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State of Minnesota | District Court

Ramsey County | Second Judicial District

Case File Number: 62-CR-24-1804

State v. Gregory Trepanier

ORDER INTERPRETING PLEA AGREEMENT & DENYING STATE'S MOTION FOR WITHDRAWAL FROM THE PLEA AGREEMENT

This matter came before the Court for sentencing on January 16, 2026. Nicole Harris appeared on behalf of the State. Sarah Prentice-Mott and Jeffrey Benson appeared on behalf of Mr. Trepanier. At that time, the Court requested briefing regarding the interpretation of the plea agreement. Upon submission of the parties' briefs, the Court took the matter under advisement.

The Court having reviewed the file, considered arguments of counsel, reviewed pertinent legal authorities, and deeming itself advised in the above-captioned matter concludes that:

- Mr. Trepanier pled guilty to Count II- Kidnapping- Safe Place in violation of Minn. Stat. § 609.25, subd. 1(2) and punishable under Minn. Stat. § 609.25, subd. 2(1) pursuant to the plea agreement.
- The State's motion to vacate the conviction and to withdraw from the plea agreement is denied.
- Based on Mr. Trepanier's Criminal History Score of 1 and Severity Level 6 for Kidnapping-Safe Place, the Minnesota Sentencing Guidelines presumptive

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sentence is commitment of 27 months, and the range is 22.95 months ("low end of the box") to 32.4 months ("high end of the box).

An updated sentencing worksheet shall be prepared on or before April 24, 2026.

The matter is set for sentencing on May 1, 2026.

The attached Memorandum of Law is incorporated by reference.

By the Court:

Veena Iyer
Apr 3, 2026 4:51 PM

Veena A. Iyer, Judge of District Court

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MEMORANDUM OF LAW

I. Relevant Procedural Background

On March 22, 2024, defendant Gregory Trepanier was charged by Complaint with two offenses:

- Count I: Kidnapping – To Facilitate Felony or Flight in violation of Minn. Stat. § 609.25, with reference to Minn. Stat. § 609.11, subd. 5(a); and
- Count II: Attempted Criminal Sexual Conduct-1st Degree-Penetration-Armed with Dangerous Weapon in violation of Minn. Stat. § 609.342, subd. 1(d), with reference to Minn. Stat. §§ 609.17, subd. 1, 609.342, subd. 2(a), and 609.342, subd. 2(b).

Compl. at 1.

For the kidnapping charge, the Complaint identifies the maximum sentence as "20 years or $35,000 fine, or both" pursuant to Minn. Stat. § 609.25, subd. 2(1). *Id.* This sentencing provision applies when "the victim is released in a safe place without great bodily harm," although this specific language is not included in the Complaint. *See* Minn. Stat. § 609.25, subd. 2(1); Compl. at 1.

On November 13, 2025, Mr. Trepanier entered a plea agreement. The terms of the plea agreement were memorialized in a plea petition received by the Court without objection from the State, as well as summarized by defense counsel and confirmed by the State on the record:

> The resolution is that Mr. Trepanier will be entering a plea of guilty to Count 1. Count 2 would be dismissed at the time of sentencing. The agreement is to a commitment at the high end of the box. And the agreement also contemplates that the State will not be charging Mr. Trepanier with anything out of North St. Paul ICR number 14000932 with an alleged date of offense 2/23 of 2014 or Maplewood Police Department ICR 14004868 with alleged date of offense of that February 23rd of 2014.

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(T. at 2-3, 8; *see also* Plea Petition.)

Mr. Trepanier also provided a factual basis for his plea on the record. In response to questioning from defense counsel, Mr. Trepanier testified that, on November 23, 2014, (1) he went to a location near Born's Bar in Maplewood; (2) he entered a vehicle without permission; (3) he possessed a firearm; (4) he made the driver of the vehicle drive to a different location; and (5) he did so to commit the offense of criminal sexual conduct in the first degree. (T. at 8-10). The State followed up with one question to clarify that Mr. Trepanier entered the vehicle near Dog House Bar, not Born's Bar. (T. at 10-11.) The State did not ask Mr. Trepanier any additional questions about (1) where the victim was released—if at all; or (2) whether she was released in a safe or unsafe place. (*See id.*) Nor did Mr. Trepanier testify to any such facts. (*See id.*)

Based on the plea colloquy and the plea petition, the Court found that Mr. Trepanier had knowingly, intelligently, and voluntarily pled guilty. Mr. Trepanier requested immediate adjudication so that he could be committed to the custody of the Commissioner of Corrections pending sentencing pursuant to Minn. Stat. § 609.115, subd. 1(f). The State did not object to adjudication or the interim commitment. The Court therefore accepted Mr. Trepanier's plea, adjudicated him guilty of kidnapping, and entered an order for interim commitment. (*Id.* at 11-12.) Sentencing was scheduled for January 16, 2026.

