STATE OF MINNESOTA
IN COURT OF APPEALS
A23-1030

State of Minnesota,
Respondent,

vs.

Jesse Wayne Blaylock,
Appellant.

Filed July 22, 2024
Affirmed
Cochran, Judge

Wright County District Court
File No. 86-CR-19-6397

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

Brian A. Lutes, Wright County Attorney, Shane E. Simonds, Assistant County Attorney, Buffalo, Minnesota (for respondent)

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

Considered and decided by Cochran, Presiding Judge; Wheelock, Judge; and Ede, Judge.

NONPRECEDENTIAL OPINION

COCHRAN, Judge

In this direct appeal from the judgment of conviction for attempted first-degree criminal sexual conduct, appellant argues that the district court abused its discretion by denying his presentence motion to withdraw his *Norgaard* guilty plea. He also argues that

the district court abused its discretion at sentencing by denying his motion for a downward dispositional sentencing departure. Because the district court did not abuse its discretion by denying either motion, we affirm.

FACTS

In November 2019, respondent State of Minnesota charged appellant Jesse Wayne Blaylock with second-degree criminal sexual conduct in violation of Minnesota Statutes section 609.343, subdivision 1(a) (2014), attempted first-degree criminal sexual conduct in violation of Minnesota Statutes section 609.342, subdivision 1(a) (2014), and attempted second-degree criminal sexual conduct in violation of Minnesota Statutes section 609.343, subdivision 1(a) (2014). The complaint alleged that, in 2015, Blaylock told his then-girlfriend's eight-year-old daughter to remove her clothes down to her underwear. The girl's mother was not home at the time. Blaylock then touched the child's inner thigh near her genital area and underwear, and he partially undressed himself. When the victim's mother returned home unexpectedly, Blaylock dragged the victim to the bathroom, told her to get dressed, and said that he would hurt her mother if she told anyone what happened. The victim thought that Blaylock was not sober on the day of the alleged offense. The victim disclosed the incident to a friend almost four years later, saying "I'm done hiding," resulting in her father contacting law enforcement.

In December 2022, just before the scheduled trial, Blaylock and the state reached a plea agreement. The parties agreed that Blaylock would enter a *Norgaard* guilty plea to one count of second-degree criminal sexual conduct and the state would dismiss the other

charges.[1] The plea agreement called for a "maximum potential [sentence] of 48 months." The agreement also permitted Blaylock to argue for a downward dispositional departure. Blaylock signed a plea petition reflecting the parties' agreement and a *Norgaard* addendum. In the *Norgaard* addendum, Blaylock acknowledged that he reviewed the evidence the state would offer against him at trial, he did not recall the circumstances of the offense, he believed there was a substantial likelihood that he would be found guilty if the state's evidence was presented at trial, he did not claim he is innocent, he would be convicted of the offense if the court accepted the plea, and his lack of memory would not impact his sentence, probation, or collateral consequences stemming from his conviction.

That same day, Blaylock entered a *Norgaard* guilty plea in district court. At the start of the hearing, counsel for the state described the plea agreement. When discussing the terms of the agreement, the state noted that the plea "implicates registration," as well as a ten-year period of conditional release. Blaylock's attorney agreed.

Blaylock was then examined by his attorney, the state, and the district court regarding the terms of the plea agreement and the rights he was giving up by pleading guilty. Most of Blaylock's testimony was established by leading questions. On examination by defense counsel and the state, Blaylock acknowledged that he did not completely remember the conduct underlying the allegations, that he was intoxicated, that

[1] A defendant may enter a *Norgaard* guilty plea if they "claim[] a loss of memory, through amnesia or intoxication, regarding the circumstances of the offense" and agree that the record establishes that the state's evidence is sufficient to persuade the defendant and their counsel "that the defendant is guilty or likely to be convicted of the crime charged." *State v. Ecker*, 524 N.W.2d 712, 716 (Minn. 1994); *see also State ex rel. Norgaard v. Tahash*, 110 N.W.2d 867, 872 (Minn. 1961).

he had reviewed the state's evidence, and that there was a substantial likelihood the state's evidence was sufficient to convict him. At the hearing, Blaylock confirmed that he had signed the plea petition and the *Norgaard* addendum, which contained similar acknowledgments. The district court observed that Blaylock appeared "clearheaded" and seemed to "understand the plea negotiation." The district court received the signed plea petition and the *Norgaard* addendum into the record. At the conclusion of the hearing, the district court took the matter under advisement so the court could review the evidence underlying the plea before deciding whether to accept it.

