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**STATE OF MINNESOTA
IN COURT OF APPEALS
A10-487**

Lenny Clyde White, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed November 16, 2010
Affirmed
Lansing, Judge**

Hennepin County District Court
File No. 27-CR-00-044432

David W. Merchant, Chief Appellate Public Defender, Sara J. Euteneuer, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Michael O. Freeman, Hennepin County Attorney, Linda K. Jenny, Assistant County
Attorney, Minneapolis, Minnesota (for respondent)

Considered and decided by Connolly, Presiding Judge; Lansing, Judge; and
Wright, Judge.

UNPUBLISHED OPINION

LANSING, Judge

A postconviction court denied Lenny White's petition for plea withdrawal, and White appeals. Because the district court acted within its discretion when it determined that White knowingly entered his guilty plea and that his postconviction petition was untimely, we affirm.

FACTS

Lenny White pleaded guilty to false imprisonment of a minor in May 2000. In April 2008 White filed a pro se postconviction petition requesting withdrawal of his guilty plea. Following denial of his petition, White appealed. We concluded that the record failed to establish that the district court had informed White of his possible eligibility for public-defender representation or to forward a copy of his petition to the state public defender. *White v. State*, No. A08-1614 (Minn. App. Sept. 10, 2009) (order op.). On that basis, we reversed and remanded.

After obtaining the assistance of counsel, White again petitioned to withdraw his guilty plea. His petition alleged that his guilty plea was unknowingly entered because the sentencing court, although advising him of his duty to register as a predatory offender, had not informed him of the specific requirements of that registration. He asserted that the failure to advise him of the specific requirements of registration resulted in a manifest injustice that warranted withdrawal of his plea and also satisfied the interests-of-justice exception to the statutory time bar for postconviction petitions. The district court denied White's petition on the merits and as untimely. White appeals the denial of his petition.

DECISION

A district court's decision to deny postconviction relief is reviewed for an abuse of discretion. *State v. Rhodes*, 675 N.W.2d 323, 326 (Minn. 2004). Generally, the "scope of review is limited to the question of whether sufficient evidence exists to support the postconviction court's findings." *Perkins v. State*, 559 N.W.2d 678, 685 (Minn. 1997).

Once a guilty plea is entered, a defendant has "no absolute right to withdraw a guilty plea." *Id.* But a court must permit a defendant to withdraw a guilty plea on a showing "that withdrawal is necessary to correct a manifest injustice." Minn. R. Crim. P. 15.05, subd. 1. To be constitutionally valid, a guilty plea must be accurate, voluntary, and intelligent. *Alanis v. State*, 583 N.W.2d 573, 577 (Minn. 1998). If a guilty plea is not accurate, voluntary, and intelligent, then a manifest injustice occurs. *Id.*

I

White argues that his plea was not knowingly entered and therefore a manifest injustice occurred. The constitutional requirement that a plea must be intelligently entered "insures that [a] defendant understands the charges, his or her rights under the law, and the consequences" of the plea. *Alanis*, 583 N.W.2d at 577. An intelligent guilty plea requires that a defendant is informed of the direct consequences of the plea, but does not require that the defendant must be informed of all collateral consequences. *Id.* at 578. Therefore, if a guilty plea is accurate, voluntary, and intelligent, a court's failure to inform a person of all collateral consequences of the plea is not a manifest injustice. *Id.* at 577-78.

We reject White's argument that his guilty plea was unintelligently entered for two reasons. First, a court's failure to advise a defendant of the collateral consequence of predatory-offender registration does not make a plea unintelligent. Minnesota law establishes that registration as a predatory offender is a collateral consequence of a guilty plea, not a direct consequence. *Kaiser v. State*, 641 N.W.2d 900, 907 (Minn. 2002). Consequently, from the perspective of constitutional validity, a court's failure to notify a person of this requirement "does not make the plea unintelligent, and does not constitute a manifest injustice." *Id.*

Our second basis for rejecting White's argument is that, although not constitutionally required, the district court notified him of his duty to register as a predatory offender. In fact, the transcript of the sentencing hearing establishes that the district court referred to White's registration requirement three times.