Prior to sentencing, Ramsey County Community Corrections completed a Sentencing Guidelines Worksheet (Worksheet) categorizing Count I as a severity level 8 offense and reporting a criminal history score of 1 for Mr. Trepanier. (Pre-Sentence Investigation Report.) The parties appeared for sentencing on January 16, 2026 but

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disagreed about whether the Worksheet correctly identified the severity level for Count I. The Court therefore ordered briefing on the issue and continued sentencing to May 1, 2026.

The Court notes that, on January 30, 2025, while the parties were briefing the issue, Ramsey County Community Corrections contacted the Court and the parties by email and stated, "I wanted to inform all parties that the MN Guidelines Commission notified probation today that the severity was incorrect and should be severity level 6 based on the conviction (sic) MGA." (*See* Def. Br. at 3.)

The Court also acknowledges that, at the time of the guilty plea and adjudication of guilty, the Court was not aware of the exact severity level of the offense to which Mr. Trepanier had pled. The Court understood that Mr. Trepanier would be committed to prison and assumed that Mr. Trepanier would be committed to prison for several years based on the charge to which he pled guilty and the uncharged conduct to be dismissed. But the Court's assumption was not based on a contemporaneous review of the statute or the Minnesota Sentencing Guidelines. Had the Court realized that the high-end of the box for the offense to which Mr. Trepanier pled guilty was 32.4 months with a criminal history score of 1, the Court would not have accepted the plea agreement without a more searching inquiry about why such a sentence was appropriate given the conduct in the instant case and the uncharged conduct being dismissed.

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II. Legal Analysis

A. An Overview of the Minnesota Kidnapping Statute, the Maximum Statutory Sentences, and the Minnesota Sentencing Guidelines Severity Level Classifications

Minn. Stat. § 609.25, subd. 1 criminalizes kidnapping, which is "confin[ing] or remov[ing] from one place to another, any person without the person's consent or, if the person is under the age of 16 years, without the consent of the person's parents or other legal custodian" if it is done for one of the following purposes:

> (1) to hold for ransom or reward for release, or as shield or hostage; or
> (2) to facilitate commission of any felony or flight thereafter; or
> (3) to commit great bodily harm or to terrorize the victim or another; or
> (4) to hold in involuntary servitude.

Minn. Stat. § 609.25, subd. 1 (2014).

Minn. Stat. § 609.25, subd. 2 outlines the two possible maximum sentences for kidnapping. "[I]f the victim is released in a safe place without great bodily harm, to imprisonment," the offense carries a maximum sentence of twenty years, a fine of not more than $35,000, or both Minn. Stat. § 609.25, subd. 2(1) (2014). But "if the victim is not released in a safe place, or if the victim suffers great bodily harm during the course of the kidnapping, or if the person kidnapped is under the age of 16," the offense carries a maximum sentence of forty years, a fine of not more than $50,000, or both Minn. Stat. § 609.25, subd. 2(1) (2014).

Notwithstanding the maximum statutory sentences for kidnapping, "the maximum sentence authorized by a guilty plea or guilty verdict is the top of the presumptive sentencing range provided in the Minnesota Sentencing Guidelines' grid because the guidelines expressly require a district court to pronounce a sentence within the range on

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the grid." *State v. Rourke*, 773 N.W.2d 913, 919 (Minn. 2009). Specifically, the presumptive sentence for an offender is determined by locating the appropriate cell for the offense on the Guidelines Grid, which is based on the offense severity level and the offender's criminal history score. *See* Minn. Sent. Guidelines II (2014).