After reviewing the evidence, the district court issued a written order accepting the *Norgaard* guilty plea for second-degree criminal sexual conduct. The court determined that Blaylock entered a valid *Norgaard* guilty plea, that the state's evidence provided a strong factual basis to support the plea, and that there was a substantial likelihood that Blaylock would be convicted if the case were to go to trial. The court also concluded that the *Norgaard* guilty plea "was accurately, voluntarily, and intelligently entered."

In February 2023, with a new attorney, Blaylock moved to withdraw his plea. Blaylock argued that he received ineffective assistance of counsel and, as a result, he did not knowingly and intelligently enter the plea. Specifically, Blaylock claimed that his previous attorney did not accurately advise him of the "collateral consequences of entering into said plea agreement, including the fact and duration of the predatory offender registration requirement." Blaylock also argued that his plea was not accurate because the factual basis was established by leading questions and because the district court did not expressly find that Blaylock was unable to remember the circumstances of the offense due

to intoxication. In support of his motion, Blaylock submitted affidavits from himself, his fiancé, and his friend, all of whom were present for discussions Blaylock had with his prior attorney regarding the plea. In his affidavit, Blaylock stated that he would not have pleaded guilty to the criminal-sexual-conduct offense if he had understood that his plea would result in mandatory predatory-offender registration for life.

By a written order, the district court denied Blaylock's motion to withdraw his plea. The district court first concluded that Blaylock had not demonstrated that he received ineffective assistance of counsel—specifically relating to the predatory-registration requirement. The district court noted that "[e]ach witness, including [Blaylock], has a different recollection of the statements made by counsel about registration" and the witnesses did not consistently allege that Blaylock was "misadvised about the duration and mechanics of registration." Because the witness affidavits did not align, the district court concluded that Blaylock had not demonstrated that he was misadvised by his attorney about registration. The district court also rejected Blaylock's argument that his plea was inaccurate, concluding that Blaylock's testimony and acknowledgement of the *Norgaard* addendum established a sufficient factual basis to support the plea. The matter then proceeded to sentencing.

Prior to sentencing, Blaylock moved for a downward dispositional sentencing departure on the basis that he is particularly amenable to probation. The district court denied the motion and sentenced Blaylock to 48 months' imprisonment and ten years of conditional release. This appeal follows.

DECISION

Blaylock argues that the district court abused its discretion by denying his presentence plea-withdrawal motion. Alternatively, Blaylock claims that the district court abused its discretion by denying his motion for a downward dispositional departure. For the reasons set forth below, we conclude that neither argument warrants reversal.

I. The district court did not abuse its discretion by denying Blaylock's motion for plea withdrawal.

"A defendant does not have an absolute right to withdraw a valid guilty plea." *State v. Theis*, 742 N.W.2d 643, 646 (Minn. 2007). But a district court "[i]n its discretion . . . may allow the defendant to withdraw a plea at any time before sentence if it is fair and just to do so." Minn. R. Crim. P. 15.05, subd. 2. When considering whether to grant a presentence plea-withdrawal motion, the district court must "give due consideration" to "the reasons a defendant advances to support withdrawal" and the "prejudice granting the motion would cause the [s]tate given reliance on the plea." *State v. Raleigh*, 778 N.W.2d 90, 97 (Minn. 2010) (quotation omitted). The defendant has the burden to prove withdrawal is fair and just, and the state has the burden to prove prejudice. *Id.*

We review a district court's fair-and-just determination for "abuse of discretion," and we will reverse "only in the rare case." *Id.* (quotation omitted). In considering whether the district court abused its discretion, we review a district court's legal determinations de novo. *Id.* at 94; *State v. Mouelle*, 922 N.W.2d 706, 715 (Minn. 2019). We review the factual findings underlying the district court's legal determinations for clear error.

