

STATE OF MINNESOTA

IN SUPREME COURT

A20-1151

Court of Appeals

Chutich, J.

State of Minnesota,

Appellant,

vs.

Filed: July 13, 2022
Office of Appellate Courts

Ron Wesley Epps,

Respondent.

Keith Ellison, Attorney General, Saint Paul, Minnesota; and

Michael O. Freeman, Hennepin County Attorney, Sarah J. Vokes, Assistant County Attorney, Minneapolis, Minnesota, for appellant.

Cathryn Middlebrook, Chief Appellate Public Defender, Sharon E. Jacks, Gina D. Schultz, Assistant State Public Defenders, Saint Paul, Minnesota, for respondent.

S Y L L A B U S

1. A manifest injustice does not occur, and withdrawal of a guilty plea is not required, when a plea colloquy omits questions about uncontested previous convictions that were alleged in the complaint.

2. Plea withdrawal is not required because the defendant did not establish a manifest injustice.

Reversed and remanded.

OPINION

CHUTICH, Justice.

The issue we consider here is whether a manifest injustice requiring plea withdrawal occurs when a guilty-plea colloquy omits questions about uncontested previous convictions that were alleged in the complaint. In November 2019, the State charged respondent Ronn Epps with violating a domestic-abuse no-contact order.¹ The complaint alleged that Epps had at least two previous convictions for violating a domestic-abuse no-contact order, which enhanced the charge to a felony. Epps pleaded guilty to the charged offense. No party questioned Epps about his previous convictions during his plea colloquy. On appeal, Epps argued that his failure to personally admit the previous convictions during his plea colloquy made his plea inaccurate, and therefore a manifest injustice occurred that required a plea withdrawal. The court of appeals agreed. Because we hold that the failure to question a defendant about uncontested previous convictions that were alleged in the complaint does not give rise to a manifest injustice, we reverse and remand the case to the court of appeals to consider a separate argument by Epps that the court did not previously address.

¹ The complaint, as well as the caption in the court of appeals, spells Epps's name "Ron," but Epps spelled his name "Ronn" during his plea hearing. We accordingly use "Ronn" here but keep the caption and other quotes to the record referring to "Ron" unchanged.

FACTS

In November 2019, a Hennepin County District Court issued a domestic-abuse no-contact order prohibiting Epps from contacting a person he allegedly abused. In March 2020, law enforcement conducted a welfare check at the alleged victim's home and found Epps and the alleged victim in the home. The State charged Epps with a felony count of violating a domestic-abuse no-contact order under Minnesota Statutes section 629.75, subdivision 2(d)(1) (2020). The charging section of the complaint read:

COUNT I

Charge: Violate No Contact Order - Within 10 years of the first of two or more convictions

Minnesota Statute: 629.75.2(d)(1), with reference to: 629.75.2(d)

Maximum Sentence: 5 YEARS AND/OR \$10,000

Offense Level: Felony

Offense Date (on or about): 03/07/2020

....

Charge Description: That on or about 3/7/2020, in Minneapolis, Hennepin County, Minnesota, RON WESLEY EPPS violated a domestic abuse no contact order and less than 10 years had elapsed since RON WESLEY EPPS was convicted of or adjudicated delinquent for the first of two or more previous qualified domestic violence-related offenses.

Minimum Sentence: 30 DAYS

In the probable cause section of the complaint, the State alleged that Epps was previously convicted of two separate violations of a domestic-abuse no-contact order in 2011, citing the relevant district court files.²

² Although not alleged in the complaint, Epps's criminal record summary shows that he was also convicted of a felony violation of a domestic-abuse no-contact order in 2015.

