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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0941**

State of Minnesota,
Respondent,

vs.

Anthony Barrett Graham,
Appellant.

**Filed February 27, 2023
Affirmed
Cochran, Judge**

Mower County District Court
File Nos. 50-CR-20-939, 50-CR-20-1435

Olmsted County District Court
File Nos. 55-CR-20-4050, 55-CR-20-4522

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Considered and decided by Cochran, Presiding Judge; Bjorkman, Judge; and
Reilly, Judge.

NONPRECEDENTIAL OPINION

COCHRAN, Judge

Appellant pleaded guilty to and was convicted of first-degree sale of a controlled substance, unlawful drug possession, unlawful firearm possession, and two counts of felony theft. On appeal, and following a remand for postconviction proceedings, appellant argues that the postconviction court abused its discretion by summarily denying his request to withdraw his guilty pleas on the basis that his guilty pleas are invalid.

Alternatively, appellant challenges his sentence for his conviction of first-degree sale of a controlled substance. He contends that the district court abused its discretion by imposing a “top-of-the-box” presumptive sentence under the Minnesota Sentencing Guidelines for this offense after he failed to appear at his sentencing hearing. Appellant also argues that the postconviction court abused its discretion when it declined to reduce his sentence based on appellant’s concern about contracting COVID-19 in prison and given his subsequent conviction of and sentence for failure-to-appear.

Lastly, appellant argues in a pro se supplemental brief that the postconviction court abused its discretion by dismissing his pro se postconviction petition without addressing the merits of his arguments and instead addressing only the arguments raised in the postconviction petition filed by his attorney.

We conclude that the postconviction court did not abuse its discretion when it denied appellant’s request to withdraw his guilty pleas because the record, viewed in the light most favorable to appellant, conclusively establishes that appellant’s guilty pleas are valid. We further conclude that appellant’s sentence for first-degree sale of a controlled substance is

consistent with the terms of his plea agreement and that the postconviction court did not abuse its discretion when it declined to reduce his sentence. Finally, we conclude that appellant's pro se arguments do not support reversal. Therefore, we affirm.

FACTS

This case arises from a global plea agreement between appellant Anthony Barrett Graham and respondent State of Minnesota across several court files. Between May and August 2020, Graham was charged in Olmsted and Mower Counties with numerous offenses, including, among others, first-degree sale of a controlled substance, unlawful drug possession, unlawful firearm possession, and felony theft.

Olmsted County Charges

On March 17, 2020, Graham reportedly sold more than 17 grams of methamphetamine to a confidential reliable informant (CRI) during a controlled buy in Olmsted County.¹ On August 4, 2020, the state charged Graham with first-degree sale of a controlled substance in violation of Minn. Stat. § 152.021, subd. 1(1) (2018).

On April 6, 2020, Graham allegedly stole several thousand dollars' worth of goods from a storage unit in Olmsted County. On July 16, 2020, the state charged Graham with (1) third-degree burglary, in violation of Minn. Stat. § 609.582, subd. 3 (2018), and (2) felony theft, in violation of Minn. Stat. § 609.52, subd. 2(a)(1) (2018).

¹ A “controlled buy” refers to a drug deal between a police informant and another person whom the police are investigating for drug trafficking. *See, e.g., State v. Holiday*, 749 N.W.2d 833, 837 (Minn. App. 2008) (describing a “controlled buy” between a confidential reliable informant and the defendant-respondent).

Mower County Charges

On May 9, 2020, Graham allegedly stole several thousand dollars' worth of electronic equipment from a gas station. Police arrested Graham on May 11, 2020, and found him in possession of methamphetamine, a methamphetamine pipe, and marijuana. On May 12, 2020, the state charged Graham with (1) second-degree sale of a narcotic, in violation of Minn. Stat. § 152.022, subd. 1(1) (2018); (2) third-degree possession of a narcotic, in violation of Minn. Stat. § 152.023, subd. 2(a)(1) (2018); (3) felony theft, in violation of Minn. Stat. § 609.52, subd. 2(a)(1); (4) misdemeanor possession of marijuana, in violation of Minn. Stat. § 152.027, subd. 3 (2018); and (5) misdemeanor driving after revocation, in violation of Minn. Stat. § 171.24, subd. 2 (2018).

