

*This opinion is nonprecedential except as provided by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
A22-0813**

State of Minnesota,
Respondent,

vs.

Julian Leon Hooks,
Appellant.

**Filed March 6, 2023
Affirmed
Slieter, Judge**

Brown County District Court
File No. 08-CR-20-1027

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

Charles W. Hanson, Brown County Attorney, Daniel D. Kalk, Assistant County Attorney,
New Ulm, Minnesota (for respondent)

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

Considered and decided by Connolly, Presiding Judge; Larkin, Judge; and Slieter,
Judge.

NONPRECEDENTIAL OPINION

SLIETER, Judge

In this direct appeal from the final judgment of conviction for felony driving-while-impaired, appellant claims the district court violated his plea agreement by imposing a statutory five-year conditional-release term. Additionally, he claims his guilty

plea was unintelligent because the district court did not adequately explore whether his mental health affected his ability to understand the proceedings. Appellant also argues that the district court abused its discretion by denying his motion for a downward dispositional departure.

Appellant was provided notice of the conditional-release term and his guilty plea was intelligent even though the district court did not inquire into his mental health. And, because the district court acted within its discretion by imposing a presumptive sentence, we affirm.

FACTS

In December 2020, appellant Julian Leon Hooks was charged with felony driving-while-impaired (DWI), gross misdemeanor driving after cancellation—inimical to public safety, and two misdemeanor open-bottle violations.

In January 2022, Hooks signed a rule 15 petition and pleaded guilty. *See* Minn. R. Crim. P. 15. In the plea petition, Hooks disclosed that he had been a “patient in a mental hospital,” he had “talked with or been treated by a psychiatrist or other person for a nervous or mental condition,” he had “been ill, injured, or to the emergency room recently,” and he had “recently taken pills or medications.” The terms of the plea agreement were as follows: upon Hooks’ plea of guilty to felony DWI, the remaining counts would be dismissed; Hooks would argue for a downward dispositional departure; and if the district court imposed the presumptive prison sentence, it would be at the low end of the presumptive range.

At sentencing, the district court denied a dispositional departure because Hooks was “on probation in Oregon” and was then on “[a]bscond status,” concluding that it “can’t find that somebody who absconded from supervision and is still on abscond status is particularly amenable to probation.” The district court imposed a 57-month sentence, the bottom of the presumptive imprisonment range, and five years of conditional release pursuant to Minn. Stat. § 169A.276, subd. 1(d) (2020). Hooks appeals.

DECISION

I. Hooks’ guilty plea was valid.

A. Conditional-Release Term

Hooks argues that the district court violated the plea agreement when it imposed five years of statutorily required conditional release, which was not a term of the plea agreement and, as a result, his plea was unintelligent.¹ The state argues that Hooks was sufficiently notified of the conditional-release term by reference to the term in the pre-plea sentencing worksheet, the presentence investigation, and during the district court’s imposition of the term at sentencing.

The interpretation and enforcement of plea agreements is a question of law that we review *de novo*. See *State v. Jumping Eagle*, 620 N.W.2d 42, 43 (Minn. 2000). Conditional-release terms mandated by statute “cannot be waived.” *Kubrom v. State*, 863 N.W.2d 88, 92 n.3 (Minn. App. 2015).

¹ Hooks does not argue that the five years of conditional release is otherwise inapplicable to his circumstances.

A criminal defendant does not have an absolute right to withdraw a guilty plea once it is entered. *Perkins v. State*, 559 N.W.2d 678, 685 (Minn. 1997). Rather, “[t]he court shall allow a defendant to withdraw a plea of guilty 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 the plea is not accurate, voluntary and intelligent.” *State v. Rhodes*, 675 N.W.2d 323, 326 (Minn. 2004). A guilty plea is not intelligent if the defendant does not understand “the consequences of his plea.” *State v. Raleigh*, 778 N.W.2d 90, 96 (Minn. 2010). The validity of a guilty plea is reviewed *de novo*. *Id.* at 94.

The criminal penalty for first-degree DWI includes “imprisonment for not more than seven years” and “the mandatory penalties described in section 169A.276.” Minn. Stat. § 169A.24, subd. 2 (2020). The mandatory-penalty statute provides that the sentencing court “shall provide that after the person [convicted of first-degree DWI] has been released from prison the commissioner [of corrections] shall place the person on conditional release for five years.” Minn. Stat. § 169A.276, subd. 1(d). It further provides that “[t]he commissioner [of corrections] shall impose any conditions of release that the commissioner deems appropriate” and permits the commissioner, “[i]f the person fails to comply with any condition of release,” to revoke the conditional release “and order the person to serve all or part of the remaining portion of the conditional release term in prison.” *Id.*

Hooks relies on *State v. Wukawitz*, 662 N.W.2d 517, 526 (Minn. 2003), and *Jumping Eagle*, 620 N.W.2d at 44, to argue that “when a plea agreement calls for a sentence without a conditional-release term, the addition of a conditional-release term violates the

agreement, and the plea must be withdrawn.” But these cases are factually distinguished and, instead, *Rhodes*, 675 N.W.2d at 323, controls our analysis.

