

*This opinion is nonprecedential except as provided by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
A23-1789**

State of Minnesota,
Respondent,

vs.

Mayson Kellon Lueck,
Appellant.

**Filed October 14, 2024
Affirmed
Larkin, Judge**

Hennepin County District Court
File No. 27-CR-22-11438

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

Mary F. Moriarty, Hennepin County Attorney, Britta Nicholson, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Erik I. Withall, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Smith, Tracy M., Presiding Judge; Larkin, Judge; and Harris, Judge.

NONPRECEDENTIAL OPINION

LARKIN, Judge

Appellant challenges the district court's denial of his pre-sentence request to withdraw his guilty plea to felony violation of a domestic-abuse no-contact order, arguing

that he did not understand that if he pleaded guilty, he would not be able to raise any issues on appeal related to his previous attorney's representation. We affirm.

FACTS

In June 2022, appellant Mayson Kellon Lueck was charged with felony violation of a domestic-abuse no-contact order (DANCO) and with felony domestic assault. On August 30, 2022, just prior to selecting a jury for trial, appellant's attorney sought to withdraw from representation on the ground that he believed the alleged victim would not testify truthfully if called to be a witness on behalf of the defense. The district court permitted Lueck's attorney to withdraw and, at a hearing the following day, appointed a public defender to assume representation of Lueck.

Nearly eight months later, on April 18, 2023, Lueck again appeared for trial, with his public defender, and entered a guilty plea to one count of violating a DANCO. In exchange for his guilty plea, the state agreed to dismiss the remaining domestic-assault charge in this matter as well as the complaint in a separate prosecution and agreed to a downward-durational sentencing departure to 22 months. The parties also agreed to postpone sentencing for several months so Lueck could obtain medical care in the community and that if Lueck failed to return for sentencing he would receive a presumptive sentence of 39 months.

Lueck failed to appear for sentencing on July 26, 2023, and the district court issued a warrant for his arrest. When Lueck was brought before the court for sentencing on August 30, 2023, he moved to withdraw his guilty plea. In support of his motion, Lueck argued (1) that he did not realize that he would not be permitted to raise issues on appeal

related to his previous attorney's representation if he pleaded guilty, (2) that he had been unable to obtain the medical care that was contemplated when he pleaded guilty, and (3) that the state would not be prejudiced by withdrawal of his plea.

The state objected to Lueck's request, and the district court denied the motion. In doing so, the district court noted that Lueck had been continuously represented by a public defender since August 31, 2022, nearly eight months prior to entry of his guilty plea, and that any concerns regarding his prior attorney's representation were not relevant "given how much time elapsed" since that attorney withdrew. The district court determined that Lueck's inability to obtain medical care did not provide a basis for plea withdrawal and that the state would be prejudiced by withdrawal due to its having lost contact with the alleged victim. The district court imposed an executed sentence of 39 months, consistent with the parties' agreement. This appeal follows.

DECISION

The Minnesota Rules of Criminal Procedure provide that a court must permit a defendant to withdraw a guilty plea at any time to correct a manifest injustice and that it may permit withdrawal when a motion is made prior to sentencing if it is "fair and just to do so," giving "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, subds. 1, 2.

Lueck seeks withdrawal of his guilty plea only under the fair-and-just standard. He does not assert that withdrawal of his guilty plea is necessary to correct a manifest injustice.

See State v. Theis, 742 N.W.2d 643, 646 (Minn. 2007) (stating that a manifest injustice exists if a guilty plea is not valid); *State v. Ecker*, 524 N.W.2d 712, 716 (Minn. 1994) (stating that to be valid, a guilty plea must be “accurate, voluntary and intelligent”).

This court reviews the denial of a motion for plea withdrawal under the fair-and-just standard for an abuse of discretion and will reverse a district court’s decision “only in the rare case in which the appellate court can fairly conclude that the [district] court abused its discretion.” *Kim v. State*, 434 N.W.2d 263, 266 (Minn. 1989). “A district court abuses its discretion when its decision is based on an erroneous view of the law or is against logic and the facts in the record.” *State v. Hallmark*, 927 N.W.2d 281, 291 (Minn. 2019) (quotation omitted).

“A defendant bears the burden of advancing reasons to support withdrawal,” and “[t]he [s]tate bears the burden of showing prejudice caused by withdrawal.” *State v. Raleigh*, 778 N.W.2d 90, 97 (Minn. 2010). Although the fair-and-just standard imposes a lesser burden on the defendant than the manifest-injustice standard, it “does not allow a defendant to withdraw a guilty plea for simply any reason,” *Theis*, 742 N.W.2d at 646 (quotation omitted), as doing so would “undermine the integrity of the plea-taking process,” *Kim*, 434 N.W.2d at 266.