We recognize that Minnesota imposes a statutory duty on the courts to inform persons of a predatory-offender-registration requirement. Minn. Stat. § 243.166, subd. 2 (2008). If the district court fails to notify a defendant of the duty to register, "the assigned corrections agent shall notify the person" of the duty. *Id.* White does not allege that the district court or his assigned corrections agent ultimately failed to notify him of his registration obligations. Instead, he argues that the district court's notification at the time of his plea was inadequate because it did not fully inform him on the record of the specific consequences of registration. White refers, for example, to the district court's failure to provide registration details, such as listing the information that must be given to the corrections agent or law enforcement authority and explaining the consequences of

failing to register. *See* Minn. Stat. § 243.166, subds. 2, 4 (2008) (describing information that must be provided about offender in connection with registration). Notably, he does not argue that the district court's references to his predatory-offender-registration requirement were misleading or incorrect.

White's claims in this postconviction appeal are not directed at a failure of statutory notification under Minn. Stat. § 243.166, subd. 2. Nothing in the record indicates that he did not ultimately receive the required statutory notification. Instead, his argument is that his plea was constitutionally invalid, as unintelligent, because the district court did not provide the full statutory notification of his registration obligations on the record before he entered his plea. This is not what the constitution or the statute requires. Because the predatory-offender registration is a collateral, and not a direct, consequence of a guilty plea, the constitutional validity of White's plea was not affected by whether the district court advised him of his registration requirements on the record before he entered his plea. *See Kaiser*, 641 N.W.2d at 907 (concluding that predatory-offender registration is collateral consequence).

The district court did not abuse its discretion by denying White's postconviction petition on the merits. White has failed to establish that his guilty plea was constitutionally invalid or that it resulted in a manifest injustice.

II

The district court, after addressing the merits of White's petition, also analyzed whether his petition was time-barred. We agree with the district court's conclusion that White's postconviction petition was untimely.

Minnesota law imposes a deadline for the filing of postconviction petitions. Minn. Stat. § 590.01, subd. 4 (2008). Any person whose conviction was final prior to the law's August 1, 2005 effective date was given two years from the effective date to file a petition for postconviction relief. 2005 Minn. Laws ch. 136, art. 14, § 13, at 1098. White was sentenced on May 17, 2000, and did not file a direct appeal, making his conviction final in 2000, well before the August 1, 2005 effective date. Therefore, White had until July 31, 2007, to file a timely postconviction petition. He filed his petition on April 1, 2008, which was past the permissible time period.

White argues that his petition is timely. He asserts that because his plea was unknowingly entered, a manifest injustice exists, and, therefore, his petition satisfies the interests-of-justice exception to the time bar. *See* Minn. Stat. § 590.01, subd. 4(b)(5) (providing interest-of-justice exception).

When a petition is otherwise time-barred, the statute provides exceptions under which a court may hear a petition. *Id.*, subd. 4(b). White invokes exception (5): “the petitioner establishes to the satisfaction of the court that the petition is not frivolous and is in the interests of justice.” *Id.*, subd. 4(b)(5). The supreme court has recently addressed the criteria for applying the interests-of-justice exception. *Gassler v. State*, 787 N.W.2d 575, 586-87 (Minn. 2010). The supreme court limited this exception to the time bar to uncommon and compelling circumstances and identified a nonexclusive list of factors to consider when determining whether it applies. *Id.*

White asserts that his petition is in the interests of justice because his unintelligent guilty plea amounts to a manifest injustice. We have concluded, however, that the

district court properly determined that a failure to notify him of the collateral consequence of predatory-offender registration does not result in constitutional invalidity and that, furthermore, the district court notified him that he was required to register as a predatory offender. Consequently, White has not shown that a manifest injustice exists, and therefore his petition to withdraw his plea cannot qualify under the interests-of-justice exception. The district court did not abuse its discretion in determining that White's postconviction petition was untimely under Minn. Stat. § 590.01, subd. 4.

Affirmed.