

*This opinion is nonprecedential except as provided by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
A24-0185**

Chad Alan Hoflock, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed September 9, 2024
Affirmed
Schmidt, Judge**

Lyon County District Court
File Nos. 42-CR-20-734, 42-CR-21-282, 42-CR-21-633

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

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

Abby Wikelius, Lyon County Attorney, Julianna F. Passe, Assistant County Attorney, Marshall, Minnesota (for respondent)

Considered and decided by Ross, Presiding Judge; Ede, Judge; and Schmidt, Judge.

NONPRECEDENTIAL OPINION

SCHMIDT, Judge

In this appeal from the postconviction court's order denying postconviction relief, appellant Chad Alan Hoflock argues (1) his guilty pleas were unintelligent because he was advised that he would be eligible for the Minnesota Department of Correction's (the

department) Challenge Incarceration Program¹ when, in fact, he was not eligible, and (2) he received ineffective assistance of counsel related to advice he received about eligibility for the program. Because eligibility for the program is a collateral consequence of a guilty plea, and because counsel's performance was not deficient, we affirm.

FACTS

In November 2021, a prosecutor and Hoflock's counsel negotiated a possible global plea agreement to resolve eight separate cases. Prior to Hoflock entering his guilty pleas, Hoflock's attorney contacted the Challenge Incarceration Program's director to discuss eligibility requirements. Hoflock completed a plea petition memorializing the global agreement, which did not mention his participation in the Challenge Incarceration Program.

The global agreement contemplated that Hoflock would plead guilty: to threats of violence in 42-CR-20-734 and receive a stayed 21-month sentence; to second degree-controlled substance crime in 42-CR-21-282 and receive an executed 81-month sentence; and to third-degree controlled substance crime in 42-CR-21-633 and receive an executed 68-month sentence. The parties agreed the sentences would be served concurrently.

At the plea hearing, the following exchange occurred:

THE COURT: [O]ther than this agreement, have there been threats made to you or promises made to you that cause you to feel pressure to take, um, a plea offer?

HOFLOCK: Uh, no ma'am.

¹ The Challenge Incarceration Program is an initiative of the department that enables some incarcerated individuals to be released early from prison upon successful completion of the program. *See* Minn. Stat. §§ 244.17, .171-.172 (2022).

THE COURT: Have you had enough time to visit with attorneys that have been representing you in this matter[?]

HOFLOCK: Yes, ma'am.

THE COURT: Then I find you are making a knowing, voluntary and intelligent waiver of your rights[.]

The district court then accepted Hoflock's guilty pleas under the global agreement.

The district court later pronounced the sentence as the parties had agreed. Hoflock demanded that his stayed 21-month sentence be executed, and the court granted his request.

After sentencing, Hoflock learned that he was ineligible for the Challenge Incarceration Program because he was required to register as a predatory offender due to his conviction of threats of violence. Because he was determined to be ineligible for the program, Hoflock is required to serve his sentence in prison without the potential for early release available to those individuals who complete the program.

In October 2023, Hoflock filed a postconviction petition requesting to withdraw his pleas, claiming the pleas were not intelligently entered because he pleaded guilty under the belief that he would be eligible for early release through the Challenge Incarceration Program. Hoflock also argued that he received ineffective assistance of counsel due to his attorney's advice about his eligibility to participate in the program. Finally, Hoflock argued that he was sentenced with an inaccurate criminal-history score.

The postconviction court denied Hoflock's request for an evidentiary hearing on his postconviction petition. The court did hold a new sentencing hearing, but resented Hoflock to the same negotiated sentence with a corrected criminal-history score.

Hoflock appeals.

DECISION

Appellate courts review the “denial of a petition for postconviction relief, as well as a request for an evidentiary hearing, for an abuse of discretion.” *Riley v. State*, 819 N.W.2d 162, 167 (Minn. 2012). A postconviction court abuses its discretion when it has “exercised its discretion in an arbitrary or capricious manner, based its ruling on an erroneous view of the law, or made clearly erroneous factual findings.” *Brown v. State*, 863 N.W.2d 781, 786 (Minn. 2015). We review a postconviction court’s factual findings for clear error and its legal conclusions de novo. *Williams v. State*, 869 N.W.2d 316, 318 (Minn. 2015).

I. A program-eligibility determination is a collateral consequence of a guilty plea that does not affect the intelligence of a plea.

