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**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0616**

State of Minnesota,
Respondent,

vs.

Donald Ray Quin, Jr.,
Appellant.

**Filed April 27, 2020
Affirmed
Johnson, Judge**

Clay County District Court
File No. 14-CR-18-2836

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

Brian J. Melton, Clay County Attorney, Pamela Foss, Chief Assistant County Attorney,
Moorhead, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Sharon E. Jacks, Assistant Public
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Johnson, Presiding Judge; Slieter, Judge; and John P.
Smith, Judge.*

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

UNPUBLISHED OPINION

JOHNSON, Judge

Donald Ray Quin, Jr., pleaded guilty to domestic assault by strangulation. At the plea hearing, he admitted that he put his hands around his girlfriend's neck, held her down, and impeded her breathing. Before sentencing, he twice moved to withdraw his guilty plea. The district court twice denied his motion. We conclude that the district court did not err by denying the motion and, therefore, affirm.

FACTS

The complaint in this case alleges that, on the evening of July 16, 2018, police officers went to an apartment building in Moorhead in response to a report of a loud disturbance. The first officer to arrive heard screaming inside an apartment, saw that the apartment door was partially open, and entered the apartment. He saw a man and a woman engaged in a physical struggle. Officers separated the two and identified the man as Quin and the woman as C.L.T. C.L.T. told the officers that she and Quin had been arguing, that Quin pushed her to the ground and slapped her several times, and that he brandished a switchblade and threatened her with it. Police officers also spoke to C.L.T.'s two children, who were present during the incident. One of C.L.T.'s children indicated that Quin "grabbed [C.L.T.] by the neck and was 'choking her.'" Officers inquired further of C.L.T., who stated that Quin "had his hands around her neck," that "she had a hard time breathing," and that she believed that Quin was trying to "choke her out."

The state charged Quin with second-degree assault, in violation of Minn. Stat. § 609.222, subd. 1 (2016), and domestic assault by strangulation, in violation of Minn. Stat.

§ 609.2247, subd. 2 (2016). At Quin’s first appearance, the district court set his bail at \$20,000 without conditions or \$10,000 with conditions. Quin did not post bail and remained in custody. Ten days later, he moved for a reduction in his bail, but the district court denied the motion.

On August 20, 2018, Quin pleaded guilty to count 2, domestic assault by strangulation, pursuant to a plea agreement. In exchange for Quin’s guilty plea, the state agreed that Quin could be released from custody pending sentencing, that he would receive a presumptive guidelines sentence, that count 1 would be dismissed, and that charges in another case also would be dismissed. The district court accepted Quin’s plea and ordered him released from custody pending sentencing.

On September 17, 2018, C.L.T. met with an investigator in the public defender’s office. C.L.T. told the investigator that, on the evening of July 16, 2018, she wanted Quin to stay in the apartment but he wanted to leave. She said that she hugged Quin to stop him from leaving and that they tripped and fell to the floor. She said that Quin “never pulled a knife” on her and that she “felt pressured” to agree with the prosecutors when she spoke with them one week before Quin’s plea hearing. The investigator prepared a written report of the meeting, which was filed with the district court.

On September 24, 2018, Quin moved to withdraw his guilty plea. He argued in a memorandum of law that plea withdrawal would be fair and just because he pleaded guilty only to obtain release from custody and because C.L.T. had recanted her earlier statements. The district court conducted a hearing on the motion three days later. The state opposed the motion, contending, among other things, that C.L.T. did not recant the strangulation

charge, which was the charge to which he had pleaded guilty, and that there were other witnesses to the incident. The district court took the matter under advisement. On October 1, 2018, Quin’s attorney filed a handwritten letter from C.L.T. in which she reiterated what she had told the investigator and added that Quin “did not strangle/choke me.” On October 16, 2018, the district court denied Quin’s motion to withdraw his guilty plea.

Quin appeared for sentencing on November 28, 2018. C.L.T. read a victim-impact statement, which reiterated that Quin “did not choke or strangle” her. Quin renewed his motion to withdraw his guilty plea and urged the district court to grant the motion for the reasons stated in the memorandum of law he had filed earlier. The district court took the renewed motion under advisement and postponed sentencing. On December 18, 2018, the district court again denied Quin’s motion to withdraw his guilty plea.

The district court later imposed a sentence of 18 months of imprisonment but stayed execution of the sentence and placed Quin on probation for three years. Quin appeals.

D E C I S I O N

Quin argues that, for two reasons, the district court erred by denying his motion to withdraw his guilty plea.

