

*This opinion is nonprecedential except as provided by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
A21-1565**

State of Minnesota,
Respondent,

vs.

Daryl Wayne Moran, Jr.,
Appellant.

**Filed November 7, 2022
Reversed and remanded
Reilly, Judge**

Becker County District Court
File Nos. 03-CR-18-2475, 03-CR-21-1625

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

Brian W. McDonald, Becker County Attorney, Detroit Lakes, Minnesota (for respondent)

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

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

NONPRECEDENTIAL OPINION

REILLY, Judge

Appellant argues that the district court erred in denying his presentencing request to
withdraw his guilty plea to felony impaired driving and that plea withdrawal is required

under the manifest-injustice standard because his plea was not intelligent. Because we agree that appellant's plea was not intelligently entered, we reverse and remand.

FACTS

In November 2018, a Minnesota State Patrol Trooper stopped appellant Daryl Wayne Moran Jr.'s vehicle. The officer saw Moran's vehicle fail to signal its turn, cross over a fog line, and travel at a speed of 60 miles per hour in a 30-mile-per-hour zone. The officer believed that Moran was under the influence of a controlled substance. The officer noticed that Moran was fidgeting and smelled of an alcoholic beverage. The officer also noticed that there was a "bag with multiple needles" just outside the vehicle. The officer found two baggies with white residue in the passenger's purse and additional needles inside the vehicle. The officer requested that Moran undergo field sobriety testing, but Moran refused. The officer obtained a search warrant to draw a sample of Moran's blood. The Minnesota Bureau of Criminal Apprehension analyzed Moran's blood sample and noted the presence of amphetamine and methamphetamine.

Respondent State of Minnesota charged Moran with two counts of felony driving while intoxicated, one count of gross misdemeanor driving after cancellation, and one count of misdemeanor fleeing police.

Before trial, Moran moved to suppress the evidence, arguing that the officer unlawfully stopped his vehicle and seized him and that the results of the blood test were "the fruits of an unlawful search and an expired blood test kit." Following a contested omnibus hearing, the district court denied Moran's motion to suppress. The district court determined that the officer had reasonable, articulable suspicion to stop Moran's vehicle

and that the charges were supported by probable cause. As for Moran's contention that the blood test kit had expired, the district court determined that the expiration date listed in the officer's report was a typographical error and that the kit had not expired.

Moran pleaded guilty to one count of felony impaired driving. The state agreed to dismiss the remaining three counts in exchange for Moran's plea. The district court accepted Moran's plea. Moran later appeared before the district court for sentencing. At the beginning of the hearing, Moran said that he wanted to move to withdraw his guilty plea. The district court continued the sentencing hearing to permit Moran to file his motion. The parties returned about a month later for sentencing. Moran stated that he wished to withdraw his guilty plea because he believed the officer used an expired blood test kit and that the state was hiding information about the expiration date. The district court denied Moran's motion. The district court then sentenced Moran to 65 months in prison for the impaired-driving offense.

This appeal follows.¹

DECISION

Moran challenges the district court's denial of his presentence motion to withdraw his guilty plea to the impaired-driving offense. "A defendant has no absolute right to withdraw a guilty plea after entering it." *Taylor v. State*, 887 N.W.2d 821, 823 (Minn. 2016) (quotation omitted). Plea withdrawal is permitted under two circumstances. *State*

¹ The state did not file a brief and we ordered the matter to proceed under Minn. R. Civ. App. P. 142.03 (directing that when a respondent fails to file a brief the matter is to be decided on the merits).

v. Raleigh, 778 N.W.2d 90, 93 (Minn. 2010). First, a district court must allow a defendant to withdraw a guilty plea “[a]t any time” if “withdrawal 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 at any time before sentence if it is fair and just to do so.” *Id.*, subd. 2. The decision to permit the withdrawal of a guilty plea prior to sentencing under the fair and just standard is left to the sound discretion of the district court and will be reversed only in the “rare case” that the district court abuses its discretion. *Kim v. State*, 434 N.W.2d 263, 266 (Minn. 1989). Moran challenges the district court’s decision under both the manifest-injustice standard and the fair-and-just standard.

