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**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A17-1455**

State of Minnesota,  
Respondent,

vs.

Grant David Hendrickson,  
Appellant.

**Filed July 16, 2018  
Affirmed  
Schellhas, Judge**

Dakota County District Court  
File No. 19HA-CR-16-4562

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

James C. Backstrom, Dakota County Attorney, Kathryn M. Keena, Assistant County Attorney, Hastings, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, F. Richard Gallo, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Schellhas, Presiding Judge; Ross, Judge; and Hooten,  
Judge.

## UNPUBLISHED OPINION

SCHELLHAS, Judge

Appellant challenges his convictions and sentences for second-degree intentional murder and attempted second-degree murder, arguing that he should be permitted to withdraw his *Alford* pleas. We affirm.

### FACTS

Respondent State of Minnesota charged appellant Grant Hendrickson with attempted first-degree murder, second-degree murder, attempted second-degree murder, first-degree assault, and prohibited person in possession of a firearm. The complaint alleged that on November 7, 2016, Hendrickson's girlfriend, N.A., "had a verbal altercation" with a store employee, T.R., at the Dollar Tree Store in Burnsville, "regarding [T.R.'s] family being evicted from their apartment." During the altercation, T.R. told N.A. that Hendrickson was a sex offender. T.R.'s friend and job-applicant, S.D., witnessed the altercation. Shortly after N.A. left the store, Hendrickson entered the store and argued with T.R. Store personnel escorted Hendrickson out of the store, but he soon returned with a gun and shot S.D. in the leg and upper abdomen. He also shot a customer, D.H., in the head. S.D.'s injuries rendered him a paraplegic; D.H. died of his injuries.

The state submitted the case to a grand jury, which indicted Hendrickson of several crimes, including first-degree murder and attempted first-degree murder. Hendrickson pleaded guilty to second-degree intentional murder of D.H. and attempted second-degree murder of S.D. In exchange for Hendrickson's guilty pleas, the state agreed to recommend a 390-month sentence for the second-degree murder offense and a concurrent 203-month

sentence for the attempted second-degree murder offense. The state also agreed to dismiss the remaining charges.

During the colloquy to establish a factual basis for Hendrickson's guilty pleas, Hendrickson admitted that he fired multiple shots at S.D. and that one of the shots killed an innocent bystander, D.H. But, even though Hendrickson shot toward S.D. multiple times and admitted that he "shot S.D. one time, and . . . left him for a short period of time and . . . came back and shot him a second time," Hendrickson denied that he intended to kill S.D. After an off-the-record discussion, Hendrickson agreed to proceed with his guilty plea "pursuant to an *Alford* plea." The district court accepted Hendrickson's guilty pleas. Before sentencing, Hendrickson moved pro se to withdraw his guilty pleas.<sup>1</sup> The district court denied the motion and sentenced him in accordance with the plea agreement.

This appeal follows.

## DECISION

"Once a guilty plea has been entered, there is no absolute right to withdraw it." *State v. Mikulak*, 903 N.W.2d 600, 603 (Minn. 2017). But "[w]ithdrawal is permitted in two circumstances. First, a court must allow withdrawal of a guilty plea if withdrawal is necessary to correct a 'manifest injustice.'" *State v. Raleigh*, 778 N.W.2d 90, 93 (Minn. 2010) (quoting Minn. R. Crim. P. 15.05, subd. 1). "Second, a court may allow withdrawal

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<sup>1</sup> Hendrickson's handwritten pro se motion refers to his "request for withdrawal of guilty and alfla [sic.] plea deal." At the sentencing hearing at which Hendrickson's motion was discussed, the district court, prosecutor, and Hendrickson refer to his guilty plea, in the singular. The record nevertheless causes us to conclude that Hendrickson's motion pertained to withdrawal of both his guilty pleas, and the district court, prosecutor, and Hendrickson understood that.

at any time before sentencing if it is ‘fair and just to do so.’” *Id.* (quoting Minn. R. Crim. P. 15.05, subd. 2). The fair-and-just standard is discretionary and less demanding than the manifest-injustice standard. *State v. Theis*, 742 N.W.2d 643, 646 (Minn. 2007). “A manifest injustice exists if a guilty plea is not valid.” *Raleigh*, 778 N.W.2d at 94. “To be valid, a guilty plea must be accurate, voluntary, and intelligent.” *Taylor v. State*, 887 N.W.2d 821, 823 (Minn. 2016). The validity of a guilty plea is a question of law that an appellate court reviews de novo. *Nelson v. State*, 880 N.W.2d 852, 858 (Minn. 2016).

Here, in denying Hendrickson’s presentence motion to withdraw his guilty pleas, the district court noted that Hendrickson’s motion included no indication of what was unjust and unfair about the court’s acceptance of his pleas. The district court also stated that it had “no doubts whatsoever” that Hendrickson’s pleas were “knowing, voluntary, and intelligent.” On appeal, Hendrickson argues that the district court erroneously denied his request to withdraw his guilty pleas in order to correct a manifest injustice because his pleas were inaccurate.

