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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1042**

State of Minnesota,
Respondent,

vs.

Larry Tabell Davis,
Appellant.

**Filed September 15, 2025
Affirmed
Bratvold, Judge**

Blue Earth County District Court
File No. 07-CR-22-3197

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

Patrick McDermott, Blue Earth County Attorney, Mankato, Minnesota; and

Scott A. Hersey, Special Assistant County Attorney, St. Paul, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Leah C. Graf, Assistant Public
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Harris, Presiding Judge; Bjorkman, Judge; and Bratvold,
Judge.

NONPRECEDENTIAL OPINION

BRATVOLD, Judge

In this direct appeal from judgment of conviction for third-degree driving while
impaired (DWI), and following a stay and remand for postconviction proceedings,

appellant argues that he should be allowed to withdraw his guilty plea and, in the alternative, that he is entitled to an evidentiary hearing. Appellant raises three issues: whether his plea was accurate, whether it was intelligent, and whether his attorney provided ineffective assistance of counsel. We conclude that appellant's plea was valid and that appellant fails to assert grounds establishing that his attorney's performance fell below an objective standard of reasonableness. We also conclude that the files and record conclusively show that appellant is not entitled to relief, so the district court did not err by denying appellant's petition without an evidentiary hearing. Thus, we affirm.

FACTS

The following summarizes the relevant record and procedural history. In September 2022, respondent State of Minnesota charged appellant Larry Tabell Davis with two gross-misdemeanor DWI counts—the first count for driving while under the influence of alcohol under Minn. Stat. § 169A.20, subd. 1(1) (2022), and the second count for driving with an alcohol concentration of 0.08 or higher under Minn. Stat. § 169A.20, subd. 1(5) (2022). Counts one and two were both alleged to include one aggravating factor—a prior impaired-driving-related loss of license in 2015. In the same complaint, the state alleged count three—driving with a license restriction related to alcohol/controlled-substance violations under Minn. Stat. § 171.09, subd. 1(f)(1) (2022)—and count four—driving after cancellation under Minn. Stat. § 171.24, subd. 5 (2022).

The complaint alleged that, on September 3, 2022, a Minnesota state trooper stopped Davis after he failed to move his car into the left lane while passing law-enforcement squad cars that were stationary on the right shoulder with their emergency

lights activated while assisting a stalled vehicle. The trooper observed that “Davis had bloodshot, watery, and glassy eyes.” The trooper also smelled “a moderate odor of alcohol and marijuana coming from the vehicle” and saw “a 42 ounce bottle of malt liquor at Davis’s feet and a 50mL bottle of brandy next to Davis on the seat cushion.” Davis cooperated with one field sobriety test, “performed poorly,” then refused additional testing. Davis was arrested. At the jail, Davis’s breath test results showed “an alcohol concentration of 0.10.” The complaint also alleged that “Davis has a prior impaired driving related loss of license [from] April 2015.”

Davis was represented by counsel throughout the district court proceedings. At an omnibus hearing in March 2023, Davis “waived” the proceeding; his attorney stated, “We didn’t find any omnibus issues.” Davis requested that the district court schedule a pretrial hearing. At the scheduled pretrial hearing in May 2023, however, Davis “requested to reopen omnibus issues” so he could challenge the traffic stop. The district court scheduled a contested omnibus hearing “as to the stop issue.”

A few days later, Davis moved to dismiss the state’s complaint, arguing that the traffic stop was unlawful because the squad cars’ emergency lights were not activated before Davis passed by. Davis withdrew the motion to dismiss in December 2023, first in writing and then at a scheduled omnibus hearing.

In March 2024, the parties appeared for a pretrial hearing to address motions in limine. The state moved to prohibit “the defense from inquiring, offering evidence, or commenting upon issues or questions of law reserved for challenge at an omnibus hearing specifically . . . the reasonable suspicion for the traffic stop.” After the court reporter and

Davis asserted that the district court held a contested omnibus hearing, the prosecuting attorney stated that a scheduled omnibus hearing was held but “any omnibus issues were waived.” Davis’s attorney agreed that he waived any issues at the omnibus hearing but sought to cross-examine law-enforcement witnesses about their observation of Davis’s conduct as he drove by the stationary squad cars. The district court granted the state’s motion, ruling that Davis could not argue that the traffic stop of Davis’s car was unlawful at trial but could “cross-examine [witnesses] on the facts of the stop” and his arrest.

