

*This opinion is nonprecedential except as provided by  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**

**A25-0110**

**A25-0113**

State of Minnesota,  
Respondent,

vs.

Dustin Timothy Cloud,  
Appellant.

**Filed January 20, 2026**

**Affirmed**

**Johnson, Judge**

Itasca County District Court  
File Nos. 31-CR-24-542, 31-CR-24-734

Keith Ellison, Attorney General, Lydia Villalva Lijó, Assistant Attorney General, St. Paul, Minnesota; and

Jacob Fauchald, Itasca County Attorney, Grand Rapids, Minnesota (for respondent)

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

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

**NONPRECEDENTIAL OPINION**

**JOHNSON, Judge**

Dustin Timothy Cloud pleaded guilty to five offenses pursuant to a plea agreement that called for probationary sentences. Cloud elected to withdraw his guilty pleas after the district court rejected the plea agreement. Cloud later was convicted of four offenses after

a court trial. We conclude that the district court did not err by rejecting the plea agreement and that entering convictions after the court trial did not violate Cloud's rights under the Double Jeopardy Clause. Therefore, we affirm.

## **FACTS**

These consolidated appeals arise out of two district court cases that proceeded together in the district court.

In early March 2024, the state charged Cloud with four offenses: (1) first-degree driving while impaired, in violation of Minn. Stat. § 169A.20, subd. 1(2) (Supp. 2023); (2) third-degree controlled substance crime, in violation of Minn. Stat. § 152.023, subd. 2(a)(1) (Supp. 2023); (3) fleeing a peace officer in a motor vehicle, in violation of Minn. Stat. § 609.487, subd. 3 (2022); and (4) driving after cancellation, in violation of Minn. Stat. § 171.24, subd. 5 (2022). The state alleged in the complaint that, three days earlier, a sheriff's deputy attempted to stop Cloud's vehicle after observing him drive faster than the speed limit and fail to stop for a stop sign. The state further alleged that Cloud led officers on a 32-mile high-speed chase and that, after officers eventually stopped Cloud's vehicle, they found multiple types of controlled substances and drug paraphernalia in the vehicle.

In late March 2024, the state separately charged Cloud with motor vehicle theft, in violation of Minn. Stat. § 609.52, subd. 2(a)(1) (Supp. 2023). The state alleged in the complaint that, in October 2023, Cloud took a vehicle from a former foster parent without permission.

In May 2024, the state and Cloud entered into a plea agreement to resolve all charges in both cases. The parties agreed that Cloud would plead guilty to all five charges and that the district court would impose presumptive sentences but stay execution of the sentences and place Cloud on probation for five years. At the plea hearing, the district court asked about the reasons for the dispositional departures, and Cloud’s attorney answered by stating simply, “acceptance of responsibility.” After Cloud was examined, the district court found that there was a sufficient factual basis for the guilty pleas and that “the pleas were entered into freely, voluntarily, knowingly, intelligently, and accurately.” The district court scheduled a sentencing hearing, directed Cloud to comply with a presentence investigation (PSI), and adjourned the hearing.

At a hearing in July 2024 on the date for which sentencing had been scheduled, the district court stated that it had reviewed the PSI report and other records and had determined that there were no substantial and compelling reasons to justify departures from the presumptive sentences specified by the sentencing guidelines. The district court stated that, as a consequence, Cloud could “vacate his pleas of guilty if he wishes.” After the district court gave Cloud an opportunity to discuss the matter with his attorney, he decided to withdraw his guilty pleas.

At a subsequent pre-trial hearing, Cloud waived his right to a trial by jury. Both cases were tried to the court on one day in August 2024. In September 2024, the district court filed two orders—one in each case—with findings of fact and conclusions of law. The district court found Cloud not guilty of one charge in the first case (driving after

cancellation) but found him guilty of all other charges. In October 2024, the district court imposed concurrent sentences of 72, 24, 22, and 30 months. Cloud appeals.

## **DECISION**

### **I. Double Jeopardy**

Cloud's primary argument is that the district court violated his rights under the Double Jeopardy Clause. He contends that the district court accepted his guilty pleas and convicted him of five offenses at the plea hearing and then convicted him of four of those offenses for a second time after the court trial.

