STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1358

State of Minnesota,
Respondent,

vs.

Christopher Allen Crotty,
Appellant.

Filed August 3, 2020
Affirmed
Connolly, Judge

Hennepin County District Court
File No. 27-CR-18-18480

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Michael O. Freeman, Hennepin County Attorney, Sean P. Cahill, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jenna Yauch-Erickson, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Connolly, Presiding Judge; Larkin, Judge; and Schellhas, Judge.*

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

U N P U B L I S H E D O P I N I O N

CONNOLLY, Judge

Appellant seeks to withdraw his guilty plea to first-degree drug possession, arguing that the plea was not accurate because the colloquy at the plea hearing did not provide support for the conclusion that appellant knew the substance he possessed was methamphetamine. In a pro se brief, appellant challenges the denial of his motion to suppress the evidence. Because appellant has not shown that his plea was inaccurate and because the denial of his motion to suppress the evidence is not properly before us, we affirm.

FACTS

In July 2018, a police officer discovered during a pat-frisk a bag of methamphetamine that appellant Christopher Crotty had concealed behind his belt buckle. Appellant was charged with second-degree drug possession; the charge was amended to first-degree drug possession in August 2018. Appellant moved to suppress the evidence, arguing that the stop and the pat-frisk were illegal. Following a hearing, his motion was denied. Appellant then pleaded guilty to first-degree drug possession. He now seeks to withdraw his guilty plea, arguing that his plea was inaccurate because he did not know the substance he possessed was methamphetamine.

D E C I S I O N

To be valid, a plea must be accurate. *State v. Raleigh*, 778 N.W.2d 90, 94 (Minn. 2010). "To be accurate, a plea must be established on a proper factual basis." *Id.* If a guilty plea is not valid, a manifest injustice exists, and a court must allow a defendant to

withdraw the plea to correct the manifest injustice. *Id.* Appellant "bears the burden of showing his plea was invalid. Assessing the validity of a plea presents a question of law that we review de novo." *Id.* (citations omitted).

At the plea hearing, appellant was questioned by his attorney.

> Q: The police officer ultimately searched your person and found a prohibited controlled substance on you, correct?
> A: Correct.
> Q: Now, do you admit that you, in fact, did possess the controlled substance that day?
> A: I did.
> Q: What type of controlled substance was it?
> A: Methamphetamine.
> Q: . . . [H]ow do you know that it was methamphetamine that you had in your possession?
> A: I assume it was.
> Q: . . . You said you assumed it was methamphetamine —
> A: Yes.
> Q: —— correct?
> But what led to that assumption?
> A: (Indiscernible).
> Q: Now, . . . some of the methamphetamine you had in your possession, had you purchased it previously?
> A: Some of it, yes.
> Q: And when you purchased the methamphetamine, were you intending to buy methamphetamine?
> A: Yes.
> Q: And had you used some of that methamphetamine?
> A: (Indiscernible).
> Q: My point, then, . . . is that you're pleading guilty to actually possessing . . . methamphetamine?
> A: I'm not contesting it.
> Q: You're not contesting it, you said. And you're telling the Court yes, you had that in your possession, and you knew it was methamphetamine?
> A: Yes, I did.
> Q: And you know that after your arrest, that substance was tested in the state laboratory to determine that it was, in fact, methamphetamine, correct?
> A: Yes.

> Q: And the — you're pleading guilty to a first-degree controlled substance crime, correct?
> A: Correct.
> Q: And you know that in order for a controlled substance crime involving methamphetamine in Minnesota to be at the first-degree level, it must be greater than 50 grams of methamphetamine, correct?
> A: Correct.
> Q: So clearly you're admitting to the Court that the weight of the methamphetamine in your possession was greater than 50 grams, correct?
> A: Correct.

Appellant argues on appeal that he did not admit knowing that the substance he possessed was methamphetamine. But he answered "yes" when asked if he had intended to purchase methamphetamine and if he had in fact purchased it; he answered "methamphetamine" when asked what the controlled substance found on his person was; and he answered, "Yes, I did," when asked if he was telling the district court that he had the substance found on his person in his possession and knew it was methamphetamine. Appellant's argument that his plea was not accurate because he did not admit knowing the substance he possessed was methamphetamine is contradicted by his own testimony.

In his pro se supplemental brief, appellant challenges the denial of his motion to suppress the evidence. But at his guilty-plea hearing, appellant answered "yes," when asked, "[Do] you understand that by pleading guilty here, you are giving up your right to appeal that pretrial order [denying the motion to suppress?] . . . [Y]ou understand that,

correct?" Therefore, appellant waived the right to challenge the denial of his motion on appeal. That issue is not before us, and we do not address it.[1]

Affirmed.

[1] Appellant implies that he received ineffective assistance of counsel on the motion to suppress. He provides no legal support or argument on this issue, however, and therefore it also is waived. *See State v. Butcher*, 563 N.W.2d 776, 780 (Minn. App. 1997), *review denied* (Minn. Aug. 5, 1997); *see also McKenzie v. State*, 583 N.W.2d 744, 746 n.1 (Minn. 1998) (applying rule that issues not briefed on appeal are waived in a case where an appellant "allude[d] to" issues but "fail[ed] to address them in the argument portion of his brief").