After the district court made this ruling, Davis spoke up and said, “Excuse me, Your Honor. Can I say something?” The district court replied, “Not at this time.” Davis said nothing more about the omnibus issue, and his attorney continued to argue other motions during the pretrial hearing.

In April 2024, the parties appeared for a scheduled plea hearing. Davis’s attorney stated that she sent Davis “a Rule 15” plea petition that day but “did not get it filed.” Davis agreed to “plead guilty to count two, a DWI greater than 0.08 within two hours of driving”; the state agreed to dismiss the remaining counts and recommend an executed sentence of 180 days in jail and a \$200 fine.

The district court questioned Davis, who waived his trial rights. The district court also explained that the DWI conviction could “be used to enhance or make more serious a future DWI.” Davis confirmed that he understood and, in response to another inquiry from the district court, said that he had no questions.

Davis entered a guilty plea to count two and provided the following factual basis:

The Court: Tell me what you did that makes you guilty.

Mr. Davis: Uh, I was driving on the night in question, had a couple drinks, and that was it.

The Court: Okay. So, this happened on September 3rd, 2022?

Mr. Davis: Yes.

The Court: And you were driving in Blue Earth County?

Mr. Davis: Yup—yes.

The Court: You were dri—okay. And at the time you were driving, apparently, uh, you had an alcohol concentration of 0.10?

(Pause)

Mr. Davis: I thought it was two times the double limit to enhance it.

The Court: Well, it's—the reason this is enhanced is because you have a prior, uh, impaired driving, uh, loss of license back in April of 2015.

Mr. Davis: Uh, yes, that case was vindicated. That—that case was found out to be unconstitutional so they—they—vacated that and gave me all my rights back because that case was unconstitutional in the eyes of the higher courts so they—

Davis's attorney then asked for a recess to speak with Davis, which the district court granted. Before the recess, Davis said, "Straight up. That's not good 'cuz that's not the case. I didn't—I didn't have no cases. No."

After the parties returned from a recess, Davis's attorney agreed that they were "prepared to go forward." The district court continued questioning Davis about the factual basis:

The Court: Okay. So, I got to the point where, um, you, uh, took a test and that was a 0.10, was that correct?

Mr. Davis: Yes.

The Court: And you do have a prior impaired driving related loss of license back in April of 2015, is that correct?

Mr. Davis: Yes.

The prosecuting attorney asked whether the test “was done within two hours of driving,” and Davis agreed it was. The district court accepted the plea and sentenced Davis as recommended by the parties.

Davis appealed, which this court stayed for postconviction proceedings. In December 2024, Davis petitioned for postconviction relief, arguing that his plea was invalid and requesting an evidentiary hearing. The district court denied the petition without an evidentiary hearing. Davis moved for reconsideration, which the district court also denied. This court dissolved the stay and reinstated his appeal.

DECISION

Appellate courts “review the denial of a petition for postconviction relief for an abuse of discretion.” *Pearson v. State*, 891 N.W.2d 590, 596 (Minn. 2017). A district court abuses its discretion when it denies a postconviction petition and “exercise[s] its discretion in an arbitrary or capricious manner, base[s] its ruling on an erroneous view of the law, or ma[kes] clearly erroneous factual findings.” *Id.* (quotation omitted). And “[w]hen a defendant initially files a direct appeal and then moves for a stay to pursue postconviction relief, [appellate courts] review the postconviction court’s decisions using the same standard that [they] apply on direct appeal.” *State v. Beecroft*, 813 N.W.2d 814, 836 (Minn. 2012).

