

*This opinion is nonprecedential except as provided by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
A23-1736**

State of Minnesota,
Respondent,

vs.

George Marten Williamson,
Appellant.

**Filed September 23, 2024
Affirmed
Slieter, Judge**

Nicollet County District Court
File No. 52-CR-21-216

Keith Ellison, Attorney General, Thomas R. Ragatz, Assistant Attorney General, St. Paul, Minnesota; and

Michelle Zehnder Fischer, Nicollet County Attorney, St. Peter, Minnesota (for respondent)

Andrew C. Wilson, Wilson & Clas, Minneapolis, Minnesota (for appellant)

Considered and decided by Slieter, Presiding Judge; Wheelock, Judge; and Kirk,
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NONPRECEDENTIAL OPINION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 appeal from the final judgment of conviction for fleeing police in a motor vehicle and second-degree controlled-substance crime, appellant argues that his convictions must be reversed because the district court abused its discretion by allowing the state to amend the complaint after he had signed a petition to plead guilty to the charges in the original complaint. Alternatively, appellant challenges his sentence, arguing that he is entitled to resentencing using a corrected criminal-history score. Because the district court acted within its discretion by allowing the state to amend the complaint and by calculating appellant's criminal-history score, we affirm.

FACTS

On June 4, 2021, officers attempted to apprehend appellant George Marten Williamson based on several arrest warrants. Williamson fled in his motor vehicle, and officers chased him with their squad cars. After driving southbound in the northbound lane of a divided highway, Williamson crashed his vehicle and fled on foot. Officers caught and arrested Williamson. Two bags of methamphetamine were found in his backpack.

Respondent State of Minnesota charged Williamson by complaint with: (1) fleeing a peace officer in a motor vehicle in violation of Minn. Stat. § 609.487, subd. 3 (2020); (2) fifth-degree controlled-substance possession in violation of Minn. Stat. § 152.025, subd. 2(1) (2020); (3) reckless driving in violation of Minn. Stat. § 169.13, subd. 1(a) (2020); (4) careless driving in violation of Minn. Stat. § 169.13, subd. 2(a) (2020); and (5) criminal vehicular operation in violation of Minn. Stat. § 609.2113, subd. 3(1) (2020).

On June 22, Williamson appeared with counsel for a hearing pursuant to Rule 8 of the Minnesota Rules of Criminal Procedure and, although there was no agreement with the state, he informed the district court that he would like to plead guilty to all five offenses and that he had a written plea petition that he would file with the district court. The district court told Williamson that it would order a presentence investigation (PSI) after he filed the plea petition. Williamson filed the signed plea petition that same day and the district court ordered the completion of a PSI.

On June 25, the state moved to amend the complaint, which Williamson opposed. Williamson began completing the PSI questionnaire before the state filed the amended complaint. At a hearing on the state's motion to amend the complaint, the district court noted that it had not formally accepted Williamson's plea. The district court granted the request to amend the complaint and told the PSI author to "put the PSI on hold".

The amended complaint added two counts: second-degree controlled-substance possession in violation of Minn. Stat. § 152.022, subd. 2(a)(1) (2020), and third-degree controlled-substance possession in violation of Minn. Stat. § 152.023, subd. 2(a)(1) (2020). Approximately one and a half years later, the case proceeded to a trial on stipulated facts. The district court found Williamson guilty of all seven charges. Pursuant to its agreement with Williamson preceding the stipulated-facts trial, the state dismissed all of the charges except for fleeing an officer in a motor vehicle and second-degree controlled-substance possession.

Williamson challenged the use of four criminal-history points attributed to his out-of-state convictions, but the district court determined that the four points should be included. The district court sentenced Williamson to 92 months' imprisonment.

Williamson appeals.

DECISION

I. The district court acted within its discretion by allowing the state to amend its complaint.

“The district court has broad discretion to grant or deny leave to amend a complaint, and its ruling will not be reversed absent a clear abuse of that discretion.” *State v. Baxter*, 686 N.W.2d 846, 850 (Minn. App. 2004).

Williamson argues that the district court abused its discretion by permitting the state to amend its complaint, claiming that the case had moved out of pretrial proceedings because he filed a petition to plead guilty to the original counts, and that continuing under the amended complaint violated his right against self-incrimination. We address each claim in turn.

Pursuant to the Minnesota Rules of Criminal Procedure, the state may add new charges to a complaint if the case is in pretrial proceedings. Minn. R. Crim. P. 3.04, subd. 2. The state may also amend a complaint “at any time before verdict or finding if no additional or different offense is charged and if the defendant’s substantial rights are not prejudiced.” Minn. R. Crim. P. 17.05.

