STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1305

State of Minnesota,
Respondent,

vs.

Jessica Lynne Dahlgren,
Appellant.

Filed June 29, 2020
Affirmed
Jesson, Judge

Chisago County District Court
File No. 13-CR-18-256

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

Janet Reiter, Chisago County Attorney, David M. Classen, Assistant County Attorney, Center City, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Erik I. Withall, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Worke, Presiding Judge; Hooten, Judge; and Jesson, Judge.

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

JESSON, Judge

After police discovered methamphetamine in a car in which she was a passenger, appellant Jessica Lynne Dahlgren pleaded guilty to third-degree drug possession. Dahlgren

now seeks to withdraw her plea on the basis that it was not accurate. Because Dahlgren's guilty plea met the strong-factual-basis requirement for an *Alford* plea, we affirm.

FACTS

While on patrol, a state trooper noticed a car with a large "spider crack" in the windshield cross the fog line. The officer stopped the car. After approaching the vehicle, he observed two people in the car and smelled marijuana.

The officer spoke with the passenger, appellant Jessica Lynne Dahlgren. He saw needle marks on Dahlgren's arms and asked her if she was responsible for the car. According to the officer, Dahlgren explained that she was not responsible for everything in the car. The officer searched the car and discovered drug paraphernalia—including hypodermic needles—and a lockbox. The lockbox contained more needles, "a white crystalline substance," a gas station receipt, and other items related to drug use. The last four digits of the credit card listed on the gas station receipt matched the numbers on Dahlgren's credit card in her purse. Subsequent testing revealed that the white crystalline substance was 10.82 grams of methamphetamine.

The officer arrested the driver and Dahlgren. Later that day, Dahlgren admitted that two of the "loaded needles" in the car belonged to her. She also told police that she knew about the lockbox but that it belonged to the driver. The state charged Dahlgren with third-degree possession of a controlled substance based on the methamphetamine recovered from the lockbox.

Instead of going to trial, Dahlgren entered an *Alford* plea of guilty. At the plea hearing, Dahlgren acknowledged that she understood an *Alford* plea required her to admit

that there was a substantial likelihood that a jury could find her guilty beyond a reasonable doubt. She did so. Dahlgren testified that she had enough time to consult with her attorney and understood the trial rights she was giving up by pleading guilty. She also expressed that some of the drugs belonged to her, but not over ten grams. At this point, the district court noted that it appeared as if Dahlgren believed that less than ten grams of drugs belonged to her and reminded her that she needed to acknowledge the sufficiency of the state's evidence.

The state then described the evidence it would likely submit at trial. The evidence included the police officer's testimony about discovering methamphetamine in the lockbox in the car in which Dahlgren was a passenger, needle marks on her arms, the gas station receipt with her credit card number, and her admission that two of the "loaded needles" belonged to her. Additionally, the state intended to call a Bureau of Criminal Apprehension (BCA) scientist to testify that the white substance found in the lockbox was methamphetamine weighing 10.82 grams. But the state acknowledged that no testing was performed on the needles that Dahlgren admitted belonged to her.

The district court then asked Dahlgren if she believed there was a substantial likelihood that the state could prove her guilty beyond a reasonable doubt, and Dahlgren stated that she did. As a result, the district court found that Dahlgren made a valid waiver of her trial rights and concluded that there was a sufficient factual basis for the plea.

But Dahlgren's counsel asked to make an additional record. Her attorney noted that they discussed that the state's case was based on the theory of constructive possession because a "couple of those needles that you claim were yours were found in a lock box

with some other stuff that didn't belong to you." Dahlgren agreed. The court again asked Dahlgren if she believed the state had sufficient evidence to prove her guilt beyond a reasonable doubt, and Dahlgren again stated that she did.

When the district court subsequently asked Dahlgren if she was pleading guilty because she believed she was guilty, she answered "[t]o part of what was found in the possession, but not the ten grams that . . . [the state is] claiming." The district court expressed concern with Dahlgren's plea and reminded her that she needed to acknowledge that she constructively possessed more than ten grams of methamphetamine. For a third time, the district court reminded Dahlgren that she needed to acknowledge that it was "substantially likely, based on the evidence, that [the state] would successfully prove that you possessed ten grams or more of the drugs that they are talking about." And Dahlgren responded affirmatively for the third time, saying "I do. I do believe that."

