

*This opinion will be unpublished and
may not be cited except as provided by
Minn. Stat. § 480A.08, subd. 3 (2012).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A14-0031**

Michael Jaree Harris, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed November 24, 2014
Affirmed
Peterson, Judge**

Ramsey County District Court
File Nos. 62-CR-10-9927
62-CR-10-6741

Matthew K. Begeske, Begeske Law Offices, Duluth, Minnesota (for appellant)

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

John Choi, Ramsey County Attorney, Kaarin Long, Assistant County Attorney, St. Paul,
Minnesota (for respondent)

Considered and decided by Reyes, Presiding Judge; Peterson, Judge; and Reilly,
Judge.

UNPUBLISHED OPINION

PETERSON, Judge

In this postconviction appeal, appellant argues that the district court abused its discretion by refusing to permit him to withdraw his guilty plea under the manifest-injustice standard and by denying him an evidentiary hearing. We affirm.

FACTS

On June 10, 2010, St. Paul police stopped the car that appellant Michael Jaree Harris was driving because the window tint appeared to be too dark. When the police asked Harris to step out of the car, he ran. As he ran, Harris discarded or lost a sweatshirt. The police recovered the sweatshirt after apprehending Harris and discovered two baggies that contained crack cocaine in the sweatshirt. The St. Paul Police Department Crime Laboratory (SPPDCL) reported that the baggies contained a total of 6.81 grams of crack cocaine. On November 3, 2010, Harris was a passenger in a car that police stopped in an alley for careless or reckless driving. Harris and the driver got out of the car, and the police ordered them to the ground at gunpoint. Harris threw a baggie that contained more than 30 grams of crack cocaine into a yard adjacent to the alley, where it was recovered by police. Harris had an additional six grams of cocaine in his pocket.

Harris was charged with one count of second-degree controlled-substance crime for the incident that occurred on June 10, 2010, and one count of first-degree controlled-substance crime for the incident that occurred on November 3, 2010. Harris pleaded guilty to the two counts on May 25, 2011. To establish a factual basis for each plea during the plea hearing, Harris's attorney asked Harris a series of leading questions to

which Harris answered “yes” or “correct.” Harris admitted that on both occasions he knew that the substance that he was carrying was crack cocaine and he knew that it was illegal to possess it. When questioned about the weight, he admitted that on November 3, 2010, he had more than 25 grams of crack cocaine. He disputed the reported amount of 6.81 grams recovered on June 10, 2010, by saying that he knew there were three grams in each baggie because he put the crack in the bags himself. On December 20, 2011, the district court sentenced Harris to 58 months and 134 months in prison, to be served concurrently.

In July 2012, news stories appeared about evidence that was mishandled at the SPPDCL. In June 2013, Harris filed a petition for postconviction relief, asking to withdraw his guilty plea under the manifest-injustice standard because he would not have entered the plea if he had known that the SPPDCL’s test results were scientifically invalid. Harris contended that “[t]he knowledge that the SPPDCL procedures were lacking the required scientific standards constitutes newly discovered evidence.” Without conducting an evidentiary hearing, the district court denied the petition.

D E C I S I O N

“In reviewing a postconviction proceeding, we determine whether there is sufficient evidence to sustain the postconviction court’s findings. We review the denial of a petition for postconviction relief for an abuse of discretion.” *Miles v. State*, 840 N.W.2d 195, 200 (Minn. 2013) (citation and quotation omitted). A court abuses its discretion if its decision “is based on an erroneous view of the law or is against logic and

the facts in the record.” *Id.* (quotation omitted). Findings are reviewed for clear error, but legal conclusions are reviewed de novo. *Id.*

I.