Pearson v. State, 891 N.W.2d 590, 600 (Minn. 2017); *State v. Brown*, 896 N.W.2d 557, 560 (Minn. App. 2017), *rev. denied* (Minn. July 18, 2017). We give great deference to a district court's factual determinations and will not set them aside unless we are "left with the definite and firm conviction that a mistake has been made." *State v. Evans*, 756 N.W.2d 854, 870 (Minn. 2008) (quotation omitted). And we defer to the district court's credibility determinations. *State v. Klamar*, 823 N.W.2d 687, 691 (Minn. App. 2012).

Blaylock contends that the district court abused its discretion by denying his presentence plea-withdrawal motion because his plea was invalid. "To be constitutionally valid, a guilty plea must be accurate, voluntary, and intelligent." *Bonnell v. State*, 984 N.W.2d 224, 226-27 (Minn. 2022) (quotation omitted). When a guilty plea is invalid, it is fair and just to withdraw the plea. *See Theis*, 742 N.W.2d at 646, 651 (declining to analyze plea under fair-and-just standard after determining plea was invalid).

Specifically, Blaylock argues that his plea was unintelligent and involuntary because the plea was the result of affirmative misadvice by his prior attorney regarding the predatory-offender-registration requirements arising from pleading guilty. And Blaylock argues that his plea was not accurate because the district court did not expressly find that he lacked a memory of the offense due to intoxication and because the plea's factual basis was established by leading questions. We address each argument in turn.

A. The district court did not err by concluding that Blaylock did not receive ineffective assistance of counsel.

Blaylock argues that he received ineffective assistance of counsel in relation to his plea, rendering it unintelligent and involuntary. The requirement that a plea is intelligent and voluntary ensures the defendant understands "the charges, the rights to be waived, and the consequences of the plea" and accepts the plea without being subject to improper pressures. *Taylor v. State*, 887 N.W.2d 821, 823 (Minn. 2016); *State v. Trott*, 338 N.W.2d 248, 251 (Minn. 1983).

Blaylock claims that the affidavits he filed in support of his plea-withdrawal motion demonstrate that his attorney affirmatively misrepresented the predatory-offender-registration consequences of pleading guilty and maintains that he would not have pleaded guilty if he had received accurate advice. On this basis, he claims his plea was unintelligent and involuntary. The state argues that the district court correctly determined that Blaylock's affidavits are inconsistent and do not establish that Blaylock received affirmative misadvice from his attorney.

A defendant considering a plea agreement has the right to effective assistance of counsel. *Eason v. State*, 950 N.W.2d 258, 267 (Minn. 2020). When a defendant asserts counsel was ineffective, this court evaluates their claims according to the two-prong test set forth in *Strickland v. Washington*, 466 U.S. 688, 687 (1984). *Andersen v. State*, 830 N.W.2d 1, 10 (Minn. 2013). Under the *Strickland* test, a defendant must show "(1) counsel's representation fell below an objective standard of reasonableness and (2) a reasonable probability that, but for counsel's errors, he would not have pleaded guilty and

would have insisted on going to trial." *State v. Ellis-Strong*, 899 N.W.2d 531, 536 (Minn. App. 2017) (quotations omitted). Application of the *Strickland* test involves a mixed question of law and fact, which we review de novo. *State v. Mosley*, 895 N.W.2d 585, 591 (Minn. 2017). "[T]here is a strong presumption that counsel's performance was reasonable." *Andersen*, 830 N.W.2d at 10.

In determining whether ineffective assistance of counsel renders a plea invalid, Minnesota courts distinguish between counsel's advice about "direct" and "collateral" consequences. *Sames v. State*, 805 N.W.2d 565, 567-68 (Minn. App. 2011), *rev denied* (Minn. Dec. 21, 2011). Direct consequences are those which have "a definite, immediate and automatic effect on the range of a defendant's punishment" such as the maximum sentence. *Id.* at 568 (quoting *Kaiser v. State*, 641 N.W.2d 900, 904 n.6 (Minn. 2002)). Collateral consequences "are civil and regulatory in nature and are imposed in the interest of public safety." *Id.* (quoting *Kaiser*, 641 N.W.2d at 905). An attorney must accurately advise their client about the direct consequences of a guilty plea. *See id.* at 567-68. But a failure to advise about a collateral consequence is not necessarily objectively unreasonable under *Strickland*. *Id.* at 568. The requirement to register as a predatory offender is a collateral consequence of a guilty plea. *Taylor*, 887 N.W.2d at 823-24. And the supreme court has held that "a defense attorney's *failure to advise* a defendant about predatory-offender-registration requirements before the defendant enters a guilty plea does not violate a defendant's rights to the effective assistance of counsel under the United States and Minnesota Constitutions." *Id.* at 826 (emphasis added).

