

*This opinion is nonprecedential except as provided by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
A21-0787**

State of Minnesota,
Respondent,

vs.

Darwin Eldridge Anderson,
Appellant.

**Filed April 18, 2022
Affirmed
Kirk, Judge**

Ramsey County District Court
File No. 62-CR-20-44

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

John J. Choi, Ramsey County Attorney, Thomas R. Ragatz, Assistant County Attorney, St. Paul, Minnesota (for respondent)

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

Considered and decided by Smith, Tracy M., Presiding Judge; Connolly, Judge; and Kirk, Judge.

NONPRECEDENTIAL OPINION

KIRK, Judge

Appellant Darwin Eldridge Anderson challenges his conviction for second-degree intentional murder and attempted second-degree intentional murder, arguing that the

district court improperly denied his presentence motion to withdraw his guilty plea. We affirm.

DECISION

A defendant does not have an absolute right to withdraw a guilty plea. *State v. Raleigh*, 778 N.W.2d 90, 93 (Minn. 2010). However, a district court may allow a “defendant to withdraw a plea at any time before sentence if it is fair and just to do so.” Minn. R. Crim. P. 15.05, subd. 2. Under this standard, a district court considers: (1) the reasons the defendant advances to support withdrawal of the guilty plea; and (2) whether granting the motion prejudices the state. *Raleigh*, 778 N.W.2d at 97. The defendant bears the burden of advancing sufficient reasons to support plea withdrawal. *Id.* We review the district court’s decision for an abuse of discretion, *State v. Kaiser*, 469 N.W.2d 316, 320 (Minn. 1991), and only the “rare case” merits reversal, *Kim v. State*, 434 N.W.2d 263, 266 (Minn. 1989).

Appellant argues that it is fair and just to permit him to withdraw his guilty plea because: (1) he was not able to adequately prepare for trial; (2) he received ineffective assistance of counsel; and (3) he lacked intent to commit attempted second-degree murder.

With respect to his first argument, appellant claims that he did not have adequate time to review the evidence against him or adequately prepare for trial. The record does not support this claim. Appellant reached a plea agreement with the state and agreed to plead guilty to second-degree murder and attempted second-degree murder. In exchange, the state agreed to dismiss two first-degree murder charges and an illegal-possession-of-a-firearm charge. At the plea hearing, appellant acknowledged that he had enough time to

talk to his attorney, that his attorney had done a good job representing him, and that he wanted to plead guilty pursuant to the terms of the negotiated plea agreement. Appellant agreed that he had an opportunity to sit down with his attorney, fill out the petition to enter a plea of guilty, and go through the document with counsel. Appellant testified that he was entering the guilty plea of his own free will.

Appellant's second argument, that he received ineffective assistance of counsel, is also unsupported by the record. Ineffective assistance of counsel may render a guilty plea invalid. *Sames v. State*, 805 N.W.2d 565, 567 (Minn. App. 2011). A defendant receives ineffective assistance of counsel when: (1) "counsel's representation fell below an objective standard of reasonableness"; and (2) "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Gates v. State*, 398 N.W.2d 558, 561 (Minn. 1987) (quoting *Strickland v. Washington*, 466 U.S. 668, 688, 694 (1984)). In the context of a guilty plea, such as this, a defendant must demonstrate that "but for counsel's errors, he would not have pleaded guilty and would have insisted on going to trial." *Campos v. State*, 816 N.W.2d 480, 486 (Minn. 2012) (quotation omitted).

Appellant has not demonstrated that his counsel's representation fell below an objective standard of reasonableness. Appellant claims he did not have confidence in his attorney because his attorney did not adequately investigate his case. "The extent of counsel's investigation is considered a part of trial strategy," which this court generally does not review. *Opsahl v. State*, 677 N.W.2d 414, 421 (Minn. 2004). It is true that "a failure to investigate a potential defense may constitute ineffective assistance if it results

not from counsel's considered choice but rather from inattention or neglect." *Swaney v. State*, 882 N.W.2d 207, 218 (Minn. 2016). Here, however, appellant has not presented any evidence showing that his attorney was inattentive or neglectful. During the plea hearing, appellant acknowledged that he had time to speak with his attorney, that his attorney had done a good job of representing him, and that he understood the terms of the plea deal and wanted to plead guilty. The district court acknowledged that appellant did not like his attorney, but correctly determined that this was not a valid reason to withdraw his guilty plea. After carefully examining appellant's ineffective-assistance claim, we are satisfied that counsel's representation did not fall below an objective standard of reasonableness. And, because appellant cannot satisfy the first prong of the *Strickland* test, we need not address the prejudice prong. *Peltier v. State*, 946 N.W.2d 369, 372 (Minn. 2020) (noting that when one prong of *Strickland* test is determinative, an appellate court need not address remaining prong).