A defendant does not have an absolute right to withdraw a guilty plea. *State v. Raleigh*, 778 N.W.2d 90, 93 (Minn. 2010). Rather, a defendant is entitled to withdraw his guilty plea in only two circumstances. First, a district court must allow a defendant to withdraw a guilty plea at any time if “withdrawal is necessary to correct a manifest injustice.” Minn. R. Crim. P. 15.05, subd. 1. Second, a district court may allow a defendant

to “withdraw a plea at any time before sentence if it is fair and just to do so.” *Id.*, subd. 2. In this appeal, Quin invokes only the fair-and-just standard of rule 15.05, subdivision 2.

In ruling on a motion brought under the fair-and-just standard, a district court “must give due consideration to the reasons advanced by the defendant in support of the motion and any prejudice the granting of the motion would cause the prosecution by reason of actions taken in reliance upon the defendant’s plea.” Minn. R. Crim. P. 15.05, subd. 2. The defendant has the burden of proving that a fair-and-just reason for withdrawal exists. *Raleigh*, 778 N.W.2d at 97. If the defendant has satisfied that burden, the state has the burden of proving that prejudice would occur if the plea were withdrawn. *Id.* “The ultimate decision of whether to allow withdrawal under the fair and just standard is left to the sound discretion of the trial court” *Butala v. State*, 664 N.W.2d 333, 338 (Minn. 2003) (quotation omitted). Accordingly, this court applies an abuse-of-discretion standard of review to a district court’s denial of a motion to withdraw a guilty plea under the fair-and-just standard. *Raleigh*, 778 N.W.2d at 97. Only in a “rare case” will an appellate court reverse a district court’s decision to deny a withdrawal motion under the fair-and-just standard. *Joon Kyu Kim v. State*, 434 N.W.2d 263, 266 (Minn. 1989).

A.

Quin first argues that the district court should have concluded that it would be fair and just to allow him to withdraw his guilty plea on the ground that his guilty plea is invalid because it is inaccurate.

To be constitutionally valid, a guilty plea “must be accurate, voluntary, and intelligent.” *State v. Farnsworth*, 738 N.W.2d 364, 372 (Minn. 2007). If a guilty plea does

not satisfy all three of these requirements, the plea is invalid. See *State v. Ecker*, 524 N.W.2d 712, 716 (Minn. 1994). “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). To satisfy the accuracy requirement, a guilty plea must “be established on a proper factual basis.” *Raleigh*, 778 N.W.2d at 94. A proper factual basis exists if there are “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) (quotations omitted). Stated differently, a proper factual basis exists 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 v. State*, 880 N.W.2d 852, 859 (Minn. 2016) (quotations omitted).

Quin contends that there is not a proper factual basis for his guilty plea because the record does not show that he *intentionally* strangled C.L.T. A person is guilty of domestic assault by strangulation if he “assaults a family or household member by strangulation.” Minn. Stat. § 609.2247, subd. 2. “Strangulation” is defined, in part, as “intentionally impeding normal breathing or circulation of blood by applying pressure on the throat or neck . . . of another person.” *Id.*, subd. 1(c). Quin acknowledges that he “impeded C.L.T.’s ability to breathe for a moment” but contends that “he did not say he did that intentionally.”

In its order denying Quin’s second withdrawal motion, the district court concluded that Quin’s guilty plea is not inaccurate because he admitted that he impeded C.L.T.’s breathing. The district court did not specifically consider whether there is a proper factual

basis with respect to the issue of intent. But it appears that Quin’s argument to the district court did not focus on the specific issue of intent. Nonetheless, we will consider the argument because a defendant may challenge the lack of a factual basis for the first time on appeal even if he did not move for plea withdrawal in the district court. *See State v. Iverson*, 664 N.W.2d 346, 350 (Minn. 2003); *Brown v. State*, 449 N.W.2d 180, 182 (Minn. 1989); *State v. Johnson*, 867 N.W.2d 210, 214 (Minn. App. 2015), *review denied* (Minn. Sept. 29, 2015).

During the plea hearing, Quin was asked, “can you tell us what you did in that apartment on July 16th that makes you guilty of domestic assault by strangulation?” He answered, “I impeded her ability to breathe.” When asked, “How did you do that?,” he answered, “By holding her down with force—I’m not sure.” He proceeded to admit that his hands were around C.L.T.’s neck and that he held her down. When asked, “Was there enough force that she was having trouble breathing?,” Quin answered, “It was enough force to stop her from breathing for a moment.”

