

THE SUPREME COURT, STATE OF WYOMING

2026 WY 110

OCTOBER TERM, A.D. 2026

October 5, 2026

JOSEPH CARL UNDERWOOD,

Appellant
(Defendant),

v.

THE STATE OF WYOMING,

Appellee
(Plaintiff).

S-26-0004

*Appeal from the District Court of Park County
The Honorable Bill Simpson, Judge*

Representing Appellant:

Office of Public Defender: Patricia L. Bennett, State Public Defender; Kirk A. Morgan, Chief Appellate Counsel; Dina F. Hardwick, Senior Assistant Appellate Counsel.*

Representing Appellee:

Keith G. Kautz, Attorney General; Jenny L. Craig, Deputy Attorney General; Kristen R. Jones, Senior Assistant Attorney General; John J. Woykovsky, Senior Assistant Attorney General.

**An Order Substituting Patricia L. Bennett for Brandon Booth was entered on April 15, 2026.*

Before BOOMGAARDEN, C.J., and GRAY, FENN, JAROSH, and HILL, JJ.

NOTICE: This opinion is subject to formal revision before publication in Pacific Reporter Third. Readers are requested to notify the Clerk of the Supreme Court, Supreme Court Building, Cheyenne, Wyoming 82002, of any typographical or other formal errors so that correction may be made before final publication in the permanent volume.

FENN, Justice.

[¶1] Joseph Carl Underwood entered *Alford*¹ pleas to two felonies and two misdemeanors: concealing a felony by disposing of a dead human body in a hidden, undisclosed, and transient location; possessing a firearm after having been convicted of a felony; interference with a peace officer; and fleeing or attempting to elude police officers. On appeal, he challenges the voluntariness of his pleas, arguing the district court failed to provide accommodations for his intellectual disability, specifically by failing to provide an informed assistant during court proceedings. Mr. Underwood failed to establish plain error because the record does not establish an informed assistant was a mandated accommodation; the record shows the district court provided the approved accommodations; and the totality of the circumstances demonstrates Mr. Underwood's pleas were knowing and voluntary. We affirm.

ISSUE

[¶2] Mr. Underwood presents one issue on appeal, which we rephrase as follows: Did the district court commit plain error by failing to provide accommodations for Mr. Underwood's intellectual disability, rendering his *Alford* pleas involuntary?

FACTS

[¶3] On November 2, 2019, a hunter discovered human remains in a local hunting area in Park County, Wyoming. The remains were later identified as Angela Elizondo, who had been reported missing from Laramie County, Wyoming. While law enforcement secured the scene, an officer observed a vehicle approaching the area where Ms. Elizondo's remains had been discovered. The driver stopped the vehicle and turned off the headlights. Approximately 13 minutes later, the driver turned the vehicle's headlights back on and drove towards the scene. The officer activated his overhead lights when he saw the vehicle moving towards the location. Rather than continuing toward the officer, the driver stopped the vehicle and began backing away. The officer followed the vehicle out of the area and notified dispatch.

[¶4] The driver attempted to flee but eventually pulled to the side of the road. An officer ran the vehicle's registration and identified the driver as Joseph Underwood, whom the officer knew to be a person of interest in connection with the crime scene. As officers approached Mr. Underwood, they observed he was holding a handgun to his head. Officers engaged in a standoff that ultimately ended when an officer lunged through Mr. Underwood's window and grabbed the handgun with sufficient force to eject the round from the chamber. After the officers disarmed Mr. Underwood, they secured and arrested him.

¹ *North Carolina v. Alford*, 400 U.S. 25, 91 S. Ct. 160, 27 L. Ed. 2d 162 (1970).

Laramie County Proceedings

[¶5] Following an investigation, Mr. Underwood was charged in Park County with concealing a felony, being a convicted felon in possession of a firearm, interference with a peace officer, and fleeing and attempting to elude law enforcement (Park County Charges). In Laramie County, Mr. Underwood was charged with first degree murder, first degree sexual assault, two counts of strangulation and one count stalking in connection with Ms. Elizondo's death (Laramie County Charges). When a warrant was issued for Mr. Underwood in Laramie County, the Park County Charges were dismissed without prejudice, and Mr. Underwood was transferred to the Laramie County Detention Center. On January 24, 2020, all the Laramie County Charges except the first-degree sexual assault charge were bound over to the district court.

Laramie County Competency Evaluations

[¶6] On February 19, 2020, the Laramie County District Court ordered Mr. Underwood to undergo a competency evaluation to see if he was fit to proceed to trial. In March 2020, Max Wachtel, Ph.D., found Mr. Underwood was not competent to stand trial. Dr. Wachtel found Mr. Underwood suffered from a mild neurocognitive disorder attributable to a brain injury Mr. Underwood sustained when he was younger. He opined: Mr. Underwood "showed severe impairment in a number of areas, including his ability to learn and remember new information and to pay attention and follow a logical line of reasoning. He had difficulty explaining himself, his opinions, and his understanding slash appreciation for many aspects of the legal process." Dr. Wachtel found "Mr. Underwood's issues are currently impairing his ability to rationally work with his defense counsel (even though he likes them very much and wants to cooperate) and to conduct his defense in a rational manner." Dr. Katherine Mahaffey from the Wyoming State Hospital conducted another competency evaluation in September 2020 and found Mr. Underwood's "scores showed relative strength in language tasks and visuospatial/construction [with] relative weakness in tasks of immediate memory." Dr. Mahaffey noted the testing conditions of Mr. Underwood were less than optimal, particularly for items such as memory and attention, due to distractions and interference in the setting. On December 3, 2020, the Laramie County District Court found Mr. Underwood was not fit to proceed. Mr. Underwood was then transported to the Wyoming State Hospital for restoration treatment beginning February 18, 2021.

