

*This opinion is nonprecedential except as provided by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
A25-1482**

Marshall Adrian Pack, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed May 11, 2026
Affirmed
Smith, Tracy M., Judge**

Stearns County District Court
File No. 73-CR-23-2404

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

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

Janelle P. Kendall, Stearns County Attorney, Michael J. Lieberg, Chief Deputy County Attorney, St. Cloud, Minnesota (for respondent)

Considered and decided by Smith, Tracy M., Presiding Judge; Wheelock, Judge;
and Smith, John, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

In this appeal from an order denying postconviction relief, appellant Marshall Adrian Pack argues that the district court abused its discretion by denying his request to withdraw his guilty plea to first-degree controlled-substance sale because the plea was unintelligent and involuntary. We affirm.

FACTS

Respondent State of Minnesota charged Pack with first-degree sale of ten or more grams of heroin after he was alleged to have sold heroin to a confidential informant (CI) on two occasions. Pursuant to a plea agreement, Pack agreed to plead guilty to first-degree controlled substance sale in the present case,¹ as well as to two violations of a domestic-abuse no-contact order (DANCO) in two other files.² In exchange, the state agreed to dismiss charges pending against Pack in three other files, for offenses including first-degree controlled-substance sale and domestic assault.³ The parties also agreed to a 115-month prison sentence for the controlled-substance offense and concurrent 30-month prison sentences for the two DANCO offenses.

At a plea hearing, Pack and his counsel discussed Pack's understanding of the plea agreement:

¹ District court file number 73-CR-23-2404.

² District court file numbers 73-CR-22-2682 and 73-CR-23-2406.

³ District court file numbers 73-CR-21-6874, 73-CR-23-2402, and 73-CR-23-2407.

COUNSEL: And you do understand that you don't have to do any of this, that we are set for trial, and we were set for trial a couple weeks ago. The victim is on board at this point and I believe she's there right now as well, so you don't have to do this. You can go to this trial and take our chances, but we talked about this quite a bit, not only with the new charges but before they even came up, correct?

PACK: Yes, sir.

COUNSEL: And we felt that it's in your best interest really to probably move on and do some damage control, take the pleas you have to, and move on with your life; that's correct, right?

PACK: Yes, sir.

COUNSEL: But you made the decision after us talking and thinking that your exposure is quite a bit significant, you don't want to put the State, victim, or any other parties to any unnecessary risk of time and court time, just take responsibility and move on, correct?

PACK: Yes, sir.

....

COUNSEL: Okay. And we've been working together on your case for quite some time, even before the new ones came up, correct?

PACK: Yes, sir.

COUNSEL: Okay. And you do understand that I don't think I ever did file on your new cases, but I've looked at the discovery, I've talked to my paralegal about them, I've talked to you about them, and we feel they're fairly strong. You're confident that we looked at them enough, I just want to make sure.

PACK: Yes, sir.

The district court then separately addressed the charges in each of the three files in which Pack was pleading guilty—the controlled-substance offense at issue here and the two DANCO violations. Through questioning by his counsel, Pack described the factual basis for each of his pleas.

The district court accepted Pack's pleas, finding that he knowingly, voluntarily, and intelligently pleaded guilty to each of the three charges and that each plea was supported by a sufficient factual basis. The district court sentenced Pack in accordance with the plea agreement.

Pack filed a petition for postconviction relief, arguing that he should be permitted to withdraw his guilty plea to first-degree controlled-substance sale because, among other things, his plea was not voluntary or intelligent because his attorney did not inform him before the hearing that the plea agreement included guilty pleas to more than one DANCO violation and because he and his attorney did not discuss which controlled-substance charge he would plead guilty to. The district court found that Pack's plea was both voluntary and intelligent and denied Pack's petition.

This appeal follows.

DECISION

Pack argues that the district court abused its discretion by denying his postconviction petition to withdraw his guilty plea to first-degree controlled-substance sale because his plea was involuntary due to ineffective assistance of counsel and was unintelligent because he was not fully informed of the charges involved in the plea agreement until the plea hearing. The arguments are unpersuasive.

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). And a district court's decision to allow a defendant to withdraw a guilty plea is also reviewed for an abuse of discretion. *State v. Ellis-Strong*, 899 N.W.2d 531, 535 (Minn. App. 2017). A district

court abuses its discretion if it “exercised its discretion in an arbitrary or capricious manner, based its ruling on an erroneous view of the law, or made clearly erroneous factual findings.” *Rhodes v. State*, 875 N.W.2d 779, 786 (Minn. 2016) (quotation omitted). The question of whether a guilty plea is valid is a question of law that appellate courts review de novo. *State v. Raleigh*, 778 N.W.2d 90, 94 (Minn. 2010).