“At any time the court must allow a defendant to withdraw a guilty plea upon a timely motion and proof to the satisfaction of the court that withdrawal is necessary to correct a manifest injustice.” Minn. R. Crim. P. 15.05, subd. 1. A manifest injustice occurs if a guilty plea is not valid; to be valid, a guilty plea must be accurate, voluntary, and intelligent. *State v. Raleigh*, 778 N.W.2d 90, 94 (Minn. 2010). The defendant has the burden of showing that a guilty plea was not valid; on review, this is a question of law subject to de novo review. *Id.*

A plea must be accurate to prevent the defendant from pleading guilty to a more serious offense than the evidence warrants; to prevent this, the plea must have a sufficient factual basis. *Id.* Harris argues that his plea was not accurate because it did not have an adequate factual basis. He contends that the newly discovered evidence of problems at the SPPDCL supports his argument that the factual basis was inadequate. We conclude that the guilty plea was valid.

Harris was charged with first- and second-degree controlled-substance crime. “A person is guilty of controlled substance crime in the first degree if . . . the person unlawfully possesses one or more mixtures of a total weight of 25 grams or more containing cocaine, heroin, or methamphetamine. . . .” Minn. Stat. § 152.021, subd. 2(1) (2010). “A person is guilty of controlled substance crime in the second degree if . . . the person unlawfully possesses one or more mixtures of a total weight of six grams or more

containing cocaine, heroin, or methamphetamine. . . .” Minn. Stat. § 152.022, subd. 2(1) (2008).

During the plea hearing, Harris admitted that on November 3, 2010, he possessed a baggie that contained more than 30 grams of crack cocaine, which he threw into a yard when he was stopped by the police, and a second baggie in his pocket that contained six grams of crack cocaine. Harris admitted that he knew the contents of the bags were crack cocaine and that he knowingly possessed them. Harris also admitted that he possessed two baggies of crack cocaine on June 10, 2010, and that together they weighed six grams. Harris disputed that the amount he possessed was almost seven grams and asserted that he knew “it was three grams in each one” because he “put them in there.” Harris admitted that he knew that crack cocaine is illegal in Minnesota.

The postconviction court found that Harris knew that he possessed crack cocaine. This finding is supported by sufficient evidence and is not clearly erroneous. Harris, however, argues that the factual basis for his plea was inadequate, and, therefore, the plea was not accurate, because (1) his counsel asked him leading questions rather than having him describe the factual basis for his plea in his own words and (2) he relied on the SPPDCL test results when entering his plea, and if he had known that the test results were scientifically invalid, he would not have pleaded guilty.

Leading questions

“The district court typically satisfies the factual basis requirement by asking the defendant to express in his own words what happened. The court should be particularly wary of situations in which the factual basis is established by asking a defendant only

leading questions.” *Raleigh*, 778 N.W.2d at 94 (citation omitted). Despite this preference, “a defendant may not withdraw his plea simply because the court failed to elicit proper responses if the record contains sufficient evidence to support the conviction.” *Id.* Although the supreme court reiterated in *Raleigh* its disapproval of the practice of asking leading questions to establish the factual basis for a plea, the court ultimately concluded that leading questions can establish an adequate factual basis. *Id.* at 95-96.

During the plea hearing, Harris admitted to all of the elements of the crimes with which he was charged, he stated that the substance recovered was crack cocaine, he agreed that on November 3, 2010, he possessed more than of 25 grams of cocaine, and he knew that he had six grams of crack cocaine on June 10, 2010, because he packed the baggies himself. This factual basis is adequate to ensure that the plea was accurate.

Newly discovered evidence

Harris also argues that the newly discovered evidence of problems at the SPPDCL provides a basis for postconviction relief. To obtain postconviction relief based on newly discovered evidence, a defendant must show that (1) the evidence was not known to the defendant or his attorney at the time of trial; (2) the evidence could not have been discovered with due diligence before trial; (3) the evidence is not “cumulative, impeaching, or doubtful;” and (4) the evidence would lead to a more favorable result. *Rainer v. State*, 566 N.W.2d 692, 695 (Minn. 1997). The defendant has the burden of showing by a fair preponderance of the evidence that he is entitled to relief. *Miles*, 840 N.W.2d at 201.

