

*This opinion is nonprecedential except as provided by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
A24-1435**

State of Minnesota,
Respondent,

vs.

Delmarcus Deante Joseph,
Appellant.

**Filed July 21, 2025
Affirmed
Bjorkman, Judge**

Koochiching County District Court
File No. 36-CR-21-746

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

Jeffrey Naglosky, Koochiching County Attorney, International Falls, Minnesota (for respondent)

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

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

NONPRECEDENTIAL OPINION

BJORKMAN, Judge

Appellant challenges his convictions of fifth-degree drug possession and possession of a pistol without a permit, arguing that (1) his guilty pleas are invalid because they were

inaccurate and unintelligent, and (2) the district court abused its discretion by denying his presentence motion for plea withdrawal based on the violation of his right to a speedy trial. We affirm.

FACTS

On December 21, 2021, police responded to a reported assault at a motel in International Falls. Upon arrival, police located appellant Delmarcus Deante Joseph and the alleged assault victim (victim) in a vehicle in the motel parking lot. Victim told police that Joseph had pushed her up against a wall and choked her, and that he had “drugs and a handgun” in the vehicle. Joseph was subsequently arrested, and a search of the vehicle revealed a firearm and cocaine.

Respondent State of Minnesota charged Joseph with five crimes: attempted second-degree assault, domestic assault by strangulation, fifth-degree drug possession, possession of a firearm by an ineligible person, and possession of a pistol without a permit. On January 10, 2022, Joseph had his first appearance and the district court appointed a public defender (defense counsel). Joseph pleaded not guilty and demanded a speedy trial. The district court set the matter for trial on February 28—49 days later. But Joseph failed to appear for his February 10 pretrial hearing, during which the district court discussed Joseph’s speedy-trial request with defense counsel:

THE COURT: Let me ask you this. Do—does the defendant forfeit his right to a speedy trial when he fails to appear?

DEFENSE COUNSEL: I don’t know the answer to that though I can tell the Court that if his—if a warrant issues, our file closes and I will not be preparing for that trial.

THE COURT: A warrant is going to issue.

DEFENSE COUNSEL: Yep.

THE COURT: So, the body only—

DEFENSE COUNSEL: And so then we're off the case, Your Honor.

THE COURT: —body only bench warrant. There's no, I mean, there's no way we're going to try this case on February 28th when he's on warrant status here and two other counties.

DEFENSE COUNSEL: Yep.

THE COURT: It's not happening.

DEFENSE COUNSEL: Understood, Your Honor.

THE COURT: If there's constitutional issues, I guess, we'll be having to deal with it. But I—I don't—I honestly don't know the answer to that question, but I can't imagine that there's some—some timing issue there. And given—given the request was premature as is, I don't think we're, you know, trampling on [Joseph's] rights in any way.

Approximately six months later, on August 22, Joseph asked to appear before the district court on the warrant. Joseph explained that, at the time of his pretrial hearing, he “had absconded from [his] . . . house.” The district court advised Joseph that his speedy trial “couldn't happen when [he] didn't appear for th[e] pretrial hearing back in February” and asked Joseph if he understood why that was. Joseph responded affirmatively and the district court quashed the warrant.

On September 19, defense counsel appeared on Joseph's behalf for a pretrial hearing. Joseph did not appear, prompting the district court to reschedule the pretrial and issue a second bench warrant. Joseph once again failed to appear at the October 17 rescheduled pretrial. It was not until October 16, 2023—almost an entire year later—that

Joseph returned to court. Following that hearing, the district court granted Joseph's request to represent himself.

Two days later, the district court held a pretrial hearing where the state advised the court that a plea agreement had been reached. Under the agreement, Joseph entered an *Alford*¹ plea to the fifth-degree drug charge and pleaded guilty to possessing a pistol without a permit. In exchange, the state dismissed the remaining charges. During Joseph's plea colloquy, the district court found a "sufficient factual basis" for each guilty plea and that Joseph had knowingly, voluntarily, and intelligently waived his rights. The court scheduled a sentencing hearing for November 29.

Joseph failed to appear for sentencing, and a third bench warrant issued. Four months later, Joseph appeared in court remotely from a Minnesota correctional facility, where he was incarcerated for an unrelated offense. Joseph explained that he did not appear for sentencing because he "overslept." He requested a public defender.

On May 29, 2024, Joseph appeared with defense counsel and moved to withdraw his guilty pleas and dismiss all charges against him based on a speedy-trial violation. The state opposed the motion, asserting that withdrawal was not "fair and just" because any delay in the case was attributable to Joseph's "absolute failure to cooperate with his defense."

