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Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A18-0464**

State of Minnesota,  
Respondent,

vs.

Andrew Leta Ole Fua Sesifeo Hawkins,  
Appellant.

**Filed January 22, 2019  
Affirmed  
Klaphake, Judge\***

Hennepin County District Court  
File No. 27-CR-16-8325

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

Michael O. Freeman, Hennepin County Attorney, Michael Richardson, Assistant County  
Attorney, Minneapolis, Minnesota (for respondent)

Melissa Sheridan, Eagan, Minnesota (for appellant)

Considered and decided by Rodenberg, Presiding Judge; Hooten, Judge; and  
Klaphake, Judge.

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

## UNPUBLISHED OPINION

**KLAPHAKE**, Judge

Appellant Anddrew Leta Ole Fua Sesifeo Hawkins challenges the validity of his guilty plea, arguing that his plea is not supported by a proper factual basis. Because the record contains evidence which would support a jury verdict that Hawkins is guilty, we affirm.

## DECISION

The validity of a guilty plea is a question of law that we review de novo. *State v. Raleigh*, 778 N.W.2d 90, 94 (Minn. 2010). There is no absolute right to withdraw a guilty plea. *Perkins v. State*, 559 N.W.2d 678, 685 (Minn. 1997). However, “a court must allow withdrawal of a guilty plea if withdrawal is necessary to correct a ‘manifest injustice.’” *Raleigh*, 778 N.W.2d at 93 (citing Minn. R. Crim. P. 15.05, subd. 1). A manifest injustice occurs if a plea is not valid. *Id.* at 94. A constitutionally valid plea must be voluntary, intelligent, and accurate. *Id.* To be accurate, a guilty plea must be supported by a proper factual basis. *Id.* The factual-basis requirement is satisfied if the record contains credible evidence which would support a jury verdict that the defendant is guilty of the crime to which he pleaded guilty. *Nelson v. State*, 880 N.W.2d 852, 859 (Minn. 2016); *see also Kelsey v. State*, 214 N.W.2d 236, 237 (Minn. 1974) (explaining that a proper factual basis requires that there 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”).

In this case, Hawkins pleaded guilty to identity theft under Minn. Stat. § 609.527, subd. 2 (2014), which provides that, “A person who transfers, possesses, or uses an identity

that is not the person's own, with the intent to commit, aid, or abet any unlawful activity is guilty of identity theft." "Unlawful activity" within the meaning of the identity-theft statute is defined in Minn. Stat. § 609.527, subd. 1(g) (2014), and includes any felony violations, as well as nonfelony violations involving theft, theft by swindle, forgery, fraud, and false information. Hawkins argues that his guilty plea did not contain a proper factual basis because he did not testify to a specific "unlawful activity" that he intended to commit.

Police found Hawkins in a hotel room with several other men, equipment to make fraudulent credit cards, and numerous fraudulent credit cards. During his plea hearing, Hawkins testified that the group of men were creating "false credit cards," that the intent "was to commit criminal activity," that he participated "[t]o some degree," and that his name was on "a couple of the[ ]credit cards." Hawkins also admitted that the credit cards with his name had credit information from some other person, and that he intended to use those credit cards. Although Hawkins did not specifically state that he intended to commit theft by swindle, his testimony is nonetheless sufficient to support such a conclusion. Because the record contains sufficient evidence to support the conclusion that Hawkins's conduct falls within the charge to which he pleaded guilty, there is a proper factual basis to support his plea.

**Affirmed.**