

*This opinion is nonprecedential except as provided by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
A21-1653**

State of Minnesota,
Respondent,

vs.

Abdullahi Mohamud Hussen,
Appellant.

**Filed November 14, 2022
Affirmed
Smith, Tracy M., Judge**

Ramsey County District Court
File No. 62-CR-19-8136

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

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

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

Considered and decided by Larson, Presiding Judge; Johnson, Judge; and Smith,
Tracy M., Judge.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

In this appeal from the final judgments of conviction for receiving stolen property
and gross-misdemeanor driving while intoxicated – test refusal, appellant Abdullahi
Mohamud Hussen argues that the district court abused its discretion by denying his

presentence motion to withdraw his guilty pleas. Appellant asserts that he proved it was fair and just to permit plea withdrawal and the state failed to prove prejudice due to reliance on the pleas. Because the district court did not abuse its discretion by determining that appellant's assertions in support of plea withdrawal were not credible, we affirm.

FACTS

On October 29, 2019, respondent State of Minnesota charged appellant Abdullahi Mohamud Hussen with (1) receiving stolen property (count I), (2) fleeing a peace officer in a motor vehicle (count II), (3) refusal to submit to a chemical test (count III), and (4) refusal to submit to a chemical test as required by search warrant (count IV).

In the following months, appellant made several appearances during court proceedings. Most of the hearings included exchanges about appellant's name because appellant preferred to be called "Khalid Adam" but his fingerprints—and the relevant criminal complaint—identified him as "Abdullahi Mohamud Hussen."

On January 7, 2020, appellant, writing both names, signed a petition to enter guilty pleas to counts I and IV pursuant to a plea agreement. In exchange, the state agreed to dismiss counts II and III and to recommend stayed sentences with a maximum of 60 days in jail. At a plea hearing that same day, appellant's counsel reviewed with appellant his waiver of trial rights and the consequences of pleading guilty. After a colloquy with appellant established the factual basis for the offenses, the district court accepted appellant's pleas and scheduled a sentencing hearing. In accordance with the parties' agreement, appellant—who had been in custody for more than 60 days—was conditionally released.

Six months later and before sentencing, appellant filed a motion to withdraw his guilty pleas. The motion cited both standards available to a party seeking plea withdrawal—the manifest-injustice standard under Minnesota Rule of Criminal Procedure 15.05, subdivision 1, and the fair-and-just standard under Minnesota Rule of Criminal Procedure 15.05, subdivision 2.

The district court considered the motion to withdraw during two separate hearings. At the first hearing, appellant’s attorney argued that appellant entered into the guilty pleas based on a number of factors that had led to appellant’s confusion and willingness to enter the pleas. He asserted that appellant had not been receiving medication for his mental-health diagnoses while in custody and that “[appellant] felt some pressure from [defense counsel] and from the [c]ourt regarding the confusion over his identity.” Appellant also spoke, claiming that he was “peer-pressured” by the district court and that he had not been in “the right state of mind” at the plea hearing. The state opposed plea withdrawal because appellant “was represented and entered a knowing and intelligent plea.” Ultimately, the district court granted the state’s request for a continuance to investigate “the name situation.”

When the parties reconvened on September 14, 2021, appellant’s attorney again argued in support of the motion to withdraw. He again cited appellant’s lack of being on mental-health medication, his extended custody status, and the “confusion” from being charged under one name in this Ramsey County case and another name in a Hennepin County case. Appellant’s counsel clarified that appellant was not arguing that the factual basis he provided to the district court was false but only that his pleas were not knowing,

intelligent, or voluntary. The state did not present information about prejudice resulting from plea withdrawal.

Ruling from the bench at the second hearing, the district court denied appellant's motion to withdraw his guilty pleas. The district court later sentenced appellant to a stayed 15-month prison sentence for receipt of stolen property and an executed 360-day jail sentence for gross-misdemeanor DWI – test refusal. Because appellant had custody credit for 582 days already served, both sentences were satisfied, and he was discharged from probation after one day.

This appeal follows.

