STATE OF MINNESOTA
IN COURT OF APPEALS
A22-1622

State of Minnesota,
Respondent,

vs.

Aleshia Lynn Becklund,
Appellant.

Filed October 30, 2023
Affirmed
Kirk, Judge[*]

Wright County District Court
File No. 86-CR-20-1686

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

Brian Lutes, Wright County Attorney, Buffalo, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Roy G. Spurbeck, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Cochran, Presiding Judge; Johnson, Judge; and Kirk, Judge.

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

NONPRECEDENTIAL OPINION

KIRK, Judge

In this direct appeal from the judgment of conviction for second-degree drug possession, appellant Aleshia Lynn Becklund argues that the district court erred in denying her motion to withdraw her guilty plea because her plea was constitutionally invalid. Appellant also argues that the district court abused its discretion in denying her motion to withdraw her plea because plea withdrawal would have been fair and just. Because Becklund's plea was constitutionally valid and the district court did not abuse its discretion by denying plea withdrawal under the fair-and-just standard, we affirm.

FACTS

According to the criminal complaint, in March 2020, Becklund was charged with first-degree drug sale, in violation of Minn. Stat. § 152.021 subd. 1(1) (2020); second-degree drug possession, in violation of Minn. Stat. § 152.022 subd. 2(a)(1) (2020); and counterfeiting currency, in violation of Minn. Stat. § 609.632 subd. 3 (2020). These charges arose from her attempt to use counterfeit money at a fast-food restaurant and the subsequent discovery of methamphetamine in her possession.

In April 2021, Becklund pleaded not guilty to the charges. Two weeks later, Becklund was referred to drug court and screened by Chris Jahnke, a member of the drug court team. During this screening, Jahnke explained to Becklund the process of pleading guilty, sentencing, and termination from drug court. Becklund expressed that she was not interested in drug court because the charges were not her fault, but her acquaintance's fault and if she pleaded guilty, her plan was to file an appeal for a plea retraction. Becklund was

ultimately denied from drug court due to her unwillingness to participate. Three months later, Becklund was again screened for drug court. At this screening, Jahnke met with Becklund and discussed Becklund's concerns about pleading guilty that she raised at their first meeting. Becklund did not acknowledge she had an outstanding issue with the previously stated concerns. Jahnke also discussed with Becklund that if she chose to leave drug court, she could be terminated from the program and could be sent to prison for 111 months based on his understanding of the potential plea agreement being offered by the state. After this screening, Becklund was accepted into drug court.

Several days after the screening, Becklund appeared in drug court. Becklund's attorney indicated to the court that they were not prepared to enter a plea. Becklund intervened and stated she wanted to move forward with the plea petition and plead guilty. Pursuant to a request from the court, the state outlined the plea agreement:

> It would be a plea to Count 2 [second-degree drug possession]. If Ms. Becklund successfully completes drug court, the State would agree to a dispositional departure to a stay of execution . . . we ask that she agree and that the court order a ten-year probation following the completion of Drug Court. If Ms. Becklund withdraws from Drug Court or is unsuccessful, she would receive the presumptive 111-month commitment on Count 2.

Becklund acknowledged that she received a copy of the plea petition, and that her understanding of the agreement matched the state's understanding. The plea petition read as follows: "Plead Guilty to Ct. 2. Stay of Execution of sentence. This a departure from the MN Sentencing Guidelines based on amenability to probation. 111 month stayed sentence.

Completion of The Turn drug court program. [Ten] years of probation following completion of The Turn. Credit for time served."

Despite Becklund's stance on moving forward, one of her attorneys expressed hesitation about moving forward with the plea because it was his understanding that Becklund expected to be released from custody if she took the plea. The court indicated that Becklund would not be released until a treatment bed was available for her. Becklund stated she was aware she would remain in custody until a bed was available and was willing to enter a plea, nonetheless. Becklund's attorney communicated that if Becklund was clear on the fact that she would not be released then the parties could move forward with the plea. Becklund's attorney also informed the court that he did not personally review the petition with Becklund, but Becklund had a copy of the petition and had signed it.