Depending on the circumstances, kidnapping can be classified as a severity-level 9, 8, or 6 offense:

Severity Level	**Offense Title**	**Statute Number**
9	Kidnapping (Great Bodily Harm)	609.25, subd. 2(2)
8	Kidnapping (Not in Safe Place or Victim Under 16)	609.25, subd. 2(2)
6	Kidnapping (Safe Release/No Great Bodily Harm)	609.25, subd. 2(1)

Minn. Sent. Guidelines 5.A (2014). Neither party argues that Mr. Trepanier pled guilty to Kidnapping-Great Bodily Harm, a severity-level 9 offense. But the parties dispute whether Mr. Trepanier pled guilty to Kidnapping- Not in Safe Place—severity Level 8—or Kidnapping-Safe Release—severity level 6. Neither the transcript of the plea colloquy nor the plea agreement explicitly identify the severity level contemplated by the plea agreement. (*See* Plea Petition.)

B. Mr. Trepanier pled guilty to kidnapping with safe release pursuant to the plea agreement.

The State contends that (1) Mr. Trepanier pled guilty to Kidnapping-Not Safe Place; and (2) he thereby agreed be sentenced at severity level 8. *See* Plea Pet.; T.; Minn. Stat. §

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609.25, subd. 2(1) (2014); Minn. Sent. Guidelines 5.A (2014). Mr. Trepanier maintains that (1) he was charged with—and pled guilty to—a Kidnapping-Safe Release; and (3) he thereby agreed to be sentenced at severity level 6. The Court concludes that Mr. Trepanier's interpretation of the plea agreement is correct.

Our supreme court has analogized plea agreements to contracts, and therefore, "principles of contract law are applied to determine their terms." *See State v. Spaeth,* 552 N.W.2d 187, 194 (Minn.1996). "[W]here the plea agreement is not susceptible to more than one construction, as a matter of law there is no ambiguity." *In re Ashman*, 608 N.W.2d 853, 858 (Minn. 2000). And even where some ambiguity exists, plea agreements must be construed in favor of defendants in close cases because "defendant's liberty interests are implicated in a criminal proceeding." *Id*.

Here, Mr. Trepanier unambiguously pled guilty to Kidnapping-Safe Release. Specifically:

- Mr. Trepanier pled guilty to Count I of the Complaint, which specifically cited the maximum sentence of twenty years, which corresponds to severity level 6 for Kidnapping-Safe Release. (*See* T. at 2, 8; Plea Petition; Compl. at 1); Minn. Stat. § 609.25, subd. 2(1) (2014); Minn. Sent. Guidelines 5.A (2014)).

- Mr. Trepanier testified that he made the victim travel from one place to another to commit first-degree sexual assault, which established the essential elements of kidnapping, but did not establish that the victim was not released in a safe place. *See* Minn. Stat. § 609.25, subds. 1(2) & 2(2) (2014); 10 Minn. Prac., Jury Instr. Guides—CRIMJIG 10.04 Kidnapping; (T. at 8-9.)

- Mr. Trepanier did not testify to facts establishing that the victim was not released in a safe place, which would have been required for sentencing at severity level 8 for Kidnapping- Not in Safe Place. *See* Minn. Stat. § 609.25, subd. 2(2) (2014); *State v. Jones*, 745 N.W.2d 845, 848 (Minn. 2008) (quoting *Blakely v. Washington*, 542 U.S. 296 (2004) the principle that any fact that increases a sentence other than a prior conviction must be "'reflected in the

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jury verdict or admitted by the defendant'"); (T. at 2-8.)

The plea agreement did not explicitly identify the severity level of the charge to which Mr. Trepanier pled guilty. But the plea colloquy and the plea petition confirm that (1) Mr. Trepanier pled guilty to and was convicted of Kidnapping-Safe Release, a severity level 6 offense, and (2) the State agreed to that plea when it did not raise any objection to the plea petition or the plea colloquy and did not elicit additional facts and waivers at the plea hearing. *See* (T. 2-8.)