Williamson argues that, by ordering a PSI after he filed the signed petition to enter a guilty plea, the case moved out of the pretrial phase such that rule 17.05, not rule 3.04,

applies. He focuses on the phrase “pre-sentence investigation,” and claims that the case could not have been in the pretrial phase because PSIs guide sentencing decisions rather than pretrial matters. But the cases on which Williamson relies all involve defendants that had actually entered valid guilty pleas. *State v. Jeffries*, 806 N.W.2d 56, 59 (Minn. 2011) (“At his plea hearing on June 13, 2008, Jeffries was arraigned, entered a guilty plea, presented his written plea petition, placed the required waivers on the record, and testified to the factual basis for the plea.”); *State v. Bertsch*, 707 N.W.2d 660, 663 (Minn. 2006) (“On August 11, 2003, Bertsch pleaded guilty to all charges and the district court accepted his plea.”). These cases are not persuasive.

Williamson did not enter a valid guilty plea by filing a signed plea petition because his guilty plea was not formally accepted by the district court pursuant to the criminal rules. *See* Minn. R. Crim. P. 15.01, subd. 1 (listing the requirements for a valid guilty plea in felony cases, including that the defendant be “sworn and questioned by the judge with the assistance of counsel”). Accordingly, Williamson’s case was still in the pretrial phase when the state sought to amend its complaint, and so the state was permitted—pursuant to the Minnesota Rules of Criminal Procedure—to add charges. The district court, therefore, acted within its discretion by permitting the state to amend its complaint.

Williamson also claims that the district court abused its discretion by allowing the state to amend the complaint because he had made self-incriminating statements when providing answers in a PSI questionnaire, which he completed prior to the filing of the amended complaint.

The Fifth Amendment, applicable to the states through the Fourteenth Amendment, provides that no person “shall be compelled in any criminal case to be a witness against himself[.]” U.S. Const. amend. V; *see also* Minn. Const. art. I, § 7.

[S]tatements, made by a defendant for a presentence investigation report ordered by the court as part of the proceedings to determine whether or not the plea agreement will be accepted, are inadmissible in a subsequent trial after the guilty plea is withdrawn, whether offered as substantive evidence or for impeachment purposes.

State v. Jackson, 325 N.W.2d 819, 823-24 (Minn. 1982). Thus, because Williamson’s case proceeded to a stipulated-facts trial after he completed the PSI questionnaire, the statements within the PSI questionnaire could not be used to determine his guilt.

The record shows, moreover, that the district court was not provided with Williamson’s questionnaire and so it therefore could not have considered its contents in determining Williamson’s guilt. Williamson acknowledged that the questionnaire was not included in the evidence that the district court considered during his stipulated-facts trial and the statements were not disclosed to the district court. Because there is no indication that the district court considered Williamson’s statements within the questionnaire, allowing the state to amend the complaint did not prejudice Williamson in this manner.

II. The district court acted within its discretion when calculating Williamson’s criminal-history score.

We review a district court’s determination of a defendant’s criminal-history score for an abuse of discretion. *State v. Edwards*, 900 N.W.2d 722, 727 (Minn. App. 2017), *aff’d mem.*, 909 N.W.2d 594 (Minn. 2018). Interpretation of the sentencing guidelines, however, is reviewed *de novo*. *State v. Scovel*, 916 N.W.2d 550, 554 (Minn. 2018).

Williamson argues that, in calculating his criminal-history score, his four Nebraska convictions should accrue only two criminal-history points, rather than the four points recommended in the sentencing worksheet and calculated by the district court.

Pursuant to the Minnesota Sentencing Guidelines, “When multiple offenses arising from a single course of conduct involving multiple victims were sentenced, include in criminal history only the weights from the two offenses at the highest severity levels.” Minn. Sent’g Guidelines 2.B.1.d.2 (2020). To determine whether offenses occurred during a single course of conduct, district courts consider “time, place, and whether the offenses were motivated by a desire to obtain a single criminal objective.” *State v. Drljic*, 876 N.W.2d 350, 353 (Minn. App. 2016).

The record shows that two of the Nebraska burglaries occurred on May 1, 2009, and the other two occurred on May 3. Each of the four locations that were burglarized had different addresses, and each of the businesses had its own distinct business name. *See id.* (concluding that burglaries within a single building were not part of a single course of conduct, in part, because “[e]ach of the three businesses had its own address and was owned and operated separately”). Because Williamson burglarized distinct businesses, with distinct addresses, at different times, and because there is no apparent unifying criminal goal aside from obtaining money and personal property, they were not part of the same behavioral act. The district court, therefore, acted within its discretion by calculating Williamson’s criminal-history score to include four points from the Nebraska burglaries.

Williamson argues that *Wooden v. United States*, 595 U.S. 360 (2022), “draws into question whether *Drljic* is still good law.” We are not persuaded. *Wooden* applies the

same multi-factor test that examines time, proximity, and criminal motive as set forth in *Drljic* to determine whether offenses are part of the same behavioral act. The distinguishing fact between the two cases is that the appellant in *Wooden* had burglarized a series of abutting storage units, while the appellant in *Drljic* had burglarized different businesses with different addresses. In short, *Wooden* does not change the analysis we must apply to consider whether a series of offenses were part of a single course of conduct. And, because the district court properly considered the time, place, and objective associated with Williamson's prior convictions, *Drljic*, 876 N.W.2d at 353, it acted within its discretion when calculating Williamson's criminal-history score.

Affirmed.