Nevertheless, when an attorney *affirmatively misadvises* a client about collateral consequences which are "succinct, clear, and explicit," courts have concluded such advice is objectively unreasonable. *See Ellis-Strong*, 899 N.W.2d at 539-40. For example, in *Ellis-Strong*, we considered whether affirmative misadvice about the predatory-offender-registration period resulting from a guilty plea was objectively unreasonable under *Strickland*. *Id.* at 535. In that case, the "attorney gave Ellis-Strong incorrect advice that he faced ten years of registering as a predatory offender, when he actually faced lifelong registration." *Id.* at 539. We held that the advice was objectively unreasonable under *Strickland* because the predatory-registration statute at issue was "succinct, clear, and explicit" regarding the mandatory lifetime registration requirement. *Id.* at 540. Therefore, *Ellis-Strong* instructs that affirmative misadvice about the applicability of predatory-offender-registration requirements following a guilty plea can constitute objectively unreasonable advice. *Id.*

Here, the district court concluded that Blaylock had not met his burden to show that his attorney gave affirmative misadvice regarding predatory-offender registration. The district court found that the three affidavits relied upon by Blaylock to support his motion "do not align" and that each contained a "different recollection of the statements made by counsel about registration." In support of these findings, the district court identified specific statements in the affidavits that suggest Blaylock was told that registration with local authorities was mandatory, and other specific statements which suggest that he was not told he would need to register as a predatory offender as a result of the plea. In concluding that Blaylock had not demonstrated that he received affirmative misadvice

regarding registration, the district court further noted that "registration" was mentioned at the plea hearing and Blaylock "agreed that he understood the various terms of the plea agreement."

To support his argument that the district court erred by concluding that he did not receive affirmative misadvice, Blaylock points to several statements in his own affidavit. First, Blaylock claims that his attorney's statement that he "would only be required to check in with local authorities" was misadvice because registration is administered by the statewide Bureau of Criminal Apprehension (BCA). Second, Blaylock claims that his attorney told him that "we would argue about registration," even though predatory-offender registration is a mandatory consequence of the plea. Third, Blaylock claims that he received misadvice because "the fact that registration was mandatory for LIFE was never mentioned at all." We address each specific argument in turn and conclude that the district court did not err by determining that Blaylock failed to prove that he received affirmative misadvice of counsel regarding registration.

Registration with Local Authorities

Blaylock argues that it was misadvice for his attorney to instruct him that "he would only have to check in with local authorities" because registration is administered by the statewide BCA and persons who register are included in a statewide database. This argument is unavailing. Under state law, persons required to register as predatory offenders must "register with the corrections agent" assigned to them or "*with the law enforcement authority* that has jurisdiction in the area of the person's primary address" if they do not have, or cannot locate, a corrections agent assigned to them. Minn. Stat. § 243.166,

subd. 3(a) (2022). Once a predatory offender registers with local law enforcement or a corrections agent, the registration information is forwarded to the BCA. Minn. Stat. § 243.166, subds. 3(a), 4(c) (2022). Accordingly, we are not persuaded that Blaylock's attorney provided affirmative misadvice regarding the registration process.

Argument Regarding Registration

Second, we conclude that the district court did not abuse its discretion by rejecting Blaylock's claim that his attorney misadvised him about registration by telling him that they would "argue about registration" at the plea hearing. The district court declined to credit Blaylock's statement in this regard and therefore rejected the argument, noting that the affidavits provided by Blaylock "do not align." As highlighted by the district court, the affidavit from Blaylock's friend recalls that "[t]he attorney told us [Blaylock] wouldn't be registered as a sex offender," and Blaylock "would only have to register with local authorities for a limited amount of time." But Blaylock's affidavit states that Blaylock "would argue about registration and . . . would only be required to check in with local authorities." These recollections are inconsistent and contradictory. Blaylock's friend represents that the attorney rejected the possibility of predatory-offender registration, whereas Blaylock represents that his attorney suggested he could be required to register. The third affidavit—from Blaylock's fiancé—did not mention either statement. We are not "left with the definite and firm conviction" that the district court made a mistake when it declined to credit either of the contradictory statements. *See Evans*, 756 N.W.2d at 870 (quotation omitted). Accordingly, we discern no abuse of discretion by the district court in this regard.