[¶7] In Spring 2021, Alex Yufik, Ph.D., from the Wyoming State Hospital completed an evaluation finding Mr. Underwood suffered from a mild neurocognitive disorder. Dr. Yufik opined Mr. Underwood was competent to proceed to trial, but acknowledged due to his neurocognitive disorder, accommodations would need to be made for Mr. Underwood to consult effectively with counsel in his own defense. He opined:

Because of Mr. Underwood's intellectual and cognitive limitations, his relationship with counsel is expected to be more challenging to maintain and require a great deal more time than with other clients. It may prove more difficult to get Mr. Underwood to provide the level of detail in a response that would be necessary for any testimony without repeated follow up questions and encouragement. Finally, because of his concrete understanding and lack of detailed abstract reasoning, counsel will need to explain the legal process in the most concrete and simple terms.

Despite this finding, Dr. Yufik found "Mr. Underwood operates in grossly normal neuropsychological range [and] was able to complete all the tasks within normal time and did not require repetition or simplification of instruction." He found Mr. Underwood scored in the average range in all areas assessed.

[¶8] On June 1, 2021, and August 27, 2021, the Laramie County District Court conducted a two-part hearing in which it heard testimony from Dr. Yufik and Dr. Wachtel and considered the competency evaluations. After having heard all of the evidence, the Laramie County District Court determined the State failed to prove by a preponderance of the evidence Mr. Underwood was competent to proceed but found "there [was] a substantial probability that Mr. Underwood [could] be restored within the foreseeable future pursuant to [Wyo. Stat. Ann.] § 7-11-303(g)(i)(B)(II)[(2021).]" The court ordered Mr. Underwood to be held at the Wyoming State Hospital pursuant to Wyoming Statute § 7-11-303(g)(i)([D]) until there was a determination he was fit to proceed. The court further "suggest[ed] the Wyoming State Hospital conduct a neuropsychological examination and that Mr. Underwood participate in speech therapy and occupational therapy[.]"

[¶9] In February 2022, the Wyoming State Hospital referred Mr. Underwood to Daniel Martell, Ph.D., A.B.P.P., for a forensic neuropsychological consultation regarding his competency to stand trial considering his history of severe traumatic brain injury. Dr. Martell examined and tested Mr. Underwood for approximately seven hours on February 28, 2022. Based on Dr. Martell's review of Mr. Underwood's records and his own examination, he opined to a reasonable degree of forensic neuropsychological certainty that Mr. Underwood has a neurocognitive disorder that is permanent and was not expected to improve with time or treatment. Despite this mental illness and deficiency, Dr. Martell opined "Mr. Underwood retains the capacity to comprehend his position, to understand the nature and object of the proceedings against him, and to conduct his defense in a rational manner." However, Dr. Martell opined due to his mental deficiency in particular, Mr. Underwood "lacks the capacity to cooperate with counsel effectively in the courtroom, attend to the proceedings effectively, remember what he hears, and process events adequately in real time such that his capacity to consult with counsel in the pursuit of his

defense . . . is substantially impaired.” With regard to overcoming this with accommodations, Dr. Martell did “not believe that there are realistic options for accommodating Mr. Underwood’s neurocognitive impairments in court.” Dr. Martell believed it was “unlikely that the pace of real-time courtroom proceedings could be adequately ‘slowed down’ in an effective manner that would permit [Mr. Underwood] to keep up sufficiently.” Accordingly, Dr. Martell opined Mr. Underwood was not fit to proceed and there was not a substantial probability he would become fit to proceed in the foreseeable future.

[¶10] Despite this finding, Dr. Martell opined that Mr. Underwood accurately described the charges he was facing, identified his plea options, and accurately described what would happen if he pled not guilty or guilty. He stated Mr. Underwood was “able to explain the plea bargain process” and specifically Mr. Underwood explained, “You say I’ll plead guilty to this charge if you dismiss these other ones or suspend years and have probation. You plead to a lesser degree, less years.” Dr. Martell further described Mr. Underwood understood the advantages if he pursued a plea bargain, such as a lower sentence, but also the disadvantages, such as giving up certain rights, like the right to a jury trial.

[¶11] On April 15, 2022, Dr. Yufik sent a letter to the Laramie County District Court stating, “Mr. Underwood has not been restored to competency, and there is no substantial probability that he could be restored to competency in the foreseeable future or ever.” Dr. Yufik determined Mr. Underwood had the capacity to comprehend his position, understand the nature and object of the proceedings against him, and to conduct his defense in a reasonable manner. However, Dr. Yufik concluded Mr. Underwood “lack[s] the capacity to cooperate with his counsel to the end that any available defense may be interposed,” and based on the information that was available, he was not fit to proceed. Dr. Yufik concluded “there is not a substantial probability that [Mr. Underwood] could be restored to a state of legal competency even if provided with a continuous course of treatment.” Notably, Dr. Yufik’s letter made no mention of whether accommodations could be made to enable Mr. Underwood to cooperate with counsel, despite having previously discussed the possibility of such accommodations in his earlier evaluation.