The district court determined that Harris showed by a preponderance of the evidence that the information about the SPPDCL was unknown to him and his attorney and that it could not have been discovered with due diligence before his guilty plea. But the district court denied postconviction relief because it also determined that the evidence about the SPPDCL was “merely impeaching” and it was unlikely that the evidence would lead to a more favorable result because nothing indicated that the original test results were inaccurate and Harris admitted from the outset that the substances were crack cocaine.

We agree with the district court’s conclusion that Harris is not entitled to relief based on newly discovered evidence because the evidence about the SPPDCL was merely impeaching and was unlikely to lead to a more favorable result. But we also note that we would deny relief for the additional reason that Harris did not meet his burden of showing that evidence that the SPPDCL’s test results were scientifically invalid could not have been discovered with due diligence before his guilty plea. Under Minn. R. Crim. P. 9.01, subd. 1(4)(a), the prosecutor must, at the defense’s request, disclose the results of scientific tests. Thus, Harris could have requested the SPPDCL’s test results, and, if he had any question about the validity of the results, the prosecutor was required under Minn. R. Crim. P. 9.01, subd. 1(4)(b), to allow Harris to subject the substances to his own reasonable tests. If Harris had conducted his own tests and the test results suggested that the SPPDCL test results were incorrect, inadequate, or invalid, Harris could have brought a motion under Minn. R. Crim. P. 9.01, subd. 2(1), asking the district court to require the prosecutor to assist him in seeking access to specified matters relating to the case, which

could include laboratory procedures. Harris has not shown that he used any of these forms of discovery to determine the validity of the SPPDCL test results for the substances that he possessed when he was stopped by the police.

II.

Harris argues that the district court abused its discretion by failing to grant him an evidentiary hearing to examine the alleged newly discovered evidence. When a petition for postconviction relief is filed, “the court shall promptly set an early hearing on the petition and response thereto, and promptly determine the issues” “[u]nless the petition and the files and records of the proceeding conclusively show that the petitioner is entitled to no relief.” Minn. Stat. § 590.04, subd. 1 (2012); *see Erickson v. State*, 842 N.W.2d 314, 318 (Minn. 2014). The threshold standard for an evidentiary hearing is lower than that for a new trial; “[a]ny doubts about whether to conduct an evidentiary hearing should be resolved in favor of the defendant seeking relief.” *State v. Nicks*, 831 N.W.2d 493, 504 (Minn. 2013). The district court’s decision on whether to hold an evidentiary hearing is reviewed for an abuse of discretion. *Riley v. State*, 819 N.W.2d 162, 167 (Minn. 2012).

To determine whether a defendant is entitled to an evidentiary hearing, the court “must consider his allegations in the light most favorable to him, and also consider the files and records of the proceeding, including the State’s arguments.” *Nicks*, 831 N.W.2d at 505-06 (quotation omitted). After doing so, if the district court “concludes there are no material facts in dispute that preclude dismissal, and the State is entitled to dismissal of the petition as a matter of law, the court is not required to hold an evidentiary hearing.”

Id. at 506 (quotation omitted). But if “material facts are in dispute which have not been resolved in the proceedings resulting in conviction and which must be resolved in order to determine the issues raised on the merits, the court must [schedule an evidentiary hearing].” *Id.* (emphasis omitted) (alteration in original) (quotation omitted).

There are no material facts in dispute. Harris admitted during his plea hearing that the substances he possessed were crack cocaine and that the weight of the crack cocaine exceeded the statutory levels. These admissions provided the factual basis for his guilty plea. Harris has not identified anything in the record that suggests that the SPPDCL test results were the basis for these admissions or that the test results played any role in his decision to enter a guilty plea. Consequently, the news stories about evidence being mishandled at the SPPDCL are not material evidence with respect to whether Harris’s guilty plea was accurate and the state is entitled to dismissal of the petition as a matter of law. The district court did not abuse its discretion by denying Harris an evidentiary hearing.

Affirmed.