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**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A19-0391**

State of Minnesota,  
Respondent,

vs.

Shantha Jayapathy,  
Appellant.

**Filed January 21, 2020  
Affirmed  
Reilly, Judge**

Hennepin County District Court  
File No. 27-CR-17-1110

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

Michael O. Freeman, Hennepin County Attorney, Linda M. Freyer, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Amy Lawler, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Cochran, Presiding Judge; Bjorkman, Judge; and Reilly, Judge.

## UNPUBLISHED OPINION

**REILLY**, Judge

Appellant challenges the denial of her postconviction motion to withdraw her guilty plea under the manifest-injustice standard. Because we discern no error and appellant is not entitled to relief on her pro se arguments, we affirm.

### DECISION

#### **I. The District Court Did Not Err by Denying Appellant's Motion to Withdraw Her Guilty Plea.**

The state charged appellant Shantha Jayapathy by amended complaint with one count of first-degree controlled-substance sale and one count of first-degree controlled-substance possession for engaging in a drug transaction. Police officers discovered approximately 132.55 grams of methamphetamine and drug paraphernalia on appellant and in her home. The parties reached a plea agreement, which provided that appellant would plead guilty to an amended count of first-degree drug possession, possession of over 50 grams of methamphetamine, in exchange for dismissal of the remaining count. The district court accepted appellant's guilty plea to the amended drug-possession charge and imposed the prison sentence negotiated by the parties in their plea agreement. This appeal follows.

##### **a. Legal Standard**

A defendant does not have an absolute right to withdraw a guilty plea. *State v. Raleigh*, 778 N.W.2d 90, 93 (Minn. 2010). However, “a court must allow a defendant to withdraw a guilty plea, even after sentencing, if ‘withdrawal is necessary to correct a manifest injustice.’” *State v. Theis*, 742 N.W.2d 643, 646 (Minn. 2007) (quoting Minn. R.

Crim. P. 15.05, subd. 1). A manifest injustice occurs if a plea is not valid. *Raleigh*, 778 N.W.2d at 94. To be valid, a plea must be accurate, voluntary, and intelligent. *Id.* The defendant bears the burden of proving that the plea was invalid. *Id.* On appeal, this court reviews the validity of a guilty plea de novo. *Id.* Here, appellant challenges the accuracy and intelligence of her plea.

#### **b. Accuracy Requirement**

“The accuracy requirement protects a defendant from pleading guilty to a more serious offense than that for which he could be convicted if he insisted on his right to trial.” *Id.* To be accurate, a guilty plea must be supported by a proper factual basis with “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 factual basis of a plea is inadequate if a defendant makes statements that negate an essential element of the charged offense. *Id.* at 350. The adequacy of the factual basis is usually established by the defendant explaining the circumstances surrounding the crime. *State v. Ecker*, 524 N.W.2d 712, 716 (Minn. 1994). We review the sufficiency of the factual basis for the plea from the record made when the plea was entered. *State v. Lillemo*, 410 N.W.2d 66, 69 (Minn. App. 1987).

Here, the plea colloquy sufficiently establishes each element of the crime. Appellant entered a plea of guilty to first-degree controlled-substance possession, possession of over 50 grams of methamphetamine, in violation of Minn. Stat. § 152.021, subd. 2(a)(1) (2016). This statute provides that “[a] person is guilty of a controlled substance crime in the first degree if . . . the person unlawfully possesses one or more

mixtures of a total weight of 50 grams or more containing cocaine or methamphetamine.”  
*Id.*

The record contains ample evidence that appellant’s plea was accurate. A complaint “may provide a factual basis for a defendant’s plea,” and a reviewing court is “permitted to examine the complaint to assess whether a defendant’s plea was accurate.” *Sanchez v. State*, 868 N.W.2d 282, 289 (Minn. App. 2015) (citation omitted), *aff’d*, 890 N.W.2d 716 (Minn. 2017). According to the complaint and the probable-cause statement, police officers approached appellant outside of her home in December 2016. Appellant threw a bag, which contained 27.97 grams of methamphetamine, onto the ground. Officers obtained and executed a search warrant at appellant’s home and found an additional 23 baggies containing a total of 104.58 grams of methamphetamine. In total, officers recovered approximately 132.55 grams of methamphetamine from appellant and her home. During a police interview, appellant admitted that she purchased methamphetamine every two to three days and resold it at a higher price. The factual basis established by the state supports each element of the controlled-substance possession offense.

