

*This opinion is nonprecedential except as provided by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
A24-1288**

Germaine Yurii Butler, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed February 3, 2025
Reversed and remanded
Reyes, Judge**

Ramsey County District Court
File No. 62-CR-22-1973

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

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

John J. Choi, Ramsey County Attorney, Peter R. Marker, Assistant County Attorney, St. Paul, Minnesota (for respondent)

Considered and decided by Larson, Presiding Judge; Reyes, Judge; and Bratvold, Judge.

NONPRECEDENTIAL OPINION

REYES, Judge

Appellant argues that the postconviction court erred by denying his motion to withdraw his guilty plea to unlawful possession of ammunition as unintelligent because he had not been informed that he faced a mandatory-minimum 60-month prison sentence

when he pleaded guilty, which foreclosed any possibility of a downward dispositional departure. We agree with appellant and reverse and remand.

FACTS

On April 12, 2022, respondent State of Minnesota charged appellant Germaine Yurii Butler with four counts stemming from an incident in St. Paul on April 9, 2022: unlawful possession of a firearm in violation of Minn. Stat. § 624.713, subd. 1(2); unlawful possession of ammunition in violation of Minn. Stat. § 624.713, subd. 1(2) (count II); threats of violence in violation of Minn. Stat. § 609.713, subd. 1; and fifth-degree drug possession in violation of Minn. Stat. § 152.025, subd. 2(1) (2020).

Pursuant to a plea agreement, appellant pleaded guilty to count II, and the state dismissed the remaining charges. Appellant acknowledged that he reviewed the plea petition “line by line.” In addition, he answered in the affirmative when his counsel asked whether he understood “that the default or presumptive disposition is 60 months in prison and that we will be making a motion for [the district court] to give you a probation sentence instead of a prison sentence,” but “that there is no guarantee as to how [the district court] will make a decision [at] sentencing.” The parties had no agreement on sentencing and acknowledged that appellant would seek a downward dispositional departure. The district court accepted appellant’s plea. Both the complaint and plea-hearing testimony noted appellant’s two prior felony assault convictions, including one for second-degree assault with a firearm in 2016. However, neither the district court nor the attorneys told appellant that he faced a *mandatory* five-year prison sentence due to the 2016 conviction.

At sentencing, appellant's counsel argued for a downward dispositional departure, asking the district court to stay his 60-month sentence "to probation for five years." The state argued, for the first time, that appellant's prior convictions required the district court to impose a mandatory five-year prison sentence under Minn. Stat. § 609.11, subd. 5(b) (2020). The state acknowledged that the plea agreement provided that appellant could argue for a departure. The district court considered appellant's motion for a departure, but ultimately denied it and sentenced him to 60 months in prison.

Appellant petitioned for postconviction relief, arguing that he did not enter his guilty plea intelligently because "he was advised during the plea hearing that he could argue for a downward dispositional departure at sentencing, but the parties did not realize that his guilty plea statutorily foreclosed any possibility of a dispositional departure." The state opposed appellant's motion and argued that he entered an intelligent guilty plea because (1) "the complaint referenced Minn. Stat. § 609.11, subd. 5(b), which establishes a mandatory-minimum 60-month sentence"; (2) appellant acknowledged during the plea hearing that the charged offense had a mandatory-minimum sentence of 60 months; and (3) any plea agreement the parties had prior to sentencing was not binding because appellant picked up new charges, violating his conditions of release.¹

The postconviction court denied appellant's motion for relief, determining that he entered an intelligent plea because, at the time of his plea, he understood that (1) he entered

¹ In the state's motion for revocation of appellant's conditional release pending sentencing, it identified two new charges against appellant stemming from an incident on Feb. 14, 2023, a felony domestic-assault charge and a felony fleeing-a-peace-officer charge.

into a straight plea deal with no agreement on the ultimate sentence; (2) the charged crime had a presumptive prison term of 60 months; (3) the plea petition stated that “[i]f a minimum sentence is required by statute the court may impose a sentence of imprisonment of not less than 60 months”; (4) he could argue for a downward dispositional departure to a probationary sentence; (5) the district court would consider his departure argument; and (6) the district court could sentence him “without regard to any agreement with the [s]tate if he violated any terms of the [plea] agreement.” This appeal follows.