Nevertheless, the State cites the plea petition as proof that Mr. Trepanier pled guilty to Kidnapping- Not a Safe Place at severity level 8. The State reasons that the plea petition's reference to Mr. Trepanier being sentenced to the "high end of the box" would be meaningless if Mr. Trepanier had been pleading guilty to Kidnapping-Safe Place at severity level 6. According to the State, the applicable box for a severity level 8 offense and criminal history score of 1 is a presumptive commitment, lists a range, and therefore includes a "high end." But the applicable box for a severity level 6 offense and a criminal history score of 1 is a presumptive stay,[1] does not list a range, and has no "high end." The relevant grid from the Minnesota Sentencing Guidelines illustrates the State's point:

[1] The State acknowledges—and Mr. Trepanier does not dispute—that even at a severity level 6, he is subject to presumptive commitment because he admitted to using a firearm during the offense. *See* Minn. Stat. § 609.11, subd. 5(a).

		CRIMINAL HISTORY SCORE
SEVERITY LEVEL OF CONVICTION OFFENSE (Example offenses listed in italics)		**1**
Aggravated Robbery, 1st Degree Controlled Substance Crime, 2nd Degree	**8**	58 *50-69*
Controlled Substance Crime, 3rd Degree	**6**	27

Minn. Sent. Guidelines § 4.A (2014).

But Mr. Trepanier responds—and the Court agrees—that the text of the Minnesota Sentencing Guidelines establishes a range in these circumstances. Specifically, if the duration for a sentence that is a presumptive commitment is found in a shaded box, the standard range of 15 percent lower and 20 percent higher than the fixed duration applies. Minn. Sent. Guidelines § 2.C.1 (2014). Because Mr. Trepanier committed Kidnapping-Safe Release with a firearm, he is subject to a presumptive commitment under Minn. Stat. § 609.11. Consequently, since he has pled guilty to a severity level 6 offense and has a criminal history score of 1, he faces a range of 22.95 months ("low end of the box") to 32.4 months ("high end of the box). *See* Minn. Sent. Guidelines §§ 2.C.1, 4.A (2014).

The State also contends that the maximum sentence listed in the Complaint is a correctable "clerical error." Mr. Trepanier argues—and the Court agrees—that the State is mistaken. "The court may permit an indictment or complaint to be amended at any time *before verdict or finding* if no additional or different offense is charged and if the

defendant's substantial rights are not prejudiced." Minn. R. Crim. Pro. 17.05 (emphasis added). But the State is requesting amendment *after* a plea *and* conviction, which would result in a sentencing enhancement not listed in the Complaint and would more than double his sentence from 32.4 months to 69 months. Amendment under these circumstances is not permitted. *See State v. Guerra*, 562 N.W.2d 10, 12–13 (Minn. Ct. App. 1997) (holding that after jeopardy has attached, "an amendment is appropriate only if it does not charge an additional or different offense"); *State v. Marks*, No. C893-957, 1993 WL 536127, at *2-3 (Minn. Ct. App. Dec. 28, 1993), *rev. denied* (Minn. Jan. 27, 1994) (holding that district court clearly erred by amending complaint after verdict to sentence for Kidnapping- Not in Safe Place even though the original complaint charged Kidnapping- Safe Release).

The Court also reiterates that Mr. Trepanier did not testify to—and the State did not elicit—the facts necessary to establish that Mr. Trepanier did not release the victim in a safe place. In fact, there was no testimony whatsoever about where the victim was released. (*See.* T. 2-8.) Had there been testimony about such facts, the State may have had a colorable argument that Mr. Trepanier had agreed to constructive amendment of the Complaint through his plea colloquy. *See Guerra*, 562 N.W.2d at 12-13 (explaining that a complaint may be constructively amended during trial so long as the amendment does not charge an additional or different offense and does not prejudice the defendant's substantial rights); *Plantin v. State*, No. A05-1750, 2006 WL 1229672, at *2 (Minn. Ct. App. July 19, 2006), *rev. denied* (Minn. July 19, 2006) (denying petition for post-conviction relief where complaint charged Kidnapping- Safe Release but was constructively amended

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during trial to charge Kidnapping- Not in Safe Place where (1) the state presented evidence at trial that the victim was not released and suffered great bodily harm, (2) the defendant did not object to the jury being instructed on these elements, and (3) defense counsel agreed to sentencing for kidnapping without release in a safe place). But no such testimony was presented, which forecloses this argument.