[¶12] After having received the letter from the Wyoming State Hospital, the Laramie County District Court conducted a hearing. At the hearing, the Laramie County District Attorney and Mr. Underwood’s counsel agreed with the Wyoming State Hospital’s findings. The Laramie County District Court therefore found Mr. Underwood was not fit to proceed, and there was no substantial probability he would become fit to proceed in the foreseeable future. The Laramie County District Court dismissed the Laramie County Charges with prejudice.

Park County Circuit Court Proceedings

[¶13] After learning the Laramie County District Court dismissed the charges against Mr.

Underwood, the Park County Prosecuting Attorney (State) refiled the previously dismissed Park County Charges against Mr. Underwood on July 5, 2022. Mr. Underwood was transferred to the Park County Detention Center. On July 15, 2022, Mr. Underwood's counsel filed a motion for evaluation pursuant to Wyoming Statute § 7-11-303 (2021). The Park County circuit court ordered Mr. Underwood to undergo a competency evaluation.²

[¶14] On December 19, 2022, Steven Nelson, Ph.D., from the Wyoming State Hospital filed his forensic evaluation regarding Mr. Underwood's competency to proceed. Dr. Nelson found Mr. Underwood "did not exhibit apparent symptoms of a mental illness[.]" but "did exhibit a mild intellectual disability." Dr. Nelson found Mr. Underwood demonstrated the presence of a neurocognitive disability but was "presently capable of understanding the nature and objective of legal proceedings against him and [was] capable of assisting counsel in his own defense, if adequate accommodations [were] provided." Dr. Nelson agreed with Dr. Yufik that there was no means of restoring Mr. Underwood's neurological functioning. However, Dr. Nelson determined with reasonable accommodations and a flexible approach by the court, including necessary modifications to the pace of proceedings, Mr. Underwood could be afforded adequate time and mental space to process the information presented to him and to understand, consider, and make the choices and decisions required of him. Dr. Nelson noted Mr. Underwood "possesse[d] much of the knowledge requisite for" "participat[ing] in helping his attorney discuss legal strategy, confront[ing] witnesses, and consider[ing] his own potential testimony." He found Mr. Underwood was "aware of the charges against him and what they could mean to him[,] ha[d] an adequate understanding of court procedure and the adversarial process[,] underst[ood] potential pleas and what it means to plea bargain[,] and . . . underst[ood] his attorney [was] an advocate meant to assist him in the process." Dr. Nelson provided a list of accommodations Mr. Underwood's attorney could make when meeting with Mr. Underwood, which Dr. Yufik provided in a previous evaluation, and he recommended accommodations that could be made in the courtroom.

[¶15] Shortly after receiving the evaluation by Dr. Nelson, Mr. Underwood filed a motion for a second competency evaluation requesting the evaluation be completed by a designated examiner of his choosing, specifically Dr. Wachtel or Dr. Martell. The circuit court granted Mr. Underwood's motion and ordered him to undergo a second examination by either Dr. Wachtel or Dr. Martell. On July 31, 2023, Dr. Martell issued his follow-up forensic neuropsychological evaluation of Mr. Underwood. Dr. Martell opined Mr. Underwood "clearly understood the charges he [was] facing" and was able to list the four charges against him, describing what police said he did, and when it happened. Dr. Martell stated Mr. Underwood explained the trial process and proper courtroom decorum, knew

² On a certified question involving a companion case, we held "[t]he plain language of [Wyoming Statute] § 7-11-303(a) confers jurisdiction to circuit courts to address the competency of a person charged with a felony before they are bound over to the district court." *Skoric v. Park Cnty. Cir. Ct., Fifth Jud. Dist.*, 2023 WY 59A, ¶ 17, 532 P.3d 667, 671 (Wyo. 2023).

whether he had entered a plea, and identified who the judge and attorneys were on both sides. Based on Mr. Underwood's interactions, Dr. Martell found Mr. Underwood was "capable of consulting with counsel with a reasonable degree of rational understanding outside the courtroom setting." However, Dr. Martell opined that Mr. Underwood's competency was severely impaired "in his neurocognitive processing speed that grossly undermine[d] his ability to keep up with courtroom proceedings in real time, and then consult . . . with counsel effectively during ongoing courtroom proceedings." He found "there [were not] realistic options for effectively accommodating [Mr. Underwood's] neurocognitive impairments in court without a severe disruption of normal courtroom proceedings." Dr. Martell found it was "unlikely that the pace of real-time courtroom proceedings could be adequately 'slowed down' in an effective manner that would permit [Mr. Underwood] to keep up sufficiently, even with the assistance of an assistant." Based on this impairment, Dr. Martell found Mr. Underwood was "permanently incompetent to proceed to trial."

