STATE OF MINNESOTA
IN COURT OF APPEALS
A23-1626

State of Minnesota,
Respondent,

vs.

Kenny Lenard Peaches,
Appellant.

Filed September 3, 2024
Affirmed
Reyes, Judge

Ramsey County District Court
File No. 62-CR-23-3891

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)

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

Considered and decided by Reyes, Presiding Judge; Slieter, Judge; and Halbrooks, Judge.*

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

NONPRECEDENTIAL OPINION

REYES, Judge

Appellant challenges the constitutional validity of his guilty plea, arguing that he was compelled to enter an involuntary guilty plea because he had already received an executed prison sentence in his previous, unrelated cases. We affirm.

FACTS

In December 2022, the district court imposed a domestic-abuse no-contact order (DANCO) prohibiting appellant Kenny Lenard Peaches from contacting his wife, R.B. In June 2023, appellant pleaded guilty to both unlawful possession of ammunition and a DANCO violation (original cases). Before sentencing on the original cases, the state charged appellant in three separate cases with additional DANCO violations for conduct that occurred between June 27 and July 5, 2023.

This appeal arises from appellant's conviction of the DANCO violation from July 5, 2023. On that day, officers performed a welfare check on R.B. at her residence and discovered appellant attempting to hide underneath a coffee table. Because appellant had been convicted of two prior domestic-violence offenses within the last ten years, respondent State of Minnesota charged him with a felony DANCO violation under Minn. Stat. § 629.75, subd. 2(d)(1) (2022). The district court scheduled appellant's three new cases for an omnibus hearing in August 2023. On July 26, 2023, the week before the omnibus hearing, appellant received a guidelines sentence in his original cases of 60 months in prison for the unlawful-possession-of-ammunition charge and 29 months in prison for the DANCO violation.

At the omnibus hearing, the parties informed the district court that they had entered into an agreement for appellant to plead guilty to the July 5 DANCO violation in exchange for the state's agreement to dismiss the two remaining charges. The parties also agreed that appellant would be sentenced at the low end of the guidelines range and that the sentence would run concurrent with his sentence in the original cases. The district court asked appellant if he understood the proposed agreement, if he had enough time to discuss the agreement with his attorney, and if he wanted to move forward with the agreement. Appellant answered affirmatively to each question and stated that he had no questions for the district court.

Before entering his plea, appellant's attorney went through his plea petition with him on the record, at which time appellant acknowledged that his attorney had discussed his constitutional rights with him and that he wished to waive those rights and plead guilty. During the subsequent plea colloquy, appellant acknowledged that he understood the charges against him and the terms of the plea agreement, was not under the influence of alcohol or drugs, had enough time to speak with his attorney, and was not induced to enter the agreement by any promises or threats. Following the district court's acceptance of the plea petition, the state obtained a factual basis for the underlying offense. The district court then found that appellant made an accurate, voluntary, and intelligent guilty plea and followed the parties' agreement to impose a bottom-of-the-box sentence of 29 months in prison, to run concurrent with his sentence in the original cases.

This appeal follows.

DECISION

Appellant entered a constitutionally valid guilty plea.

Appellant argues that he should be permitted to withdraw his guilty plea because he entered it involuntarily. Appellant maintains that, because the district court had already imposed a 60-month prison sentence in his original cases, he had "no meaningful choice" but to plead guilty and accept an executed prison sentence to resolve his three pending cases. We are not convinced.

Although criminal defendants do not have an absolute right to withdraw a guilty plea, *State v. Theis*, 742 N.W.2d 643, 646 (Minn. 2007), withdrawal is permitted if "necessary to correct a manifest injustice." Minn. R. Crim. P. 15.05, subd. 1. A manifest injustice exists if the guilty plea is not constitutionally valid. S*tate v. Raleigh*, 778 N.W.2d 90, 94 (Minn. 2010). A guilty plea is constitutionally valid if it is accurate, voluntary, and intelligent. *State v. Lawrence*, 982 N.W.2d 772, 775 (Minn. App. 2022). This court reviews the validity of a guilty plea de novo. *Id.*

To determine whether a defendant entered a guilty plea voluntarily, the reviewing court "examines what the parties reasonably understood to be the terms of the plea agreement." *Raleigh*, 778 N.W.2d at 96. The voluntariness requirement ensures that a defendant's guilty plea is not the result of "*improper* pressure or coercion." *Id.* (Emphasis added.) A guilty plea is considered involuntary "when it rests in any significant degree on an unfulfilled or unfulfillable promise, including a promise of a sentence unauthorized by law." *Uselman v. State*, 831 N.W.2d 690, 693 (Minn. App. 2013) (quotations omitted). This court considers the totality of the relevant circumstances to determine whether a

defendant entered their guilty plea voluntarily. *Johnson v. State*, 925 N.W.2d 287, 289 (Minn. App. 2019).

The supreme court has rejected the notion that a criminal defendant has "no meaningful choice" but to plead guilty when they still have the option to proceed to trial or continue to conduct plea negotiations. *See Dikken v. State*, 896 N.W.2d 873, 877 (Minn. 2017). Like in *Dikken*, here appellant was free to proceed to trial on his new charges and had the additional option to plead not guilty and continue negotiations with the state. Appellant acknowledged that his attorney had advised him of his constitutional rights, including his right to trial, and that he wished to waive those rights and plead guilty.

Furthermore, appellant's prison sentence in his original cases is insufficient to demonstrate that the state induced his guilty plea through "improper pressure or coercion." *Raleigh*, 778 N.W.2d at 96. Although "[i]mproper pressures or inducements can come in a variety of forms," a plea is only involuntary when it is "induced by coercive or deceptive action." *Dikken*, 896 N.W.2d at 877. The record here contains no evidence of "coercive or deceptive action" nor "unfulfillable promises" by the state. Further, appellant acknowledged before pleading guilty that he had received no threats or promises outside of the plea agreement. We also note that, by accepting the plea deal, appellant was able to resolve his three outstanding felony charges without risking any additional jail time. *See State v. Bell*, 971 N.W.2d 92, 104 (Minn. App. 2022) (concluding that defendant was not induced to enter plea because of district court's representations about parole process, but because pleading guilty would allow him to avoid life sentence), *rev. denied* (Minn. Apr.

27, 2022). However, even if appellant pleaded guilty only to "cut his losses," that fact alone is insufficient to render his plea involuntary. *See id.*

Because we conclude that appellant entered his guilty plea voluntarily, his plea is constitutionally valid, and he is not entitled to withdrawal.

Affirmed.