When Epps appeared before the district court for a first-appearance hearing under Rule 5 of the Minnesota Rules of Criminal Procedure, the district court set bail.³ Three weeks later, on April 13, 2020, the parties reached a plea agreement. Under the agreement, Epps would plead guilty to the charged offense, and the State would dismiss a pending felony assault charge and recommend a stayed sentence of 15 months. Epps’s attorney confirmed that Epps was of sound mind and established that Epps was pleading guilty voluntarily before Epps signed the written plea petition. The court confirmed that Epps understood the contents of the plea agreement, and when the court inquired whether Epps was guilty of the charged offense, Epps answered: “I’m guilty.”

Defense counsel proceeded to establish the factual basis for Epps’s guilty plea. In establishing the factual basis, Epps admitted that he knew a valid domestic-abuse no-contact order prohibited him from having contact with his alleged victim. Epps also admitted that, on March 7, 2020, he intentionally contacted his alleged victim in violation of the order. Neither counsel nor the court questioned Epps about his previous convictions.

³ The transcript of the first-appearance hearing does not say whether Epps received a copy of the complaint. We take this opportunity to remind district courts that, under Rule 5.01 of the Minnesota Rules of Criminal Procedure, the court must inform defendants of the charges, their rights, and “ensure the defendant has a copy of the charging document.” Here, we are confident that Epps received a copy of the complaint before he pleaded guilty for two reasons. First, the written plea petition that Epps personally signed in April 2020 expressly states that “I have received, read, and discussed a copy of the (~~indictment~~) (complaint).” (Alteration in original.) Second, during his plea colloquy, Epps personally affirmed that he and defense counsel had reviewed the plea petition and that he understood everything in the plea petition, which was in front of Epps during the plea colloquy.

The district court accepted his plea, ordered a presentence investigation, and scheduled a sentencing hearing.

Three months after the plea hearing (but before sentencing), Epps moved to withdraw his guilty plea under Rule 15.05, subdivision 2, of the Minnesota Rules of Criminal Procedure, which permits a court to allow plea withdrawal “if it is fair and just to do so.” He alleged that he should be allowed to withdraw his plea because he “entered his plea under duress caused from being in custody during the COVID-19 pandemic.” To be clear, Epps did *not* allege that his factual basis was inadequate because the plea colloquy omitted questions about his uncontested previous convictions.⁴ The district court heard Epps’s motion at his sentencing hearing but denied the motion, concluding that Epps’s motion merely reflected frustration with the criminal justice system. The court then imposed the agreed-upon stayed sentence of 15 months, ordered a mental-health evaluation, placed Epps on probation, and renewed the no-contact order. Epps appealed.

On appeal, Epps challenged the district court’s decision to deny his motion to withdraw his guilty plea, asserting that a manifest injustice occurred. *State v. Epps*, No. A20-1151, 2021 WL 2908520, at *1 (Minn. App. July 12, 2021). In addition to his original duress argument, Epps argued that his plea was not accurate because the plea colloquy did not contain a personal admission that he had previous qualifying convictions

⁴ We have previously held, however, that defendants may challenge the validity of their guilty plea for the first time on appeal. *State v. Iverson*, 664 N.W.2d 346, 350 (Minn. 2003); *see also Brown v. State*, 449 N.W.2d 180, 182 (Minn. 1989) (stating that a defendant “is free to simply appeal directly from a judgment of conviction and contend that the record made at the time the plea was entered is inadequate”).

that would elevate his March 2020 offense to a felony. The court of appeals concluded that, “[b]ecause the admissions in this case made no reference to or acknowledgement of any [previous no-contact order violations],” the factual basis failed to adequately support Epps’s plea. *Id.* at *3. We granted the State’s petition for review.

ANALYSIS

“Determining the validity of a guilty plea presents a question of law subject to de novo review.” *Barrow v. State*, 862 N.W.2d 686, 689 (Minn. 2015). Epps has the burden of proving that his plea was invalid. *Id.* We review an interpretation of the rules of criminal procedure de novo. *State v. Lee*, 929 N.W.2d 432, 438 (Minn. 2019).

I.