Hoflock argues that the postconviction court abused its discretion by denying his petition seeking to withdraw his pleas. A postconviction court must allow a defendant to withdraw a guilty plea upon a timely motion and proof that withdrawal is necessary to correct a “manifest injustice.” Minn. R. Crim. P. 15.05, subd. 1.

A manifest injustice occurs when a plea is constitutionally invalid. *State v. Raleigh*, 778 N.W.2d 90, 94 (Minn. 2010). To be constitutionally valid, “a guilty plea must be accurate, voluntary, and intelligent.” *Id.* We review the validity of a plea de novo. *Id.*

A plea is intelligent if the defendant understands the charges, the rights being waived, and the consequences of the plea. *Williams v. State*, 760 N.W.2d 8, 15 (Minn. App. 2009), *rev. denied* (Minn. Apr. 21, 2009). “Counsel, however, is not required to advise the defendant of *every* consequence for the defendant’s plea to be intelligent.” *Taylor v. State*, 887 N.W.2d 821, 823 (Minn. 2016) (emphasis in original).

The postconviction court determined that neither Hoflock’s plea petition, nor his statements at the plea hearing, suggested that the pleas were conditioned upon his acceptance to the Challenge Incarceration Program. The court also determined that Hoflock understood the direct consequences of his pleas and that his eligibility and possible acceptance into the program constituted a collateral consequence of the pleas.

In assessing the validity of a guilty plea, only “direct consequences” are relevant to the determination of whether the plea was intelligent. *State v. Bell*, 971 N.W.2d 92, 101 (Minn. App. 2022), *rev. denied* (Minn. Apr. 27, 2022). Direct consequences “flow definitely, immediately, and automatically from the guilty plea” and usually include “the maximum sentence to be imposed and the amount of any fine.” *State v. Crump*, 826 N.W.2d 838, 841-42 (Minn. App. 2013), *rev. denied* (Minn. May 21, 2013). Lack of awareness or incorrect advice regarding a direct consequence may render a guilty plea inaccurate, involuntary, and unintelligent. *Id.*

In contrast, collateral consequences are those that “serve a substantially different purpose” other than to punish and are “civil and regulatory in nature.” *Kaiser v. State*, 641 N.W.2d 900, 905 (Minn. 2002). “[A] defendant’s lack of awareness of a *collateral* consequence of a guilty plea does not render the guilty plea unintelligent and entitle a defendant to withdraw it.” *Taylor*, 887 N.W.2d at 823 (emphasis in original).

This court has held that the department’s discretionary release determinations are collateral consequences that do not affect the intelligence of a guilty plea. *See Bell*,

971 N.W.2d at 100.² Bell had argued that his plea was invalid because his counsel provided an incomplete description of the department’s parole decision-making process. *Id.* Although neither the district court nor counsel fully set forth the factors that the department would use to determine Bell’s parole eligibility, we concluded that no manifest injustice occurred because the parole-eligibility determination constituted a collateral consequence that does not affect the intelligence of a plea.³ *Id.*

The same holds true for Hoflock. No manifest injustice occurred in this case because the parole-eligibility determination—here, Hoflock’s acceptance into the Challenge Incarceration Program—constituted a collateral consequence that did not affect the intelligence of Hoflock’s plea.

Hoflock contends that the supreme court’s decision in *Alanis v. State*, 583 N.W.2d 573 (Minn. 1998), requires us to allow him to withdraw his pleas. However, in *Alanis*, the supreme court held that the defendant’s plea was not intelligent because eligibility “to enter

² See also *State v. Washington*, No. A05-699, 2006 WL 279042, at *3 (Minn. App. Feb. 7, 2006) (rejecting argument that defendant’s guilty plea was not intelligent because he was misinformed about his eligibility for the Challenge Incarceration Program), *rev. denied* (Minn. Apr. 26, 2006); *Perales v. State*, No. A03-1074, 2004 WL 292073, at *2-3 (Minn. App. Feb. 17, 2004), *rev. denied* (Minn. Apr. 28, 2004). These nonprecedential cases are persuasive to our resolution of this issue. Minn. R. Civ. App. P. 136.01, subd. 1(c).