[¶16] On March 27, 2024, the circuit court held a competency hearing where both Dr. Nelson and Dr. Martell testified. The circuit court determined Mr. Underwood "has certain cognitive impairments which conditionally impact his mental capacity and his ability to proceed in any legal proceeding." It found both experts agreed Mr. Underwood had "the capacity to comprehend his position and to understand the nature and object of the proceedings against him." However, the circuit court observed their opinions diverged on whether Mr. Underwood "could functionally conduct his defense in a rational manner and . . . have the reasonable ability to cooperate with his counsel in any proceeding." The circuit court noted the experts specifically disagreed on "whether accommodations could be practically and feasibly . . . provided in a manner which [was] reasonably calculated to effectively mitigate the impact that [Mr. Underwood's] neuro-cognitive deficits which adverse[ly] affect his ability to process, recall and remember information in real time at the pace typically required during court proceedings." The circuit court recognized the issue surrounding Mr. Underwood's competency "boil[ed] down to whether accommodations will be disruptive enough to impact the feasibility of the [c]ourt to provide such accommodations." Accordingly, it found the court was in "the best position to determine whether or not such suggested accommodations will be disruptive to such a degree that those will be more than a mere inconvenience regarding the process of proceeding in [c]ourt." Ultimately, the circuit court concluded:

[W]ith the use of reasonable accommodations, [Mr. Underwood] is competent to proceed through a preliminary hearing. He does suffer some cognitive deficits, but he is able to engage in appropriate conversation. [Mr. Underwood] understands the basic legal concepts and the roles of courtroom participants. He has an adequate understanding of the charges against him, the court processes, and if given time to process real time information, he understands his legal options. With

the use and administration of appropriate aides and accommodations, [Mr. Underwood] now conditionally has sufficient ability to consult with his lawyer with a reasonable degree of rational understanding and he will have a rational and factual understanding of the proceedings against him if those accommodations are available. **Proper accommodations can be made for [Mr. Underwood], including:** (1) Simplifying the proceedings wherever possible by paraphrasing complex concepts into familiar terms and avoiding legal jargon; (2) slowing down the proceedings and repeating information as needed to allow ample time for [Mr. Underwood] to communicate with his attorney; and (3) allowing frequent breaks in order to provide opportunities for counsel to discuss information and developments with [Mr. Underwood] as needed; (4) assuring that attorneys and witnesses speak clearly and slowly and to pause between questions posed and answers given; (5) allow [Mr. Underwood] to signal that a pause is needed if the pace of proceedings is moving to[o] fast for him to process information sufficiently; (6) allow a third party whose sole focus during a proceeding is to monitor [Mr. Underwood] and ensure [Mr. Underwood] is understanding information presented in real time; (7) the [c]ourt can monitor [Mr. Underwood] during the proceedings to assure that he is able to comprehend the information occurring at each stage of the proceeding.

(emphasis added).

[¶17] The circuit court held that “[b]ecause reasonable accommodations are necessary as a corollary to the preliminary hearing on account of [Mr. Underwood’s] condition meeting the definition of ‘disability’ under the Federal Americans with Disabilities Act (ADA), the [circuit] [c]ourt believe[d] that it must also comply with the provisions of the ADA.” Accordingly, the circuit court ordered Mr. Underwood, through counsel, to complete the Wyoming Judicial Branch (Judicial Branch) ADA Modification Request Form and identify the accommodations necessary to address his cognitive impairments. The circuit court stated it would convene a hearing to address the specific accommodations, requirements, and procedures after the Judicial Branch issued its decision on the request.

[¶18] On June 12, 2024, the Judicial Branch issued its decision regarding Mr. Underwood’s ADA modification request. The Judicial Branch denied the request for an informed assistant to aid in the proceeding as “they fall under personal services not mandated by the ADA and would fundamentally alter the nature of the judicial process.” However, the Judicial Branch found “the presiding judge retains the discretion to determine

if such assistance is appropriate and reasonably calculated to ensure the fairness in the proceedings.” The Judicial Branch approved Mr. Underwood’s “[r]equests for using plain language, slowing the pace of proceedings, providing breaks, ensuring slower questioning, adjusting courtroom lighting, regulating courtroom access, and allowing [him] to request additional accommodations prior to testifying.” The decision made clear an individual judge is not precluded from further analysis when determining whether additional accommodation was necessary to protect Mr. Underwood’s rights.

[¶19] The circuit court set a hearing on the accommodations for June 24, 2024. The record contains no indication that this hearing occurred, what was discussed at the hearing, or what accommodations the court determined it would provide based on the hearing and the Judicial Branch’s decision. The record also does not establish whether the circuit court exercised its discretion to allow Mr. Underwood to have an informed assistant in addition to his court-appointed counsel. The record does show, however, a second public defender entered his appearance as co-counsel on March 6, 2024. Additionally, at the preliminary hearing on July 22, 2024, the same public defender and another public defender both appeared on behalf of Mr. Underwood. Following the preliminary hearing, the circuit court bound the matter over to the district court.

Park County District Court Proceedings

[¶20] The Park County District Court held an arraignment on July 30, 2024, at which Mr. Underwood appeared with only one of his public defenders. Neither Mr. Underwood nor his counsel objected to any accommodations the district court provided or omitted, nor did they request any additional accommodations, including the appointment of an informed assistant. During the arraignment, Mr. Underwood’s counsel made an oral motion for the district court to make a competency determination but stipulated to the district court’s receipt and consideration of the competency evaluations already in the record. Mr. Underwood interjected and asked the district court if he could “speak to [his] lawyer in private.” The district court paused proceedings and allowed Mr. Underwood to discuss the matter with his attorney. Proceedings resumed approximately 30 minutes later.