Appellant argues that her plea was inaccurate and therefore invalid because it was based on leading questions by the prosecutor. “Ordinarily, an adequate factual basis is established by questioning the defendant and asking the defendant to explain in his or her own words the circumstances surrounding the crime.” *Williams v. State*, 760 N.W.2d 8, 12 (Minn. App. 2009) (quotation omitted), *review denied* (Minn. Apr. 21, 2009). The use of leading questions to establish a valid guilty plea is discouraged. *Ecker*, 524 N.W.2d at 717. However, a prosecutor’s use of leading questions will not invalidate a guilty plea

as long as there is a sufficient factual basis in the record. *Raleigh*, 778 N.W.2d at 95-96. During the factual-basis portion of the plea hearing, appellant admitted that she had over 50 grams of methamphetamine on her person and in her home at the time of her arrest, that she knew the substance in her possession was methamphetamine, and that she did not have a legal right to possess it. The district court determined that an adequate factual basis was established despite the prosecutor's use of leading questions. The district court did not err by determining that appellant's guilty plea was accurate based upon the factual basis provided at the plea hearing.

### **c. Intelligence Requirement**

Appellant argues that her guilty plea also did not satisfy the intelligence requirement for a valid plea. The intelligence requirement ensures that the defendant understands the state's charges against her, the rights she is waiving, and the consequences of her plea. *Id.* at 96.

Appellant claims that her plea was unintelligent because she may have a traumatic brain injury (TBI) and mental health issues arising from an earlier motorcycle accident requiring brain surgery. This argument is based primarily on facts developed in an unrelated case. *See Jayapathy v. State*, No. A13-2041, 2014 WL 4056025, at \*1 (Minn. App. Aug. 18, 2014) (affirming Jayapathy's conviction for first-degree controlled-substance possession and concluding that postconviction court did not abuse its discretion by denying petition to withdraw guilty plea). While publicly available, appellant's earlier case is not part of the record on appeal in this case. *See State v. Brown*, 597 N.W.2d 299, 305 (Minn. App. 1999), *review denied* (Sept. 14, 1999) ("An appellate court may not base

its decision on matters outside the record on appeal or consider matters that were not produced and received in evidence before the [district] court.”).

Here, appellant acknowledged in the plea petition that she understood the charges against her and wanted to plead guilty. Appellant’s oral statements during the plea colloquy supported the guilty-plea petition she signed. At the hearing, defense counsel discussed the plea petition with appellant:

DEFENSE COUNSEL: . . . I have a four-page document, a petition to enter a plea of guilty in a felony case. Have you had an opportunity to go through with—this document with me?

DEFENDANT: Yes, I have.

DEFENSE COUNSEL: We’ve met several times and discussed this document; correct?

DEFENDANT: Yes.

DEFENSE COUNSEL: All right. And last week we went through it specifically line by line; is that correct?

DEFENDANT: That’s correct.

DEFENSE COUNSEL: Is that your signature on the last page?

DEFENDANT: Yes, it is.

DEFENSE COUNSEL: Did you sign that because you’re acknowledging to [the district court] you understand all the terms and conditions of this document including the plea we just put on the record?

DEFENDANT: Yes.

DEFENSE COUNSEL: Do you have any questions of [the judge] or myself before we proceed?

DEFENDANT: No.