During the plea colloquy, Becklund acknowledged she would not be sent to prison but would be placed on probation and sent to drug court. Becklund further acknowledged that if she successfully completed the drug court program and had no violations, she would not be sent to jail or prison. When asked by the court if she had enough time to speak with her attorneys about the plea agreement, Becklund responded that she had plenty of time to discuss with her attorneys. After the court's examination, the prosecutor examined Becklund to establish the factual basis for second-degree possession:

> STATE: Ms. Becklund, I'd like to go back in your memory to March 26th of 2020. Did a deputy stop your vehicle here in Wright County on that day?
>
> BECKLUND: Yes.

STATE: And did that deputy get a search warrant to search your vehicle?

BECKLUND: Yes. Officer Grabowski searched the vehicle.

STATE: And do you agree that the officer found methamphetamine within the vehicle?

BECKLUND: Yes, she did.

STATE: And do you agree that the methamphetamine was in excess of 25 grams?

BECKLUND: Yes.

STATE: Was that your methamphetamine, Ms. Becklund?

BECKLUND: Yes.

STATE: And that traffic stop happened here in Wright County.

BECKLUND: Yes.

The court did not accept Becklund's guilty plea and placed Becklund in drug court. On this same day, Becklund signed the Wright County Adult Drug Court Participant Contract, which indicated that a breach of any portion of the contract would result in "the imposition of court ordered sanctions including incarceration."

On February 28, 2022, Becklund filed a motion to withdraw her plea in district court. The court took the matter under advisement and filed an order denying Becklund's motion, finding that Becklund's plea was accurate, voluntary, and intelligent, and plea withdrawal would not be fair and just. In its order, the district court noted that the state would suffer prejudice if Becklund's plea was withdrawn because of the length of time that

had passed and the fact that Becklund's acquaintance, whom she blamed for the incident, had already completed drug court. This appeal follows.

DECISION

On appeal, Becklund argues that the district court erred in denying her pre-sentencing motion to withdraw her guilty plea because her plea was constitutionally invalid. Becklund also argues that the district court abused its discretion in denying her motion because plea withdrawal would have been fair and just. Therefore, Becklund contends that the district court was required to have allowed her to withdraw her guilty plea.

Manifest Injustice

A defendant lacks the absolute right to withdraw a guilty plea after it has been entered. *State v. Raleigh*, 778 N.W.2d 90, 93 (Minn. 2010) (citing *Perkins v. State*, 559 N.W.2d 678, 685 (Minn. 1997)). A court must allow a defendant to withdraw their guilty plea if it is "necessary to correct a manifest injustice." Minn. R. Crim. P. 15.05, subd. 1. A manifest injustice occurs when a plea is invalid. *Raleigh*, 778 N.W.2d at 94 (citing *State v. Theis*, 742 N.W 2d 643, 646 (Minn. 2007)). A plea is constitutionally valid if it is accurate, voluntary, and intelligent, and the defendant bears the burden of proving that their plea was invalid. *Raleigh*, 778 N.W.2d at 94. "The validity of a guilty plea is a question of law that this court reviews de novo." *Id*.

Becklund argues that a manifest injustice occurred because her plea was constitutionally invalid. Specifically, Becklund argues her guilty plea was inaccurate and involuntary. We address each argument in turn.

Accuracy

Becklund argues that her plea was inaccurate because (1) the questions asked during her plea hearing were not sufficient to establish a factual basis for the offense and (2) the factual basis was established only through leading questions and the court did not ask any questions of her. We disagree.

"A proper factual basis must be established for a guilty plea to be accurate." *State v. Ecker*, 524 N.W.2d 712, 716 (Minn. 1994). A proper factual basis is established if there are "sufficient facts on the record to support a conclusion that defendant's conduct falls within the charge to which he desires to plead guilty." *Kelsey v. State*, 214 N.W.2d 236, 237 (Minn. 1974). The typical way a district court satisfies the accuracy requirement is by asking the defendant to describe what happened in their own words. *Raleigh*, 778 N.W.2d at 94. A trial judge is not required to question the defendant prior to accepting a guilty plea if the parties have established an adequate factual basis. *Id*. A trial judge should nonetheless be attentive to situations in which a defendant has only been asked leading questions. *Id*. The Minnesota Supreme Court has made clear that it generally discourages the use of leading questions to establish a factual basis. *Id*. at 95. But the Minnesota Supreme Court has never held that "the use of leading questions automatically invalidates a guilty plea." *Nelson v. State*, 880 N.W.2d 852, 860 (Minn. 2016).