[¶21] When the district court resumed the arraignment, it stated that it had reviewed the circuit court’s competency decision and would adopt and incorporate the decision, and specifically found “Mr. Underwood . . . [was] fit, competent, and able to proceed and understand the allegations against him, [to] cooperate and assist [defense counsel] in his defense and preparation of the same.” Mr. Underwood entered pleas of not guilty and not guilty by reason of mental illness (NGMI) to all four counts in the amended information. The district court issued two written orders following the arraignment, both of which “adopt[ed] the Circuit Court Order on Competency (through the implementation of reasonable accommodations).” However, neither order identified the reasonable accommodations to be implemented. The district court ordered the Wyoming State

Hospital to conduct an NGMI examination of Mr. Underwood pursuant to Wyoming Statute § 7-11-304 (2023).

[¶22] While his NGMI examination was pending, Mr. Underwood submitted two handwritten letters requesting a new attorney and a new judge. In response, the district court held a hearing on November 25, 2024. At the hearing, the district court denied Mr. Underwood's request to excuse his two court-appointed attorneys, and Mr. Underwood withdrew his request to recuse the judge. The district court again stated on the record that Mr. Underwood was competent and ready to proceed with accommodations, but it did not identify or explain what those accommodations entailed. Instead, the district court reiterated it was adopting and accepting the circuit court's competency determination. The district court did, however, ask on the record that law enforcement continue transporting Mr. Underwood to the courtroom for in-person appearances rather than having him appear virtually, so that Mr. Underwood could understand the proceedings and communicate with the court and his attorney face-to-face.

[¶23] On January 9, 2025, the district court held a scheduling conference to determine the status of the evaluation for Mr. Underwood's NGMI plea. On February 21, 2025, Steve Nelson, Ph.D., from the Wyoming State Hospital submitted his evaluation to the district court. Dr. Nelson opined: "the weight of the evidence indicate[d] [Mr. Underwood] did not lack the capacity to appreciate the wrongfulness of the act charged and he was capable of conforming his behavior to the standards of law." Although Dr. Nelson recognized Mr. Underwood's intellectual disability, Dr. Nelson concluded Mr. Underwood had the capacity to understand the wrongfulness of his actions. Dr. Nelson found that Mr. Underwood "made a conscious decision to conceal the victim's body once he saw she was deceased, rather than report her death to authorities." Dr. Nelson further concluded that Mr. Underwood formulated a plan to temporarily dispose of Ms. Elizonda's body and later return to "cremate" her remains, which demonstrated he wanted to conceal his actions. Based on his findings, Dr. Nelson opined Mr. Underwood did not qualify for an NGMI defense.

[¶24] On February 26, 2025, Mr. Underwood requested a second evaluation by a designated examiner of his choosing. The district court granted Mr. Underwood's request. The record does not contain a subsequent evaluation by a designated examiner.

[¶25] On September 4, 2025, Mr. Underwood's counsel requested a change-of-plea hearing, which the district court set for the following day. Mr. Underwood appeared at the hearing with only one of his court-appointed attorneys. Neither Mr. Underwood nor his counsel objected to the accommodations provided by the district court, nor did they request any additional accommodations, including the appointment of an informed assistant or the appearance of his second attorney. At the hearing, the district court confirmed Mr. Underwood understood he would be entering an *Alford* plea to the Park County Charges. The district court then explained the difference between a no contest plea and an *Alford*

plea to Mr. Underwood. During that explanation, Mr. Underwood indicated he needed a moment to speak with his attorney. The court permitted Mr. Underwood to leave the courtroom and confer privately with his counsel in a separate room. After more than fifteen minutes, the proceedings resumed. The district court placed on the record that Mr. Underwood had been given an opportunity to consult privately with counsel and asked whether he was ready to proceed. Mr. Underwood confirmed he was ready to proceed.

[¶26] The district court asked Mr. Underwood whether there was anything he needed the court to clarify for him. Mr. Underwood's counsel explained Mr. Underwood needed clarification on whether an *Alford* plea allowed him to maintain his innocence. The district court explained the distinction between a conventional guilty plea and an *Alford* plea, including that Mr. Underwood would not admit or deny guilt but would nevertheless be treated as having pled guilty. Mr. Underwood stated he understood the clarification. The district court again permitted Mr. Underwood to confer with his attorney and offered him the opportunity to take another break.

[¶27] Instead of taking a break, Mr. Underwood's counsel spoke with Mr. Underwood in the courtroom and then indicated to the district court when Mr. Underwood was ready to proceed. Before reviewing the charges, the district court instructed Mr. Underwood to interrupt if he had questions and advised him he could either confer with counsel at counsel table or request another break to speak privately with counsel:

THE COURT: Okay. Mr. Underwood, I'm going to go through the charges. If you have any questions about it, please interrupt me. Stop me. I'll try to clarify, as indicated earlier. If you need a break to visit with [your attorney] at counsel table or if you'd like to be excused and we'll go off record, as we have done earlier, you can certainly do that. Just advise the [c]ourt of your preference. Do you understand?

Mr. Underwood stated he understood, and the district court proceeded to read the information and affidavit of probable cause.

