

*This opinion is nonprecedential except as provided by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
A24-1696**

State of Minnesota,
Appellant,

vs.

Boyd Jerome Morson, II,
Respondent.

**Filed July 14, 2025
Reversed and remanded
Bond, Judge**

Anoka County District Court
File No. 02-CR-22-6520

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

Brad Johnson, Anoka County Attorney, Kelsey R. Kelley, Assistant County Attorney,
Anoka, Minnesota (for appellant)

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

Considered and decided by Slieter, Presiding Judge; Ede, Judge; and Bond, Judge.

NONPRECEDENTIAL OPINION

BOND, Judge

Respondent pleaded guilty to possession of a firearm by a prohibited person in violation of Minn. Stat. § 624.713, subd. 1(2) (2020), and, pursuant to the terms of his plea agreement, requested a downward dispositional departure. The district court granted

respondent's request and stayed execution of respondent's 60-month prison term. In this state sentencing appeal, appellant argues that the district court unlawfully sentenced respondent without regard to the mandatory-minimum prison term required by Minn. Stat. § 609.11, subds. 5(b), 8(b) (2020). Respondent agrees that, because he was previously convicted of possession of a firearm by an ineligible person, the district court lacked authority to grant a departure. Respondent argues that he should be permitted to withdraw his guilty plea. Because the district court abused its discretion by sentencing respondent without regard to the statutory mandatory minimum, we reverse and remand. On remand, respondent may, if he chooses, move to withdraw his guilty plea.

FACTS

In November 2022, appellant State of Minnesota charged respondent Boyd Jerome Morson II with one count of unlawful firearm possession in violation of Minn. Stat. § 624.713, subd. 1(2). Morson has a 2017 conviction for unlawful firearm possession.¹ Because of this prior conviction, the 2022 firearm offense was subject to a 60-month mandatory minimum prison term. Minn. Stat. § 609.11, subds. 5(b) (stating that a “defendant convicted of violating section . . . 624.713, subdivision 1, clause (2), shall be committed to the commissioner of corrections for not less than five years”), 8(b) (stating that “[t]he court may not, on its own motion or the prosecutor’s motion, sentence a defendant without regard to the mandatory minimum sentences established by this section if the defendant previously has been convicted of” certain offenses).

¹ In 2017, Morson was convicted in Hennepin County of possession of a firearm by an ineligible person in violation of Minn. Stat. § 624.713, subd. 1(2) (2016).

In March 2024, Morson filed a signed guilty plea petition.² The plea petition provided that, in exchange for pleading guilty to the charged offense, Morson would request a downward dispositional departure. The district court deferred acceptance of the plea until sentencing. Before sentencing, Morson moved for a downward dispositional departure based on his particular amenability to probation.³ The state objected to a dispositional departure because the offense was subject to the statutory mandatory-minimum sentence under Minn. Stat. § 609.11, subd. 8(b).

At the sentencing hearing, the district court determined that it lacked authority to grant a dispositional departure because Morson's prior firearm conviction triggered application of the statutory mandatory-minimum sentence. Morson's attorney requested that Morson be allowed to withdraw his guilty plea because counsel had incorrectly advised Morson that Morson would be able to argue for a downward dispositional departure. The district court granted Morson's request to withdraw his guilty plea and scheduled a pretrial hearing for October 15, 2024.

At the October 15 hearing, which was held before a different district court judge than the judge who presided over the previous proceedings in the case, Morson again

² The record reflects that Morson also filed a signed plea petition in January 2024, which provided that Morson would plead guilty to the charged offense and argue for a stay of adjudication and probationary terms.

³ Morson also requested a departure based on Minn. Stat. § 609.1056, subd. 4 (2020), which applies to military veterans, and other reasons unrelated to his military service. Morson later withdrew these departure bases and, at sentencing, requested a downward dispositional departure based solely on the ground that he was particularly amenable to probation.

tendered a guilty plea to the charged offense. Morson's counsel characterized the agreement as "a straight plea where [Morson] would be pleading guilty to the sole count, understanding that it is a 60-month commit. The defense will be seeking a dispositional departure based on Mr. Morson's amenability to probation." The district court asked whether the state wanted to put anything on the record. The state declined.

As relevant here, the plea petition stated:

20. I have been told by my attorney and understand that:

a. My attorney discussed this case with one of the prosecuting attorneys, and my attorney and the prosecuting attorney agree that if I entered a plea of guilty, the prosecutor will do the following (provide the substance of the agreement): *PG CT 1, 48 days credit, defense to request downward dispositional departure based on demonstrated amenability to probation.*

(Emphasis added.) Under questioning from defense counsel, Morson confirmed that his understanding of the agreement was that "it's a presumptive commit to prison" but that he would be asking the district court for a departure. The plea petition did not include any reference to a mandatory minimum. After Morson provided the factual basis for the offense, the district court accepted his guilty plea:

COURT: Mr. Morson, you are charged with possession of a firearm or ammunition by an ineligible person, and that's a felony.

MORSON: Yes, sir.