In his brief, Lueck argues that the withdrawal of his prior attorney on the cusp of trial “was not required by professional ethics,” was improper, and deprived him of his rights to counsel of his choosing and to a speedy trial. He asserts that the district court should have granted his presentence motion to withdraw his guilty plea because he did not understand that pleading guilty operated as a waiver of his right to raise the issues related

to his prior attorney's withdrawal and that he would not have pleaded guilty if he had been aware of this limitation.

At the outset, we note that Lueck asserts broader grounds for plea withdrawal in this appeal than he offered in support of his motion in the district court. Lueck did not specifically allege that his attorney's withdrawal from representation was improper or that it resulted in violations of his rights to counsel or to a speedy trial. Instead, Lueck's attorney argued only

[t]hat counsel gave him some bad advice and basically declined to bring this case to trial. He believes that there are some issues with that counsel's work and would like to appeal, based off of that work.

In reviewing the district court's decision for an abuse of discretion, we limit our review to the bases for withdrawal actually presented to the district court.¹ And we decline to consider arguments that exceed the scope of the record on appeal. *See Roby v. State*, 547 N.W.2d 354, 357 (Minn. 1996) ("This court generally will not decide issues which were not raised before the district court . . .").

"A guilty plea by a counseled defendant has traditionally operated, in Minnesota and in other jurisdictions, 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).

Lueck argues that recent nonprecedential opinions of this court have permitted the withdrawal of guilty pleas as unintelligently entered due to the defendants' lack of

¹ Although Lueck also argued to the district court that his inability to obtain certain medical treatment supported plea withdrawal, he does not advance this issue on appeal.

knowledge that pleading guilty would forfeit their ability to appeal pretrial issues. Nonprecedential opinions of this court are not binding, but they may be persuasive. See Minn. R. Civ. App. P. 136.01, subd. 1(c) (“Nonprecedential opinions and order opinions are not binding authority except as law of the case, res judicata or collateral estoppel, but nonprecedential opinions may be cited as persuasive authority.”).

The cases on which Lueck relies are not persuasive because relief in those cases was granted under the manifest-injustice standard, which is not at play here, and because those cases are readily distinguishable on their facts. See *Walford v. State*, No. A23-0709, 2024 WL 1506992, at *6 (Minn. App. Apr. 8, 2024) (concluding that a guilty plea was unintelligent because the defendant had “repeatedly expressed his desire to preserve his right to appeal,” had entered his plea “on the express condition” that he would preserve his right to appeal, and testified that he would not have pleaded guilty had he known he would be unable to do so); *State v. Dwyer*, No. A22-1088, 2023 WL 3939569, at *4 (Minn. App. June 12, 2023) (invalidating guilty plea because the record demonstrated that the defendant “was left with the misimpression that he could continue to raise constitutional issues relating to the state’s evidence on appeal even after pleading guilty”); *State v. Herron*, No. A20-0700, 2021 WL 4516715, at *4 (Minn. App. Oct. 4, 2021) (reversing conviction because the district court had found that the defendant “intended to preserve his right to appeal the alleged speedy-trial violation” and that he would not have pleaded guilty otherwise); *State v. Avila*, No. A16-0516, 2017 WL 2223950, at *2 (Minn. App. May 22, 2017) (deeming guilty plea unintelligent because defendant demonstrated an ongoing

intention to challenge a statute-of-limitations ruling on appeal and there was no dispute that he was not informed that his guilty plea would waive the right to do so).

Here, the record does not indicate that Lueck expressed—prior to pleading guilty—a desire to preserve his right to appeal challenges to his prior attorney’s representation, that he entered his plea on the express condition that he would be permitted to do so, that he was misled to believe that he would be able to do so, or that he would have rejected the state’s plea offer had he understood that he would be unable to do so. Although Lueck stated—at sentencing—that he did not realize that he would not be able to raise issues regarding his prior attorney’s representation on appeal, the record does not objectively demonstrate that Lueck entered his guilty plea based on the belief that he could do so or with the intent to pursue an appeal on that ground. On this record, the district court did not abuse its discretion by determining that Lueck did not present a fair-and-just reason to withdraw his guilty plea.

Lueck also argues that the district court’s finding of prejudice to the state—based on its having lost contact with the alleged victim—was error because the state had previously removed the alleged victim from its witness list and did not intend to call her at trial. This court has held, however, that “[e]ven when there is no prejudice to the state, a district court may deny plea withdrawal under rule 15.05, subdivision 2, if the defendant fails to advance valid reasons why withdrawal is fair and just.” *State v. Cubas*, 838 N.W.2d 220, 224 (Minn. App. 2013), *rev. denied* (Minn. Dec. 31, 2013). Because the district court did not abuse its discretion in determining that Lueck failed to present a fair-and-just reason

for plea withdrawal, we need not determine whether the district court erred in its prejudice determination.

Affirmed.