[¶28] The district court read each of the four charges to Mr. Underwood and the maximum terms of incarceration and fines he could face if he pled or was found guilty. Mr. Underwood stated he understood the elements, sentences, and fines for each of the four Park County Charges. After reviewing the charges and confirming Mr. Underwood understood, the district court read the affidavit of probable cause and asked if Mr. Underwood had any questions, to which Mr. Underwood responded no. Mr. Underwood, through counsel, then entered *Alford* pleas to all four counts.

[¶29] Before advising Mr. Underwood of his additional rights, the district court stated to Mr. Underwood:

THE COURT: [I]t is incumbent upon the [c]ourt, regardless of each stage of the proceedings, that I review with you these basic rights.

So if you have any questions, please don't hesitate to stop me and we'll clarify it as best we can. And as we've done throughout this proceeding and others, if you need time to visit with [your attorney] you can do that at counsel table. Or we can go off the record and the deputy sheriffs will accompany you to another location here in the courthouse where you can visit with [your attorney]. And once you've done so, then we'll go back on the record. Do you understand, Mr. Underwood?

Mr. Underwood stated he understood. The district court proceeded to advise Mr. Underwood of the rights he would waive by entering his pleas. Mr. Underwood stated he understood the district court's advisements. The district court confirmed Mr. Underwood was freely and voluntarily entering his pleas, he understood the affidavit of probable cause, and he wanted his pleas to stand:

THE COURT: And with that said, you have freely and voluntarily entered your Alford Plea to Counts One, Two, Three, and Four and established I have read to you the affidavit of probable cause in detail. You indicated to me you understood it, and you want that plea to stand of Alford to Counts One, Two, Three, and Four in the felony information; is that correct?

Mr. Underwood responded: "Yes, sir."

[¶30] Pursuant to his *Alford* pleas, the district court adjudicated Mr. Underwood guilty on all four counts. In doing so, the district court found Mr. Underwood had entered his pleas freely and voluntarily, without threat or coercion, after receiving the advice and consent of counsel, and with a "full and complete opportunity to understand" the pleas. Mr. Underwood agreed with the district court's statements regarding the voluntariness of his pleas, and he declined the district court's final invitation to ask any additional questions he might have.

[¶31] The matter came before the district court for sentencing on October 6, 2025. The district court sentenced Mr. Underwood to nine to ten years in prison, with credit for 653 days served, for disposing of a dead human body in a hidden, undisclosed, and transient location to conceal a felony offense; 32 to 36 months in prison for possession of a firearm after having been convicted of a felony; one year of incarceration, with credit for 365 days

served, for interfering with a peace officer; and six months of incarceration, with credit for 180 days served, for fleeing or attempting to elude police officers. The district court ordered all four sentences to run consecutively. Mr. Underwood timely appealed.

DISCUSSION

[¶32] Mr. Underwood contends his pleas were not knowing and voluntary because the district court failed to provide the recommended accommodations for his intellectual disability before accepting his *Alford* pleas and imposing sentence. He asserts the district court conducted the change-of-plea proceeding “all while providing no informed assistant or other suggested and approved accommodations.” According to Mr. Underwood, the district court’s failure to provide the accommodations rendered his *Alford* pleas involuntary.

[¶33] “An *Alford* plea has the same preclusive effect as an ordinary guilty plea.” *Fuentes v. State*, 2026 WY 36, ¶ 25, 586 P.3d 1058, 1065 (Wyo. 2026). Accordingly, “[t]he only claims not waived by an unconditional [*Alford*] plea are those that address the jurisdiction of the court or the voluntariness of the plea.” *Protz v. State*, 2019 WY 24, ¶ 10, 435 P.3d 394, 397 (Wyo. 2019) (citation omitted). Our review is therefore limited to whether Mr. Underwood’s *Alford* pleas were rendered involuntary by the absence of certain accommodations. *See generally Glenn v. State*, 2026 WY 85, ¶¶ 26–27, 592 P.3d 1136, 1143 (Wyo. 2026) (explaining the appellant must tie an alleged error to the voluntariness of the plea for the claim to be reviewable following a guilty plea).

[¶34] “[T]he standard of review for determining whether a defendant’s guilty plea was truly voluntary is *de novo*.” *Nguyen v. State*, 2013 WY 50, ¶ 7, 299 P.3d 683, 685 (Wyo. 2013). However, Mr. Underwood concedes he did not object to the district court proceeding without certain accommodations, including requiring an informed assistant during court proceedings. Therefore, we review his challenge for plain error. *See id.* at ¶¶ 7–10, 299 P.3d at 685–86 (applying plain-error review to an unpreserved challenge to the voluntariness of the plea when the district court lacked a sufficient factual basis to accept the guilty plea); *Zumberge v. State*, 2010 WY 111, ¶ 4, 236 P.3d 1028, 1030 (Wyo. 2010) (holding a defendant’s failure to object to the district court’s alleged omission in accommodating his hearing impairment subjected his claim to plain-error review). “Plain error exists when: 1) the record is clear about the incident alleged as error; 2) there was a transgression of a clear and unequivocal rule of law; and 3) the party claiming the error was denied a substantial right which materially prejudiced him.” *Nguyen*, ¶ 10, 299 P.3d at 686 (quoting *Kidwell v. State*, 2012 WY 91, ¶ 10, 279 P.3d 540, 543 (Wyo. 2012)).