DECISION

Appellant did not enter an intelligent guilty plea because, at the time he pleaded guilty, he did not know and understand that the district court had to impose a mandatory-minimum 60-month prison sentence.

Appellant argues that he entered an unintelligent and therefore invalid guilty plea because, when he pleaded guilty, he had not been informed of, and so did not understand, that the district court had no discretion to depart from the 60-month mandatory-minimum sentence due to his 2016 conviction of second-degree assault with a firearm. We agree.

“A defendant may withdraw a guilty plea after sentencing upon a timely motion and proof to the satisfaction of the [postconviction] court that withdrawal of the plea is necessary to correct a manifest injustice.” *Perkins v. State*, 559 N.W.2d 678, 685 (Minn. 1997) (citing Minn. R. Crim. P. 15.05, subd. 1). A manifest injustice occurs if a guilty plea is not valid. *State v. Raleigh*, 778 N.W.2d 90, 94 (Minn. 2010). To be valid, a guilty plea must be accurate, voluntary, and intelligent. *Perkins*, 559 N.W.2d at 688; *see State v. Wukawitz*, 662 N.W.2d 517, 521 (Minn. 2003). Whether a plea is valid presents a question

of law that appellate courts review de novo. *Raleigh*, 778 N.W.2d at 94; *Dikken v. State*, 896 N.W.2d 873, 876 (Minn. 2017).

An intelligent plea is one that is both knowingly and understandingly made. *Perkins*, 559 N.W.2d at 688. “Whether a plea is intelligent depends on what the [appellant] knew *at the time he entered the plea*—specifically, . . . whether [the appellant] ‘understood . . . the *consequences of the plea*.’” *Dikken*, 896 N.W.2d at 877 (quoting *Nelson v. State*, 880 N.W.2d 852, 858 (Minn. 2016)) (emphases added). A guilty plea is intelligent only when the appellant is “informed of and understands the . . . direct consequences of a plea.” *State v. Byron*, 683 N.W.2d 317, 322 (Minn. App. 2004). A direct consequence is one that flows “definitely, immediately, and automatically from the guilty plea—the maximum sentence and any fine to be imposed.” *Alanis v. State*, 583 N.W.2d 573, 579 (Minn. 1998).

Appellant heavily relies on our nonprecedential decision in *State v. Macartney*, No. A23-0515, 2024 WL 321771 (Minn. App. Jan. 19, 2024), and notes that this court’s recent decision in *State v. Crawford*, 13 N.W.3d 693 (Minn. App. 2024), is “pertinent and significant authority” that applies here. Appellant also relies on *Dikken* and *Nelson*. The state argues that we should rely on our nonprecedential decision in *State v. Green*, No. A22-1834, 2023 WL 7119486 (Minn. App. Oct. 20, 2023).²

² The postconviction court in its order, and the state in its brief and argument, respectively cite to our nonprecedential decision in *Green* to support the determination that appellant’s guilty plea was intelligent, but that reliance is misguided. *Green* is not binding authority, see Minn. R. Civ. App. P. 136.01, subd. 1(c), and is distinguishable from this case. Notably, in *Green*, prior to the plea hearing, both parties submitted arguments on whether the district court had discretion to depart from the mandatory-minimum sentence, and the district court determined that it had no discretion to depart. 2023 WL 7119486, at *1.