COURT: That's in violation of Minnesota Statute 624.713.1(2), which provide for a maximum penalty of up to 15 years in prison, maximum fine of up to \$30,000, or both. Mr. Morson, to the charge of possession of firearms or ammunition by an ineligible person, occurring on or about November 2, 2021, in the County of Anoka, State of

Minnesota, how do you plead this morning, guilty or not guilty?

MORSON: Guilty.

COURT: The Court is going to accept that plea of guilty. Now we'll turn to sentencing disposition.

There was no discussion of the statutory mandatory-minimum sentence before the district court accepted Morson's guilty plea. As to disposition, Morson requested a downward dispositional departure, arguing that he was particularly amenable to probation. The state argued that Morson was not entitled to a probationary sentence because he had a prior firearm possession conviction; the state also expressed a "concern" about Morson's amenability to probation. The district court granted Morson's departure request, finding that he was particularly amenable to probation. The district court stayed execution of the 60-month prison sentence and placed Morson on supervised probation for five years.

The state appeals.

DECISION

The state argues that the district court abused its discretion when it granted Morson's request for a downward dispositional departure because it disregarded the statutory mandatory-minimum sentence. Morson agrees that the district court lacked authority to stay execution of his 60-month sentence. We agree as well.

Appellate courts generally review a district court's sentencing decision for an abuse of discretion. *State v. Soto*, 855 N.W.2d 303, 307-08 (Minn. 2018). "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. Fortner*, 989 N.W.2d 368, 374 (Minn. App. 2023) (quotation omitted).

Morson pleaded guilty to possession of a firearm by a prohibited person, in violation of Minn. Stat. § 624.713, subd. 1(2). This offense is subject to a five-year mandatory-minimum prison sentence. *See* Minn. Stat. § 609.11, subd. 5(b) (stating that a “defendant convicted of violating . . . section 624.713, subdivision 1, clause 2, shall be committed to the commissioner of corrections for not less than five years”). If a defendant was previously convicted of an offense listed in Minn. Stat. § 609.11, subd. 9 (2020), in which the defendant used or possessed a firearm, “[t]he court may not, on its own motion or the prosecutor’s motion, sentence a defendant without regard to the mandatory minimum sentences established by this section.” *Id.*, subd. 8(b).

In 2017, Morson was convicted of possession of a firearm by an ineligible person, in violation of Minn. Stat. § 624.713, subd. 1(2), which is one of the offenses listed in Minn. Stat. § 609.11, subd. 9. Because Morson had previously been convicted of a subdivision 9 offense in which he had used or possessed a firearm, the provisions of Minn. Stat. § 609.11, subd. 8(b), apply. Therefore, the district court had no authority to stay execution of the sentence and was required to sentence Morson to the statutory mandatory-minimum sentence. Minn. Stat. § 609.11, subs. 5(b), 8(b); *State v. Crawford*, 13 N.W.3d 693, 698 (Minn. App. 2024) (explaining that “[m]andatory-minimum sentencing statutes prohibit a stay of execution of sentence and probation” (quotation omitted)); *State v. Sheppard*, 587 N.W.2d 53, 56 (Minn. App. 1998) (holding that the district court has “no

discretion to depart from minimum sentences under those circumstances described in section 609.11, subd. 8(b)”), *rev. denied* (Minn. Jan. 27, 1999).

Having determined that the district court abused its discretion when it stayed execution of Morson’s mandatory-minimum sentence, we turn to the question of remedy. The state argues that we should remand for “resentencing that complies with Minnesota’s mandatory-minimum sentencing laws.” Morson argues that “[t]he proper remedy is to remand so Morson can withdraw his unintelligent guilty plea.”

“At any time the court 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 occurs if a guilty plea is 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.*

“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). The intelligence requirement concerns the direct consequences of a plea and conviction. *Raleigh*, 778 N.W.2d at 96. “[A] direct consequence is one that has a definite, immediate and automatic effect on the range of a defendant’s punishment.” *Kaiser v. State*, 641 N.W.2d 900, 904 n.6 (Minn. 2002). The district court has an obligation to ensure that defense counsel has told the defendant, and the defendant understands, that “[i]f a minimum sentence is required by statute, the judge may impose a sentence of imprisonment

not less than the amount specified in the statute.” *Crawford*, 13 N.W.3d at 697 (alteration in original) (citing Minn. R. Crim. P. 15.01, subd. 1(6)(j)).

In this case, although defense counsel referenced the offense being a “commit” to prison, the plea petition and the record from the guilty plea hearing indicate that Morson understood that he could request a downward dispositional departure. Additionally, the record available to this court reflects that, at the time Morson tendered his guilty plea, neither the district court nor the lawyers informed him that the offense he was pleading guilty to carried a mandatory-minimum sentence of 60 months in prison. Of particular concern, the state voiced its objection to the district court’s authority to depart only *after* the district court had accepted Morson’s guilty plea. Nonetheless, this is a state sentencing appeal and the question of whether Morson’s guilty plea was unintelligent because he did not understand that a direct consequence of his plea was that he would be subject to the mandatory-minimum term of imprisonment required by Minn. Stat. § 609.11, subd. 8(b), has not been presented to the district court. We therefore reverse and remand for resentencing. On remand, Morson may, if he chooses, move the district court to withdraw his guilty plea.

Reversed and remanded.