³ Because Hoflock had been charged with kidnapping and subsequently pleaded guilty to, and was convicted of, threats of violence arising from the same circumstances as the kidnapping charge, the statute required him to register as a predatory offender. See Minn. Stat. § 243.166, subd. 1b(1)(ii) (2022). Like eligibility for the Challenge Incarceration Program, the predatory-offender registration requirement constitutes a collateral consequence of a plea. See *Kaiser*, 641 N.W.2d at 907. To the extent Hoflock’s arguments for plea withdrawal are premised upon the requirement that he register as a predatory offender, we similarly conclude that the registration constituted a collateral consequence that did not render his pleas unintelligent.

the boot camp program was a key factor in Alanis's decision to plead guilty, and repeatedly throughout the plea hearing, Alanis asked whether he would qualify for the program." 583 N.W.2d at 576. That is not true in this case. Hoflock's desire to participate in the program was not memorialized in either the plea agreement or at his plea hearing.

Because the department's determination of eligibility for the Challenge Incarceration Program similarly constitutes a collateral consequence of his pleas, Hoflock's guilty pleas are not rendered unintelligent.

II. Hoflock did not receive ineffective assistance of counsel because his attorney's performance did not fall below an objective standard of reasonableness.

Alternatively, Hoflock argues that he is entitled to withdraw his pleas because he received ineffective assistance of counsel based on advice he received regarding his eligibility for the Challenge Incarceration Program. We review a claim of ineffective assistance of counsel de novo. *Taylor*, 887 N.W.2d at 823.

The United States and Minnesota Constitutions guarantee criminal defendants the right to effective assistance of counsel. U.S. Const. amend. VI; Minn. Const. art. I, § 6. The right to effective counsel applies during the plea-bargaining process. *See Lafler v. Cooper*, 566 U.S. 156, 162 (2012). Because ineffective assistance of counsel can render a plea invalid, "a guilty plea based on ineffective assistance of counsel creates a manifest injustice as a matter of law." *State v. Ellis-Strong*, 899 N.W.2d 531, 541 (Minn. App. 2017). To demonstrate ineffective assistance of counsel in the context of a guilty plea, a defendant must satisfy a two-prong test. *State v. Ecker*, 524 N.W.2d 712, 718 (Minn. 1994) (citing *Strickland v. Washington*, 466 U.S. 668 (1984)).

First, the defendant must show that counsel's representation fell below an objective standard of reasonableness. *Id.* Second, the defendant must show prejudice by demonstrating that there is a reasonable probability that, "but for counsel's errors, [the defendant] would not have pleaded guilty and would have insisted on going to trial." *Ellis-Strong*, 899 N.W.2d at 536 (quotation omitted). "We need not address both . . . prongs if one is determinative." *State v. Rhodes*, 657 N.W.2d 823, 842 (Minn. 2003).

"The objective standard of reasonableness is defined as representation by an attorney exercising the customary skills and diligence that a reasonably competent attorney would perform under similar circumstances." *State v. Vang*, 847 N.W.2d 248, 266–67 (Minn. 2014) (quotations omitted). "[T]here is a strong presumption that counsel's performance was reasonable." *Andersen v. State*, 830 N.W.2d 1, 10 (Minn. 2013).

The Minnesota Supreme Court has determined that "misleading advice by counsel to his client is not [a] ground for relief, unless it clearly rises to the level of unprofessional conduct." *State v. Bailey*, 132 N.W.2d 720, 724 (Minn. 1965) (quotation omitted). In general, "an attorney's representation does not fall below the objective standard of reasonableness . . . if the attorney fails to inform a defendant of the collateral consequences of a guilty plea." *Ellis-Strong*, 899 N.W.2d at 536.

Hoflock argues that his counsel's performance fell below an objective standard of reasonableness because his attorney failed to inform him of his ineligibility for the Challenge Incarceration Program. The postconviction court determined that Hoflock failed to allege facts to show that "his pleas were invalid on the basis he was denied the constitutional right to effective counsel."

Hoflock presented no evidence to the postconviction court that his attorney affirmatively misadvised him, such that Hoflock was unable to make an intelligent decision in electing to plead guilty. In addition, the Minnesota Supreme Court has affirmatively held that an attorney's failure to advise a defendant of a registration requirement before a defendant enters a guilty plea does not violate the right to effective counsel. *See Taylor*, 887 N.W.2d at 826. Because Hoflock has not demonstrated that the first prong of the ineffective assistance of counsel analysis is met, we affirm on that ground without reaching the second prong. *See Rhodes*, 657 N.W.2d at 842.

Affirmed.