On July 24, 2020, police arrested Graham in Mower County on the pending drug charges and found him in possession of a firearm, ammunition, and methamphetamine. Three days later, the state charged Graham with (1) second-degree sale of methamphetamine, in violation of Minn. Stat. § 152.022, subd. 1(2)(i) (2018); (2) violent felon in possession of a firearm, in violation of Minn. Stat. § 609.165, subd. 1b (2018); (3) violent felon in possession of ammunition, in violation of Minn. Stat. § 609.165, subd. 1b; (4) third-degree sale of a narcotic, in violation of Minn. Stat. § 152.023, subd. 1(1) (2018); and (5) fifth-degree possession of a controlled substance, in violation of Minn. Stat. § 152.025, subd. 2(1) (2018).

On September 3, 2020, Graham filed an omnibus motion to dismiss the charges filed after Graham's July 24, 2020 arrest. In the motion, Graham argued that the warrantless search and seizure that preceded his arrest were unconstitutional. On October 22, 2020,

Graham filed a motion to compel the state to disclose the identity of the CRI who was involved in the controlled buy that led to Graham's arrest.

Global Guilty Plea and Sentencing

On October 23, 2020, Graham appeared in district court with counsel for the omnibus hearing on his motion to dismiss. Instead of proceeding with the hearing as scheduled, Graham requested that the district court schedule a plea hearing so he could accept a "global plea offer," which would resolve all pending charges in Olmsted and Mower Counties. The plea hearing was scheduled for December 8, 2020.

On November 16, 2020, Graham signed a rule 15 plea petition regarding the Mower and Olmsted County files. In his petition, Graham stated that he was represented by counsel, that he had sufficient time to discuss the plea agreement with his attorneys, that he and his attorneys had discussed his possible defenses, and that he was satisfied with his legal representation. Graham also indicated that he understood that the state's case against him included evidence obtained during a search and seizure and that he had "a right to a pre-trial hearing before a judge to determine whether or not the evidence the prosecution ha[d] could be used against [him]" if he chose to go to trial. Graham waived his right to such a hearing and acknowledged that he "[would] not be able to object tomorrow or any other time to the evidence that the prosecutor has." Lastly, Graham acknowledged "that any appeal or *other court action* . . . claiming error in the proceedings probably would be useless and a waste of my time and the court's time." (Emphasis added.)

In this petition, Graham agreed to plead guilty to five charges: first-degree sale of a controlled substance, third-degree possession of a narcotic, violent felon in possession of

a firearm, and two counts of felony theft. In exchange for his guilty pleas, the state agreed to dismiss all remaining counts in Graham’s pending Olmstead and Mower County court files. The petition also provided that Graham would be sentenced to the “middle of the box” under the Minnesota Sentencing Guidelines² for all charges except first-degree sale of a controlled substance. On that charge, Graham agreed that he would be sentenced to the “bottom of the box” if he appeared for sentencing. But, if he failed to appear for sentencing, Graham agreed that he would be sentenced to the “top of the box.”

On December 8, 2020, Graham appeared in district court with counsel for a plea hearing. At the start of the hearing, Graham’s attorney reviewed the terms of the plea agreement, and the state confirmed them. The district court then reviewed the plea petition with Graham, describing the charges that he was pleading guilty to and their maximum penalties. The district court asked Graham if his attorneys had reviewed his court files and the plea petition with him, and he agreed that they had. The district court then advised Graham of the rights he was giving up by pleading guilty, including (as most relevant to this appeal) the right to challenge the state’s evidence. The district court inquired of Graham as follows:

² The Minnesota Sentencing Guidelines establish presumptive sentences for felony offenses. Minn. Stat. § 244.09, subd. 5 (2022). To determine a defendant’s presumptive sentence, the district court calculates the defendant’s criminal-history score using the defendant’s prior convictions and then cross-references that score with the convicted offense. Minn. Sent’g Guidelines 2.C (Supp. 2019). The resulting presumptive sentence is depicted as a range on the sentencing guidelines grid. *See* Minn. Sent’g Guidelines 4.A (Supp. 2019). The upper end of a presumptive sentence is referred to as the “top of the box,” the middle of the range is referred to as the “middle of the box,” and the lower end of the range is referred to as the “bottom of the box.”

THE COURT: You also have the right to challenge the State's evidence in pretrial hearings. If you plead guilty here today, you will be giving up each of those rights in each of these files. Do you understand that?

GRAHAM: I – I understand, sir.

THE COURT: And are you willing to give up all of those rights in each of these files?

GRAHAM: I am willing to take responsibility, yes.