The Fifth Amendment to the United States Constitution, which applies to the states through the Fourteenth Amendment, provides that no person shall be "subject for the same offence to be twice put in jeopardy of life or limb." U.S. Const. amend. V; *see also* U.S. Const. amend. XIV. The Minnesota Constitution likewise provides that "no person shall be put twice in jeopardy of punishment for the same offense." Minn. Const. art. I, § 7. The supreme court has interpreted Minnesota's double jeopardy clause to be "coextensive with its federal counterpart." *Rew v. Bergstrom*, 845 N.W.2d 764, 796 (Minn. 2014). The Double Jeopardy Clause protects a defendant against "a second prosecution for the same offense after acquittal" as well as "a second prosecution for the same offense after conviction." *Hankerson v. State*, 723 N.W.2d 232, 236-37 (Minn. 2006). Whether re-prosecution is barred by the Double Jeopardy Clause is a question of law that is subject to a *de novo* standard of review. *State v. Chavarria-Cruz*, 839 N.W.2d 515, 520 (Minn. 2013).

The state argues that the plain-error test applies because Cloud did not assert a double-jeopardy objection in the district court. Indeed, Cloud did not object on double-

jeopardy grounds when the district court rejected the plea agreement at the July 2024 hearing, at a subsequent pre-trial hearing, or at any point during the court trial. Because the supreme court has not applied the plain-error test to a forfeited double-jeopardy argument, it is unclear whether the issue should be reviewed for plain error. *See State v. Michaud*, 276 N.W.2d 73, 77 (Minn. 1979) (concluding that double-jeopardy argument raised for first time on appeal would not be considered because it was “waived”); *cf. United States v. Robertson*, 606 F.3d 943, 949-50 (8th Cir. 2010) (applying federal plain-error rule to forfeited double-jeopardy argument); *United States v. Lewis*, 492 F.3d 1219, 1220-22 (11th Cir. 2007) (*en banc*) (same). But we need not dwell on the issue because the state urges us to review for plain error, and Cloud agrees that, if this court determines that he failed to assert a proper objection, the plain-error rule should apply. Accordingly, for purposes of this nonprecedential opinion, we will apply the plain-error test to Cloud’s double-jeopardy argument. Under that test, an appellant is entitled to relief only if (1) there is an error, (2) the error is plain, and (3) the error affects the appellant’s substantial rights. *State v. Griller*, 583 N.W.2d 736, 740 (Minn. 1998). If these three requirements are satisfied, appellate courts will provide appellate relief only if necessary to ensure the “fairness, integrity, or public reputation of judicial proceedings.” *Pulczynski v. State*, 972 N.W.2d 347, 356 (Minn. 2022).

Cloud’s primary argument is based on the premise that the district court accepted his guilty pleas at the plea hearing and convicted him of all five charged offenses at that time. If a defendant has pleaded guilty, the person has a “conviction” only if the plea has been “accepted and recorded by the court.” Minn. Stat. § 609.02, subd. 5 (2024). The first

requirement of a conviction by guilty plea—acceptance—is governed by rule 15.04 of the rules of criminal procedure. *State v. Jeffries*, 806 N.W.2d 56, 61-62 (Minn. 2011); *State v. Thompson*, 754 N.W.2d 352, 356 (Minn. 2008). That rule provides, in relevant part:

When a plea is entered and the defendant questioned, the district court judge must reject or accept the plea of guilty on the terms of the plea agreement. The court may postpone its acceptance or rejection until it has received the results of a pre-sentence investigation. If the court rejects the plea agreement, it must advise the parties in open court and then call upon the defendant to either affirm or withdraw the plea.

Minn. R. Crim. P. 15.04, subd. 3(2). Thus, if a defendant enters a valid guilty plea at a plea hearing, a district court “may order any of three separate dispositions: accept the plea on the terms of the plea agreement, reject the plea, or defer its decision to accept or reject the plea pending completion of a presentence investigation.” *Jeffries*, 806 N.W.2d at 62.