On June 5, the district court issued an order denying Joseph's motions. The court concluded that no speedy-trial violation had occurred, reasoning that "it is clear from the

¹ *North Carolina v. Alford*, 400 U.S. 25, 38 (1970) (explaining a defendant may plead guilty based on the factual record while maintaining innocence).

file that the delays [in Joseph’s case] were caused by [his] failure to appear and resulting warrants.” And because Joseph sought to withdraw his pleas “solely upon his alleged speedy trial violation,” the court found no reason to allow him to do so.

Two days later, Joseph moved the district court to reconsider. The court orally denied Joseph’s motion and sentenced him to 19 months in prison for the fifth-degree drug charge and 364 days in local confinement for the pistol-possession charge.

Joseph appeals.²

DECISION

I. Joseph is not entitled to plea withdrawal based on manifest injustice.

A criminal defendant does not have an absolute right to withdraw their guilty plea. *State v. Townsend*, 872 N.W.2d 758, 761 (Minn. App. 2015). But withdrawal must be allowed when necessary to avoid a manifest injustice. *State v. Raleigh*, 778 N.W.2d 90, 94 (Minn. 2010); *see also* Minn. R. Crim. P. 15.05, subd. 1. A manifest injustice exists if a plea is invalid. *State v. Theis*, 742 N.W.2d 643, 646 (Minn. 2007). For a guilty plea to be constitutionally valid, it must be “accurate, voluntary, and intelligent.” *Raleigh*, 778 N.W.2d at 94. A defendant may challenge the validity of their plea for the first time on direct appeal. *Brown v. State*, 449 N.W.2d 180, 182 (Minn. 1989); *see also State v. Jones*, 7 N.W.3d 391, 399 (Minn. 2024). We review the validity of a plea de novo. *State v. Bell*, 971 N.W.2d 92, 100 (Minn. App. 2022), *rev. denied* (Minn. Apr. 27, 2022).

² Respondent State of Minnesota did not file a brief. We nevertheless decide the case on the merits pursuant to Minn. R. Civ. App. P. 142.03.

Joseph argues that his guilty pleas are invalid because they were both inaccurate and unintelligent. We address each argument in turn.

A. Joseph’s pleas were accurate.

To be accurate, a guilty plea must be supported by a “proper factual basis.” *Jones*, 7 N.W.3d at 395 (quotation omitted). The accuracy requirement is satisfied “if the record contains sufficient evidence to support a conclusion that the defendant is guilty of at least as great a crime as that to which [they] pled guilty.” *Id.* at 396. This is typically done by having the defendant explain what happened in their own words. *Raleigh*, 778 N.W.2d at 94.

Fifth-Degree Drug Possession

Joseph entered an *Alford* plea to fifth-degree drug possession. An *Alford* plea is accurate when (1) the state demonstrates a “strong factual basis” for the offense, and (2) the defendant “acknowledge[s] that the evidence would be sufficient for a jury to find the defendant guilty beyond a reasonable doubt.” *Williams v. State*, 760 N.W.2d 8, 12-13 (Minn. App. 2009), *rev. denied* (Minn. Apr. 21, 2009). Because a defendant maintains their innocence when entering an *Alford* plea, the defendant’s acknowledgment of the sufficiency of the evidence against them is “critical to the court’s ability to serve the protective purpose of the accuracy requirement.” *Theis*, 742 N.W.2d at 649. An acknowledgment that there is a “mere risk” that the defendant may be found guilty does not satisfy the accuracy requirement for an *Alford* plea. *Id.* at 650 (quotation omitted).

Joseph argues that his *Alford* plea was inaccurate because he “never acknowledged that the State had sufficient evidence to convict him.” At the plea hearing, the prosecutor

questioned Joseph about the factual circumstances surrounding the discovery of cocaine in his vehicle. The prosecutor then asked:

And so do you believe that if we had a trial and I called the law enforcement officers that responded to the scene, who made that contact with you, found the suspected cocaine in the vehicle and I called [victim] and she testified that it was your cocaine, that she'd seen you with it the night before. That there's a *substantial likelihood* that you'd be found guilty of possessing that cocaine in the fifth degree?

(Emphasis added.) Joseph responded, “I agree with that.”

