STATE OF MINNESOTA
IN COURT OF APPEALS
A22-1580

State of Minnesota,
Respondent,

vs.

Sovajie Marion Julian Temple,
Appellant.

Filed September 18, 2023
Affirmed
Hooten, Judge*

Clay County District Court
File No. 14-CR-21-1866

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

Brian J. Melton, Clay County Attorney, Caitlin Rose Hurlock, Assistant County Attorney, Moorhead, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Michael McLaughlin, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Frisch, Presiding Judge; Slieter, Judge; and Hooten, Judge.

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

NONPRECEDENTIAL OPINION

HOOTEN, Judge

In this appeal from the final judgment, appellant Sovajie Marion Julian Temple argues that the district court erred by denying his presentencing motion to withdraw his guilty plea. Temple pleaded guilty to felony stalking after he sent S.O. multiple threatening text messages in violation of a domestic-abuse no-contact order (DANCO). But he now argues that his guilty plea was inaccurate because the record does not contain explicit facts establishing S.O. actually felt terrorized or feared bodily harm when she received the messages—a required element of felony stalking. Because we can reasonably infer that within the context of Temple and S.O.'s relationship, S.O. actually feared bodily harm due to Temple's conduct, we affirm.

FACTS

In June 2021, respondent State of Minnesota charged Temple with one count of felony stalking and four counts of violating a DANCO after he sent multiple threatening text messages to S.O.[1] In January 2022, Temple pleaded guilty to felony stalking in violation of Minnesota Statutes section 609.749, subdivision 5(a) (2020), and in exchange, the state dismissed the four misdemeanor DANCO violations.[2]

[1] The state originally charged Temple with one count of gross-misdemeanor harassment. It then filed an amended complaint and added one count of violating a DANCO. The felony stalking charge and the three additional DANCO violations were included in a second amended complaint.

[2] Temple's guilty plea to felony stalking was part of a "global resolution" involving two other cases where he pleaded guilty to violating a DANCO.

In his plea colloquy, Temple admitted that between May 30 and June 2, 2021, he sent S.O. a series of text messages in violation of an existing DANCO:

> PROSECUTOR: [Between May 30 and June 2, 2021], was there a court order in place that prohibited you from having contact with somebody?
> DEFENDANT: Yes.
>
> PROSECUTOR: Was that a domestic abuse no contact order?
> DEFENDANT: Yeah.
>
> PROSECUTOR: And you were prohibited from having any and all contact with the—an individual whose initials are S.O.?
> DEFENDANT: Yeah.
>
> PROSECUTOR: And during this time, did you violate that—that domestic abuse no contact order?
> DEFENDANT: Yes, I did.
>
> PROSECUTOR: Do you recall how you violated it during this timeframe?
> DEFENDANT: Text messages.

Temple admitted these text messages contained threats of physical violence:

> PROSECUTOR: . . . Mr. Temple, in order to plead guilty, you have to admit that your actions here caused S.O. to feel terrorized or fear of bodily harm. Do you—or—would you—what were you saying in these text messages that would make S.O. feel scared?
> DEFENDANT: Making threats.
>
> PROSECUTOR: Do you recall specifically what threats you were making?
> DEFENDANT: I, maybe—violence—threat of—violent threats.
>
> PROSECUTOR: Do you—did you—so you threatened to physically harm her?
> DEFENDANT: Yeah.

> PROSECUTOR: And did you send that on multiple occasions—those threats of physical harm?
> DEFENDANT: Yes.

Temple also admitted that he knew these violent threats would cause S.O. to feel terrorized or to fear bodily harm:

> PROSECUTOR: And would you agree by sending these text messages threating physical harm to S.O., it—it would cause her to feel bodily harm or feel terrorized?
> DEFENDANT: Yes, it would.
>
> PROSECUTOR: Uh-huh. Or she—to clarify—sorry—she would've been in fear of bodily harm?
> DEFENDANT: Yes.