In *Wukawitz*, the defendant had pleaded guilty pursuant to a plea agreement, the district court sentenced him to a total of 140 months, and a mandatory conditional-release term was not discussed during the plea negotiations, during the plea hearing, nor imposed at the sentencing hearings. 662 N.W.2d at 520. Over two years later, “the district court issued an amended sentencing order adding the five-year conditional release term” and the defendant “moved to withdraw his plea asserting that he was unaware of the mandatory five-year conditional release term applicable to his convictions when he agreed to plead guilty.” *Id.* The supreme court held that in “limited circumstances where imposition of a conditional release term after sentencing would violate the plea agreement, the district court may allow the defendant to withdraw his plea.” *Id.*

In *Rhodes*, the supreme court was specifically asked, as Hooks asks, “to extend the holding in *State v. Wukawitz* . . . to allow a defendant to withdraw his guilty plea or the court to modify the sentence where a mandatory conditional release term is not included in the maximum executed sentence described in the defendant’s plea petition,” but is imposed at sentencing. 675 N.W.2d at 324-25. The supreme court declined to do so when a “defendant is on notice of the state’s intention to seek the term before sentencing and fails to object to its inclusion in the sentence.” *Id.* at 325. The supreme court ultimately held the plea was valid because “both [at] the time of his plea and [at] sentencing, Rhodes was on notice that the conditional release-term . . . was mandatory and could not be waived by the district court.” *Id.* at 327. Moreover, the supreme court determined that “[t]he statutory

requirement of a conditional release term was added in 1992, years before Rhodes entered his plea.” *Id.*

The supreme court also determined that it could be

infer[red] from Rhodes’ failure to object to the presentence investigation’s recommendation [which included the conditional-release term], the state’s request at the sentencing hearing [to impose the conditional-release term] and the court’s imposition of the [conditional-release term] that Rhodes understood from the beginning that the conditional release term would be a mandatory addition to his plea bargain.

Id. The supreme court stated that the inference that Rhodes understood the conditional-release term to be a mandatory addition to his plea bargain “materially differentiates this case from *Wukawitz* and the precedent on which it relies” and “also disproves any claim that Rhodes might make that the state had promised to recommend a sentence that did not include a conditional release term.” *Id.*

As in *Rhodes*, Hooks was provided notice of the statutorily required conditional-release term in the pre-plea sentencing worksheet, which was filed almost nine months before he signed the plea petition and pleaded guilty. *Id.* at 325. Additionally, the mandatory conditional-release term was identified in the presentence investigation and in the sentencing worksheet submitted by the department of corrections after Hooks pleaded guilty but before sentencing. Also, like *Rhodes*, “[t]he statutory requirement of a conditional release term was added years before [Hooks] entered his plea”—approximately 20 years earlier. *Id.* Thus, it can also be inferred that Hooks similarly “understood from the beginning that the conditional release term would be a mandatory addition to his plea

bargain” because he failed to object to the presentence investigation’s recommendation or the district court’s imposition of the sentence. *Id.*

Thus, *Wukawitz* is inapplicable because it cannot be said that Hooks was unaware of the conditional-release term at the time of his guilty plea.² Therefore, the district court did not violate the plea agreement by imposing the five-year conditional-release term because it was required by statute and Hooks had sufficient notice of it. For the same reasons, Hooks’ plea was intelligent.

B. Mental-Health Inquiry

Hooks argues that his plea was unintelligent because the district court failed to inquire into his mental-health status.³

“The intelligence requirement ensures that a defendant understands the charges against him, the rights he is waiving, and the consequences of his plea.” *Raleigh*, 778 N.W.2d at 96. Although a guilty plea may still be valid despite the fact that a defendant was not questioned about certain criteria listed in Minn. R. Crim. P. 15.01, subd. 1, it is critical that “the record is adequate to establish that the plea was intelligently and voluntarily given.” *State v. Doughman*, 340 N.W.2d 348, 351 (Minn. App. 1983) (holding that “[w]hat is important is not the order or the wording of the questions, but whether the

² *Jumping Eagle*, 620 N.W.2d at 43 had a similar fact pattern in that the conditional-release terms were not imposed until five years after the sentencing hearing.

³ Although Hooks also argues that his plea was involuntary, he points to no evidence indicating that his guilty plea was due to improper pressure or coercion as required by the caselaw discussing the voluntariness of a plea. *See Raleigh*, 778 N.W.2d at 96 (“The voluntariness requirement ensures a defendant is not pleading guilty due to improper pressure or coercion.”). *Id.* Therefore, we only consider whether the plea was intelligent.

record . . . establish[es] that the plea was intelligently and voluntarily given”), *rev. denied* (Minn. Mar. 15, 1984). Thus, the district court need not create a perfect record to establish an intelligent guilty plea. If the “record reveals careful interrogation by the trial court and the defendant had full opportunity to consult with his counsel before entering his plea, the court may safely presume that the defendant was adequately informed of his rights.” *Hernandez v. State*, 408 N.W.2d 623, 626 (Minn. App. 1987) (citing *State v. Propotnik*, 216 N.W.2d 637, 638 (Minn. 1974)). The validity of a guilty plea is reviewed *de novo*. *Raleigh*, 778 N.W.2d at 94.