Lifetime Registration

Finally, Blaylock argues that his attorney provided misadvice by failing to explain that Blaylock would need to register as a predatory offender for life if he pleaded guilty. This argument is unavailing. As noted above, "defense attorney's failure to advise a defendant about predatory-offender-registration requirements before the defendant enters a guilty plea does not violate a defendant's rights to the effective assistance of counsel under the United States and Minnesota Constitutions." *Taylor*, 887 N.W.2d at 826. In other words, a lack of advice regarding the duration of registration does not equate to affirmative misadvice.

We are not persuaded otherwise by Blaylock's reliance on this court's decision in *Ellis-Strong*. In *Ellis-Strong*, we held that defense counsel affirmatively misadvised a defendant about the length of registration by advising the defendant that the registration period was only ten years even though the statute clearly required registration for life. 899 N.W.2d at 540. But here, Blaylock's affidavits do not claim that Blaylock was misinformed about the length of the registration period. Instead, the affidavits aver that lifetime registration was "never mentioned." Accordingly, the district court did not abuse its discretion by concluding that counsel's lack of advice about the duration of predatory-offender registration is not affirmative misadvice.

In sum, we conclude that the district court did not abuse its discretion when it determined that Blaylock failed to prove that his counsel's representation relating to registration requirements fell below an objective standard of reasonableness, as required to satisfy the first prong of the *Strickland* test. We therefore decline to reach the second prong

of the *Strickland* test. *See Andersen*, 830 N.W.2d at 10 ("We need not address both the performance and prejudice prongs if one is dispositive.").

B. The district court did not abuse its discretion by finding that Blaylock's plea was accurate.

Blaylock next argues that his guilty plea is inaccurate because the district court did not make a factual finding that Blaylock's memory of the offense was impaired due to intoxication and because the factual basis for the plea was established by leading questions.

An accurate plea protects the defendant from pleading guilty to a charge more serious than the defendant could be convicted of if they were to go to trial. *State v. Epps*, 977 N.W.2d 798, 801 (Minn. 2022). "To be accurate, a plea must be established on a proper factual basis." *Lussier v. State*, 821 N.W.2d 581, 588 (Minn. 2012) (quotation omitted). A proper factual basis exists when "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 he pled guilty." *State v. Jones*, ___ N.W.3d ___, ___, 2024 WL 2837364, at *3 (Minn. June 5, 2024).

Ordinarily, the factual basis is established "by asking the defendant to express in his own words what happened." *Raleigh*, 778 N.W.2d at 94. But, when a defendant enters a *Norgaard* guilty plea, the defendant "claims a loss of memory, through amnesia or intoxication, regarding the circumstances of the offense." *Ecker*, 524 N.W.2d at 716-17. Consequently, to establish a proper factual basis for a *Norgaard* guilty plea, the defendant instead must acknowledge "that the evidence against the defendant is sufficient to persuade the defendant and [defense] counsel that the defendant is guilty or likely to be convicted of

the crime charged." *See id.* at 716. And the district court "must affirmatively ensure an adequate factual basis has been established in the record." *Id.* at 717; *see also Williams v. State*, 760 N.W.2d 8, 12 (Minn. App. 2009) (noting that the supreme court suggested in *Ecker* "that a factual basis for a *Norgaard* plea is sufficiently established when the record clearly shows that in all likelihood the defendant committed the offense and that the defendant pleaded guilty based on the likelihood that a jury would convict"), *rev. denied* (Minn. Apr. 21, 2009).

Findings Regarding Lack of Memory

In considering Blaylock's motion to withdraw his plea, the district court addressed Blaylock's argument that it was inaccurate because the district court did not make a specific finding about Blaylock's lack of memory when it accepted the plea. The district court rejected this argument, noting "there is no requirement that a court must make explicit written findings to accept a *Norgaard* plea." In addition, the district court emphasized that, at the plea hearing, the court received testimony that Blaylock's memory of the offense was impacted by intoxication or drug use and noted that the addendum signed by Blaylock "acknowledged the same." Based on Blaylock's testimony and the addendum, the district court concluded that there was "sufficient information presented at the hearing to continue with the *Norgaard* plea based on [Blaylock's] lack of memory."