On appeal, Davis argues he is entitled to withdraw his guilty plea because it is invalid. Validity of a guilty plea is a question of law that appellate courts review de novo. *State v. Raleigh*, 778 N.W.2d 90, 94 (Minn. 2010). “A defendant has no absolute right to withdraw a guilty plea after entering it.” *Id.* at 93. The court, however, “must allow a

defendant to withdraw a guilty plea 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 a guilty plea is not valid.” *Raleigh*, 778 N.W.2d at 94. To be valid, a guilty plea must be (1) accurate, (2) voluntary, and (3) intelligent. *Id.* “A defendant bears the burden of showing his plea was invalid.” *Id.*

In the alternative, Davis seeks a remand for an evidentiary hearing. A district court must hold an evidentiary hearing on a postconviction petition “[u]nless the petition and the files and records of the proceeding conclusively show that the petitioner is entitled to no relief.” Minn. Stat. § 590.04, subd. 1 (2024). In making this decision, “a postconviction court considers the facts alleged in the petition as true and construes them in the light most favorable to the petitioner.” *Andersen v. State*, 913 N.W.2d 417, 422-23 (Minn. 2018) (quotation omitted). An appellate court reviews “the ultimate decision by the postconviction court to grant or deny an evidentiary hearing for an abuse of discretion.” *Caldwell v. State*, 853 N.W.2d 766, 770 (Minn. 2014).

I. Davis’s plea was accurate.

Davis first argues that his plea was not valid because it was not accurate. The purpose of the accuracy requirement is to “protect[] the defendant from pleading guilty to a charge more serious than he or she could be convicted of were the defendant to go to trial.” *State v. Ecker*, 524 N.W.2d 712, 716 (Minn. 1994). Accordingly, the defendant’s testimony at a plea hearing must include a “proper factual basis” for a plea to be accurate. *Id.* The factual basis must provide “sufficient facts on the record to support a conclusion that defendant’s conduct falls within the charge to which he desires to plead guilty.” *State*

v. Iverson, 664 N.W.2d 346, 349 (Minn. 2003) (quotation omitted). “The district court typically satisfies the factual basis requirement by asking the defendant to express in his own words what happened.” *Raleigh*, 778 N.W.2d at 94. The supreme court has “repeatedly discouraged the use of leading questions to establish a factual basis,” but has “never held” that responding to “leading questions on its own invalidates a guilty plea.” *State v. Jones*, 7 N.W.3d 391, 396 (Minn. 2024).

A factual basis is inadequate if “the defendant makes statements that negate an essential element of the charged crime, unless the defendant subsequently withdraws or corrects the statement, or the guilty plea is otherwise rehabilitated.” *Id.* (quotation omitted). “[E]ven if a district court fails to elicit proper responses, a defendant may not withdraw his plea if the record contains sufficient evidence to support the conviction.” *Id.* (quotations omitted).

In its order denying postconviction relief, the district court determined that Davis’s plea was accurate because his testimony established a factual basis for each element of the offense beyond a reasonable doubt. The district court reasoned that the use of leading questions did not make Davis’s plea inaccurate because the “first factual question was not leading” and the district court followed up with “specific questions about each element of the crime charged.”

Davis argues on appeal, as he did in his petition for postconviction relief, that he “negated an essential element of the offense” during the plea hearing, specifically “the element that he had a qualified prior impaired driving incident within ten years of the

current offense, as was necessary to prove the third-degree offense to which he pleaded guilty.”

In count two, the state alleged that Davis violated Minn. Stat. § 169A.20, subd. 1(5), which states that “[i]t is a crime for any person to drive, operate, or be in physical control of any motor vehicle” if “the person’s alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the motor vehicle is 0.08 or more.” Under Minn. Stat. § 169A.26, subd. 1(a) (2022), a “person who violates section 169A.20, subdivision 1 . . . (driving while impaired crime), is guilty of third-degree driving while impaired if one aggravating factor was present when the violation was committed.” One aggravating factor is “a qualified prior impaired driving incident within the ten years immediately preceding the current offense.” Minn. Stat. § 169A.03, subd. 3(1) (2022). Therefore, Davis’s prior impaired-driving incident was an essential element of his conviction for third-degree DWI.

Davis argues that he negated this element twice during the plea hearing. First, in response to the district court’s question about his “loss of license back in April 2015,” Davis testified that his previous “case was found out to be unconstitutional so they—they—vacated that and gave me all my rights back because that case was unconstitutional in the eyes of the higher courts.” He added, “Straight up. That’s not good ‘cuz that’s not the case. I didn’t—I didn’t have no cases.” The state seems to acknowledge that Davis’s testimony negated an essential element of count two but argues that Davis’s plea is accurate because Davis’s later testimony corrected or rehabilitated the factual basis.