Graham pleaded guilty to the five offenses listed in the plea agreement. The district court accepted the factual basis for each of Graham's pleas and found that he "made a knowing, voluntary, and intelligent waiver" of his right to a trial in each case.

Graham was released on his own recognizance on December 21, 2020, with conditions, including that he appear for his sentencing hearing. Graham did not appear for sentencing. The district court issued a bench warrant.

On April 29, 2021, the district court sentenced Graham in accordance with his plea agreement. It sentenced Graham to 126 months in prison—the "top of the box" for first-degree sale of a controlled substance—because he failed to appear for sentencing. Graham's attorney noted that a top-of-the-box sentence was "what we bargained for by way of a failure to comply."

Failure-to-Appear Conviction

According to Graham, and based on evidence that is not before this court, the state subsequently charged Graham in Mower County in a separate court file for his failure to appear for sentencing, in violation of Minn. Stat. § 609.49, subd. 1(a) (2020). Graham was apparently convicted of this charge and sentenced to 22 months in prison.

Civil Lawsuit Against Law Enforcement

According to his postconviction petition and appellate brief, Graham apparently filed a complaint against the Austin Law Enforcement Center on December 30, 2020, because he believed that the proper way to challenge the warrantless search and seizure that preceded his July 24, 2020 arrest was through a civil lawsuit.

Appeal and Postconviction Proceedings

On July 26, 2021, Graham appealed his convictions of the five charges that were part of the plea agreement. On December 17, 2021, this court granted Graham's motion to stay his direct appeal to allow him to file a petition for postconviction relief in district court.

On January 18, 2022, Graham filed a petition for postconviction relief seeking to withdraw his guilty pleas to all five charges on the basis that his pleas are constitutionally invalid. Alternatively, he sought a reduced sentence for his conviction of first-degree sale of a controlled substance. Graham also filed a supplemental pro se petition for postconviction relief alleging various violations of his constitutional rights and seeking withdrawal of his guilty pleas or, in the alternative, a postconviction hearing.

On July 6, 2022, the postconviction court denied Graham's petition for postconviction relief without an evidentiary hearing and without considering his pro se petition. The postconviction court found that Graham's guilty pleas were valid and that the allegations in his petition did not raise a question of material fact that required resolution through an evidentiary hearing. The postconviction court also found that Graham's sentence was legally proper. As a result, Graham's direct appeal was reinstated. This appeal follows.

DECISION

Graham raises several issues on appeal. First, Graham argues that the postconviction court abused its discretion when it summarily denied his request to withdraw his guilty pleas. Second, Graham contends that the district court abused its discretion by imposing a top-of-the-box sentence for his first-degree sale offense and further argues that the postconviction court abused its discretion by declining to reduce this sentence. Lastly, Graham argues in a pro se supplemental brief that the postconviction court abused its discretion by declining to address his pro se postconviction petition. We consider each of these arguments in turn.

I. The postconviction court did not abuse its discretion by denying, without a hearing, Graham’s postconviction petition to withdraw his guilty pleas.

We review a district court’s denial of a postconviction petition, “as well as a request for an evidentiary hearing, for an abuse of discretion.” *Chavez-Nelson v. State*, 948 N.W.2d 665, 671 (Minn. 2020). A district court does not abuse its discretion when it denies a petition for postconviction relief unless it has “exercised its discretion in an arbitrary or capricious manner, based its ruling on an erroneous view of the law, or made clearly erroneous factual findings.” *Henderson v. State*, 906 N.W.2d 501, 505 (Minn. 2018) (quotation omitted).

A postconviction court may dismiss a petition for postconviction relief without conducting an evidentiary hearing if “the petition and the files and records of the proceeding conclusively show that the petitioner is entitled to no relief.” Minn. Stat. § 590.04, subd. 1 (2020). In determining whether an evidentiary hearing is required,

the postconviction court must consider the facts alleged in the petition as true and view them in “the light most favorable to the petitioner.” *Andersen v. State*, 913 N.W.2d 417, 422-23 (Minn. 2018) (quotation omitted). An evidentiary hearing is not required “when the petitioner alleges facts that, if true, are legally insufficient to entitle him to the requested relief.” *Bobo v. State*, 820 N.W.2d 511, 516 (Minn. 2012).

Graham argues that the postconviction court abused its discretion by summarily denying his request to withdraw his guilty pleas. He first argues that the postconviction court erred as a matter of law when it concluded that his pleas were valid. In the alternative, Graham contends that the postconviction court abused its discretion by denying his requested relief without conducting an evidentiary hearing on the validity of his pleas. We disagree.