DECISION

Appellant argues that the district court erroneously denied appellant's presentence plea-withdrawal motion because (1) appellant met his burden to provide fair and just reasons for plea withdrawal, (2) the state failed to establish that it would be prejudiced by plea withdrawal, and (3) the district court applied the wrong plea-withdrawal standard. We address each argument in turn.

After a defendant enters a guilty plea, there is no absolute right to withdraw it. *State v. Raleigh*, 778 N.W.2d 90, 93 (Minn. 2010). However, withdrawal of a guilty plea is permitted in two circumstances. *Id.* First, “[a]t any time the court must allow a defendant to withdraw a 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. Second, “a court may allow withdrawal any time before sentencing if it is ‘fair and just’ to do so.” *Raleigh*, 778 N.W.2d at 93 (citing Minn. R. Crim. P. 15.05, subd. 2).

The fair-and-just standard is “less demanding . . . than the manifest-injustice standard, but it does not permit withdrawal of ‘a guilty plea 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)). Under the fair-and-just standard, the district court must “give due consideration to the reasons advanced by the defendant in support of the motion and any prejudice the granting of the motion would cause the prosecution by reason of actions taken in reliance upon the defendant’s plea.” Minn. R. Crim. P. 15.05, subd. 2. The “defendant bears the burden of advancing reasons to support withdrawal,” and “[t]he [s]tate bears the burden of showing prejudice caused by withdrawal.” *Raleigh*, 778 N.W.2d at 97.

Appellate courts review a district court’s decision to deny a presentence motion to withdraw a guilty plea under the fair-and-just standard for an abuse of discretion, reversing only in the “rare case.” *Kim v. State*, 434 N.W.2d 263, 266 (Minn. 1989); *Raleigh*, 778 N.W.2d at 97. A district court abuses its discretion when its decision is based on an erroneous view of the law or is not supported by the facts in the record. *State v. Hallmark*, 927 N.W.2d 281, 291 (Minn. 2019).

A. The district court did not abuse its discretion by finding appellant’s arguments in support of plea withdrawal not credible.

Appellant argues that it was fair and just to allow withdrawal of his guilty pleas because they were induced by (1) his diminished mental capacity due to being off his mental-health medications, (2) the confusion over his name/identity, and (3) his belief that he had to plead guilty to be released from custody.

At the plea hearing, appellant confirmed that he had reviewed the plea petition with counsel, that his signature appeared on the petition, that he understood the consequences of pleading guilty to a felony, that he understood that pleading guilty meant giving up important rights including the right to a trial, and that he understood what he was signing. In response to questions from his lawyer, appellant also confirmed the following:

Q: Are you thinking clearly today?

A: Yes.

Q: Have you and I had enough time to talk about the evidence in your case?

A: Yes, we did.

Q: And are you pleading guilty today because you are, in fact, guilty?

A: Yes, I am.

Appellant also testified to the facts that formed the factual basis for the two offenses to which he was pleading guilty.

In contrast, at the hearings on his plea-withdrawal motion, appellant asserted that that he “wasn’t in the right state of mind” at the plea hearing and that he pleaded guilty “just to get out of jail.” He also said that he “was also told to swear on oath that [he] was Abdullahi Hussen” even though his “name is not Abdullahi Hussen.”

The district court denied appellant’s motion, explaining that it found appellant’s assertions in support of plea withdrawal not credible:

THE COURT: . . . Now, for me to hear that you felt that you were -- you had no choice but to plead guilty, that you had to plead guilty, and based on what you told me when we were in court last time, that [defense counsel] told you that you had to plead guilty, I simply find the argument that you’re making for withdrawing the guilty plea not credible. It is not credible. You took an oath. You had a chance at any time to say, I don’t want to do this. I’m not Abdullahi Mohamud Hussen. You didn’t.

You pled guilty, and you agreed to a factual basis that was laid out by the State. And with that, I'm going to deny the motion to withdraw your guilty plea.