We conclude that Davis negated an element of his offense when he testified that he did not have a prior impaired-driving “case.” To rehabilitate the factual basis, Davis’s subsequent testimony must either withdraw or correct his early testimony or otherwise rehabilitate the factual basis; alternatively, a plea is accurate if “the record contains sufficient evidence” outside the factual basis “to support the conviction.” *Jones*, 7 N.W.3d at 396 (quotations omitted).

Nelson v. State guides our analysis. 880 N.W.2d 852 (Minn. 2016). Nelson “pleaded guilty to first-degree premeditated murder.” *Id.* at 853. During the plea hearing, the district court asked Nelson if he intended to kill the victim by stabbing her, and he replied, “I think it was . . . just to get her hurt . . . but it . . . went too far.” *Id.* at 855. After Nelson described the stabbing as “more of a sigh of relief that it’s done,” the district court took a recess for Nelson to meet with his attorney. *Id.* at 856. After the recess, the district court asked Nelson if he “intended to kill” the victim, and Nelson said, “Yes.” *Id.*

On appeal, Nelson argued “that after he made statements during the plea colloquy that negated the elements of intent and premeditation, the district court failed to properly rehabilitate the plea.” *Id.* at 859-60. He also argued that “the plea was inaccurate because the district court used leading questions to elicit the necessary admissions.” *Id.* at 860. The supreme court rejected Nelson’s argument, reasoning that “the facts supporting Nelson’s intent and premeditation overlap.” *Id.* The supreme court recognized that the use of leading questions to establish a factual basis is discouraged but added that it has “never held that the use of leading questions automatically invalidates a guilty plea” and “decline[d] to do so in this case.” *Id.* The supreme court noted that “the district court started questioning

Nelson about the incident using open-ended questions” and “only a few of the questions were leading.” *Id.* at 860-61. The supreme court concluded that Nelson attested to facts showing his intent at the plea hearing and that “there was a solid factual basis for the plea.” *Id.*

By contrast, in *Jones*, the defendant “pleaded guilty to third-degree criminal sexual conduct using force.” 7 N.W.3d at 397. “But moments after telling the district court judge that he was pleading guilty to third-degree criminal sexual conduct, Jones clearly stated that he did not commit ‘rape.’” *Id.* The district court asked Jones some leading questions about the incident; for example, the district court asked Jones, “[B]ecause you were using . . . force, you were able to have sexual intercourse with [the victim] despite her not consenting to that, correct?” and Jones replied, “Yes.” *Id.* at 394.

On appeal, the supreme court determined that Jones’s plea was not accurate because, by stating that he did not “rape” the victim, “Jones denied committing at least one element of the offense, effectively asserting his innocence of the crime.” *Id.* at 397, 399. The supreme court distinguished *Nelson* for three reasons: (1) “the district court judge stopped the plea proceedings to clarify Nelson’s statements,” and Nelson then spoke privately with his counsel, (2) “Nelson was asked leading questions only at the end of the plea hearing,” and (3) Nelson explained his offense in his own words earlier in the factual basis. *Id.* at 398. On the other hand, during Jones’s plea hearing, “neither counsel nor the district court stopped proceedings to clarify Jones’s assertion of innocence . . . , and Jones himself made no admission of any element of the crime except in response to defense counsel’s leading questions.” *Id.* The supreme court concluded that “although the use of leading questions

will not on its own invalidate a guilty plea, as demonstrated in *Nelson*, Jones’s affirmative responses to *exclusively* leading questions were not sufficient to rehabilitate his plea after he asserted his innocence of the crime.” *Id.*

We agree with the state that Davis corrected his initial testimony that he had no prior “case” of impaired driving. After the district court took a recess for Davis to speak with his attorney, Davis answered, “Yes,” when the district court asked if he had “a prior impaired driving related loss of license back in April of 2015.” We conclude that Davis, like Nelson, corrected the negating statement. Similar to Nelson’s plea hearing, the district court took a recess at the request of Davis’s attorney to allow them to speak off the record. *See Nelson*, 880 N.W.2d at 856. After consulting with his attorney, Davis admitted that he had a prior impaired-driving loss of license. These similarities suggest that this case is more like *Nelson* than *Jones*.¹