Satisfied with Dahlgren's plea, the district court set the matter for sentencing. And the district court sentenced her to a stay of imposition, 15 days in jail, and ten years of probation. Dahlgren appeals.

D E C I S I O N

Dahlgren argues that she is entitled to withdraw her plea because the record is insufficient to satisfy the strong-factual-basis requirement for an *Alford* plea. Specifically, she contends that the state's circumstantial evidence of drug possession did not disprove an alternative inference inconsistent with guilt: that the methamphetamine belonged to the driver, not Dahlgren. We review the validity of a guilty plea de novo. *State v. Raleigh*, 778 N.W.2d 90, 94 (Minn. 2010).

There is no absolute right to withdraw a guilty plea after entering it. *Dikken v. State*, 896 N.W.2d 873, 876 (Minn. 2017). But a court may permit a defendant to withdraw a guilty plea in certain situations. After sentencing, a court is only required to permit the withdrawal of a guilty plea if "withdrawal is necessary to correct a manifest injustice." Minn. R. Crim. P. 15.05, subd. 1. "A manifest injustice exists if a guilty plea is not valid." *Raleigh*, 778 N.W.2d at 94. And to be valid, a "guilty plea must be accurate, voluntary, and intelligent." *Butala v. State*, 664 N.W.2d 333, 338 (Minn. 2003) (quotation omitted).

Dahlgren's argument that the record does not contain a sufficient factual basis for her plea implicates the accuracy requirement. Because Dahlgren entered an *Alford* plea, additional requirements must be met to ensure the accuracy of her plea. Under an *Alford* plea, a court may accept a defendant's guilty plea despite the defendant's assertion of innocence, provided that the state demonstrates "a strong factual basis for the plea" and the defendant expresses the desire to enter the plea "based on [the] belief that the [s]tate's evidence would be sufficient to convict [her]." *State v. Theis*, 742 N.W.2d 643, 647 (Minn. 2007) (quotation omitted); *see also North Carolina v. Alford*, 400 U.S. 25, 38, 91 S. Ct. 160, 168 (1970). But when a defendant pleads guilty while simultaneously denying his or her guilt, "the rationality of the defendant's decision is immediately called into question." *State v. Goulette*, 258 N.W.2d 758, 761 (Minn. 1977). As such, a district "court should not cavalierly accept" an *Alford* plea. *Id.*

Accordingly, "careful scrutiny of the factual basis" supporting an *Alford* plea is necessary. *Theis*, 742 N.W.2d at 648-49. And a defendant's acknowledgement that the state has sufficient evidence to support a conviction for the charged crime "is critical to the

court's ability to serve the protective purpose of the accuracy requirement." *Id.* at 649. To ensure this requirement is met, the best practice is for the district court, at the plea hearing, to ask a defendant to acknowledge on the record "that the evidence the [s]tate would likely offer against [her] is sufficient for a jury, applying a reasonable doubt standard, to find the defendant guilty of the offense to which [she] is pleading guilty." *Id.*

With these requirements for a valid *Alford* plea in mind, we turn to Dahlgren's case. Upon review of the record, we are satisfied that a strong factual basis supports Dahlgren's plea. At the plea hearing, the state described the evidence that it expected to present at trial. That evidence included a summary of the expected testimony from the police officer who discovered the methamphetamine and the forensic scientist who weighed and tested the drugs. Relevant expected testimony from the officer included that Dahlgren was a passenger in the car where the officer discovered the lockbox. And the lockbox contained a bag of methamphetamine, needles, and a gas station receipt displaying Dahlgren's credit card number. Further, the officer would testify that Dahlgren admitted that two loaded needles found in the car belonged to her. The forensic scientist would testify that the substance found in the lockbox weighed 10.82 grams and was methamphetamine, beyond a 95% confidence level. Perhaps most importantly, in addition to this evidence, Dahlgren acknowledged three times that the state had sufficient evidence to prove beyond a reasonable doubt that she was guilty of third-degree possession.