A defendant does not have an absolute right to withdraw his guilty plea. *State v. Mikulak*, 903 N.W.2d 600, 603 (Minn. 2017). But a defendant may withdraw a guilty plea at any time, even after sentencing, if “withdrawal is necessary to correct a manifest injustice.” Minn. R. Crim. P. 15.05, subd. 1. A manifest injustice occurs if a plea is not valid. *State v. Fugalli*, 967 N.W.2d 74, 77 (Minn. 2021). “To be constitutionally valid, a guilty plea must be accurate, voluntary, and intelligent.” *Id.* Whether a guilty plea is valid is a question of law, which we review de novo. *Barrow v. State*, 862 N.W.2d 686, 689 (Minn. 2015).

Graham argues only that his guilty pleas were unintelligent. A guilty plea is intelligent if the defendant understands (1) the charges against him, (2) the rights he is giving up by pleading guilty, and (3) the direct consequences of pleading guilty.

State v. Raleigh, 778 N.W.2d 90, 96 (Minn. 2010). Graham contends that his guilty pleas were unintelligent because he did not understand that pleading guilty could affect his ability to challenge the state's evidence against him in a civil lawsuit. We are not persuaded.

Viewing the evidence in the light most favorable to Graham, the record amply reflects that Graham understood the charges against him, the rights he was giving up, and the consequences of pleading guilty. In his rule 15 plea petition, Graham stated that he understood the charges against him, that he had discussed these charges and his possible defenses with his attorneys, and that he was satisfied with his legal representation. Graham also indicated that he understood that pleading guilty meant that he was relinquishing his right to challenge the state's evidence, including evidence obtained during a search or seizure, at a pretrial hearing. And he acknowledged that, by pleading guilty, he would "not be able to object tomorrow or any other time to the evidence that the prosecutor has." Likewise, during his plea hearing, Graham specifically stated that he understood that he was giving up his right to challenge the state's evidence in pretrial hearings. Together, Graham's signed plea petition and his extensive colloquy with the district court during the plea hearing conclusively demonstrate that Graham's guilty pleas were intelligent.

We are not persuaded otherwise by Graham's argument that he did not understand the rights he was giving up because he did not realize that his guilty pleas might affect his ability to challenge the state's evidence in a civil court proceeding. To support this argument, Graham points to an affidavit he filed with his pro se postconviction petition. In the affidavit, Graham averred that he told one of his attorneys about potential police misconduct surrounding his July 24, 2020 arrest, and that his attorney replied: "Do you

know how big the constitution is, it is like this Big!! I am a criminal defense attorney. If you need a civil attorney, Hire One!” Graham does not point to any other evidence in the postconviction record to explain why he believed that he could still challenge the state’s evidence after pleading guilty.

The postconviction court properly rejected this argument because Graham’s stated belief regarding his ability to challenge the state’s evidence in a civil case implicates a collateral consequence of pleading guilty. “Only *direct consequences* are relevant in assessing the intelligence of a guilty plea.” *State v. Bell*, 971 N.W.2d 92, 101 (Minn. App. 2022) (emphasis added) (quotation omitted), *rev. denied* (Minn. Apr. 27, 2022). “A defendant’s lack of knowledge about the *collateral consequences* of a guilty plea ‘does not render the guilty plea unintelligent and entitle a defendant to withdraw it.’” *Id.* (emphasis added) (quoting *Taylor v. State*, 887 N.W.2d 821, 823 (Minn. 2016)). Losing the right to challenge the state’s evidence in a civil proceeding is a collateral consequence. *See id.* (defining “collateral consequences” as those that do not punish and are not intended to punish but that do serve the interest of public safety); *Kaiser v. State*, 641 N.W.2d 900, 904 (Minn. 2002) (explaining that “direct consequences are those related to punishment that flow definitely, immediately and automatically from the plea” and include “the maximum sentence and fine”). Accordingly, neither Graham’s attorneys nor the district court were obligated to inform him that pleading guilty could impact his ability to challenge the state’s evidence against him in a civil proceeding. Thus, the postconviction court did not err as a matter of law when it concluded that Graham’s guilty pleas were intelligent.

Nor did the postconviction court abuse its discretion when it reached this conclusion without conducting an evidentiary hearing. As noted above, an evidentiary hearing is not required when “the petition and the files and records of the proceeding conclusively show that the petitioner is entitled to no relief.” Minn. Stat. § 590.04, subd. 1. For the reasons discussed previously, the petition and record in this case conclusively demonstrate that Graham is entitled to no relief on his request to withdraw his guilty pleas. Accordingly, we discern no abuse of discretion by the postconviction court in its summary denial of Graham’s request to withdraw his guilty pleas.