¹ Our recent nonprecedential opinion in *State v. Yarborough* is also persuasive. No. A24-0294, 2025 WL 969282 (Minn. App. Mar. 31, 2025); *see State v. Monyak*, 14 N.W.3d 210, 215 n.2 (Minn. App. 2024) (“[N]onprecedential opinions are not binding but may be cited as persuasive authority.” (quotation omitted)). In *Yarborough*, we assumed without deciding that Yarborough negated the intent element of second-degree intentional murder during the factual basis for his guilty plea. 2025 WL 969282, at *1, *3. After Yarborough’s testimony negating his intent, his attorney “stepped in to clarify Yarborough’s statement” and explained on the record “the purpose of laying a factual basis and the reason why the prosecutor asked Yarborough about intent.” *Id.* at *4. The prosecuting attorney continued questioning Yarborough using only leading questions, asking Yarborough if he intended to kill the victim, and Yarborough said, “[Y]es.” *Id.* at *2. This court reasoned that “[b]ecause Yarborough’s attorney intervened to explain the process after Yarborough negated intent and Yarborough then initiated the prosecutor’s continued questioning, during which he expressly admitted that he shot with the intent to kill the victim,” his “negation was cured.” *Id.* at *4. This court concluded that the prosecuting attorney’s use of leading questions did not invalidate Yarborough’s plea. *Id.* The facts in *Yarborough* are very similar to those at Davis’s plea hearing. The district court

We conclude that the district court rehabilitated Davis’s testimony by recessing after he negated an element of the offense, allowing Davis to confer with his attorney, and resuming Davis’s testimony about the negated element. Therefore, Davis’s plea was accurate.

II. Davis’s plea was intelligent.

Davis argues that his plea was invalid because it was not intelligent. “The purpose of the requirement that the plea be intelligent is to [ensure] that the defendant understands the charges, understands the rights he is waiving by pleading guilty, and understands the consequences of his plea.” *State v. Trott*, 338 N.W.2d 248, 251 (Minn. 1983). If a defendant understands “all three aspects . . . then [the] plea was intelligently entered.” *Dikken v. State*, 896 N.W.2d 873, 877 (Minn. 2017).

“[A] valid guilty plea waives all non-jurisdictional defects arising prior to the entry of the plea.” *Id.* at 878 (quotation omitted). Davis argues that his plea was not intelligent because he did not understand that, by pleading guilty, he waived the right to appeal any nonjurisdictional defects, including his pretrial challenge to the traffic stop. The district court determined in its order denying postconviction relief that the loss of this right is a “collateral consequence” rather than a “direct” one and “[o]nly ‘direct consequences’ are relevant in assessing the intelligence of a guilty plea,” quoting *State v. Bell*, 971 N.W.2d 92, 101 (Minn. App. 2022), *rev. denied* (Minn. Apr. 27, 2022). Davis argues on appeal that his “intelligence claim is not premised on his lack of understanding about a direct or

took a recess after Davis’s testimony negated an element, while the defense attorney in *Yarborough* explained the purpose of providing a factual basis on the record. *Id.*

collateral consequence of his plea . . . [r]ather, it is Davis’s lack of understanding regarding *a right he waived* by pleading guilty that makes his plea invalid.”

Minnesota Rule of Criminal Procedure 15.02 sets out guilty-plea procedures for misdemeanors and gross misdemeanors; subdivision 1 provides that, before a judge accepts a guilty plea, a defendant must be questioned as to certain topics, including trial rights that the defendant will waive by entering a guilty plea. The rule seeks to determine whether defense counsel has informed the defendant of these rights and the defendant understands the rights before proceeding. *See* Minn. R. Crim. P. 15 cmt. (stating that rule 15.02, subdivision 1, “prescribes minimal standards” for the record to show that a plea is “knowingly and voluntarily entered”). Davis did not submit a rule 15 plea petition to the district court, but at the plea hearing, his attorney stated that she sent Davis a copy of one.