Minnesota Rule of Criminal Procedure 15.05, subdivision 1, provides that “[a]t 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.” “A manifest injustice exists if a guilty plea is not valid.” *Raleigh*, 778 N.W.2d at 94. “To be constitutionally valid, a guilty plea must be accurate, voluntary, and intelligent.” *Id.* “A defendant bears the burden of showing his plea was invalid.” *Id.*

Voluntary

Pack argues that his guilty plea to controlled-substance sale was involuntary due to the ineffective assistance of his counsel. Specifically, Pack argues that his attorney did not inform him that he would be pleading guilty to more than one DANCO violation and did not reasonably consult with him about which controlled-substance offense to plead guilty to.

“To determine whether a plea is voluntary, the court examines what the parties reasonably understood to be the terms of the plea agreement.” *Id.* at 96. “Whether a plea is voluntary is determined by considering all relevant circumstances.” *Id.* “[A] plea is involuntary when it is induced by coercive or deceptive action.” *Dikken v. State*, 896 N.W.2d 873, 877 (Minn. 2017). “When an accused is represented by counsel, the

voluntariness of the plea depends on whether counsel's advice was within the range of competence demanded of attorneys in criminal cases." *State v. Ecker*, 524 N.W.2d 712, 718 (Minn. 1994) (quotations omitted).

"Appellate courts must apply a two-part standard to claims of ineffective assistance of counsel arising out of the plea process." *Id.*; see *Strickland v. Washington*, 466 U.S. 668, 687 (1984). First, "[t]he defendant must . . . show that counsel's performance was deficient" by showing "that counsel's representation fell below an objective standard of reasonableness." *Ecker*, 524 N.W.2d at 718 (quotation omitted). Second, "the defendant must show that [counsel's] deficient performance prejudiced the defense . . . by showing there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Id.* (quotation and citation omitted).

Pack argues that his attorney's failure to discuss the charges involved in the plea agreement constituted a failure to consult with him and keep him informed in violation of Minnesota Rules of Professional Conduct 1.4(a)(2) and 1.4(a)(3). A comment to rule 1.4 references plea agreements in the context of an attorney's obligation to keep clients reasonably informed about the status of the matter: "[A] lawyer who receives from opposing counsel . . . a proffered plea bargain in a criminal case must promptly inform the client of its substance" Minn. R. Prof. Conduct 1.4 cmt. 2. If Pack's counsel indeed did not discuss the charges involved in the plea agreement with him, such conduct may fall below an objective standard of reasonableness under the first *Strickland* prong because the charges to which a defendant will be pleading guilty are key to the "status of the matter" and, thus, to the substance of the plea itself.

DANCO Violations

The district court noted that Pack was informed at multiple points throughout the plea hearing that he was pleading guilty to two DANCO violations. At the opening of the hearing, the prosecutor stated, “Our agreement says that the defendant would plead guilty to a DANCO violation in Court File 73-CR-22-2682, as well as a DANCO violation in 73-CR-23-2406, as well as a controlled substance in the first degree.” Shortly after, the district court asked Pack whether he “heard the agreement as the prosecutor has explained it,” whether he fully understood the agreement, and if he had enough time to talk with his attorney about the case and the plea agreement. Pack responded affirmatively to each question. The district court went separately through each of the three charges with Pack, including the file numbers and the date on and the county in which the charge offense occurred. Pack affirmatively pleaded guilty to each of the three charges separately. At the end of the hearing, the district court asked Pack if he had any questions. Pack did not ask any questions related to the two DANCO charges or which charges he pleaded guilty to.

We are not persuaded that Pack established the first *Strickland* prong with respect to the DANCO violations. At the plea hearing, Pack did not express surprise, ask for clarification, or ask any questions when prompted. And though such a response is not necessary to show that a plea was involuntary, Pack’s response to thorough questioning supports that he was adequately informed about the status of the matter. *See Nelson v. State*, 880 N.W.2d 852, 861 (Minn. 2016) (finding that a plea was voluntary where the defendant “[a]t no time . . . g[a]ve any indication whatsoever that his plea was involuntary”).

Pack alleges, though, that his attorney acknowledged in a phone call to him after the hearing that he did not inform Pack in advance of the plea hearing that he would be pleading to two DANCO violations and that this assertion “should not have been so easily discounted without granting Pack a hearing.” But Pack did not request an evidentiary hearing in his postconviction petition and does not request a remand for one now on appeal.⁴

In any event, even if Pack established the first *Strickland* prong with respect to the multiple DANCO violations, Pack does not make any argument that would satisfy the second *Strickland* prong. As the district court noted in its order denying postconviction relief:

[Pack] has failed to bring forward any evidence that the cases were not strong, or that had the attorney reviewed the discovery together with [Pack] that information would have been revealed that would meaningfully weaken the State’s cases. Even if [defense counsel’s] representation was deficient, [Pack] has failed to demonstrate that any deficiencies in this representation would have reasonably caused him to decline to enter a plea and proceed to trial.