“The accuracy requirement exists to protect a defendant from pleading guilty to a more serious offense than he could be convicted of if he were to go to trial.” *Matakis v. State*, 862 N.W.2d 33, 37 (Minn. 2015) (quotation omitted). For a guilty plea to be accurate, a proper factual basis must be established. *State v. Ecker*, 524 N.W.2d 712, 716 (Minn. 1994). “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.” *Nelson*, 880 N.W.2d at 859 (quotation omitted).

Hendrickson pleaded guilty to intentional second-degree murder and attempted second-degree murder. To support a conviction of second-degree intentional murder, the state must prove beyond a reasonable doubt that the defendant caused the death of a person with the intent to effect the death of that person or another, but without premeditation. Minn. Stat. § 609.19, subd. 1(1) (2016). For attempted second-degree intentional murder, the state must prove beyond a reasonable doubt that the defendant performed an act that is “a substantial step toward, and more than preparation for,” the commission of second-degree intentional murder. Minn. Stat. §§ 609.17, subd. 1 (2016), 609.19, subd. 1(1). Both second-degree murder and attempted second-degree murder with intent are specific intent crimes. *See State v. Young*, 710 N.W.2d 272, 278 (Minn. 2006) (stating that Minn. Stat. § 609.19, subd. 1(1) (2004), requires proof that one “either had a purpose to kill [the victim] or believed that his actions, if successful, would kill”); *see also State v. Moore*, 458 N.W.2d 90, 94 (Minn. 1990) (“First degree murder, like an attempted crime, is a specific attempt crime.”); *State v. Alladin*, 408 N.W.2d 642, 648 (Minn. App. 1987) (“An essential element of the crime of attempted second-degree murder is that appellant acted with intent to kill.”), *review denied* (Minn. Aug. 12, 1987).

Hendrickson argues that he should be permitted to withdraw his *Alford* pleas under the manifest-injustice standard because the factual basis for the pleas negated the element that he intended to kill anyone, and he did not acknowledge that there was a strong probability that a jury hearing the evidence would convict him of the crimes. He also argues that the district court accepted his guilty pleas without the required findings regarding the sufficiency of the evidence to support Hendrickson’s guilt. The state argues that the district

court could properly infer Hendrickson's intent because the facts were adequate to establish Hendrickson's intent to kill both D.H. and S.D.

***Intent to murder D.H.***

Hendrickson admitted that he fired multiple shots at S.D., and that one of the shots struck D.H. and caused his death. Minnesota caselaw has consistently applied the doctrine of transferred intent to specific intent crimes. The doctrine of transferred intent "is the principle that a defendant may be convicted if it is proved he intended to injure one person but actually harmed another." *State v. Hall*, 722 N.W.2d 472, 477 (Minn. 2006) (quoting 9 Henry W. McCarr & Jack S. Nordby, *Minnesota Practice* § 44.8 (3d ed. 2001)). In *State v. Holliday*, the defendant shot an innocent bystander while chasing and shooting in the direction of another person. 745 N.W.2d 556, 560 (Minn. 2008). In applying the doctrine of transferred intent, the supreme court affirmed convictions for the first-degree murder of the bystander and the attempted first-degree murder of the intended victim. *Id.* at 564.

Similarly, in *State v. Cruz-Ramirez*, the supreme court applied the doctrine of transferred intent to first- and second-degree murder charges for the death of a man in a vehicle and attempted first- and second-degree murder charges for three other men in close proximity to the vehicle in a gang-related shooting. 771 N.W.2d 497, 501–03, 507 (Minn. 2009). The supreme court affirmed the defendant's convictions, explaining that "transferred intent allows evidence of an intent to harm someone to transfer to the person actually harmed when there is a possibility the victim was not the intended recipient of the specific act." *Id.* at 507 (quotation omitted) (noting that the defendant "shot a semiautomatic weapon multiple times toward several people in close proximity," in

concluding that “[t]he evidence, while showing intent to kill and premeditation, [did] not unerringly show that each fired bullet was intended for the person that it hit”).

Here, the factual basis provided by Hendrickson during his initial examination by defense counsel sufficiently satisfied the elements of the offenses because Hendrickson’s intent can be inferred from his actions under the doctrine of transferred intent. *See Hall*, 722 N.W.2d at 477 (stating that the doctrine of transferred intent is “the principle that a defendant may be convicted if it is proved he intended to injure one person but actually harmed another”). Hendrickson admitted that he fired multiple shots, and that one of the shots struck D.H. and caused his death. Hendrickson also admitted that although he did not intend to hit D.H., he intended to shoot S.D. And Hendrickson agreed that under the doctrine of transferred intent, “because D.H. was an innocent bystander and [he] did not intend to shoot [D.H.] but [he] did, and it caused [D.H.’s] death, that by [Hendrickson] intentionally shooting at S.D., that [would be sufficient to convict him of] second-degree murder.” And Hendrickson admitted that “by firing multiple shots at [S.D.], . . . it’s presumed that [he was] attempting to kill [S.D.] or take [his] life.”