The rules of criminal procedure require a court to permit plea withdrawal upon “proof to the satisfaction of the court that withdrawal is necessary to correct a *manifest injustice*.” Minn. R. Crim. P. 15.05, subd. 1 (emphasis added). A manifest injustice exists when defendants plead guilty to a more serious offense than that for which they could have been convicted had they insisted upon their right to trial. *State v. Raleigh*, 778 N.W.2d 90, 94 (Minn. 2010). The accuracy requirement of a constitutionally valid plea protects defendants from such an injustice. *State v. Mikulak*, 903 N.W.2d 600, 603 (Minn. 2017); *Lussier v. State*, 821 N.W.2d 581, 588 (Minn. 2012); *State v. Trott*, 338 N.W.2d 248, 251–52 (Minn. 1983). To be accurate, a plea must be established by a proper factual basis. *Lussier*, 821 N.W.2d at 588. “The ‘factual-basis requirement is satisfied if the record contains a showing that there is credible evidence available which would support a jury verdict that defendant is guilty of at least as great a crime as that to which he pled guilty.’ ”

Rickert v. State, 795 N.W.2d 236, 243 n.3 (Minn. 2011) (quoting *State v. Genereux*, 272 N.W.2d 33, 34 (Minn. 1978)).

The court of appeals recently held that the factual-basis requirement is not satisfied when, at the plea hearing, a defendant fails to personally “acknowledge the truth and accuracy of the facts of the complaint or of the essential intent element of the crime.” *Rosendahl v. State*, 955 N.W.2d 294, 302 (Minn. App. 2021). Applying the *Rosendahl* rule to the facts here, the court of appeals concluded that the prior convictions alleged in the record could not be used to satisfy the factual-basis requirement because Epps did not personally acknowledge the truth and accuracy of the prior qualifying convictions at the plea hearing. *Epps*, 2021 WL 2908520, at *3.

We do not opine on the general soundness of the *Rosendahl* rule, but the rule *is* unsound as applied specifically to the facts here. Here, Epps’s conduct in violating a domestic-abuse order was transformed from a gross misdemeanor into a felony because of his prior convictions. In these circumstances—when the felony complaint alleges prior convictions, the defendant had the opportunity to review the felony complaint and discuss the plea with his lawyer, and the defendant does not contest the validity of the prior convictions—the defendant’s failure to expressly acknowledge those convictions in the plea colloquy does not give rise to a manifest injustice. We conclude that, under these circumstances, Epps admitted to each element of the offense for purposes of the guilty plea, the guilty plea was valid, and no withdrawal of the plea was required under Rule 15.05 of the Minnesota Rules of Criminal Procedure.

We emphasize, however, that thorough guilty-plea colloquies are critical and that our decision here is narrow. We acknowledge that the heavy caseloads that district courts face sometimes make it difficult to attend as closely to rules of criminal procedure as is ideal. Even so, the plea colloquy that occurred here could be substantially improved.

II.

Epps has not met his burden to establish a manifest injustice requiring a plea withdrawal under Rule 15.05 of the Minnesota Rules of Criminal Procedure, or that his plea was otherwise invalid. As explained above, a manifest injustice does not occur, and withdrawal is not required, when a plea colloquy omits questions about uncontested previous convictions that were alleged in the complaint. Here, the complaint alleged Epps's previous convictions, and he did not contest the validity of these convictions in the district court or the court of appeals. Accordingly, Epps did not plead guilty to a more serious offense than that for which he could have been convicted had he insisted on his right to trial. *See Raleigh*, 778 N.W.2d at 94. Because no manifest injustice occurred, the court of appeals committed reversible error when it reversed Epps's conviction on the basis that his guilty plea was invalid. We remand the case to the court of appeals to consider Epps's separate argument that he entered his plea under duress caused by his in-custody status during the COVID-19 pandemic.

CONCLUSION

For the foregoing reasons, we reverse and remand the case to the court of appeals for consideration of Epps's duress argument.

Reversed and remanded.