[¶35] Mr. Underwood cannot satisfy the first two elements of the plain-error analysis because the record does not establish the district court was required to provide him with an informed assistant or that it failed to provide any approved accommodations. To the contrary, the record demonstrates the district court implemented the Judicial Branch’s

ADA approved accommodations and acted to ensure Mr. Underwood understood the proceedings. The totality of the circumstances establishes Mr. Underwood entered his pleas knowingly and voluntarily.

[¶36] Mr. Underwood claims “[t]he record . . . clearly reflects the alleged error and shows that the district court accepted and sentenced [him] on *Alford* pleas without implementing the accommodations on which his competency was expressly conditioned.” Specifically, he contends the district court erred by accepting his pleas without providing him with an informed assistant during the proceeding. The record does not establish Mr. Underwood’s competency determination was expressly conditioned on providing him with an informed assistant or on providing any particular accommodation.

[¶37] The district court “adopt[ed] the Circuit Court Order on Competency (through the implementation of reasonable accommodations).” However, the district court did not identify what accommodations were required. Similarly, the circuit court’s competency order did not mandate any particular accommodations. The circuit court’s order discussed the idea of an informed assistant and gave an example of providing two attorneys to aid Mr. Underwood, but the only accommodations the circuit court found “must” be taken “[d]ue to [Mr. Underwood’s] cognitive deficits,” were the court “tak[ing] extra time to explain the on-going proceedings to him and afford[ing] extra opportunities and time for him to confer with his attorney.” Instead of adopting any other particular accommodations, the circuit court ordered Mr. Underwood to submit an ADA Modification Request to the Judicial Branch, and ordered that, after receiving a decision on that request, it would hold a hearing to “discuss the process for instituting approved accommodations.” The circuit court’s competency order contemplated a process for determining and implementing additional accommodations, but it did not require the circuit or district courts to provide Mr. Underwood with specific accommodations to ensure he was competent to proceed.

[¶38] The subsequent ADA determination identified certain approved accommodations intended to facilitate Mr. Underwood’s meaningful participation in the judicial process given his intellectual disability, while leaving the presiding judge with discretion to consider whether additional accommodations were necessary to protect his rights. The Judicial Branch specifically denied Mr. Underwood’s request for an informed assistant to help him understand the legal proceedings, while recognizing “the presiding judge retains the discretion to determine if such assistance [was] appropriate.” Although Mr. Underwood acknowledges that determination in his brief, he does not identify any order in which either the circuit court or the district court exercised that discretion and found an informed assistant was a necessary accommodation to protect his rights. Our review of the record does not reveal either court ever entered an order requiring the presence or use of any such informed assistant. The requests the Judicial Branch approved were “using plain language, slowing the pace of proceedings, providing breaks, ensuring slower questioning, adjusting courtroom lighting, regulating courtroom access, and allowing [him] to request additional accommodations prior to testifying[.]”

[¶39] “A court may qualify its competency finding and suggest or mandate accommodations.” *State v. Beaudoin*, 970 A.2d 39, 47 (Vt. 2008). We cannot find the district court committed plain error when it proceeded with the change of plea proceedings without providing Mr. Underwood with an informed assistant because there was no mandate from the circuit court, district court, or the Judicial Branch that required the use of an informed assistant during court proceedings. *See id.* (finding no plain error where the trial court’s order recommended, but did not mandate, accommodations and concluding the competency determination was not contingent on those accommodations). While there is nothing in the record indicating the circuit court or district court specifically adopted the Judicial Branch’s approved accommodations, the record demonstrates the district court implemented at least some of those accommodations. The record further demonstrates the district court implemented accommodations the circuit court stated the court must do. Although, the record does not reveal whether the district court adjusted the courtroom lighting or regulated courtroom access, it does demonstrate the district court took “extra time to explain the on-going proceedings . . . and afford[ed] extra opportunities and time for [Mr. Underwood] to confer with his attorney.” The record further reveals the district court slowed the proceedings, used plain and simplified language, repeatedly explained and clarified matters to Mr. Underwood, allowed Mr. Underwood to interject and ask questions, and permitted him to take breaks, including a 30-minute break to confer privately with his counsel in a separate room. The district court also directed law enforcement to transport Mr. Underwood from the detention center to the courtroom so the district court could speak with him face-to-face and confirm his understanding of the proceedings.

[¶40] Even assuming the district court failed to provide some other accommodation, Mr. Underwood cannot show the district court committed plain error. An *Alford* plea “must be entered by a defendant knowingly and voluntarily.” *Robertson v. State*, 2025 WY 18, ¶ 30, 563 P.3d 502, 512 (Wyo. 2025). “A plea is knowingly entered if the court properly advises the defendant and ensures he understands the nature of the plea, the penalties, including the potential maximum sentence associated with the charge he would be pleading to, the rights he would be relinquishing, and the consequences if the court accepts the plea.” *Id.* (citation modified). “A plea is voluntary when the defendant is fully aware of the direct consequences, including the actual value of any commitments made to him by the court, prosecutor, or his own counsel and is not induced by threats, misrepresentation, or promises that are by their nature improper as having no proper relationship to the prosecutor’s business (e.g. bribes).” *Id.* (citation modified). “We look to the totality of the circumstances to determine whether a plea was knowing and voluntary.” *Id.* (quoting *Pettus v. State*, 2022 WY 126, ¶ 30, 518 P.3d 267, 276 (Wyo. 2022)).