***Intent to murder S.D.***

The record reflects that after being examined by defense counsel, the prosecutor asked Hendrickson if when he shot at S.D. a second time, he did so “with the intent to try and kill him.” Hendrickson answered, “No.” The factual basis for a guilty plea is inadequate if “the defendant makes statements that negate an essential element of the charged crime because such statements are inconsistent with a plea of guilty.” *Mikulak*, 903 N.W.2d at 603 (quotation omitted). Hendrickson’s answer negated an essential

element of the offenses and, therefore, his plea is valid only if a proper factual basis was established in the context of an *Alford* plea. The state asserts that “intent can be inferred from the facts [Hendrickson] admitted during his plea.” *See Nelson*, 880 N.W.2d at 860 (stating that “intent can be inferred from the idea that a person intends the natural consequences of his or her actions” (quotation omitted)).

A defendant entering an *Alford* plea maintains his innocence, but agrees “that the evidence the State is likely to offer at trial is sufficient to convict.” *Matakis*, 862 N.W.2d at 38. An *Alford* plea is accurate if (1) it is established by a proper factual basis, which exists if the plea is based on “evidence discussed with the defendant on the record at the plea hearing” and (2) the defendant “agrees that evidence the State is likely to offer at trial is sufficient to convict.” *Theis*, 742 N.W.2d at 649. The former can be established through “an interrogation of the defendant about the underlying conduct and the evidence that would likely be presented at trial.” *Id.* The latter can be accomplished by having the defendant “specifically acknowledge on the record at the plea hearing that the evidence the State would likely offer against him is sufficient for a jury, applying a reasonable doubt standard, to find the defendant guilty of the offense to which he is pleading guilty.” *Id.* Both requirements “provide the court with a basis to independently conclude that there is a *strong* probability that the defendant would be found guilty of the charge to which he pleaded guilty, notwithstanding his claims of innocence.” *Id.* If a plea is entered without an adequate factual basis, the district court must permit withdrawal of the plea. *Id.* at 650.

Hendrickson argues that the factual basis for his plea was inadequate because he “did not acknowledge that a jury hearing the evidence would actually believe the evidence

and therefore would be likely to convict.” We disagree. The record reflects that Hendrickson acknowledged that he had the opportunity to review the evidence that the state would likely present at trial, including S.D.’s statement that “he believed that [Hendrickson was] trying to kill him.” Hendrickson then admitted that

if the jury were to believe that evidence that the State would offer at trial - - in addition to the other reports that the State would offer at trial, if a jury was to believe those facts and that that happened the way S.D. said it happened, . . . that a jury would find [him] guilty beyond a reasonable doubt.

And Hendrickson answered, “Yes,” to the following question asked by defense counsel:

And that Alford plea is basically saying that while you maintain that you - - it was not your intent to kill [S.D.], if the jury were to believe the evidence that would come into trial, a jury could find that you were guilty beyond a reasonable doubt[?]

Hendrickson’s admissions at the plea hearing specifically acknowledge that the evidence the state “would likely offer against him at trial is sufficient for a jury, applying a reasonable doubt standard, to find him guilty of the offenses to which he was pleading guilty.” *Theis*, 742 N.W.2d at 649. The factual basis for Hendrickson’s *Alford* plea is therefore adequate.

Hendrickson further argues that his plea was inaccurate because the district court accepted Hendrickson’s guilty plea without the required findings regarding the sufficiency of the evidence to support Hendrickson’s guilt. We disagree. Although analyzed in the context of a *Norgaard* plea,<sup>2</sup> Hendrickson’s argument was rejected by this court in

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<sup>2</sup> A *Norgaard* plea is similar to an *Alford* plea but different in that the defendant’s “inability to admit the allegations in the complaint is due to his lack of recollection” and not due to

*Johnson*, 867 N.W.2d 210, in which this court recognized that a “district court’s obligation is to ‘ensure that an adequate factual basis has been established in the record.’” *Id.* at 216 (quoting *Ecker*, 524 N.W.2d at 716). The court held that there is “no suggestion in the caselaw that a district court, as a routine matter when accepting a *Norgaard* plea, must make an express finding that there is a strong probability that the defendant would be found guilty of the charge to which he pleaded guilty.” *Id.* (quotation omitted). Rather, a district court must assure itself that “the accuracy standard is satisfied.” *Id.* (citing *Theis*, 742 N.W.2d at 649).

Here, by accepting Hendrickson’s guilty plea, the district court implied that an adequate factual basis had been established on the record. And in denying Hendrickson’s motion to withdraw his guilty plea, the district court affirmed its belief that an adequate factual basis had been established, noting that any time “there was a question or concern on the factual basis, [Hendrickson’s] attorneys took the time to review it with [him] and to clarify the record.” Hendrickson is unable to establish that his guilty plea was invalid. Accordingly, the district court did not err by denying Hendrickson’s motion to withdraw his guilty plea.

**Affirmed.**

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maintaining his innocence. *State v. Johnson*, 867 N.W.2d 210, 215 n.1 (Minn. App. 2015), review *denied* (Minn. June 20, 2015). *Johnson* advised that the “caselaw indicates that the same standard applies to either type of guilty plea.” *Id.*