On appeal, Blaylock again argues that his plea is inaccurate because the district court did not make a specific factual finding that Blaylock was unable to recall the circumstances surrounding the offense due to intoxication. Blaylock's argument is unpersuasive. Blaylock cites no authority for the proposition that a district court must

make an on-the-record finding of intoxication and lack of memory before it can accept a *Norgaard* guilty plea, and we are aware of none.

In addition, it is unclear that the absence of such a finding would render Blaylock's *Norgaard* guilty plea inaccurate for two reasons. First, Blaylock acknowledged in testimony at the plea hearing that he lacked a memory of the conduct in question due to being intoxicated at the time. There is no dispute as to that point. Second, lack of memory due to intoxication is not an element of the offense in question. *See* Minn. Stat. § 609.343, subd. 1(a) (listing elements for offense of second-degree criminal sexual conduct, none of which include intoxication). Consequently, we are not convinced that the facts surrounding Blaylock's admitted lack of memory are necessary to establish the factual basis for the plea. Instead, intoxication and lack of memory relate to the reason for proceeding by a *Norgaard* guilty plea rather than to any element of the offense. *See Rosendahl v. State*, 955 N.W.2d 294, 301 (Minn. App. 2021) (distinguishing typical pleas, whose factual basis must be established by the defendant's testimony, from *Norgaard* guilty pleas, whose factual basis must be supplemented by the record).

Regardless, even assuming that Blaylock's intoxication and resulting lack of memory are part of the factual basis of the *Norgaard* guilty plea, this court has previously observed that "there is no suggestion in the rules of criminal procedure that a district court must make an express finding on the record concerning the adequacy of the factual basis" of a *Norgaard* guilty plea. *State v. Johnson*, 867 N.W.2d 210, 216 (Minn. App. 2015), *rev. denied* (Minn. Sept. 29, 2015). Instead, the applicable rule provides that "[t]he defendant must state the factual basis for the plea." *Id.* (quoting Minn. R. Crim. P. 15.01, subd. 1(8)).

For the foregoing reasons, we conclude that the absence of factual findings about Blaylock's intoxication and lack of memory does not render Blaylock's plea inaccurate.

Leading Questions

Next, Blaylock argues that the plea was inaccurate because the factual basis was established through leading questions. Blaylock is correct that the use of leading questions to establish the factual basis for a plea is strongly disfavored. *Jones*, 2024 WL 2837364, at *3. Ideally, defendants should establish a factual basis by describing what happened in their own words. *Lussier*, 821 N.W.2d at 589. And the supreme court has "repeatedly discouraged the use of leading questions." *Nelson v. State*, 880 N.W.2d 852, 860 (Minn. 2016) (listing cases). But leading questions do not automatically render a guilty plea invalid. *Id.* The ultimate inquiry is whether "the record contains sufficient evidence to support the conviction." *Id.* at 859 (quotation omitted). Our review of the record includes the contents of written plea petitions and the *Norgaard* addendum. *See Williams*, 760 N.W.2d at 15 (considering plea petition when determining whether *Norgaard* guilty plea was intelligent).

We conclude the record "contains sufficient evidence to support the conviction," despite the disfavored use of leading questions. *Nelson*, 880 N.W.2d at 859. Blaylock was extensively questioned by his attorney, the state, and the court at the plea hearing. Blaylock acknowledged his lack of memory at the time of the circumstances of the offense. He also acknowledged the evidence the state would present if the case went to trial and his belief that there was a substantial likelihood that he would be convicted based on that evidence. At the hearing, the district court also received the plea petition and the signed *Norgaard*

addendum, wherein Blaylock again acknowledged his lack of memory and the strength of the state's evidence. The record is sufficient to support the district court's determination that there was a factual basis to support the plea. For these reasons, Blaylock's argument that his plea is inaccurate is unavailing.[2]

In sum, the district court did not err by determining that Blaylock's plea was voluntary, intelligent, accurate, and not induced by ineffective assistance of counsel. We therefore conclude that the district court did not abuse its discretion when it denied Blaylock's motion to withdraw his *Norgaard* guilty plea.