Quin did not expressly say at the plea hearing that he *intentionally* strangled C.L.T. or *intentionally* impeded her ability to breathe. But an admission of the requisite intent is not required; there is a proper factual basis if the requisite intent can be inferred from the record. As the supreme court has explained, “‘It is well established that before a plea of guilty can be accepted, the trial judge must make certain that facts exist from which the defendant’s guilt of the crime charged can be reasonably inferred.’” *Nelson*, 880 N.W.2d at 861 (quoting *State v. Neumann*, 262 N.W.2d 426, 430 (Minn. 1978)). Furthermore, “Intent is generally proved by inferences drawn from a person’s words or actions in light

of all the surrounding circumstances.” *Id.* at 860 (quotation omitted). In light of Quin’s admissions that he placed his hands on C.L.T.’s neck, held her down, and impeded her breathing, one can easily infer that Quin intended to impede her breathing. See *State v. Gillam*, 629 N.W.2d 440, 454 (Minn. 2001) (stating that jury “may infer that a person intends the natural and probable consequences of his actions”). Thus, Quin’s guilty plea is not inaccurate for lack of a proper factual basis.

B.

Quin also argues that the district court should have concluded that it would be fair and just to allow him to withdraw his guilty plea because of “the entire context of the plea.” In referring to “context,” he apparently refers to the fact that, at the time of his guilty plea, he was in custody, wanted to be released from custody, and was unable to post bail. In addition, he believed that C.L.T. would testify against him at trial, but she later recanted.

The district court considered these reasons on two occasions. In its order denying Quin’s first withdrawal motion, the district court determined that C.L.T.’s post-plea statements do not satisfy the fair-and-just standard. The district court noted that C.L.T. changed her story only three weeks after Quin was released from custody and that C.L.T. initially did not recant the accusation that Quin had strangled her. The district court also referred to Quin’s statement at the plea hearing that he did not claim that he was innocent. In its order denying Quin’s second withdrawal motion, the district court rejected Quin’s argument based on his desire to be released from custody on the ground that “there is no support for this argument in the record.” The district court also rejected Quin’s argument based on C.L.T.’s recantation because the district court was “highly suspicious of the

circumstances surrounding the victim's recantation" for essentially the same reasons as were stated in the first order.

With respect to the first part of Quin's asserted reason for pleading guilty, his desire to be released from custody, the district court was correct in stating that there is no factual support for the argument. Quin did not submit an affidavit in support of his motion, and he did not testify about his reasons for pleading guilty at either motion hearing. Quin's attorney made the argument in a memorandum of law without any factual support. Furthermore, even if the assertion were true, it would not be a valid reason for making false statements at a plea hearing and, consequently, not a fair and just reason for withdrawing a guilty plea. This court has stated that "the normal trauma associated with being incarcerated following an arrest is not, by itself, a basis to" withdraw a guilty plea, *Sykes v. State*, 578 N.W.2d 807, 813 (Minn. App. 1998), *review denied* (Minn. July 16, 1998), and that a defendant's "ability to negotiate a presentence release . . . does not establish compulsion," *State v. Brant*, 407 N.W.2d 696, 698 (Minn. App. 1987). Moreover, if we were to reverse the district court and allow Quin to withdraw his guilty plea simply because he did not want to remain in custody pending trial, we would encourage practically every criminal defendant to undertake the same scheme.

The purposes of the criminal law are not served if defendants are permitted to plead guilty to offenses of which they are not in fact guilty. . . . The tender and acceptance of a plea of guilty is and must be a most solemn commitment. While the state has no reason to imprison a man for a crime which he did not commit, "[w]e are not disposed to encourage accused persons to 'play games' with the courts at the expense of already overburdened calendars and the rights of other accused persons awaiting trial" by setting aside judgments of

conviction based upon pleas made with deliberation and accepted by the court with caution.

Chapman v. State, 162 N.W.2d 698, 700 (Minn. 1968) (second alteration in original) (quoting *Everett v. United States*, 336 F.2d 979, 984 (D.C. Cir. 1964)).

With respect to the second part of Quin’s asserted reason for pleading guilty, his desire to benefit from C.L.T.’s recantation, we have no reason to question the district court’s judgment that the recantation is “highly suspicious.” Indeed, C.L.T. told the defense investigator that unidentified members of Quin’s family were “contacting her.” In any event, even if the recantation were less suspicious, Quin’s argument would fail. The supreme court rejected a similar argument for plea withdrawal based on a witness’s recantation, reasoning that the defendant’s guilt was established by “his own plea of guilty, which was based on an admission of guilt and on a statement that he was pleading guilty because he was guilty.” *State v. Risken*, 331 N.W.2d 489, 490 (Minn. 1983); *see also State v. Tuttle*, 504 N.W.2d 252, 256-57 (Minn. App. 1993). Thus, the district court did not abuse its discretion by concluding that the circumstances of Quin’s guilty plea do not give rise to a fair-and-just reason for plea withdrawal.

In sum, the district court did not err by denying Quin’s motion to withdraw his guilty plea.

Affirmed.