First, Becklund asserts that the questions asked during her plea hearing were not sufficient to establish a factual basis for the offense. Becklund was charged under Minn. Stat. § 152.022 subd. 2(a)(1). Pursuant to this statute, "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 25 grams or more containing cocaine or methamphetamine." *Id.*

Becklund acknowledged during her plea hearing that she was in possession of methamphetamine, that the methamphetamine was hers, and the methamphetamine was in excess of 25 grams. Although the questions asked by the state were few, Becklund's testimony supports the conclusion that her conduct fell within the second-degree drug possession charge. *See Kelsey*, 214 N.W.2d at 237. Additionally, because a proper factual basis was established by the state, the trial judge was not required to question Becklund independently. *Raleigh*, 778 N.W.2d at 94.

Second, Becklund argues that her plea was inaccurate because the factual basis was established only through leading questions. But although the use of leading questions is disfavored, the supreme court has never held that the use of leading questions automatically invalidates a guilty plea. *Nelson*, 880 N.W.2d at 860. We are not otherwise persuaded by Becklund's reliance on *Shorter v. State*, 511 N.W.2d 743 (Minn. 1994), in which the supreme court ordered the district court to grant the defendant's motion to withdraw their guilty plea when there were a "number of procedural irregularities present," including the use of leading questions. Becklund has not identified similar procedural irregularities here. As a result, Becklund has not identified authority indicating that leading questions render a plea inaccurate or constitutionally invalid.

Voluntariness

Becklund contends that her plea was involuntary because she only pleaded guilty in order to be released from custody.

The requirement that a plea be voluntary ensures that the plea is not entered due to improper pressure or coercion. *Raleigh*, 778 N.W.2d at 96 (citing *State v. Trott*, 338 N.W.2d 248, 251 (Minn. 1983)). The state cannot induce a plea through physical harm, whether actual or threatened, or by mental coercion which overbears the will of the defendant. *Ecker*, 524 N.W.2d at 719. "To determine whether a plea is voluntary, the court examines what the parties reasonably understood to be the terms of the plea agreement and all the relevant circumstances." *Raleigh*, 778 N.W.2d at 96 (citing *State v. Brown*, 606 N.W.2d 670, 674 (Minn. 2000)). However, "the normal trauma associated with being incarcerated following an arrest is not, by itself, a basis to claim coercion." *Sykes v. State*, 578 N.W.2d 807, 813 (Minn. App. 1998).

Becklund asserts that "a defendant who pleads guilty to be released from jail is not entering a voluntary plea." Becklund does not cite any legal authority for this argument. Thus, we deem this argument waived because it is unsupported by legal authority. *State v. Anderson*, 871 N.W.2d 910, 915 (Minn. 2015) ("An assignment of error based on mere assertion and not supported by any argument or authorities in appellant's brief is waived and will not be considered on appeal . . .").

Even if we addressed Becklund's argument on the merits, the record does not suggest that Becklund was coerced by physical harm or that her desire to be released from custody overbore her will. The record does establish, however, that Becklund wanted to enter a plea despite her attorney's hesitance, and she acknowledged she was comfortable entering a plea even after her attorney clarified that she would not be released as part of the plea deal. Moreover, when the court asked Becklund if she understood the plea

agreement, she answered in the affirmative. Becklund also signed the plea petition and, when asked by the court if she had enough time to discuss the agreement with her attorneys, she responded, "Yes, I believe we've had plenty of time." Becklund also acknowledged that no one had threatened her or forced her to enter into the agreement. Nor did Becklund comment to the court that she was only entering the agreement to get out of custody. Thus, because Becklund was not coerced into entering a plea agreement, her plea was voluntary.

Since Becklund's plea was accurate and voluntary her plea was constitutionally valid, and the district court did not err in denying Becklund's motion to withdraw her guilty plea.

