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Minn. Stat. § 480A.08, subd. 3 (2016).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A16-0797**

State of Minnesota,
Respondent,

vs.

Joseph Michael Dax,
Appellant.

**Filed April 3, 2017
Affirmed
Klaphake, Judge***

Anoka County District Court
File No. 02-CR-15-5194

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Anthony C. Palumbo, Anoka County Attorney, Nicholas M. Jannakos, Special Assistant
County Attorney, Anoka, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Veronica M. Surges, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Johnson, Presiding Judge; Peterson, Judge; and
Klaphake, Judge.

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

UNPUBLISHED OPINION

KLAPHAKE, Judge

Appellant challenges his second-degree assault conviction, arguing that the district court erred in accepting his guilty plea when he did not admit that he possessed a dangerous weapon or that he intended to cause the victim fear of immediate bodily harm. We affirm.

DECISION

Sufficiency of Plea

We reverse a guilty plea if it is invalid. Minn. R. Crim. P. 15.05, subd. 1. “A manifest injustice exists if a guilty plea is not valid.” *State v. Raleigh*, 778 N.W.2d 90, 94 (Minn. 2010). To be valid, a guilty plea must be “accurate, voluntary, and intelligent.” *Perkins v. State*, 559 N.W.2d 678, 688 (Minn. 1997). “A defendant bears the burden of showing his plea was invalid.” *Raleigh*, 778 N.W.2d at 94.

“A proper factual basis must be established for a guilty plea to be accurate.” *State v. Theis*, 742 N.W.2d 643, 647 (Minn. 2007) (quotation omitted). This showing requires “sufficient facts on the record to support a conclusion that defendant’s conduct falls within the charge to which he desires to plead guilty.” *State v. Iverson*, 664 N.W.2d 346, 349 (Minn. 2003) (quotation omitted). “The main purpose of the accuracy requirement is to protect a defendant from pleading guilty to a more serious offense than he could be convicted of were he to insist on his right to trial.” *State v. Trott*, 338 N.W.2d 248, 251 (Minn. 1983).

Dax pleaded guilty to second-degree assault under Minn. Stat. § 609.222, subd. 1 (2014), which includes “assault[ing] another with a dangerous weapon.” Assault is defined

as “an act done with intent to cause fear in another of immediate bodily harm or death.” Minn. Stat. § 609.02, subd. 10(1) (2014). Dax argues that he neither (1) intended to cause fear in the victim, nor (2) possessed a dangerous weapon.

As to the intent to cause fear in the victim, Dax argues that his guilty plea was deficient because he did not admit that he intended to cause fear in the victim, L.B. The mental state of assault includes the definition that “the actor either has a purpose to do the thing or cause the result specified or believes that the act, if successful, will cause that result.” Minn. Stat. § 609.02, subd. 9(4) (2014). This is a specific-intent crime that requires proof that the defendant intended to cause fear in another of immediate bodily harm or death. *State v. Fleck*, 810 N.W.2d 303, 309 (Minn. 2012). Because intent is a state of mind, it can be proved circumstantially “by drawing inferences from the defendant’s words and actions in light of the totality of the circumstances.” *State v. Cooper*, 561 N.W.2d 175, 179 (Minn. 1997).

During the plea hearing, Dax agreed that he had walked around L.B. in a threatening manner, held a knife close to L.B.’s chest, looked through her purse for money, and that L.B. probably felt afraid. Although Dax did not testify that he intended to cause L.B. to fear immediate bodily harm, it may be inferred that “a person intends the natural and probable consequences of his actions.” *Id.* Therefore, Dax’s answers to questions in this case are sufficient to support his guilty plea regardless of whether he explicitly stated that he intended to cause fear. *See State v. Russell*, 306 Minn. 274, 275, 236 N.W.2d 612, 613 (1975) (stating that answers by a defendant are valid to establish a factual basis for a guilty plea even if they are not specifically directed to the element of intent).

Additionally, our supreme court has established that a court may consider the facts alleged in a criminal complaint when determining the adequacy of the factual basis to support a plea. *See Trott*, 338 N.W.2d at 252 (concluding that an adequate factual basis for a plea existed because by pleading guilty the defendant “judicially admitted the allegations contained in the complaint”); *State v. Hoaglund*, 307 Minn. 322, 326-27, 240 N.W.2d 4, 6 (1976) (considering the complaint in concluding that a plea lacked an adequate factual basis). The complaint in this case alleged that Dax pointed the knife at L.B. within a half-inch from her chest, looked through L.B.’s purse, and that L.B. was afraid Dax was going to hurt her. The victim’s reaction is circumstantial evidence of intent. *State v. Schweppe*, 306 Minn. 395, 401, 237 N.W.2d 609, 614 (1975). While Dax argues that the district court should not have relied on L.B.’s feelings of fear to find intent, the district court did not rely on this finding alone. The record reflects that (1) Dax held a knife, (2) the knife was his weapon, (3) he walked around in a threatening manner looking for money, and (4) he held the knife about a half-inch from L.B.’s chest while digging through her purse. The reasonable inference from Dax’s plea hearing admissions and the allegations contained in the complaint is that Dax intended to cause L.B. to fear immediate bodily harm. *See Smith v. State*, 596 N.W.2d 661, 665 (Minn. App. 1999) (concluding that a manifest injustice did not exist where the defendant’s testimony was “sufficient to infer [his] guilt”), *review denied* (Minn. Aug. 27, 1999). Dax’s plea was sufficient to support the element of intent to commit second-degree assault.

Dax next argues that his guilty plea was inaccurate because he did not possess a dangerous weapon. But Dax admittedly held a knife to L.B.’s chest while digging through

her purse. Minn. Stat. § 609.02, subd. 6 (2014) defines a “dangerous weapon” as “any device designed as a weapon and capable of producing death or great bodily harm.” Case law supports that sharp pointed items such as knives are dangerous weapons. *See State v. Moss*, 269 N.W.2d 732, 736 (Minn. 1978) (finding scissors to be a dangerous weapon because “although defendant did not use the scissors during the robbery he had them on his person and intended to use them if their use became necessary”); *State v. Patton*, 414 N.W.2d 572, 574 (Minn. App. 1987) (finding a knife dangerous when it was displayed within two feet of the victim).

Here, at the plea hearing, Dax referred to his knife as a weapon when he stated that he was “using drugs at the time and . . . was carrying weapons.” Dax further stated that he had the knife in his hand and that L.B. “might have felt threatened” by it. As in *Patton*, Dax was holding the knife about a half-inch from L.B.’s chest, within close enough proximity to L.B. to dig through her purse. 414 N.W.2d at 574. And, as in *Moss*, Dax was able to use this knife as a threat to permit him to dig through L.B.’s purse without her stopping him. 269 N.W.2d at 736. These facts support the conclusion that Dax possessed a dangerous weapon for purposes of establishing this element of second-degree assault.

In sum, Dax has not met his burden to show that his guilty plea was inaccurate.

Pro Se Arguments

Dax has raised several additional arguments in a pro se brief. Because the brief contains no citation to legal authority or to facts in support of those allegations, we decline to consider them. *State v. Krosch*, 642 N.W.2d 713, 719 (Minn. 2002).

Affirmed.