Lastly, appellant claims the factual basis portion of his plea is inadequate because he lacked intent to commit attempted second-degree murder. The charges arise from a shooting that occurred in November 2019. Appellant got into an argument with another man at a bar. Appellant followed the man home from the bar and fired several shots at the driver's-side window of the man's vehicle. The man died from a gunshot wound to his head, and a woman in the passenger seat was wounded. The state charged appellant with second-degree murder for the man's death and attempted second-degree murder for the woman's injuries. In support of the factual basis for the plea, appellant admitted that he fired several shots into the vehicle with the intent of killing the male victim.

On appeal, appellant concedes that his testimony at the plea hearing sufficiently establishes the elements for the second-degree murder of the male victim. However, appellant claims that he did not realize the woman was in the passenger seat of the vehicle and did not intend to harm her. As such, appellant claims he lacked the requisite intent for the second-degree attempted murder charge against the woman. The Minnesota Supreme Court recognizes that “Minnesota’s homicide statutes . . . incorporate the doctrine of transferred intent.” *State v. Cruz-Ramirez*, 771 N.W.2d 497, 507 (Minn. 2009). Under this doctrine, “transferred intent allows evidence of an intent to harm someone to transfer to the person actually harmed when there is a possibility the victim was not the intended recipient of the specific act.” *Id.* Here, appellant admitted that he fired several shots into the man’s vehicle with the intent of killing him. The female victim was the unintended recipient of this act. The transferred intent doctrine applies to the attempted-murder charge as to the female victim. *See id.* at 501, 506-07 (affirming conviction for attempted first-degree murder under transferred intent doctrine); *State v. Holliday*, 745 N.W.2d 556, 559, 562-64 (Minn. 2008) (applying doctrine to attempted first-degree murder conviction); *State v. Bakdash*, 830 N.W.2d 906, 914-15 (Minn. App. 2013) (applying doctrine to attempted second-degree murder conviction), *rev. denied* (Minn. Aug. 6, 2013). The district court did not err by applying the transferred intent doctrine.

We note, finally, that appellant also asserts that he is entitled to withdraw his guilty plea under the manifest-injustice standard. A manifest injustice exists if a guilty plea is invalid. *State v. Theis*, 742 N.W.2d 643, 646 (Minn. 2007); Minn. R. Crim. P. 15.05, subd. 1. The manifest-injustice standard is more demanding than the fair-and-just standard.

Theis, 742 N.W.2d at 646. Based on our determination that appellant is not entitled to withdraw his plea under the less burdensome fair-and-just standard, it is unnecessary to address whether withdrawal should also have been permitted under the manifest-injustice standard when appellant's arguments are the same for both.

In sum, we determine that the record supports the district court's decision to deny appellant's request to withdraw his guilty plea under the fair-and-just standard and we discern no abuse of discretion. *See State v. Abdisalan*, 661 N.W.2d 691, 694 (Minn. App. 2003) (affirming district court's decision to deny withdrawal of plea under the fair-and-just standard where "[n]othing objectively in the record suggests that [defendant] failed to comprehend the nature, purpose, and consequences of his plea"), *rev. denied* (Minn. Aug. 19, 2003). Because appellant failed to demonstrate fair-and-just reasons for withdrawal, we need not reach whether the state showed that a plea withdrawal would result in prejudice. *Raleigh*, 778 N.W.2d at 97-98; *see also See 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 . . . if the defendant fails to advance valid reasons why withdrawal is fair and just."), *rev. denied* (Minn. Dec. 31, 2013). Accordingly, we affirm.

Affirmed.