his educational and occupational history, his sexual history, his chemical use, his physical health, his mental health, the results of psychological tests administered by the psychologist, and the results of sex-offender risk-assessment tools. With respect to his mental health, the psychologist noted that Rolack had reported a history of various mental-health issues, including depression, anxiety and schizophrenia.

In February 2013, Rolack pleaded guilty pursuant to a plea agreement in which the parties agreed to recommend that the district court follow the recommendations of a pre-sentence investigation: a stay of execution of the sentence and 10 years of probation. During the plea hearing, Rolack stated that he was taking medication for anxiety, which had been given to him in jail. He also stated that he had depression but that neither his depression, his anxiety, nor his medication prevented him from understanding what was

happening in the courtroom. Rolack stated that he had reviewed the plea petition with his attorney “extensively, paragraph by paragraph.” The district court accepted Rolack’s plea. The district court imposed the sentence that had been recommended by the assigned probation officer and the parties.

In subsequent years, Rolack twice violated the terms of his probation. The first violation occurred in December 2016, when a probation officer alleged that Rolack had failed to remain law abiding, to submit to random urinalysis testing, and to maintain contact with his probation officer. At a probation-violation hearing in March 2017, Rolack admitted the violations. The district court ordered that Rolack remain on probation. The second violation occurred in August 2018, when a probation officer alleged that Rolack had failed to submit to random urinalysis testing, to maintain contact with his probation officer, and to attend required sex-offender treatment. At a probation-violation hearing in April 2019, Rolack admitted the violations. The district court revoked his probation and ordered that his sentence be executed.

In December 2020, Rolack filed a *pro se* petition for post-conviction relief. In February 2021, an assistant state public defender assumed representation of him. In March 2021, Rolack filed a supplemental petition in which he alleged that his guilty plea is invalid because, at the time of his plea, “his untreated mental health was interfering with his ability to make decisions.” He also filed an affidavit in which he stated that, at the time of the plea hearing, he was “suffering from major depression and anxiety,” he had not taken his anxiety medication that day or the prior day, his depression and anxiety “overwhelmed”

him, and he “did not realize how much that was impacting [his] decision-making.” The state opposed Rolack’s petition.

In April 2021, the post-conviction court denied Rolack’s post-conviction petition for two reasons. First, the post-conviction court concluded that the petition is untimely because it was not filed within the applicable two-year statute of limitations and because no exceptions apply. Second, the post-conviction court concluded, in the alternative, that Rolack had not alleged facts sufficient to establish that his guilty plea is invalid. Thus, the post-conviction court denied the petition without an evidentiary hearing. Rolack appeals.

DECISION

Rolack argues that the post-conviction court erred by denying his post-conviction petition. Specifically, he argues that the post-conviction court erred both by ruling that his petition is untimely and by denying relief on the merits. Ordinarily, this court would begin its analysis by addressing the threshold issue of timeliness. In this case, however, we can resolve the appeal in a simpler and more straightforward manner by considering the merits of the petition.

A.

A defendant does not have an absolute right to withdraw a guilty plea. *State v. Raleigh*, 778 N.W.2d 90, 93 (Minn. 2010). But a post-conviction court must grant an offender’s motion to withdraw a guilty plea if 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.” *Raleigh*, 778 N.W.2d at 94. To be constitutionally valid, “a guilty plea must be accurate,

voluntary, and intelligent.” *Taylor v. State*, 887 N.W.2d 821, 823 (Minn. 2016). The supreme court has explained each of the three requirements as follows:

The main purpose of the accuracy requirement is to protect a defendant from pleading guilty to a more serious offense than he could be convicted of were he to insist on his right to trial. . . . The purpose of the voluntariness requirement is to insure that the defendant is not pleading guilty because of improper pressures. The purpose of the requirement that the plea be intelligent is to insure that the defendant understands the charges, understands the rights he is waiving by pleading guilty, and understands the consequences of his plea.

State v. Trott, 338 N.W.2d 248, 251 (Minn. 1983); *see also Perkins v. State*, 559 N.W.2d 678, 690 (Minn. 1997). If a guilty plea fails to meet any of these three requirements, it is invalid. *See State v. Ecker*, 524 N.W.2d 712, 716 (Minn. 1994). Thus, if a person’s guilty plea is not accurate, not voluntary, or not intelligent, a district court must permit the person to withdraw the plea. *State v. Theis*, 742 N.W.2d 643, 650 (Minn. 2007). A post-conviction petitioner bears the burden of showing that his or her guilty plea is invalid. Minn. Stat. § 590.04, subd. 3 (2020); *Raleigh*, 778 N.W.2d at 94. This court generally applies an abuse-of-discretion standard of review to the denial of a post-conviction petition. *Roberts v. State*, 933 N.W.2d 418, 420 (Minn. App. 2019), *aff’d*, 945 N.W.2d 850 (Minn. 2020).

Rolack argues that his guilty plea is invalid on the ground that, at the time of the plea, his “mental illness was interfering with his competency to proceed.” The post-conviction court analyzed Rolack’s argument by applying the principles and caselaw discussed above. It was appropriate for the post-conviction court to do so because Rolack had cited that body of caselaw in the memorandum of law he filed with his petition. On appeal, Rolack reiterates his argument that his guilty plea is invalid on the ground that his

“mental illness was interfering with his competency to proceed” and “interfering with his comprehension.” We construe Rolack’s brief to assert an argument that he did not intelligently enter his guilty plea. *See Raleigh*, 778 N.W.2d at 96 (stating that “intelligence requirement ensures that a defendant understands the charges against him, the rights he is waiving, and the consequences of his plea”).