Joseph likens use of the phrase “substantial likelihood” to a “mere risk,” which does not meet the accuracy requirement for *Alford* pleas.³ We are not convinced. When assessing the accuracy requirement for a *Norgaard* plea,⁴ we concluded that a defendant’s agreement that there was “a *substantial likelihood* that [they] would be found guilty” adequately acknowledged the sufficiency of the state’s evidence. *Williams*, 760 N.W.2d at 14 (emphasis added). Like an *Alford* plea, the factual basis for a *Norgaard* plea must be established by means other than the defendant’s admission of the facts. *Id.* at 12. Thus, like a defendant entering an *Alford* plea, a defendant entering a *Norgaard* plea—because

³ As support for his argument, Joseph cites *State v. Bailey*, No. A21-0335, 2022 WL 433243 (Minn. App. 2022). *Bailey* is neither binding nor persuasive authority. See Minn. R. Civ. App. P. 136.01, subd. 1(c). In *Bailey*, we concluded that plea withdrawal was required because the defendant’s use of hedging language—including the terms “possibility” and “chance”—did not constitute “an unqualified affirmative response to the question of whether a jury would have sufficient evidence to find him guilty.” 2022 WL 433243, at *3. In contrast, Joseph expressed unqualified agreement that the evidence here is sufficient to find him guilty.

⁴ A *Norgaard* plea occurs when a defendant pleads guilty despite claiming a loss of memory regarding the circumstances of the offense. *Williams*, 760 N.W.2d at 12; see also *State ex rel. Norgaard v. Tahash*, 110 N.W.2d 867, 872 (Minn. 1961).

they cannot remember the events at issue—must acknowledge the state has evidence sufficient to find them guilty. *Id.* Because Joseph acknowledged the “substantial likelihood” that the state’s evidence was sufficient to find him guilty—the same standard we endorsed in *Williams*—we conclude that Joseph’s *Alford* plea to fifth-degree drug possession was accurate.

Possession of a Pistol Without a Permit

Minn. Stat. § 624.714, subd. 1a (2020), makes it a crime for a person to “carr[y], hold[], or possess[] a pistol in a motor vehicle . . . or on or about the person’s clothes or the person . . . in a public place . . . without first having obtained a permit.” The term “public place” is statutorily defined as:

[P]roperty owned, leased, or controlled by a governmental unit and private property that is regularly and frequently open to or made available for use by the public in sufficient numbers to give clear notice of the property’s current dedication to public use but does not include: a person’s dwelling house or premises, the place of business owned or managed by the person, or land possessed by the person; a gun show, gun shop, or hunting or target shooting facility; or the woods, fields, or waters of this state where the person is present lawfully for the purpose of hunting or target shooting or other lawful activity involving firearms.

Minn. Stat. § 624.7181, subd. 1(c) (2020). In *State v. Bee*, our supreme court held that this definition includes the interior of a vehicle geographically located in a “public place.” 17 N.W.3d 150, 153-55 (Minn. 2025).

Joseph contends that his guilty plea was inaccurate because neither the state nor the court elicited the fact that he was in a public place at the time officers found him with a pistol. We disagree. At the plea hearing, Joseph agreed under oath that (1) he had traveled

to a “local motel” in International Falls; (2) police responded to that motel based on a report related to his conduct; (3) police made contact with him in the “vehicle [in which he had] traveled” to International Falls; and (4) at the time police made contact, he was sitting in the passenger side of the vehicle with a pistol in his possession. This record supports that Joseph’s vehicle was in a motel parking lot when police encountered him and discovered the pistol. And because Joseph offers no argument to the contrary, we conclude that the district court reasonably inferred that the motel parking lot is a “public place.” *See Nelson v. State*, 880 N.W.2d 852, 861 (Minn. 2016) (stating that before accepting a guilty plea, the district court must “make certain that facts exist from which the defendant’s guilt of the crime charged can be *reasonably inferred*” (emphasis added) (quotation omitted)). Joseph’s guilty plea to possession of a pistol without a permit was accurate.

B. Joseph’s pleas were intelligent.

An intelligent guilty plea demonstrates a “knowing and intelligent choice among the alternative courses of action available” to the defendant. *Dikken v. State*, 896 N.W.2d 873, 877 (Minn. 2017) (quotation omitted). The intelligence requirement ensures that a defendant “understands the charges against him, the rights he is waiving, and the consequences of his plea.” *Raleigh*, 778 N.W.2d at 96.

Joseph argues that his guilty pleas were unintelligent because he was acting on “bad legal advice” from the district court that he had “waived his ability to assert a violation of his speedy trial rights.” The record defeats this assertion.