II. The district court did not abuse its discretion in sentencing Graham and Graham is not entitled to a reduced sentence.

Graham also challenges his sentence for first-degree sale of a controlled substance. After Graham failed to appear for sentencing, the district court imposed the top-of-the-box sentence for this offense, in accordance with his plea agreement. Graham now argues that the district court abused its discretion by imposing a top-of-the-box sentence because the district court did not consider that Graham’s failure to appear for sentencing was related to his fear of contracting COVID-19 in prison. And Graham contends that the postconviction court abused its discretion by not using its “inherent authority” to modify Graham’s sentence in light of either the COVID-19 pandemic or his subsequent sentence for the separate crime of failure to appear. Lastly, Graham asks this court to reduce his sentence to correct the alleged abuse of discretion. For the reasons explained below, we discern no abuse of discretion by either the district court or the postconviction court, and we decline to reduce Graham’s sentence sua sponte.

A. The district court sentenced Graham in accordance with his bargained-for plea agreement.

A district court has broad discretion in the imposition of sentences. *State v. Soto*, 855 N.W.2d 303, 307 (Minn. 2014). Accordingly, we will reverse a district court’s sentencing decision only for an abuse of that discretion. *Id.* at 308. Sentences within the presumptive sentencing range under the guidelines are “presumed to be appropriate.” *Id.* (quotation omitted). Thus, “[t]his court will generally not exercise its authority to modify a sentence within the presumptive [sentencing] range absent compelling circumstances.” *State v. Delk*, 781 N.W.2d 426, 428 (Minn. App. 2010) (citation omitted), *rev. denied* (Minn. July 20, 2010).

Graham challenges the district court’s decision to sentence him for first-degree sale of a controlled substance at the top of the presumptive sentencing range in accordance with his plea agreement. In levying this challenge, Graham does not dispute the terms of his plea agreement. Nor does he argue that he was coerced into accepting these terms. Rather, he asserts that “the extraordinary danger that the COVID-19 pandemic presented to [him] as a prison inmate was terrifying” and that the district court’s sentence did not “make sense” in the context of this “global health emergency.”

We are not persuaded. Plea agreements “represent a bargained-for understanding between the government and criminal defendants in which each side foregoes certain rights and assumes certain risks in exchange for a degree of certainty as to the outcome of criminal matters.” *State v. Meredyk*, 754 N.W.2d 596, 603 (Minn. App. 2008) (quotation omitted). Accordingly, plea agreements are analogous to contracts and district courts are “severely

limit[ed]” in their discretion to depart from them. *See id.* (quotation omitted). Graham bargained for the terms of his plea agreement. He accepted the risk of a top-of-the-box sentence under the sentencing guidelines in exchange for certainty in the sentencing process. Indeed, whether Graham received a top-of-the-box sentence was within his control—a benefit that criminal defendants do not presumptively enjoy. *See Soto*, 855 N.W.2d at 307-08 (explaining that district courts have broad discretion in sentencing). Graham’s attorney acknowledged this fact during sentencing when she noted that a top-of-the-box sentence was “what we bargained for by way of failure to comply” and that Graham “was [prepared] to agree to the bargain that he had signed up for.” In short, the record shows that the district court imposed a top-of-the-box sentence pursuant to Graham’s bargained-for plea agreement, as the law requires. *See Meredyk*, 754 N.W.2d at 603 (explaining that district courts are “severely limit[ed]” in their discretion to depart from plea agreements). Thus, we conclude that the district court did not abuse its discretion in sentencing Graham consistent with his plea agreement.

B. Neither the COVID-19 pandemic nor Graham’s subsequent conviction of and sentence for failure to appear justify a reduction in Graham’s sentence.

Graham next argues that the postconviction court abused its discretion by declining to reduce Graham’s sentence by 28 months to reflect the sentence he would have received if he had appeared for sentencing. He raises two arguments to support this position.

First, he contends that the postconviction court abused its discretion by not using its “inherent power” to reduce his sentence to reflect that his failure to appear at sentencing

was due to his concern about contracting COVID-19 while in prison. He asks that this court now exercise its inherent power to do so. We are not persuaded.