We determine that Moran has a right to withdraw his guilty plea under the manifest-injustice standard.² Under this standard, a district court must allow a defendant to withdraw his guilty plea “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.” *Barrow v. State*, 862 N.W.2d 686, 691 (Minn. 2015). “To be valid, a guilty plea must be accurate, voluntary, and intelligent.” *Taylor*, 887 N.W.2d at 823. The district court must allow the defendant to withdraw a guilty plea if the defendant proves that the plea was not accurate, voluntary, and intelligent. *See Barrow*, 862 N.W.2d at 689-91 (placing the burden of proof on defendant).

² Based on this determination we do not consider Moran’s argument that he is entitled to withdraw his plea under the fair-and-just standard, which is “a less demanding standard than the manifest-injustice standard.” *State v. Townsend*, 872 N.W.2d 758, 764 (Minn. App. 2015) (quotation omitted).

Moran does not contest the accuracy or voluntariness of his plea. But he claims that his plea was unintelligent. The intelligence requirement ensures that the defendant understands the state's charges, the rights being waived, and the consequences of the plea. *Raleigh*, 778 N.W.2d at 96. The defendant must understand the plea's "direct consequences." *Id.* "[D]irect consequences are those which flow definitely, immediately, and automatically from the guilty plea." *State v. Crump*, 826 N.W.2d 838, 841-42 (Minn. App. 2013) (citation omitted), *rev. denied* (Minn. May 21, 2013).

Moran claims his plea was unintelligent because he did not understand the rights he was waiving by pleading guilty. Moran argues that no one advised him that, by pleading guilty, he would be unable to appeal the district court's suppression order. Moran argues that his plea was unintelligent because he believed he could enter a guilty plea and still preserve his right to challenge the state's evidence on appeal.

We agree. Generally, "[a] guilty plea by a counseled defendant has traditionally operated . . . as a waiver of all non-jurisdictional defects arising prior to the entry of the plea." *State v. Ford*, 397 N.W.2d 875, 878 (Minn. 1986). These defects include the right to challenge the admissibility of the state's evidence. *See Korman v. State*, 262 N.W.2d 161, 161 (Minn. 1977) (holding that issues relating to the admissibility of petitioner's confession were waived by his "voluntarily, knowingly, and understandingly entered guilty plea"). Moran did not sign a plea petition. During the waiver portion of his plea, counsel advised Moran about the rights he was waiving by entering a guilty plea. Moran acknowledged that he understood the charge he was pleading to, that he understood the maximum penalty associated with the charge, and that he was pleading guilty of his own

free will. Moran agreed that he had enough time to speak with counsel. Moran understood that he had the right to a trial, that the state bore the burden of proof, and that he was entitled to a jury of his peers.

But counsel did not advise Moran that by pleading guilty he was waiving his right to appeal the district court's denial of his suppression motion. At the sentencing hearing, Moran's counsel reiterated that Moran wanted to withdraw his guilty plea. The district court inquired, "With the Court ruling on that, would that also be an appellate issue that you could raise, do you know?" Counsel responded, "The Court did rule on [the suppression issue] at the Omnibus hearing . . . and those issues were addressed, and . . . that would probably be an appellate issue." In its order denying Moran's motion to withdraw his plea, the district court noted that it had heard Moran's arguments during the omnibus hearing and did not find that suppression was warranted. The district court found that "Because the Court has already heard [Moran's] arguments and ruled on the matter, this issue is a matter for the Court of Appeals."

Both counsel and the district court suggested that Moran could challenge his suppression issue on appeal, and there is no indication in the record that Moran was ever informed otherwise. But by pleading guilty, Moran waived his right to do so. The record shows that Moran failed to comprehend "the nature, purpose, and consequences of his plea." *State v. Abdisalan*, 661 N.W.2d 691, 694 (Minn. App. 2003), *rev. denied* (Minn. Aug. 19, 2003). Moran's guilty plea was therefore unintelligent, and its withdrawal is

necessary to correct a manifest injustice. As a result, we reverse and remand with instructions to permit Moran to withdraw his guilty plea.³

Reversed and remanded.

³ Moran further argues that he is entitled to resentencing. Based on our decision that Moran has a right to withdraw his plea, we do not reach this issue.