At no point did the district court inform Joseph that he had waived or forfeited his speedy-trial right. Although there was some on-record discussion between the court and

defense counsel about the impact Joseph’s failure to appear at his first pretrial hearing might have on his speedy-trial demand, Joseph was not present for that conversation. And when the district court next communicated with Joseph, approximately six months later, it did not tell him—as Joseph alleges—that he had “forfeited []his demand” for a speedy trial. Rather, the court explained that his nonappearance made it such that his speedy trial could not occur as scheduled, to which Joseph responded that he understood. Finally, at the guilty-plea hearing the district court asked Joseph:

And you also understand that as part of the proceedings in this case that *if you thought that there were any violations of your rights . . .* you could ask for a pretrial hearing to challenge those items in front of the court. But by going forward here today, we would be waiving that and you wouldn’t be having any hearing like that either.

(Emphasis added.) Joseph responded, “Yes, I understand.”

Because the record does not support Joseph’s contention that the district court gave him “erroneous [legal] advice” and because the district court affirmatively ensured that Joseph was cognizant of the rights he was waiving by pleading guilty, we conclude that Joseph’s pleas are intelligent.

In sum, Joseph has failed to demonstrate that his pleas were inaccurate or unintelligent and he is not entitled to withdraw them based on manifest injustice. *Lussier v. State*, 821 N.W.2d 581, 588 (Minn. 2012) (stating the burden is on the defendant to demonstrate that their plea was invalid).

II. The district court did not abuse its discretion by denying plea withdrawal under the fair-and-just standard.

At any time before sentencing, a district court may permit a defendant to withdraw a guilty plea if it is “fair and just to do so.” Minn. R. Crim. P. 15.05, subd. 2. Under this standard, a district court considers: (1) a defendant’s reasons for withdrawal, and (2) the prejudice withdrawal would cause the state given its reliance on the plea. *Raleigh*, 778 N.W.2d at 97. The defendant bears the burden of proving that a fair-and-just reason for withdrawal exists. *State v. Lopez*, 794 N.W.2d 379, 382 (Minn. App. 2011). We review a district court’s application of the fair-and-just standard for an abuse of discretion. *Id.*

Joseph argues that the district court abused its discretion by denying his presentence motion for withdrawal on the basis that there was no violation of his right to a speedy trial. We are not convinced for two reasons.

First, Joseph provides no legal authority for the proposition that a speedy-trial violation renders it fair and just for a defendant to withdraw their guilty plea. Rather, Minnesota caselaw instructs that, generally, a guilty plea waives all nonjurisdictional defects, including any alleged speedy-trial violations. *State v. Ford*, 397 N.W.2d 875, 878 (Minn. 1986); *see State v. Smith*, 749 N.W.2d 88, 97-98 (Minn. App. 2008). Applying this principle, we conclude that Joseph waived his speedy-trial argument upon entering his guilty pleas.

Second, even on its merits, Joseph’s argument fails. Whether a criminal defendant was deprived of their constitutional right to a speedy trial is assessed based on: (1) the length of delay, (2) the reason for the delay, (3) the defendant’s assertion of their right, and

(4) any prejudice to the defendant. *State v. Mikell*, 960 N.W.2d 230, 245 (Minn. 2021). These factors are balanced against the case-specific circumstances to determine whether the delay “endanger[ed] the values that the right to a speedy trial protects.” *State v. Paige*, 977 N.W.2d 829, 837 (Minn. 2022) (quotation omitted).

We recognize there was a lengthy delay between Joseph’s January 2022 speedy-trial demand and his October 2023 guilty pleas. But the record reflects that the primary cause of this delay was Joseph intentionally absconding custody and avoiding his court appearances. Indeed, Joseph concedes that most of the delay in his case (443 out of 646 days) is attributable to him “without good cause.” And while Joseph asserted his right to a speedy trial at his initial appearance, he did not once reiterate his request thereafter. Finally, no prejudice, such as oppressive pretrial incarceration related to these charges or heightened anxiety, is apparent from the delay. *See State v. Jones*, 977 N.W.2d 177, 192 (Minn. 2022) (listing key interests in assessing prejudice). And we are not persuaded by Joseph’s contention that the delay prejudiced his defense because witnesses may be subject to time-related memory loss. A witness’s memory loss would have an equal—if not greater—impact on the state, which bears “the burden of proving the charged crime beyond a reasonable doubt.” *State v. Enyeart*, 676 N.W.2d 311, 325 (Minn. App. 2004), *rev. denied* (Minn. May 18, 2004). On this record, we discern no speedy-trial violation.

In sum, Joseph failed to demonstrate the existence of a fair and just reason for plea withdrawal. We see no abuse of discretion in the district court’s denial of his presentence motion to withdraw his guilty pleas.

Affirmed.