Pack does not argue that he would not have pleaded guilty to, or would have insisted on going to trial on, the controlled-substance charge had he been informed about the pleas to the DANCO-violation before the plea hearing. He also does not allege any other fact that reasonably would have changed the outcome of the proceedings. We therefore see no error in the postconviction court’s rejection of this argument.

⁴ Pack’s postconviction petition stated that he “takes no position” on an evidentiary hearing and his appellate brief asks for reversal and remand with instructions to allow him to withdraw his guilty plea.

Controlled-Substance Offense

We turn to Pack's argument about the controlled-substance charge. Reviewing Pack's argument in the memorandum accompanying its order, the district court noted that the record suggested that Pack's counsel discussed his multiple controlled-substance charges with Pack and that they agreed the cases were "strong" but that "it appear[ed] counsel did not sit down to review the file contents with [Pack.]" The district court went on to conclude, however, that, even if Pack's counsel did not review the discovery in the files with him, Pack had not explained how further review would have affected his decision to plead guilty. The district court noted that all three of the charges carried the same "risks and consequences."

We need not determine whether Pack established that his counsel's performance was objectively unreasonable with respect to the controlled-substance charge because Pack's argument fails under the second *Strickland* prong. Pack does not explain how his attorney's failure to discuss which of the three controlled-substance charges to plead guilty to would have changed the outcome of his case. Pack does not allege that he would have gone to trial or not pleaded guilty if he and his attorney had discussed which particular controlled-substance offense was the subject of the plea. And indeed, it is unlikely that the outcome would have changed, given the fact that the charges and the penalties were apparently identical.⁵

⁵ The record contains only the complaint for first-degree controlled substance sale that Pack pleaded guilty to in this case (73-CR-23-2404). Given this record, it was not possible for us to verify respondent's and the district court's statements that the three controlled-

In sum, Pack failed to establish both *Strickland* prongs with respect to his arguments of ineffective assistance of counsel. His claim that his plea was not voluntary therefore fails.

Intelligent

Pack also argues that his plea was unintelligent because he was unaware that he was pleading to two DANCO violations.

“To be intelligent, a guilty plea must represent a knowing and intelligent choice among the alternative courses of action available.” *Dikken*, 896 N.W.2d at 877 (quotation omitted). “Whether a plea is intelligent depends on what the defendant knew at the time he entered the plea” and whether Pack “understood the charges against him, the rights he waived, and the consequences of the plea.” *Id.* (quotation omitted).

The relevant inquiry for this argument is what Pack knew at the time of the plea. *See id.* As explained above, at the time of the plea, Pack was seemingly aware that he was pleading guilty to two DANCO violations because this fact was mentioned three separate times during the plea hearing. The district court noted in its memorandum that Pack had “ample time and opportunities” during the plea hearing to say if he misunderstood any part of the plea agreement. Pack construes the district court’s statement as wrongly requiring that he seek a plea withdrawal during the plea hearing, arguing that “there is no requirement that Pack challenge the intelligence of his plea prior to sentencing.” But the district court’s memorandum does not mention the timing of plea withdrawal and instead references

substance charges and penalties were identical, but Pack makes no argument to the contrary.

whether Pack's plea was intelligent. As the state convincingly argues, the district court "used Pack's failure to raise any claims at the plea hearing and before sentencing as evidence that Pack was aware at the time of his plea that he was pleading to two DANCO violations and not just one." We see no error or abuse of discretion in drawing such an inference.

During the plea hearing, both Pack's attorney and the district court thoroughly discussed Pack's rights with him, including his rights to have separate trials in each case, to have a jury trial, to the presumption of innocence, to confront and cross-examine witnesses, to subpoena witnesses, to testify, and to remain silent. Pack's attorney followed up by asking him, "And you do understand that you don't have to do any of this, that we are set for trial, and we were set for trial a couple weeks ago. . . . [S]o you don't have to do this. You can go to this trial and take our chances." Pack responded that he understood and that he had no questions for his attorney. When prompted, Pack did not ask the judge any questions about the substance of the plea. The record supports the conclusion that Pack's plea was intelligent because he understood the charges against him, the rights he was waiving, and the consequences of his plea at the time of the plea.

In sum, the district court did not abuse its discretion by denying Pack's postconviction petition to withdraw his guilty plea to the controlled-substance charge because his plea was both voluntary and intelligent.

Affirmed.