II. The district court did not abuse its discretion by denying Blaylock's motion for a downward dispositional departure.

Blaylock next argues that the district court abused its discretion when it denied his motion for a downward dispositional departure and instead imposed an executed prison sentence. We disagree.

The Minnesota Sentencing Guidelines establish presumptive sentences for felony convictions. Minn. Stat. § 244.09, subd. 5 (2014). A sentencing court may depart from the presumptive sentence only when "there exist identifiable, substantial, and compelling circumstances to support" a departure. Minn. Sent'g Guidelines 2.D.1 (2014). One circumstance which may permit a downward dispositional departure from a guidelines' executed prison sentence is an offender's particular amenability to probation. *State v. Trog*, 323 N.W.2d 28, 31 (Minn. 1982). District courts consider "numerous factors" in

[2] Because Blaylock did not demonstrate fair-and-just reasons for withdrawal, we do not need to determine whether the state showed that plea withdrawal would cause prejudice. *Raleigh*, 778 N.W.2d at 98.

determining whether an offender is particularly amenable to probation. *Id.* Relevant factors include age, criminal history, remorse, cooperation, attitude in court, and support of friends and/or family. *Id.* But a district court need not depart from the presumptive sentence based on "the mere fact that a mitigating factor is present in a particular case." *State v. Pegel*, 795 N.W.2d 251, 253 (Minn. App. 2011). Nor must a district court explain its decision to impose a presumptive sentence instead of granting a departure request so long as the record reflects that it "considers reasons for departure." *State v. Van Ruler*, 378 N.W.2d 77, 80-81 (Minn. App. 1985).

We review a district court's decision to deny a motion for a dispositional departure for an abuse of discretion. *State v. Soto*, 855 N.W.2d 303, 307-08 (Minn. 2014). We rarely reverse the district court's decision because district courts have significant discretion in the imposition of sentences. *Id.* at 305, 307.

Here, the district court denied Blaylock's motion for a downward dispositional departure because it found that Blaylock was not particularly amenable to probation. Focusing on Blaylock's criminal history, the district court noted that he has been on felony probation "on at least four occasions in the past" and violated conditions of probations "numerous" times, including in a case where he received a downward dispositional departure. The district court imposed a 48-month executed prison sentence.

Blaylock argues that the district court abused its discretion in denying the motion because he demonstrated many factors that show "substantial and compelling circumstances" to support the departure. Blaylock specifically asserts that he has "demonstrated an ability to change and engage in prosocial lifestyle" by getting treatment

for alcohol use and achieving sobriety, "building a sober support network," finding employment, and avoiding further criminal charges other than traffic violations and a misdemeanor voting violation. Regarding his age, Blaylock says that he was 30 years old at the time of the offense, 35 years old at the time of sentencing, and imprisonment at this stage of his life would create challenging gaps in his work and credit histories. Blaylock highlights the 11 letters from friends and family submitted with his sentencing memorandum that he claims "paint an undeniable picture" of his "devotion to his family and friends, and their support of him." Finally, Blaylock argues, and the state concedes, that he behaved appropriately in the courtroom.

While Blaylock presented evidence about his personal improvements since the offense, he has not demonstrated that the district court abused its discretion by finding that he is not particularly amenable to probation or by denying his motion for a downward dispositional departure. *See Pegel*, 795 N.W.2d at 253 (noting that the presence of mitigating factors does not require a downward dispositional departure). The district court considered Blaylock's sobriety and alcohol-abuse treatment and congratulated him for his efforts. But the district court concluded that Blaylock is not particularly amenable to probation due to his "numerous" past probation violations, including one in a case where he received a downward dispositional departure. A district court may consider prior probation violations as "evidence potentially indicating unnameability to probation." *See State v. B.Y.*, 659 N.W.2d 763, 770 (Minn. 2003). In sum, the record reflects that the district court carefully considered the arguments for and against a downward dispositional departure but declined to grant a departure after determining Blaylock had not

demonstrated that he is particularly amenable to probation. The district court acted well within its discretion when it denied Blaylock's motion for a downward dispositional departure. This is not the "rare case" requiring reversal. *Soto*, 855 N.W.2d at 305.

Affirmed.