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Minn. Stat. § 480A.08, subd. 3 (2008).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A08-1060**

James Edward Darby,  
petitioner,  
Appellant,

vs.

State of Minnesota,  
Respondent.

**Filed April 21, 2009  
Affirmed  
Crippen, Judge\***

Ramsey County District Court  
File No. K3-06-846

Lori Swanson, Attorney General, 1800 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101; and

Susan Gaertner, Ramsey County Attorney, Mark Nathan Lystig, Assistant County Attorney, 50 West Kellogg Boulevard, Suite 315, St. Paul, MN 55102 (for respondent)

Lawrence Hammerling, Chief Appellate Public Defender, Ngoc Nguyen, Assistant Public Defender, 540 Fairview Avenue North, Suite 300, St. Paul, MN 55104 (for appellant)

Considered and decided by Peterson, Presiding Judge; Klaphake, Judge; and Crippen, Judge.

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

## UNPUBLISHED OPINION

**CRIPPEN**, Judge

Because the record does not substantiate appellant's assertion that his 2006 guilty plea was involuntary, we affirm the district court's summary denial of his postconviction petition.

### FACTS

In May 2006, appellant James Darby pleaded guilty to second-degree intentional murder, a violation of Minn. Stat. § 609.19, subd. 1(1) (2004), for causing the death of J.H. Appellant admitted that he fought with J.H., who pulled out a knife and cut appellant on the arm. Appellant then took the knife from J.H. and stabbed him "[s]even or eight times," resulting in J.H.'s death. The district court accepted appellant's plea and sentenced him to 306 months' imprisonment. There was no direct appeal.

On March 4, 2008, appellant petitioned the district court for postconviction relief, claiming that he should be permitted to withdraw his guilty plea because it was involuntary. Appellant argued that his actions during the offense were in self-defense and that he pleaded guilty only because he "felt pressured and an obligation to help [his] wife," who was also facing criminal charges at the time. The district court summarily denied appellant's petition.

### DECISION

"We review a postconviction court's decision to deny relief under an abuse of discretion standard." *State v. Rhodes*, 675 N.W.2d 323, 326 (Minn. 2004). We review the postconviction court's legal determinations de novo but are not to set aside factual

findings unless they are clearly erroneous. *Pippitt v. State*, 737 N.W.2d 221, 226 (Minn. 2007).

Under Minnesota law, “[a] criminal defendant does not have an absolute right to withdraw a guilty plea once it is entered.” *Rhodes*, 675 N.W.2d at 326. After the sentence is imposed, a defendant may withdraw a guilty plea only if “necessary to correct a manifest injustice.” Minn. R. Crim. P. 15.05, subd. 1. The burden is on the defendant to prove manifest injustice. *Alanis v. State*, 583 N.W.2d 573, 577 (Minn. 1998). Manifest injustice exists if the guilty plea was not accurate, voluntary, and intelligent. *Id.*

Appellant argues that his guilty plea was involuntary because his actions were in self-defense and that he pleaded guilty because he felt pressured to help his wife. “Whether a plea is made voluntarily is a question of fact that will not be disturbed unless clearly erroneous.” *Sykes v. State*, 578 N.W.2d 807, 812 (Minn. App. 1998), *review denied* (Minn. July 16, 1998). And “[f]indings of fact are not clearly erroneous if they are supported by reasonable evidence in the record.” *Id.*

The record amply supports the district court’s finding that appellant failed to show that his guilty plea was involuntary. At the guilty-plea hearing, the district court repeatedly advised appellant that his case was separate from his wife’s case and that his plea would have no impact on the outcome of her case. Appellant indicated that he understood. He also agreed that no one made him any promises to get him to plead guilty, other than the state’s promise to seek no more than a “middle of the box” sentence, and that he was pleading guilty because he was guilty. Appellant also indicated his understanding that he was giving up the right to argue self-defense, partially because

he had “over-stabb[ed]” J.H. On this record, the district court did not abuse its discretion by summarily denying appellant’s postconviction petition.

**Affirmed.**