Graham has not provided any authority to suggest that a postconviction court abuses its discretion when it declines to reduce a sentence to address concerns about contracting COVID-19 in prison, and we are aware of no such authority. Moreover, Graham agreed to his plea bargain in December 2020 and was sentenced in April 2021—two years after the COVID-19 pandemic had been declared—but he did not raise any concerns about COVID-19 until he filed his petition for postconviction relief in January 2022. In sum, his argument that COVID-19 created circumstances that justify reducing his sentence is not supported by the law or the facts. Accordingly, we conclude that the postconviction court did not abuse its discretion by declining to reduce Graham’s sentence, and we similarly decline to do so.

Second, Graham argues that, because he was separately convicted of and sentenced for his failure-to-appear for sentencing, the postconviction court abused its discretion by declining to reduce his sentence on this basis. But Graham has not provided any authority to suggest that his subsequent conviction of and sentence for the separate crime of failure-to-appear necessitates a reduction of his sentence in this case. *See In re Commitment of Kropp*, 895 N.W.2d 647, 653 (Minn. App. 2017) (explaining that “Minnesota appellate courts decline to reach an issue in the absence of adequate briefing”), *rev. denied* (Minn. June 20, 2017). Because we know of no such authority, we conclude that the postconviction court did not abuse its discretion by declining to reduce Graham’s sentence on this basis.

III. Graham's pro se arguments are unavailing.

In a pro se supplemental appellate brief, Graham raises two additional arguments that he contends require reversal of his convictions. Both arguments are unavailing.

First, Graham argues that the postconviction court abused its discretion by declining to address issues that he raised in his separate pro se postconviction petition. In its order, the postconviction court stated that it would not address “any issues, claims, or arguments in documents written and filed by” Graham on his own because Graham “cannot simultaneously be represented by counsel and represent himself in [d]istrict [c]ourt proceedings.”

Graham contends that the postconviction court abused its discretion by limiting its analysis to the issues raised in the postconviction petition filed by his attorney. But Graham does not cite any legal authority that requires the postconviction court to address a pro se filing when the petitioner is represented by counsel in a postconviction proceeding and counsel has filed a petition. This court generally does not address issues that are inadequately briefed. *Kropp*, 895 N.W.2d at 653. Because Graham provides no legal authority to support his argument and we are aware of no such authority, we decline to address the argument. *See, e.g., State v. Anderson*, 871 N.W.2d 910, 915 (Minn. 2015) (explaining that “[a]n assignment of error based on mere assertion and not supported by any argument or authorities in appellant’s brief is waived and will not be considered on appeal unless prejudicial error is obvious on mere inspection” (quotation omitted)).

Second, Graham makes an ineffective-assistance-of-counsel argument related to the validity of his guilty pleas. He argues that he received ineffective assistance of counsel

because one of his attorneys led him to believe that “the proper way to challenge constitutional issues” relating to evidence obtained during a search or seizure was in a civil proceeding, not during his criminal proceedings. He makes this argument for the first time in his pro se supplemental brief. To support this argument, Graham points to the following statement from his attorney, which he included in the affidavit he filed during postconviction proceedings: “Do you know how big the constitution is, it is like this Big!! I am a criminal defense attorney. If you need a civil attorney, Hire One!”

To be entitled to relief for ineffective assistance of counsel, “an appellant must prove that his counsel’s representation fell below an objective standard of reasonableness” and that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Chavez-Nelson*, 948 N.W.2d at 671 (quotation marks omitted) (quoting *Strickland v. Washington*, 466 U.S. 668, 687, 694 (1984)).

Graham argues that the legal advice at issue fell below “[t]he proper standard of attorney performance.” He further contends that, if he had not received this legal advice, he would have challenged the state’s evidence in an omnibus proceeding rather than pleading guilty. On this basis, he argues that he received ineffective assistance of counsel.

The record before us, however, is inadequate to determine whether the legal advice that Graham alleges he received “fell below an objective standard of reasonableness.” The record contains only one vague statement regarding the legal advice at issue. There is no further evidence in the record regarding any discussions between Graham and his attorney regarding his stated desire to challenge the constitutionality of the state’s evidence. With

the limited record before us, we cannot determine whether Graham has raised a valid claim for ineffective assistance of counsel. Accordingly, we decline to consider this issue for the first time on appeal. *See State v. Christian*, 657 N.W.2d 186, 194 (Minn. 2003) (declining to reach the merits of an ineffective-assistance-of-counsel claim because the record did not provide a sufficient basis to review appellant's complaints).

Affirmed.