Indeed, both the state and the district court followed the best-practice procedures for an *Alford* plea. The state, on the record, presented a summary of its evidence and the testimony it anticipated introducing at trial. *See Theis*, 742 N.W.2d at 649 (noting that "the

better practice is for the factual basis to be based on evidence discussed with the defendant on the record at the plea hearing," which "may occur through an interrogation of the defendant about the underlying conduct and the evidence that would likely be presented at trial"). And it is clear that the district court exercised careful scrutiny of Dahlgren's plea, as evidenced by its repeated questioning of her to be clear that she believed that the state had sufficient evidence to prove her guilt beyond a reasonable doubt. *Id.* Accordingly, we conclude that Dahlgren's plea was supported by a strong factual basis and was sufficiently accurate.

Still, Dahlgren contends that the evidence presented at the plea hearing failed to satisfy the strong-factual-basis requirement for an *Alford* plea. Dahlgren asks this court to assess the validity of her plea using the standard of review used to evaluate convictions based on circumstantial evidence. When applying that standard of review, this court considers whether the circumstances proved are "consistent with the hypothesis that the accused is guilty and inconsistent with any rational hypothesis except that of guilt." *State v. Fox*, 868 N.W.2d 206, 223 (Minn. 2015). And, according to Dahlgren, the evidence supporting the state's theory of constructive possession did not disprove other reasonable inferences, including an inference that the methamphetamine belonged to the driver and not Dahlgren.

We discern two problems with Dahlgren's argument. First, Dahlgren does not identify any caselaw to support her assertion that in order to determine if an *Alford* plea is sufficiently accurate, this court should apply the standard used to review convictions based

on circumstantial evidence.[1] When evaluating an *Alford* plea, the relevant question is not whether the state's anticipated evidence would have eliminated any reasonable hypothesis of innocence. Instead, before accepting an *Alford* plea, a district court must "independently conclude that there is a *strong* probability that the defendant would be found guilty of the charge to which [she] pleaded guilty, notwithstanding [her] claims of innocence." *Theis*, 742 N.W.2d at 649. Provided that a strong factual basis supports the plea, and the district court is satisfied that there is a "strong probability" that a defendant would be found guilty, it is unnecessary to eliminate every alternative hypothesis of innocence for an *Alford* plea to be accurate. Dahlgren's argument to the contrary is not persuasive.

Second, by creating an "either or" scenario—the methamphetamine either belonged to the driver or Dahlgren—Dahlgren's argument ignores the legal concept of joint constructive possession. The state may prove possession "through evidence of actual or constructive possession." *State v. Harris*, 895 N.W.2d 592, 601 (Minn. 2017). And "[a] defendant may possess an item jointly with another person." *Id.* at 601; *see also State v. Sam*, 859 N.W.2d 825, 834 (Minn. App. 2015) (stating that "constructive possession need not be exclusive, but may be shared" (quotation omitted)).

When arguing that an individual constructively possessed an item that police discovered "in a place to which others had access," the state must demonstrate a "strong probability . . . that at the time the defendant was consciously or knowingly exercising

[1] Dahlgren analogizes her case to *State v. Harris*, 895 N.W.2d 592, 603 (Minn. 2017). But *Harris* involved a sufficiency-of-the-evidence challenge to a conviction based on circumstantial evidence and did not involve an *Alford* plea. *Harris*, 895 N.W.2d at 601. As such, the standard of review applicable in *Harris* does not apply to Dahlgren's case.

dominion and control over it." *Harris*, 895 N.W.2d at 601. Proximity to the item is an important consideration. *Sam*, 859 N.W.2d at 834. However, when an individual does not have "exclusive possession" of an automobile, there is not an automatic inference that drugs found in the vehicle belong to that person. *Id.* (quotation omitted).

Here, the evidence presented by the state establishes a "strong probability" that, at trial, Dahlgren would be found guilty of third-degree drug possession based on the theory of joint constructive possession. *Theis*, 742 N.W.2d at 649. As noted by the state, the methamphetamine was found in a lockbox in a car in which Dahlgren was a passenger. Dahlgren acknowledged that she knew about the lockbox and admitted that two loaded needles discovered in the car belonged to her. A gas station receipt found in the lockbox showed Dahlgren's credit card number, and the officer observed needle marks on Dahlgren's arms. This evidence establishes a strong probability that the state would prove third-degree possession beyond a reasonable doubt at trial. As such, Dahlgren's plea meets the strong-factual-basis requirement for a valid *Alford* plea.

In sum, we are satisfied that the district court carefully scrutinized Dahlgren's plea and correctly determined that it was supported by a strong factual basis. Because Dahlgren's plea was accurate, she is not entitled to withdraw it.

Affirmed.