The right to appeal nonjurisdictional issues is not included in the list of waived rights. Minn. R. Crim. P. 15.02, subd. 1. Davis emphasizes that rule 15.02 states that the defendant must understand that they have a right to a “pretrial hearing to contest the admissibility at trial . . . of any evidence obtained from a search and seizure” and waive that right. He contends that the district court erred by finding that he was “advised of and acknowledged all the rights outlined in Minn. R. Crim. P. 15.02” because the district court questioned him generally about waiving his trial rights, but not about waiving his right to appeal nonjurisdictional issues by pleading guilty.

Davis’s argument is unavailing. Davis is correct that the district court did not specifically question him about waiving his pretrial rights or his appeal rights. But this does not support Davis’s claim for relief because the right to a pretrial hearing to contest

evidence from a traffic stop is different from the right to appeal based on the validity of the traffic stop. And, in Davis’s case, he expressly waived any challenge to the validity of the traffic stop and had a pretrial hearing at which he contested the admissibility of evidence about his traffic stop.

Some nonprecedential opinions assist our analysis of this issue because we have considered whether an appellant’s plea is intelligent in circumstances somewhat similar to Davis’s. In *Walford v. State*, this court concluded that Walford’s pleas were unintelligent because he “did not understand that he was waiving his right to appeal non-jurisdictional pretrial issues when he entered his [guilty] pleas.” No. A23-0709, 2024 WL1506992, at *6 (Minn. App. Apr. 8, 2024). During pretrial hearings, Walford “expressed his desire to preserve his right to appeal” and entered guilty pleas “on the express condition that he reserve his ability to appeal decisions or things that had happened prior to the plea.” *Id.* (quotation marks omitted).

Similarly, in *State v. Dwyer*, this court concluded that Dwyer’s plea was unintelligent when the record showed that “Dwyer intended to preserve [a] Fourth Amendment issue” and “thought he could raise that issue on appeal even if he pleaded guilty.” No. A22-1088, 2023 WL 3939569, at *3 (Minn. App. June 12, 2023). In fact, Dwyer directly asked the district court “if he could raise his Fourth Amendment issue on appeal,” and this court concluded that the district court’s response left Dwyer “with the misimpression” that he could appeal the issue after pleading guilty. *Id.* at *3-4.

In *State v. Lueck*, this court rejected Lueck’s argument that his plea was unintelligent because “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.” No. A23-1789, 2024 WL 4481408, at *1, *3 (Minn. App. Oct. 14, 2024). In doing so, this court analyzed and distinguished several nonprecedential opinions—including *Walford* and *Dwyer*. *Id.* at *3.² This court’s reasoning is helpful. First, this court determined that, before he pleaded guilty, Lueck did not express “a desire to preserve his right to appeal challenges to his prior attorney’s representation.” *Id.* Second, this court observed that Lueck did not enter his plea “on the express condition that he would be permitted to do so,” nor did the record show “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.” *Id.* While 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,” this court concluded that Lueck did not show that he “entered his guilty plea based on the belief that he could do so or with the intent to pursue an appeal on that ground.” *Id.* Similar to Lueck, and unlike the appellants in *Walford* and *Dwyer*, Davis did not express a desire to appeal a nonjurisdictional issue before he pleaded guilty.

Davis argues that the record shows he was confused about whether he made an omnibus challenge to the validity of his traffic stop when he spoke up at the pretrial hearing

² Lueck argued that he was entitled to withdraw his guilty plea under the “fair and just” standard. *Id.* at *2. This court noted that other nonprecedential cases analyzed a similar argument under the “manifest injustice” standard. *Id.* at *3. Although *Lueck* applied a different standard to plea withdrawal than Davis urges in this appeal, this court’s analysis in *Lueck* is persuasive because it is factually similar to this case. *Id.*

on the state's motion in limine.³ We are not persuaded. This record does not show Davis's affirmative intent or belief that he could appeal the validity of the traffic stop. The record also does not show that Davis entered his plea on the condition that he could appeal, that he was misled to believe he could appeal, or that he stated before his postconviction petition that he would not have pleaded guilty if he had known he could not appeal. Thus, we conclude that Davis's plea was intelligent.