C. The State cannot withdraw from the plea agreement based on mutual mistake.

In the alternative, the State argues that the doctrine of mutual mistake applies, and the State should be permitted to withdraw from the plea agreement. Mr. Trepanier responds that there was no mutual mistake, but even if there were, the State cannot invoke the doctrine to withdraw from the plea agreement. Mr. Trepanier further contends that the State cannot withdraw from the plea agreement because the Court has adjudicated him guilty and jeopardy has attached.

Our appellate court has generally affirmed the State's right to withdraw from a plea agreement when it is merely executory and before it had been entered on the record so long as the defendant had not detrimentally relied on the agreement. *See State v. Brown*, 709 N.W.2d 313, 316–17 (Minn. Ct. App. 2006); *State v. Johnson,* 617 N.W.2d 440, 443 (Minn.App.2000). Our supreme court has also held that mutual mistake is one of the reasons the State may withdraw from a plea agreement before a guilty plea has been entered. *State v. Robledo-Kinney*, 615 N.W.2d 25, 32 (Minn. 2000) (affirming denial of motion for specific performance after State withdrew from plea agreement based on mutual mistake regarding the extent of defendant's involvement in offense). But the State has not cited—and the Court has not located—any authority for the proposition that the

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State may withdraw from a plea agreement based on a mutual mistake—or for any other reason—where, as here, a guilty plea has been entered *and* accepted by the Court and the defendant objects to withdrawal.

The absence of authority for the State's position is unsurprising because our supreme court has adopted the opposite proposition. In *Martinez-Mendoza*, as in this case, the parties had entered a plea agreement, the defendant had entered a guilty plea, and the district court had accepted his plea and adjudicated him guilty. 804 N.W.2d 1 (Minn. 2011). But prior to sentencing, the State identified a mistake in the plea agreement which affected the sentence and therefore filed a motion to vacate the conviction and withdraw the guilty plea. *Id.* at 3-4. The district court agreed that a mutual mistake existed but denied the motion to vacate and to withdraw. The court of appeals reversed, but the supreme court sided with the district court, reasoning that "[g]ranting the State's motion to withdraw from the plea agreement over [defendant's] objection after [defendant's] conviction would allow [the defendant] to be twice placed in jeopardy in violation of the Double Jeopardy Clause of the United States Constitution." *Id.* at 7-8. The Constitution is clear: mutual mistake or not, the State cannot obtain vacation of Mr. Trepanier's conviction or withdraw from the guilty plea over the defendant's objection.

The Court also notes that, even if the State court were permitted to withdraw from the guilty plea based on mutual mistake, there is no mutual mistake here. In *Martinez-Mendoza*, the district court and the court of appeals both found a mutual mistake because (1) the defendant pled guilty to Count II-2nd Degree Criminal Sexual Conduct in exchange for a middle-of-the-box sentence or a 90-month commit; (2) the defendant testified to facts

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that established 2nd Degree Criminal Sexual Conduct under Minn. Stat. § 609.343, subd. 1(h)(iii)—which carried a presumptive commitment of 90-108 months; (3) the Complaint listed Count II as 2nd Degree Criminal Sexual Conduct under Minn. Stat. § 609.343, subd. 1(a)—which had no middle-of-the-box option because it carried a presumptive stayed sentence of 36 months; and (4) the State, the defendant, and the district court agreed that there was a mistake. *See id.* at 3-5; *see generally State v. Martinez-Mendoza*, No. A09-2151, 2010 WL 1753361 (Minn. Ct. App. May 4, 2010.) In our case in contrast, (1) Mr. Trepanier never testified to facts that amounted to Kidnapping- Not in Safe Place; (2) the parties never identified any minimum commitment period; (3) the offense to which Mr. Trepanier pled—Kidnapping-Safe Release—carried a presumptive commitment because it was committed with a firearm and therefore had a range including a "high end of the box"; and (4) Mr. Trepanier did not agree that there was a mutual mistake. (T. 2-8.)

In short, the State was mistaken about the offense to which Mr. Trepanier pled guilty and was therefore mistaken about the sentence to which it agreed. Frankly, the Court assumed that the plea agreement would ensure that Mr. Trepanier was committed to prison for several years but did not confirm this assumption at the time of the guilty plea and adjudication of guilt. But the State's mistake and the Court's assumption do not amount to a mutual mistake as a matter of law.

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