Defense counsel discussed each of appellant's rights and asked if she understood that she was waiving those rights by entering a guilty plea. Appellant indicated that she understood that she was waiving her rights. The district court also inquired:

COURT: All right. Well, Ms. Jayapathy, I know this has been a difficult decision, but have you had enough time to think about this?

DEFENDANT: Yes, ma'am, I have.

COURT: All right. And have you had enough time to consult with your lawyer?

DEFENDANT: Yes.

COURT: And are you—are you making this decision freely and voluntarily? In other words, is this your decision, or are you feeling some type of undue pressure or coercion?

DEFENDANT: No. This is my decision.

The prosecutor later inquired, "And you're clear-headed today, Ms. Jayapathy?" Appellant replied, "Yes." The issue of appellant's TBI and mental illness was not raised at the hearing.

On this record, we determine that appellant acknowledged that she understood the terms of the plea petition, understood that she was waiving certain rights by pleading guilty, and wanted to proceed with the plea hearing. Appellant's plea was intelligent because she had sufficient time to speak with counsel, understood the charges against her, understood the rights she was waiving, and understood the consequences of her plea. *See Raleigh*, 778 N.W.2d at 94, 96 (discussing accuracy and intelligence requirements).

Appellant also argues that the district court erred by failing to order a presentence investigation (PSI) under Minn. Stat. § 609.115 (2016)<sup>1</sup> to gather information about her mental state. However, Minn. R. Crim. P. 27.03, subd. 1(B)(1)(a), provides that a district court “*may* . . . order a presentence investigation” in a felony sentencing proceeding (emphasis added); *see also* Minn. Stat. § 645.44, subds. 15, 16 (2016) (noting that “*may*” is permissive and “*shall*” is mandatory). This conflict is resolved by Minn. Stat. § 480.059, subd. 7(1) (2016), which permits the rules of criminal procedure to supersede certain statutes relating to criminal actions, including Minn. Stat. § 609.115. Thus, the district court was not required to order a PSI. And in this case, neither party requested a PSI and, indeed, the parties agreed to a specific term of imprisonment in their plea agreement. The district court did not err by imposing the sentence agreed to by the plea agreement and not ordering a PSI.

## **II. Appellant Is Not Entitled to Relief on her Pro Se Arguments.**

Appellant raises several additional arguments in her pro se supplemental brief. Appellant argues that she is entitled to reversal because the state mailed the criminal complaint to an incorrect address. Appellant fails to identify any error and we consider this argument forfeited. *See State v. Manley*, 664 N.W.2d 275, 286 (Minn. 2003)

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<sup>1</sup> Minn. Stat. § 609.115, subd. 1(a) provides “[w]hen the defendant has been convicted of a felony, the court *shall*, before sentence is imposed, cause a presentence investigation and written report to be made to the court concerning the defendant’s individual characteristics, circumstances, needs, potentialities, criminal record and social history, the circumstances of the offense and the harm caused by it to others and the community” (emphasis added).



(considering arguments forfeited when they are unsupported by facts in the record and contain “no citation to any relevant legal authority”).

Appellant also challenges the search of her home and her confession during a post-*Miranda* police interview. Appellant’s arguments are barred as a result of her guilty plea. A guilty plea generally operates as a waiver of all nonjurisdictional defects that arose before the plea. *State v. Farnsworth*, 738 N.W.2d 364, 371 (Minn. 2007); *see also State v. Lothenbach*, 296 N.W.2d 854, 857 (Minn. 1980) (“The traditional viewpoint in Minnesota, as well as elsewhere, has been that a guilty plea by a counseled defendant operates as a waiver of all nonjurisdictional defects, including Fourth Amendment claims.”). By admitting her guilt, appellant waived her remaining pro se claims and we do not address them.

In sum, because appellant’s guilty plea was accurate and intelligent and she is not entitled to relief on her pro se claims, we conclude that the district court did not err by denying her postconviction motion to withdraw her guilty plea.

**Affirmed.**