[¶41] In this case, the totality of the circumstances demonstrates Mr. Underwood understood the nature and consequences of his *Alford* pleas, he entered his pleas knowingly and voluntarily, and the district court implemented appropriate accommodations to ensure

Mr. Underwood understood the pleas and any consequences associated with those pleas. At the change-of-plea hearing, the district court complied with Rule 11 of the Wyoming Rules of Criminal Procedure (2025) and confirmed no one had promised Mr. Underwood anything or forced, coerced, or threatened him to enter his pleas. The district court explained the nature of an *Alford* plea, and when Mr. Underwood indicated he wanted to further consult with his attorney, the district court recessed the proceedings and permitted him to confer with counsel in a separate room. When the proceedings resumed more than fifteen minutes later, the district court again explained the nature of an *Alford* plea, and Mr. Underwood confirmed he understood the distinction between a traditional guilty plea and an *Alford* plea. The district court then reviewed the charges, the maximum terms of incarceration and fines, and the Affidavit of Probable Cause. Mr. Underwood confirmed he understood the elements of the charges against him and the maximum terms of incarceration and fines for each charge and had no questions about the affidavit.

[¶42] The district court also expressly advised Mr. Underwood that he could stop the proceeding at any time if he had questions or needed to confer with counsel and that the court would accommodate his request. The district court further instructed Mr. Underwood to notify the court if there was anything he did not understand so that the court could clarify it. Mr. Underwood confirmed he understood the court's instructions. He then utilized those accommodations by taking breaks to consult with counsel and interjected when he had questions. The district court's willingness to pause the proceedings, permit private consultation with counsel, clarify its explanations, and address Mr. Underwood's questions provided him with the accommodations necessary to ensure he understood the nature and consequences of his pleas before entering them.

[¶43] Mr. Underwood's competency evaluations likewise support the conclusion he understood the legal proceedings and the consequences of entering his plea. Since 2021, Mr. Underwood's competency evaluations have consistently indicated he could identify and describe the charges against him, understood the possible maximum sentences, and could explain in his own words the nature of a plea bargain. One evaluation expressly concluded that "[Mr. Underwood] has a solid, rational understanding of the legal process." Dr. Martell found Mr. Underwood accurately explained a plea bargain, recognized the advantages of pursuing a plea, and understood that entering a plea would require him to relinquish constitutional rights. Dr. Nelson likewise found Mr. Underwood understood what it meant to accept a plea agreement and specifically understood that doing so would waive his right to a trial and his opportunity to prove his innocence at trial.

[¶44] This is not a case in which the record shows a defendant's disability prevented him from understanding the change of plea proceeding or knowingly and voluntarily entering his pleas. To the contrary, the record demonstrates the district court repeatedly accommodated Mr. Underwood's communication needs, provided him with opportunities to consult with counsel and ask questions, confirmed his understanding of the plea and its consequences, and provided Mr. Underwood with the opportunity to interject and seek

clarification from the court. The competency evaluations likewise demonstrate Mr. Underwood understood the nature of the legal proceedings, the consequences of entering a plea, and the constitutional rights he would relinquish by entering his pleas. Thus, the record supports the conclusion Mr. Underwood's decision to enter *Alford* pleas to all four charges was a knowing and voluntary decision made with an understanding of the rights he would surrender and the benefits he would obtain through entering the plea.

[¶45] Considering the totality of the circumstances, the record establishes Mr. Underwood understood the nature of his *Alford* pleas, the charges and penalties he faced, and the rights he was relinquishing. His intellectual disability does not, standing alone, establish that his pleas were involuntary, particularly when the record demonstrates the district court implemented the approved accommodations and repeatedly confirmed Mr. Underwood's understanding. Under these circumstances, Mr. Underwood cannot establish the district court committed plain error when it accepted his *Alford* pleas and imposed a sentence. *See generally State v. Blakney*, No. 95025, 2011 WL 743159, at *2–3 (Ohio Ct. App. Mar. 3, 2011) (holding a defendant's guilty plea was knowing and voluntary despite his hearing disability where the trial court provided reasonable accommodations and the totality of the circumstances demonstrated his understanding of the plea and the rights he was waiving); *Zumberge*, 2010 WY 111, ¶¶ 13–14, 236 P.3d at 1033–34 (holding the district court did not plainly err where it took appropriate measures whenever the appellant expressed difficulty hearing or understanding); *Beaudoin*, 970 A.2d at 47 (holding the suggested accommodations did not constitute a mandatory condition of competency where the trial court did not mandate them, and finding no plain error where the court nevertheless provided the recommended accommodations).

CONCLUSION

[¶46] The record does not establish an informed assistant was a mandated accommodation. It does however establish the district court implemented the Judicial Branch's approved ADA accommodations. The totality of the circumstances demonstrates Mr. Underwood's *Alford* pleas were knowing and voluntary. For these reasons, Mr. Underwood failed to establish plain error. We affirm the district court's acceptance of his *Alford* pleas and imposition of sentence.