To find appellant's contentions at the plea-withdrawal hearings credible, the district court would have needed to discredit significant portions of appellant's testimony from the plea hearing, when appellant confirmed that he was thinking clearly, that his signature appeared on the petition to enter the guilty plea, and that he understood the consequences of pleading guilty. A defendant's credibility is a reasonable consideration when a district court reviews plea-withdrawal motions, and we defer to the district court's credibility determinations. *State v. Jones*, 921 N.W.2d 774, 782-83 (Minn. App. 2018) (affirming the denial of an appellant's presentence motion to withdraw his guilty plea because the district court concluded that appellant's stated arguments in support of the withdrawal motion were not credible), *rev. denied* (Minn. Feb. 27, 2019).

Appellant seeks to support his argument by distinguishing his case from *Raleigh*. In that case, the Minnesota Supreme Court affirmed denial of a plea-withdrawal motion under the fair-and-just standard when the defendant argued that "he was under stress, felt pressured to plead guilty, and did not fully appreciate or understand the consequences of his plea[.]" but failed to provide evidentiary support for his argument. 778 N.W.2d at 97-98. Appellant contends that here, in contrast, he has evidentiary support for his argument by virtue of his assertions—mostly via his lawyer—regarding his lack of medication, confusion over identity, and pressure to plead guilty to be released from custody. But the district court still did not find his assertions credible and continued to credit the statements

that appellant made during his plea hearing. We discern no abuse of discretion in that determination, and *Raleigh* does not compel otherwise.

B. Prejudice to the state is not required when the reasons for guilty-plea withdrawal fail.

Appellant also argues that the district court erred by denying appellant's guilty plea withdrawal motion because the state failed to meet its burden to prove that it would be prejudiced by plea withdrawal.

In determining whether a defendant's reason is "fair and just," a district court considers (1) the reasons advanced by the defendant and (2) any prejudice a granted motion to withdraw would cause the prosecution. *State v. Cubas*, 838 N.W.2d 220, 223 (Minn. App. 2013), *rev. denied* (Minn. Dec. 31, 2013). However, "[e]ven 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." *Id.* at 224.

Here, the state did not address the issue of prejudice during the hearings regarding plea withdrawal. But, because appellant did not advance valid reasons for withdrawal, the district court did not abuse its discretion by denying appellant's motion for plea withdrawal without proof of prejudice to the state. *Id.*

C. The district court applied the correct plea-withdrawal standard.

Finally, appellant argues that the district court erred by relying on the stricter manifest-injustice standard—instead of the fair-and-just standard—for plea withdrawal.

Appellant relies on *State v. Lopez*, where we reversed the district court and directed plea withdrawal because the district court erroneously applied the more stringent manifest-

injustice standard when a fair and just reason for plea withdrawal was evident from the record. 794 N.W.2d 379, 382-85 (Minn. App. 2011). But *Lopez* is distinguishable from this case. There, the district court “did not consider whether Lopez had shown a fair-and-just reason for plea withdrawal, but instead denied Lopez’s motion relying on cases that address the more stringent standard of manifest injustice.” *Id.* at 382. Here, the district court, in ruling on appellant’s motion, did not cite to legal authority regarding the manifest-injustice standard but rather was silent about the standard it applied. Despite this silence, there is no indication that the district court applied the wrong legal standard. First, this court cannot assume that a district court erred. *Loth v. Loth*, 35 N.W.2d 542, 546 (Minn. 1949). Therefore, though the district court was silent about the standard it applied, this court will not assume that it applied the wrong one. Second, the district court’s legal analysis reflects no error. The district court’s decision turned on its determination that appellant’s assertions about his plea testimony were not credible. Such an analysis is appropriate under the fair-and-just standard. *See Jones*, 921 N.W.2d at 782-83 (affirming denial of plea withdrawal under the fair-and-just standard based on the appellant’s lack of credibility regarding his plea-hearing testimony). Thus, the record does not support the argument that the district court applied the wrong legal standard in evaluating appellant’s motion.

In sum, we conclude that the district court applied the correct legal standard and acted within its discretion in denying appellant’s motion to withdraw his pleas.

Affirmed.