In March 2022—prior to his sentencing—Temple moved to withdraw his guilty plea, but the district court denied his motion. Temple was sentenced to 28 months in prison, stayed, and placed on five years of supervised probation. Temple appeals the final judgment and argues that the district court erred by denying his presentencing motion to withdraw his guilty plea.

DECISION

"A defendant has no absolute right to withdraw a guilty plea after entering it." *State v. Raleigh*, 778 N.W.2d 90, 93 (Minn. 2010); *see also* Minn. R. Crim. P. 15.05. However, "a court must allow withdrawal of a guilty plea if withdrawal is necessary to correct a manifest injustice,"[3] *Id.* at 93 (quotation omitted), and an invalid guilty plea is a manifest

[3] A guilty plea may also be withdrawn "any time before sentencing if it is fair and just to do so." *Raleigh*, 778 N.W.2d at 93 (quotation omitted). "The fair and just standard requires district courts to give due consideration to two factors: (1) the reasons a defendant advances to support withdrawal and (2) prejudice granting the motion would cause the State given reliance on the plea." *Id.* at 97. Appellate courts review a denial of a withdrawal motion

injustice. *State v. Theis,* 742 N.W.2d 643, 646 (Minn. 2007). "To be constitutionally valid, a guilty plea must be accurate, voluntary, and intelligent." *Raleigh*, 778 N.W.2d at 94. It is the defendant's burden to prove that his plea was invalid. *Id.* Evaluating the validity of a guilty plea presents a question of law, which appellate courts review de novo. *Id.*

Temple challenges only the accuracy of his guilty plea. "The accuracy requirement protects the defendant from pleading guilty to a charge more serious than he could have been convicted of at trial." *State v. Mikulak*, 903 N.W.2d 600, 603 (Minn. 2017) (citing *State v. Ecker*, 524 N.W.2d 712, 716 (Minn. 1994)). For a plea to be accurate, a proper factual basis must be established on the record, meaning that the record must include facts "from which the defendant's guilt of the crime charged can be reasonably inferred." *Rosendahl v. State*, 955 N.W.2d 294, 297 (Minn. App. 2021) (quotation omitted); *see also Kelsey v. State,* 214 N.W.2d 236, 237 (Minn. 1974) ("[T]here must be sufficient facts on the record to support a conclusion that defendant's conduct falls within the charge to which he desires to plead guilty.").

Generally, a proper factual basis is established "by asking the defendant to express in his own words what happened." *Lussier v. State*, 821 N.W.2d 581, 589 (Minn. 2012) (quotation omitted). In addition to a defendant's own testimony, a factual basis may be laid through witness testimony or "statements summarizing the evidence." *State v. Trott*,

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under the fair and just standard for an abuse of discretion, "reversing only in the rare case." *Id.* (quotation omitted).

Temple moved to withdraw his guilty plea prior to his sentencing, arguing to the district court that allowing withdrawal was "fair and just." On appeal, however, he argues only that withdrawal of his plea is necessary to correct a manifest injustice. We therefore only evaluate his claims under that standard of review.

338 N.W.2d 248, 251 (Minn. 1983). Appellate courts do not, however, consider allegations in the complaint when reviewing the accuracy of a plea "unless the truthfulness and accuracy of the allegations have been expressly admitted to by the defendant."[4] *Rosendahl*, 955 N.W.2d at 302. "[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." *Raleigh*, 778 N.W.2d at 94.

A defendant is guilty of felony stalking if they (1) engage in "stalking with respect to a single victim or one or more members of a single household" and (2) "know[] or [have] reason to know" their conduct "would cause the victim under the circumstances to feel terrorized or to fear bodily harm," and (3) their conduct "does cause this reaction on the part of the victim." Minn. Stat. § 609.749, subd. 5(a). "Stalking" is defined as "two or more acts within a five-year period that violate or attempt to violate the provisions" of section 609.749, subdivision 5(b)(1)-(16). Minn. Stat. § 609.749, subd. 5(b) (2020). "[T]he phrase feel terrorized in Minn. Stat. 609.749, subd. 5 means to 'feel extreme fear resulting from violence or threats.'" *State v. Franks,* 765 N.W.2d 68, 74 (Minn. 2009).

