STATE OF MINNESOTA
IN COURT OF APPEALS
A22-1605

State of Minnesota,
Respondent,

vs.

Micah Montre Marrison,
Appellant.

Filed October 2, 2023
Affirmed
Slieter, Judge

Goodhue County District Court
File No. 25-CR-22-117

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

Stephen F. O'Keefe, Goodhue County Attorney, Christopher J. Schrader, Assistant County Attorney, Red Wing, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jennifer Lauermann, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Frisch, Presiding Judge; Slieter, Judge; and Hooten, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

SLIETER, Judge

In this direct appeal, appellant challenges his conviction of second-degree manslaughter, arguing that the district court abused its discretion in denying his presentence motion to withdraw his guilty plea because he was coerced into pleading guilty. Because appellant failed to advance substantiated reasons for withdrawal of his guilty plea, we affirm.

FACTS

In January 2022, appellant Micah Montre Marrison was charged with third-degree murder, in violation of Minn. Stat. § 609.195(b) (2020), and third-degree drug sale, in violation of Minn. Stat. § 152.023, subd. 1(1) (2020), for selling Percocet containing fentanyl to J.L. that caused her death.

Marrison pleaded guilty to second-degree manslaughter in violation of Minn. Stat. § 609.205(1) (2020). Marrison made the standard trial waivers during the plea hearing, and he acknowledged that he faced a prison sentence and that "the length of that prison sentence is going to be between 58 months and 81 months, meaning the judge has the discretion at the time of sentencing to sentence [Marrison] within that range." Marrison also confirmed that he had enough time to speak with his lawyer, and that it was his "free will and desire" to plead guilty.

The district court received a presentence investigation report from the department of corrections, which recommended an 81-month sentence. The next day, Marrison filed a motion to withdraw his guilty plea, claiming granting it would be fair and just because

he was pressured into pleading guilty and received ineffective assistance of counsel. Following an evidentiary hearing, the district court denied Marrison's motion, concluding Marrison failed to show that withdrawal would be fair and just. In September 2022, the district court sentenced Marrison to 81 months' imprisonment. Marrison appeals.

DECISION

A defendant has no absolute right to withdraw a guilty plea after entering it. *Dikken v. State*, 896 N.W.2d 873, 876 (Minn. 2017). However, withdrawal of a guilty plea is permitted in two circumstances. First, district courts must allow a defendant to withdraw a guilty plea, even after sentencing, when "withdrawal is necessary to correct a manifest injustice." Minn. R. Crim. P. 15.05, subd. 1. Second, a district court may allow withdrawal before sentencing when it is "fair and just" to do so. *Id.*, subd. 2. Although the fair-and-just standard is "less demanding than the manifest injustice standard, it does not allow a defendant to withdraw a guilty plea for simply any reason." *State v. Theis*, 742 N.W.2d 643, 646 (Minn. 2007) (quotation omitted).

District courts must give due consideration to two factors in determining whether withdrawal would be fair and just: "(1) the reasons a defendant advances to support withdrawal and (2) prejudice granting the motion would cause the State given reliance on the plea." *State v. Raleigh*, 778 N.W.2d 90, 97 (Minn. 2010) (explaining Minn. R. Crim. P. 15.05, subd. 2). The burden is on the defendant to provide reasons for withdrawal, and the burden is on the state to show that withdrawal would cause prejudice. *Id.* This court reviews 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); *see also Raleigh*, 778 N.W.2d at 97.

Marrison argues it would be fair and just to allow him to withdraw his guilty plea because counsel coerced him into pleading guilty by "literally begging him to accept the plea." According to Marrison, counsel "gathered his materials to storm out in a huff when [Marrison] resisted the deal," and counsel "threatened [Marrison] with 140+ months if [Marrison] didn't take the deal."

"A plea of guilty must not be the product of coercion." *State v. Abdisalan*, 661 N.W.2d 691, 694 (Minn. App. 2003), *rev. denied* (Minn. Aug. 19, 2003). But claims that a guilty plea resulted from coercion must be supported by the record. *See Raleigh*, 778 N.W.2d at 97 (looking to the record for signs of pressure to plead guilty).

As the district court stated, Marrison's "allegation of undue pressure is difficult to square with the record." At the start of Marrison's plea hearing, the district court clarified:

> THE COURT: All right. Mr. Marrison, I'm going to turn my attention to you right now. Have you had enough time to talk to Mr. Gavin?
> THE DEFENDANT: Yes.
>
> THE COURT: Has he answered all of your questions?
> THE DEFENDANT: So far, yes.
>
> THE COURT: Do you have any questions now that you need to have answered before I put you under oath and ask you some additional things?
> THE DEFENDANT: Yes. Just one.
>
> THE COURT: Okay. You can ask the question, but I don't want you to go into the facts. So just lean over to your attorney and ask him what the question is. We're off the record while you do that.

(Off the record.)

THE COURT: All right. We're back here on the record. Mr. Marrison, was the question that you had answered by your attorney?
THE DEFENDANT: Yes.

THE COURT: Do you have any other questions that you need to have answered before we go forward?
THE DEFENDANT: No, Your Honor.

THE COURT: All right. So with respect to the now amended Count 1, which is manslaughter in the second degree as a felony, in violation of Minnesota Statutes 609.205 (1), how do you plead to that count, guilty or not guilty?
THE DEFENDANT: Guilty.

Marrison acknowledged (1) that he signed the plea petition after reviewing it with counsel, (2) that he had enough time to talk to counsel about the plea deal, and (3) that it was his free will and desire to plead guilty. Nothing in the record suggests that Marrison was coerced into pleading guilty.

This is not a "rare case" requiring reversal. *Kim*, 434 N.W.2d at 266. Because Marrison failed to advance substantiated reasons for withdrawal of his plea under the fair-and-just standard, the district court acted within its discretion in denying his motion to withdraw, and we need not address prejudice to the state in granting the motion. *Raleigh*, 778 N.W.2d at 97-98; *see also 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 a plea withdrawal

under rule 15.05, subdivision 2, if the defendant fails to advance valid reasons why withdrawal is fair and just."), *rev. denied* (Minn. Dec. 31, 2013).[1]

Affirmed.

[1] In his *pro se* brief, Marrison claims that he received ineffective assistance of counsel because of "counsel's lack of investigation and hiring of an expert witness." Marrison's claim is not persuasive because appellate courts "generally will not review attacks on counsel's trial strategy." *Opsahl v. State*, 677 N.W.2d 414, 421 (Minn. 2004) ("[t]he extent of counsel's investigation is considered a part of trial strategy); *see also State v. Jones*, 392 N.W.2d 224, 236 (Minn. 1986) (rejecting an ineffective-assistance-of-counsel claim that counsel failed to hire an investigator and interview witnesses).