In support of his argument, Rolack relies on statements he made in his affidavit that he filed with his post-conviction petition as evidence that “his untreated mental illness interfered with his ability to understand the consequences of his plea.” But Rolack’s affidavit is in direct conflict with the sworn statements he made during the plea hearing. When he was questioned by his attorney at the plea hearing, he acknowledged his diagnoses but agreed that he understood the plea proceeding and understood the decision he was making to plead guilty. His attorney asked whether his depression or his anxiety medication was “preventing [him] from understanding what [was] going on” in court, and he answered in the negative. The prosecutor asked him whether his anxiety medication was given to him in the jail, and he answered in the affirmative. He agreed with the district court that his anxiety medication was not “impacting [his] ability to think here today” and that he was “clear-headed.” In accepting Rolack’s plea, the district court expressly stated that, “having listened to your answers under oath, I do find you made a knowing and intelligent and voluntarily waiver of your rights.”

The caselaw generally provides that a criminal offender may not attack his guilty plea with an affidavit or an argument that contradicts sworn statements he made at the plea hearing. *Coolen v. State*, 179 N.W.2d 81, 86 (Minn. 1970); *State v. Hamilton*, 157 N.W.2d

528, 529 (Minn. 1968). Rolack has not cited any caselaw for the proposition that a different standard applies to a post-conviction petitioner who claims to have been suffering from a mental illness at the time of the plea hearing. We have independently researched the matter and are not aware of any such caselaw. Accordingly, we conclude that Rolack cannot obtain post-conviction relief by stating that he lacked comprehension and understanding at his plea hearing because that statement is contrary to the statements he made under oath at the plea hearing.

B.

Rolack also asserts that he “had a due process right not to face criminal charges if he was incompetent at the time.” In support of that principle, Rolack cites *Drope v. Missouri*, 420 U.S. 162 (1975), and *State v. Camacho*, 561 N.W.2d 160 (Minn. 1997). Under the Due Process Clause, “a defendant is competent to stand trial in a criminal matter if he or she ‘has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding’ and ‘has a rational as well as factual understanding of the proceedings against him.’” *Bonga v. State*, 797 N.W.2d 712, 718 (Minn. 2011) (quoting *Dusky v. United States*, 362 U.S. 402, 402 (1960) (*per curiam*)). In light of that constitutional right, “A district court’s failure ‘to observe procedures adequate to protect a defendant’s right not to be tried or convicted while incompetent to stand trial deprives him of his due process right to a fair trial.’” *Id.* (quoting *Drope*, 420 U.S. at 172).

Rolack also cites a rule of criminal procedure providing that a defendant may not be allowed to plead guilty if, “due to mental illness or cognitive impairment,” the defendant “lacks ability to . . . (a) rationally consult with counsel; or (b) understand the proceedings

or participate in the defense.” Minn. R. Crim. P. 20.01, subd. 2. The rule further provides, “If the prosecutor, defense counsel, or the court, at any time, doubts the defendant’s competency, the prosecutor or defense counsel must make a motion challenging competency, or the court on its initiative must raise the issue.” Minn. R. Crim. P. 20.01, subd. 3.

Rolack does *not* contend that the district court erred at the time of the plea hearing by failing to “observe procedures adequate to protect [his] right not to be tried or convicted while incompetent to stand trial,” *Bonga*, 797 N.W.2d at 718 (quotation omitted), or by failing to “doubt[] [his] competency” and “raise the issue,” Minn. R. Crim. P. 20.01, subd. 3. He argues only that the statements he made in his affidavit accompanying his post-conviction petition should have caused the post-conviction court to find that his guilty plea is invalid on the ground that it was not intelligently entered. As stated above, the post-conviction court appropriately rejected Rolack’s challenge to his guilty plea by relying on the statements Rolack made on the record and under oath at the plea hearing.

Even if we were to consider whether the district court, at the time of the guilty plea, erred by not questioning Rolack’s competency, we would conclude, based on the available record, that the district court did not have sufficient reason to doubt Rolack’s competency such that it was required to raise the issue on its own initiative. At the time of the plea hearing, the district court was well aware that Rolack had been diagnosed with one or more mental illnesses. But Rolack repeatedly stated that, although he had anxiety and depression, he was clear-headed and was able to understand the proceedings. The post-conviction court found that “at no time [during the plea hearing] did the prosecutor, defense

counsel, or the court doubt or motion to challenge [Rolack]’s competency.” The post-conviction court further found that Rolack’s “answers to questions asked were at all times appropriate and demonstrated that he understood the entire process.” The post-conviction court’s findings are supported by the transcript of the plea hearing.

Thus, the post-conviction court did not err by concluding that Rolack’s guilty plea was intelligently entered and, thus, is not invalid. In light of that conclusion, we need not determine whether Rolack’s post-conviction petition is timely or untimely. In sum, the post-conviction court did not err by denying Rolack’s post-conviction petition.

Affirmed.

A handwritten signature in black ink, appearing to read "Matthew Johnson". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.