The record plainly shows that Hooks understood the charges against him, the rights he was waiving, and the consequences of his plea. The plea petition, read and signed by Hooks, outlined the charges, his right to a pretrial hearing and the procedures therein, his right to a trial and the procedures therein, and the consequences of the plea agreement. During the plea hearing, Hooks was asked by his counsel, “Are you thinking clearly today?” Hooks answered “Yes.” Hooks was also asked, in reference to the plea petition, “Did you understand the document before you signed it?” and Hooks answered “Yes.” Hooks was read the four charges against him and was asked “Do you understand the charges that the state filed against you?” to which he answered “Yes.” Hooks testified that he knowingly waived his right to a trial, along with the accompanying procedures and the state’s burdens therein, and he testified that he understood the collateral consequences of pleading guilty to a DWI which were explained to Hooks by his counsel, specifically, that “all future DWIs in Minnesota, no matter how much time passes, they will be felony level.”

Therefore, the record shows that Hooks’ plea was intelligent. *Id.* at 96.

II. The district court acted within its discretion by imposing the presumptive sentence.

We review the district court's sentencing decision for an abuse of discretion. *State v. Soto*, 855 N.W.2d 303, 307-08 (Minn. 2014); *State v. Larson*, 473 N.W.2d 907, 909 (Minn. App. 1991). "The district court must order the presumptive sentence provided in the sentencing guidelines unless substantial and compelling circumstances warrant a departure." *State v. Pegel*, 795 N.W.2d 251, 253 (Minn. App. 2011). We will affirm a presumptive sentence if "the record shows that the sentencing court carefully evaluated all the testimony and information presented," even if reasons for a departure exist. *State v. Johnson*, 831 N.W.2d 917, 925 (Minn. App. 2013) (quotation omitted), *rev. denied* (Minn. Sept. 17, 2013); *State v. Bertsch*, 707 N.W.2d 660, 668 (Minn. 2006). Only in a "rare" case will we reverse the district court's refusal to depart from a presumptive sentence. *State v. Walker*, 913 N.W.2d 463, 468 (Minn. App. 2018) (quoting *State v. Kindem*, 313 N.W.2d 6, 7 (Minn. 1981)).

When considering a dispositional departure, the district court focuses on the defendant as an individual. *State v. Heywood*, 338 N.W.2d 243, 244 (Minn. 1983). A defendant's particular amenability to probation may justify a dispositional departure. *Soto*, 855 N.W.2d at 308. The supreme court has explained that "particular" in this context means "exceptional" or "distinctive among others of the same group," and "particularly" means "especially" or "specifically." *Id.* at 309 (quotation omitted).

Hooks argues that the district court erred by denying his motion for a dispositional departure "without explaining the full basis for the denial and because the testimony and

information before the district court shows that substantial and compelling circumstances existed to support it.” Because Hooks was “on probation in Oregon” and on “[a]bscond status,” the district court denied Hooks’ motion for a dispositional departure, concluding that it “can’t find that somebody who absconded from supervision and is still on abscond status is particularly amenable to probation.” The district court imposed a 57-month sentence, the bottom end of the presumptive sentence range. Minn. Sent’g Guidelines 4.A.

“A reviewing court may not interfere with the sentencing court’s exercise of discretion, as long as the record shows the sentencing court carefully evaluated all the testimony and information presented before making a determination.” *Pegel*, 795 N.W.2d at 255 (quotation omitted). The record indicates that before making its determination, the district court read the presentence investigation and heard Hooks’ motion. Therefore, we “may not interfere with the sentencing court’s exercise of discretion” to decline to depart from the presumptive sentence. *Id.* (quotation omitted).

Hooks also argues that he is particularly amenable to probation due to his amenability to “individualized treatment in a probationary setting,” his age, criminal history, family connection, employment, remorse, and motivation to change. *See State v. Trog*, 323 N.W.2d 28, 31 (Minn. 1982) (discussing factors for determining whether a defendant is particularly amenable to probation). Although the district court did not explicitly explain its reasoning for declining to grant a dispositional departure, this was well within the district court’s discretion because reasoning is not required when the district court considers factors supporting departure but elects to impose the presumptive sentence. *State v. Van Ruler*, 378 N.W.2d 77, 80 (Minn. App. 1985). As discussed, the record

indicates that the district court read the presentence investigation and heard Hooks' motion. Moreover, the record does not show that Hooks is especially exceptional or distinctive to justify a dispositional departure. *Soto*, 855 N.W.2d at 309. And even if he were particularly amenable to probation, the district court had discretion to impose a downward dispositional departure, but it was not required to do so. *State v. Olson*, 765 N.W.2d 662, 664-65 (Minn. App. 2009). Only in a "rare" case will we reverse the district court's refusal to depart from a presumptive sentence, and this is not such a case. *Walker*, 913 N.W.2d at 468.

Affirmed.