III. Davis's plea is not invalid due to ineffective assistance of counsel.

Davis argues that his plea was invalid because his attorney did not advise him that he would be unable to appeal nonjurisdictional issues after pleading guilty. "The Sixth Amendment to the United States Constitution and Article I, Section 6 of the Minnesota Constitution guarantee a criminal defendant the right to the effective assistance of counsel" before entering a guilty plea. *Taylor v. State*, 887 N.W.2d 821, 823 (Minn. 2016) (quotation omitted). "[I]neffective assistance of counsel may render a plea constitutionally invalid, and a manifest injustice exists if a guilty plea is not valid." *State v. Ellis-Strong*, 899 N.W.2d 531, 541 (Minn. App. 2017) (citation and quotation omitted).

"To succeed on a claim of ineffective assistance of counsel, a petitioner must demonstrate that (1) counsel's performance was deficient and (2) the deficient performance prejudiced [their] defense." *State v. Zielinski*, 10 N.W.3d 1, 19 (Minn. 2024) (citing *Strickland v. Washington*, 466 U.S. 668, 687 (1984)). "A court may address the two

³ After the district court ruled that his attorney could cross-examine law enforcement about their observations of Davis's driving conduct when he passed the stationary squad cars, Davis asked the district court if he could "say something."

prongs of the test in any order and may dispose of the claim on one prong without analyzing the other.” *Id.* at 20 (quotation omitted). Appellate courts review a “postconviction court’s analysis of the two *Strickland* requirements” de novo. *Pearson*, 891 N.W.2d at 600.

Beginning with the first step in the *Strickland* analysis, we assess whether Davis’s counsel’s performance was deficient. *Zielinski*, 10 N.W.3d at 19. “An attorney’s performance falls below an objective standard of reasonableness when they fail to exercise the skills and diligence of a reasonably competent attorney under the circumstances.” *Allwine v. State*, 994 N.W.2d 528, 536 (Minn. 2023).

In its order denying postconviction relief, the district court determined that counsel’s representation “did not fall below the objective standard of reasonableness” because Davis was advised of and acknowledged “the rights he was waiving including all the rights listed in Minn. R. Crim. P. 15.02.” The district court added that, before the plea hearing, Davis “waived omnibus issues” and withdrew his motion to dismiss based on the traffic stop. Finally, the district court reasoned that Davis “did not express any confusion at the plea hearing regarding his prior suppression motion.”

On appeal, Davis argues that the “postconviction court acknowledged Davis’s assertion that his trial counsel failed to inform him that by pleading guilty he was waiving his right to appellate review of non-jurisdictional issues” and “necessarily credited this assertion.” Davis urges us to conclude that the “record is therefore clear that Davis’s counsel failed to fully inform and advise Davis about the effect his guilty plea had on his rights on appeal.” The state argues that, even assuming that Davis’s attorney failed to advise him that he was waiving any appeal of nonjurisdictional issues, Davis’s argument

fails. The state contends that Davis’s attorney’s performance was not deficient because the applicable rules do not require Davis’s attorney to advise Davis that, by pleading guilty, he waived his right to appeal nonjurisdictional issues.

An attorney has a “central role” in informing the defendant’s decision to plead guilty or go to trial. *Anderson v. State*, 746 N.W.2d 901, 909 (Minn. App. 2008) (citing *Von Moltke v. Gillies*, 332 U.S. 708, 721 (1948), *overruled on other grounds by Wheeler v. State*, 909 N.W.2d 558 (Minn. 2018)). A defendant “is entitled to be advised as to all his legal rights under the law and facts involved.” *State ex rel. Dehning v. Rigg*, 86 N.W.2d 723, 726 (Minn. 1957). Neither precedential caselaw nor the rules of criminal procedure hold that an attorney must advise a defendant that the right to appeal nonjurisdictional issues is waived by pleading guilty.