This court issued *Crawford* after the parties submitted their briefs in this case. In *Crawford*, appellant Crawford argued that he entered an unintelligent guilty plea “because he was not aware that imposition of a mandatory-minimum term of imprisonment was a direct consequence of his plea or that the district court was not authorized to disregard that mandatory-minimum sentence.” *Crawford*, 13 N.W.3d at 695. The district court and the lawyers acknowledged the mandatory-minimum sentence but incorrectly believed that it did not apply because the state did not reference it in its complaint. *Id.* at 700. We held that Crawford entered an unintelligent and therefore invalid guilty plea because the district court and the lawyers had not informed him of the direct consequences of his guilty plea and “incorrectly led [him] to believe that the district court could ignore that mandatory-minimum sentence, grant a downward-dispositional departure, and place him on probation.” *Id.* at 704.

Like in *Crawford*, here the district court and the lawyers “incorrectly led [appellant] to believe that the district court could ignore the mandatory-minimum sentence, grant a downward-dispositional departure, and place him on probation.” *Id.* Like Crawford, appellant did not know at the time that he pleaded guilty that the district court had no authority to disregard the mandatory-minimum sentence. *Id.*

The record supports the postconviction court’s findings, but not its ultimate conclusion. Appellant understood that (1) he *could* argue for a departure and that the district court *could* consider his argument, leading him to believe that the district court had the discretion to grant it; (2) the plea petition stated that “[i]f a minimum sentence is required by statute the court *may* impose a sentence of imprisonment of not less than 60

months” (emphasis added); (3) the charged crime had a *presumptive* prison term of 60 months; (4) he *could* “mak[e] a motion for [the district court] to give [him] a probation sentence”; and (5) there was “no guarantee as to” the sentence the district court would impose. None of this information made appellant aware that pleading guilty to count II would result in at least a 60-month prison sentence. In fact, both lawyers and the district court appeared to believe that appellant could argue for, and that the district court could grant, a downward dispositional departure. The qualifying language in the plea petition did not inform appellant of the direct consequences of his guilty plea. Similarly, appellant’s colloquy with counsel at the plea hearing did not inform him that pleading guilty would result in at least 60 months in prison.

Appellant also cites to *Nelson* and *Dikken*, but to distinguish them from this case. In both cases, the supreme court concluded that the defendants entered intelligent guilty pleas because they understood the consequences of their guilty pleas. In *Nelson*, the supreme court noted that “the district court [twice] asked [defendant] if he understood that the consequences of his guilty plea *would be* life in prison without the possibility of release. [Defendant] responded affirmatively both times.” 880 N.W.2d at 858 (emphasis added). In *Dikken*, the supreme court noted that the defendant understood and confirmed on the record the “the consequences of the plea.” 896 N.W.2d at 878. “Nowhere [did defendant] suggest that he failed to understand that he was pleading guilty to two first-degree murder charges, one which carried a mandatory penalty of life imprisonment without the possibility of release.” *Id.* In contrast, here appellant did not understand the direct

consequences of his guilty plea; namely, that the district court had to impose a mandatory-minimum 60-month prison sentence and had no discretion to grant a downward departure.

The state in its brief argued, consistent with the postconviction court's order, that appellant's failure to follow the conditions of release foreclosed any opportunity he had to withdraw his guilty plea. But caselaw is clear that we look at a defendant's knowledge "at the time he entered the plea" to determine whether a plea was intelligent and therefore valid. *Dikken*, 896 N.W.2d at 877. Subsequent violations of appellant's conditions of release have no bearing on whether he entered an intelligent plea.

The record demonstrates that appellant was not "informed of" and did not "understand[] the . . . direct consequences" of his plea. *Byron*, 683 N.W.2d at 322. At the time appellant pleaded guilty to count II, he mistakenly believed he could argue for, and potentially receive, a downward dispositional departure. Neither appellant's testimony at the plea hearing nor the language in the plea petition were sufficient to put appellant on notice that, by pleading guilty to the ammunition charge, he would receive at least 60 months in prison. Because appellant did not enter an intelligent guilty plea, it is invalid, *Perkins*, 559 N.W.2d at 688, and we reverse and remand to allow appellant to withdraw his guilty plea.

Reversed and remanded.