Cloud relies on *Jeffries*, in which the district court stated at a plea hearing: “I’ll accept your plea of guilty and find you guilty . . . . So you are convicted of that.” *Id.* at 59. After the PSI report was prepared, the district court acknowledged that it had accepted the defendant’s guilty plea but stated that new information about the defendant’s criminal history had caused the district court to reject the plea agreement. *Id.* at 59-60. The defendant later pleaded guilty a second time pursuant to a different plea agreement. *Id.* at 60. The supreme court stated that, at the time of the first guilty plea, “the district court . . . used clear and unambiguous language of acceptance of the plea of guilty, and . . . did so unconditionally.” *Id.* at 63. Thus, the supreme court concluded that the defendant was convicted of the offense at the time of the guilty plea and, thus, was convicted twice of the same offense in violation of the Double Jeopardy Clause. *Id.* at 64.

In contrast, in *Thompson*, the district court stated at the plea hearing that it would “reserve a decision as to the appropriateness of the plea agreement pending the results of the [PSI] and the sex offender evaluation.” 754 N.W.2d at 356 (alteration in original). Given that record, the supreme court stated that the district court “did not accept the guilty plea on the terms of the plea agreement” but, rather, “postponed acceptance of Thompson’s plea.” *Id.* Thus, the supreme court concluded that the defendant was *not* convicted of the offense at the time of the plea hearing but, rather, was convicted at the sentencing hearing, when the district court accepted the plea agreement and the defendant’s plea. *Id.*

At the plea hearing in this case, the district court did not expressly accept Cloud’s guilty plea. The district court also did not expressly reject Cloud’s guilty plea. After Cloud had been fully examined, the district court found there was a sufficient factual basis for the guilty pleas and directed the discussion to the issue of scheduling a sentencing hearing. Because the district court did not either expressly accept or expressly reject Cloud’s guilty pleas, the only reasonable interpretation of the record is that the district court postponed its decision about acceptance or rejection. Without an acceptance of Cloud’s guilty pleas, there could be no convictions on the five offenses at the time of the plea hearing. *See* Minn. Stat. § 609.02, subd. 5; *Thompson*, 754 N.W.2d at 356.

Thus, because the district court did not accept Cloud’s guilty pleas at the May 2024 plea hearing, the district court did not violate his rights under the Double Jeopardy Clause by convicting him of four offenses after the August 2024 court trial.

## II. Rejection of Plea Agreement

Cloud also argues, in the alternative, that even if the district court initially postponed its decision about acceptance or rejection of his guilty pleas at the May 2024 plea hearing, the district court erred by rejecting the plea agreement at the July 2024 hearing.

Cloud cites a rule of criminal procedure providing that a district court “may accept a plea agreement of the parties when the interest of justice would be served.” Minn. R. Crim. P. 15.04, subd. 3(3). The rule provides a non-exhaustive list of six factors that may be considered. *Id.* But the district court did not reject the plea agreement based on this rule or the factors stated in the rule; rather, the district court rejected the plea agreement on the ground that acceptance of the plea agreement would be contrary to the sentencing guidelines because there are no substantial and compelling reasons to justify departures from the presumptive sentences. As a matter of law, a district court may not depart from a presumptive sentence based solely on a plea agreement if there are no substantial and compelling reasons to justify the departure. *State v. Misquadace*, 644 N.W.2d 65, 68-72 (Minn. 2002). Thus, the district court did not misapply the factors in rule 15.04, subdivision 3(3).

Cloud also challenges the district court’s determination that there are no substantial and compelling reasons to justify departures from the presumptive sentences. Specifically, Cloud contends that he is particularly amenable to probation. If true, that would be a substantial and compelling reason for a downward dispositional departure. *See* Minn. Sent’g Guidelines 2.D.3.a(7) (Supp. 2023); *State v. Soto*, 855 N.W.2d 303, 308-09 (Minn. 2014). Cloud asserts that he is particularly amenable to probation because he accepted

responsibility, cooperated with the judicial process, submitted to a chemical-dependency assessment, and took steps to arrange for his admission to an accelerated corrections program. In response, the state notes Cloud's criminal history, the fact that he drove without a valid driver's license in the March 2024 incident, and—especially—the fact that he was on probation at the times of both the October 2023 incident and the March 2024 incident. The facts identified by the state demonstrate that Cloud is not particularly amenable to probation. *See Soto*, 855 N.W.2d at 311-12; *State v. Walker*, 913 N.W.2d 463, 468-69 (Minn. App. 2018).

Thus, the district court did not err by rejecting the plea agreement at the July 2024 hearing.

**Affirmed.**