This court considered an argument similar to Davis’s in a nonprecedential opinion, *State v. Vogel*, in which Vogel argued that his plea was invalid because “he did not know that by pleading guilty, he waived his right to appellate review of a pretrial ruling” and that “the district court abused its discretion when it determined that [Vogel] did not suffer prejudice from his trial attorney’s ineffective assistance.” No. A19-1220, 2021 WL 1344018, at *1 (Minn. App. Apr. 12, 2021), *rev. denied* (Minn. June 29, 2021). To satisfy the first step of the *Strickland* analysis, Vogel pointed out that his attorney advised him that there was a “possibility that by pleading guilty, he would not be able to appeal” a nonjurisdictional pretrial issue. *Id.* at *2.

This court concluded that “the Minnesota rules do not reference a defendant’s right to appeal nonjurisdictional pretrial rulings or the waiver of that right” and that “[n]owhere

in rule 15 is there a requirement that a criminal defendant be told that by pleading guilty, he waives his right to appeal nonjurisdictional pretrial rulings.” *Id.* at *3. We affirmed the district court’s postconviction ruling, rejecting Vogel’s argument that his attorney’s advice fell below an objective standard of reasonableness. *Id.* at *4. In doing so, we noted that Vogel’s position “asks us, in effect, to create a new requirement” for what an intelligent plea is and that “[t]his rule does not currently exist in the rules of procedure or Minnesota caselaw.” *Id.* This court also concluded that Vogel failed to show prejudice based on his trial attorney’s performance. *Id.* at *4-6. We are persuaded by the reasoning in *Vogel* and conclude that Davis also asks this court to “create a new requirement” for an intelligent plea and that Davis has failed to show that his trial attorney’s performance fell below an objective standard of reasonableness. *Id.* at *4. As we did in *Vogel*, we decline to create a new requirement. Thus, Davis’s ineffective-assistance claim fails on the first step.

Davis urges us to follow a nonprecedential opinion, *Robinson v. State*, and argues that “[f]ailure to advise a defendant of the effect his guilty plea has on his rights to appeal is deficient performance.” No. A03-1885, 2004 WL 1728582, at *3 (Minn. App. Aug. 3, 2004). We are not persuaded that *Robinson* is analogous because, in that case, we considered ineffective assistance of counsel in a context different from entering a guilty plea. *Id.* at *1. Robinson contended that, after he entered his guilty plea and before sentencing, he moved to withdraw his plea because his attorney failed to advise him that he could appeal a sentencing error after pleading guilty. *Id.* The district court allowed Robinson to withdraw his guilty plea, and the case proceeded to trial. *Id.*

On appeal, Robinson argued that he was “denied effective assistance of counsel” before he moved to withdraw his guilty plea. *Id.* at *2. This court first concluded that an attorney’s conduct is not objectively reasonable when the attorney fails to advise a client that “he could challenge his sentence even if he accepted the plea offer,” based on the attorney’s mistaken belief that the client “could [not] appeal a bargained-for sentence.” *Id.* at *3 (quotation marks omitted). This court next determined that Robinson’s attorney “erroneously advised [Robinson] that he had only two options, either accept the plea and sentence or withdraw his plea and go to trial.” *Id.* We also concluded that Robinson was prejudiced by his attorney’s performance. *Id.* at *4.

Robinson is distinguishable from Davis’s case because Robinson’s attorney affirmatively misadvised him of his options before he moved to withdraw his guilty plea. *See id.* at *3. In contrast, Davis does not allege that his attorney affirmatively misadvised him before he entered his guilty plea.

Because no rule or caselaw requires an attorney to advise a client that entering a guilty plea waives an appeal of nonjurisdictional issues and Davis’s attorney did not provide affirmative misinformation, we conclude that Davis’s attorney’s conduct was not objectively unreasonable. We therefore need not address the second step of the *Strickland* analysis. *See Zielinski*, 10 N.W.3d at 20.⁴

⁴ On the second step, Davis argues that “he would not have pled [guilty] if he knew that by doing so he would waive his right to appeal the suppression issue.” Even assuming this to be true, we observe that Davis withdrew his motion to suppress and the district court did not enter a pretrial ruling on the “suppression issue.”

Because the district court did not err by rejecting Davis's argument that his plea was invalid as inaccurate or unintelligent, and because he received effective assistance of counsel, we also conclude that the district court did not abuse its discretion by denying Davis's postconviction petition without an evidentiary hearing.

Affirmed.