Temple claims that the record made at his plea hearing does not establish a factual basis for the third element of felony stalking—that his actions caused S.O. to feel terrorized or caused her to fear bodily harm. *See Barnslater v. State*, 805 N.W.2d 910, 914 (Minn.

[4] Temple asserts that the allegations in the second amended complaint cannot be considered as part of the record because he never testified to the complaint's truthfulness and accuracy during his plea hearing. We agree that the complaint cannot be reviewed when determining the accuracy of Temple's plea, and thus we do not rely on it.

App. 2011) (concluding that a factual basis must be established for each element of a charged offense). In making this argument, he relies on *Franks,* a case where the supreme court reasoned that the court needed to "examine [a victim's] reaction to [the defendant's] conduct" to decide if a victim felt terrorized under Minn. Stat. 609.749, subd. 5 (2006).[5] 765 N.W.2d at 77. In *Franks*, the supreme court concluded that the victim's trial testimony about how she felt "very scared" and "fearful" after the defendant wrote her and her family a series of threatening letters in violation of an order for protection was sufficient to establish that she felt terrorized. *Id.* Temple argues that, under *Franks*, to establish a factual basis for the third element of felony stalking, the district court needed to actually examine S.O.'s reaction to his conduct. And he claims that his plea colloquy did not contain any information about how S.O. actually reacted to the text messages he sent.[6]

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[5] The defendant in *Franks* was charged with engaging in a "pattern of harassing conduct," an offense that is substantively the same as Minnesota's current felony stalking offense:

> A defendant is guilty of a pattern of harassing conduct when: (1) the defendant commits two or more designated predicated offenses, including violation of an order for protection, (2) the defendant knows or has reason to know that this conduct would cause a particular victim under the circumstances to feel terrorized or to fear bodily harm, and (3) *the defendant's conduct causes the victim to feel terrorized or to fear bodily harm*.

Franks, 765 N.W.2d at 73 (2006) (emphasis added) (citing Minn. Stat. § 609.749, subd. 5(a)).

[6] Temple also claims that there is no evidence that S.O. read the text messages he sent. We are not persuaded by this argument. Temple was charged with felony stalking for sending these messages. We can reasonably infer that S.O. read them, because had she not, then this proceeding would not likely have been commenced.

We agree with Temple that the record does not contain explicit facts about how S.O. reacted to the text messages. But we disagree that *Franks* stands for the proposition that a factual basis can *only* be established through explicit facts examining a victim's reaction. The defendant in *Franks* appealed his conviction following a guilty verdict at trial, not a guilty plea. *Id.* at 72. Our caselaw clearly states that for a guilty *plea* to be accepted, "the [district court] must make certain that facts exist from which the defendant's guilt of the crime charged *can be reasonably inferred*." *Nelson v. State*, 880 N.W.2d 852, 861 (Minn. 2016) (emphasis added) (quotation omitted). And we have previously determined that a reasonable inference that a victim felt terrorized or feared bodily harm may be established after examining the record in the context of the defendant and victim's relationship. *See State v. Smith*, No. A22-0858, 2023 WL 3700529, at *3 (Minn. App. May 30, 2023) (quotation omitted) (concluding that although the defendant's "plea colloquy [did] not contain any statement describing [the victim's] response to the threats," it could be inferred from context that the threats "would have a reasonable tendency to create apprehension" in the victim that the defendant would follow through on his threats, making his guilty plea to threats of violence accurate); *State v. Schweppe*, 237 N.W.2d 609, 613-14 (Minn. 1975).