Fair and Just

Becklund argues that even if there was not a manifest injustice, it would have been fair and just to allow plea withdrawal. First, we are not persuaded that Becklund has met her burden to establish there are fair and just reasons for plea withdrawal. Becklund asserts that she did not explicitly waive an alternative-perpetrator defense at the plea hearing and that she did not understand she could be sent to prison if she did not complete drug court. Second, we are unpersuaded that the district court abused its discretion by determining that the state met its burden to establish undue prejudice.

Even if a plea is not constitutionally invalid, the district court has the discretion to allow a defendant to withdraw their plea before sentencing "if it is fair and just to do so." Minn. R. Crim. P. 15.05 subd. 2. Although this standard is less demanding than the manifest injustice standard, it does not allow a defendant to withdraw their plea for any reason. *Theis*, 742 N.W.2d at 646. In deciding whether a defendant's reasons for

withdrawal are fair and just, the district court must consider two factors, "the reasons advanced by the defendant in support of the motion and any prejudice the granting of the motion would cause the prosecution by reason of actions taken in reliance upon the defendant's plea." Minn. R. Crim. P. 15.05, subd. 2. A defendant bears the burden of establishing that there are fair and just reasons for plea withdrawal, while the state bears the burden of showing prejudice. *Raleigh*, 778 N.W.2d at 97. The court reviews a district court's decision to deny plea withdrawal for abuse of discretion. *Id*.

First, Becklund's argument about the waiver of other defenses is not persuasive. The Minnesota Supreme Court in *Raleigh* denied the defendant's motion to withdraw his plea under the fair and just standard because his assertion that he was "under stress, felt pressured to plead guilty, and did not fully appreciate or understand the consequences of his plea," was not supported by the record. *Id.* at 97. The record in this case does not support Becklund's argument either. For instance, although Becklund's attorneys expressed concerns about moving forward with the plea, Becklund asserted that she wanted to enter the plea. Nor does the record suggest that Becklund had an alternative perpetrator defense available at the time of the plea hearing. Additionally, it can be presumed that Becklund knew the rights and defenses she would be giving up by entering a guilty plea because she was represented by counsel. *See State v. Lyle*, 409 N.W.2d 549, 552 (Minn. App. 1987) (when a defendant is represented by counsel it is presumed that he has been "informed of the nature of the offense and of his alternatives") (citing *State v. Russell*, 236 N.W.2d 612, 613 (Minn. 1975)). Becklund also indicated that she had an opportunity to discuss with her attorney the rights she would be giving up by agreeing to plead guilty.

Nor is Becklund's argument that she did not understand that she could be sent to prison if she did not complete drug court persuasive. During the plea hearing Becklund affirmed several times that she understood the plea agreement. For instance, after the state noted that Becklund would receive the presumptive 111-month commitment if she withdrew from drug court or was unsuccessful, Becklund acknowledged to the court that was her understanding of the agreement. When asked by the court if she had any questions about the agreement or any questions in general, Becklund responded she did not.

Becklund also acknowledged during the plea hearing that she would not be sent to prison if she successfully completed drug court and had no violations. Presumably Becklund would understand the opposite that if she did not complete drug court or had violations she could be sent to prison. Further, on the same day of the plea hearing Becklund signed the Wright County Adult Drug Court Participant Contract. The contract indicated that a breach of any portion of the contract would result in "the imposition of court ordered sanctions including incarceration." Therefore, it is evident that Becklund understood the potential consequences of noncompliance with the agreement.

Second, Becklund's argument that the state did not meet its burden of proving prejudice is unpersuasive. The district court did find that the state would suffer prejudice. Even so, this court has stated that when there is no prejudice to the state, a district court may still deny a plea withdrawal if the defendant fails to provide valid reasons for why withdrawal would be fair and just. *State v. Cubas*, 838 N.W.2d 220, 224 (Minn. App. 2013). Thus, even if the district court did not find undue prejudice, it still had the discretion

to deny Becklund's motion because Becklund did not provide valid reasons for why withdrawal would be fair and just.

Affirmed.