In *State v. McReynolds*, a defendant pleaded guilty to the same offense as Temple. No. A20-0373, 2021 WL 669027, at *1 (Minn. App. Feb. 22, 2021), *rev. denied* (Minn. May 26, 2021).[7] At the defendant's plea hearing, he acknowledged that "there was one

[7] We rely on *McReynolds*—a nonprecedential and therefore nonbinding decision—for its persuasive value. *See* Minn. R. Civ. App. P. 136.01, subd. 1(c) (stating that nonprecedential decisions are not binding but may be considered for their persuasive value).

order for protection that prohibited him from having contact with the victim and another order that prohibited him from being within 100 feet of the victim's home." *Id.* He then admitted that in violation of these orders, "he had contact with the victim at [their] child's school," he told the victim "you better shut it down, you better shut it down or we'll end up on the news," and on at least two occasions "he attempted to stop [their] child's school bus within 100 feet of the victim's home." *Id.* The defendant also conceded that "the victim 'could have felt threatened or stalked or significantly bothered' or 'terrorized' or 'fear[ed] bodily harm' based on his conduct." *Id.*

On appeal, the defendant in *McReynolds* made the same argument as Temple makes now—that the record did not establish the victim felt terrorized by his conduct. We reasoned that the existence of multiple orders for protection (including one in place for 50 years), the defendant's admission at his plea hearing that he threatened the victim in person, and the defendant's attempts to stop his child's school bus near the victim's house allowed us "to infer that the victim felt terrorized." *Id.* at *4. Despite there not being explicit facts in the record that directly established how the victim reacted to the defendant's conduct, we concluded that "*based on the context of the relationship*, [the defendant's] repeated disregard for orders protecting the victim, and [the defendant's] statements and conduct, . . . the victim actually felt terrorized by [the defendant's] admitted conduct." *Id.* (emphasis added).

The context of Temple and S.O.'s relationship leads us to the same conclusion here. The existence of a DANCO allows us to infer two facts. First, it establishes that Temple and S.O.'s relationship was domestic in nature, and second, it means their relationship

involved at least one incident of domestic violence, harassment, stalking, or violation of a court order for the victim's protection, or a violation of previous DANCO. *See* Minn. Stat. § 629.75, subd. 1(a) (2020) (providing the circumstances under which a DANCO is issued). Additionally, Temple admitted at his guilty-plea hearing that he violated the DANCO *multiple* times by sending S.O. a series of threatening text messages. We can therefore reasonably infer that Temple was engaging in a pattern of—at the very least—harassing behavior toward S.O. despite being ordered by the court to stay away from her.

Finally, Temple did not just make idle threats. He admitted the messages he sent to S.O. contained threats of *physical* violence—threats that Temple, a person in a domestic relationship with S.O., sent because he knew they "would make S.O. feel scared" and "would cause her to [fear] bodily harm or feel terrorized." It is reasonable to infer that anyone receiving threats of physical violence would actually fear bodily harm, especially if those threats were coming from someone with whom the victim has a domestic relationship. Following the logic of *McReynolds*, we are able to reasonably infer S.O. actually feared bodily harm, and so there are sufficient facts in the record to support the conclusion that Temple's conduct falls within the charge of felony stalking. *See Kelsey,* 214 N.W.2d at 237. [8]

[8] Temple argues that this reasonable inference approach "effectively read[s] the victim reaction element out of the statute" because the state is using his admission to the *second* element of felony stalking—that he knew his text messages would cause S.O. to feel terrorized or to fear bodily harm—to infer that there is a factual basis for the *third* element. This argument fails because, as discussed, our reasonable inference about S.O.'s reaction is not made solely off of Temple's admission.

Temple attempts to distinguish *McReynolds* by arguing that the defendant's conduct there was more extreme, so although it was reasonable to infer that the *McReynolds* victim actually felt terrorized, the same logic does not necessarily apply here. We acknowledge that, unlike in *McReynolds*, there is no 50-year protective order in place here and that Temple never threatened S.O. in-person. But given Temple and S.O.'s domestic history, the pattern of harassing behavior Temple engaged in, the extreme nature of the threats Temple made, and the fact that Temple knew these exact threats would cause S.O. to fear bodily harm, we are still able to reasonably infer that a factual basis for the third element of felony stalking was established. *See Nelson*, 880 N.W.2d at 861. Because Temple's plea was accurate, there is no manifest injustice. Temple is not entitled to withdraw his guilty plea.

Affirmed.