

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0626**

State of Minnesota,
Respondent,

vs.

Nathaniel Ambrose,
Appellant.

**Filed April 19, 2021
Affirmed
Bratvold, Judge**

Mower County District Court
File No. 50-CR-18-1868

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

Kristen Nelsen, Mower County Attorney, Megan A. Burroughs, Assistant County Attorney, Austin, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jenna Yauch-Erickson, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Bjorkman, Presiding Judge; Bratvold, Judge; and Bryan, Judge.

NONPRECEDENTIAL OPINION

BRATVOLD, Judge

Appellant’s infant was injured while in appellant’s care. Mother took the infant to the emergency room after she returned from work, and treating physicians concluded that the infant’s injuries were “strongly suggestive” of child abuse and specifically abusive head

trauma. In this direct appeal from a final judgment of conviction of first-degree assault, appellant seeks to withdraw his guilty plea, contending that the factual basis for the plea was deficient. Because the district court followed the *Alford*¹ procedure at appellant's request and the record contains an adequate factual basis, appellant's guilty plea is accurate and therefore valid. Thus, we affirm.

FACTS

The state charged appellant Nathaniel Ambrose with first-degree assault, Minn. Stat. § 609.221, subd. 1 (2018). The following summarizes the evidence received at Ambrose's plea hearing.

In August 2018, Ambrose lived in an apartment in Lyle with his partner, C.S., and their two children—an eight-week-old son, Z.A., and a one-year-old daughter. Ambrose cared for the children while their mother was at work.

On August 25, 2018, C.S. returned from work at about 3:30 p.m. Z.A. was behaving unusually, as explained below, and C.S. brought him to Olmsted Medical Center. A physician examined Z.A. and observed facial bruising, bruising on his genitals, and rectal tearing. Some testing revealed a possible brain bleed. The physician determined that Z.A.'s injuries were recent. Because of the seriousness of the injuries, the physician transferred Z.A. to St. Mary's Hospital at the Mayo Clinic and contacted the Lyle Police Department.

¹ See *North Carolina v. Alford*, 400 U.S. 25, 38, 91 S. Ct. 160, 168 (1970) (holding that a court may constitutionally accept a defendant's guilty plea even though the defendant maintains his innocence).

Officers interviewed C.S. and Ambrose. According to Ambrose, during the morning after C.S. had left for work, he heard Z.A. coughing or choking and saw that Z.A. was coughing up blood. Ambrose saw blood in an open cut in Z.A.'s mouth, so he took Z.A. to the bathroom and used water to clean him.² Because Z.A. seemed "limp," Ambrose tried to revive him. Ambrose stated that he "lightly tapped" Z.A.'s cheek and shook him. Ambrose stated that Z.A. "came back to." Ambrose contacted C.S. several times about Z.A. while she was at work. At 3 p.m., Ambrose told C.S. that Z.A. was "acting weird" because Z.A. was not crying as he usually did and his eyes rolled back. Ambrose texted C.S. stating, "Some is wrong with [Z.A.]," and Z.A.'s "eyes roll back and he just act like he in pain."

During his interview, Ambrose stated several times that he "shook" Z.A., but described the motion as not a "rough shaking." Ambrose told the officers that he did not "mean" to shake Z.A., but he panicked and was frightened because the infant was bleeding and nonresponsive. Ambrose was unable to provide another explanation for the cause of Z.A.'s injuries other than his shaking. Ambrose told officers he did not bump Z.A. into anything and that he could not think of anything that would have caused Z.A.'s head trauma.

During C.S.'s interview, she said that Z.A. had not fallen or been dropped while in her care and that no one else cared for Z.A. in the past week other than C.S. and Ambrose.

² Both parents told police that they had noticed Z.A.'s torn frenulum (the small fold of skin below the tongue) before his hospitalization and also stated they did not know how it happened.

She also stated that she had worked 47 hours that week and Ambrose was the only one who cared for Z.A. while she was at work. C.S. told police that when she left for work at about 8:30 a.m., she fed and changed Z.A.; he was fussy but not unusually so. When she returned home from work around 3:30 p.m., she noticed that Z.A. was acting strangely and “seemed different.” But then Z.A. started to behave normally, so she took him to a family party in Rochester. Shortly after they arrived, C.S.’s family noticed that Z.A.’s face was bruised and his eye movement was unusually rapid, so C.S. took Z.A. to the hospital.

Officers also interviewed other witnesses, including one witness who stated that she saw Z.A. a week before his hospitalization, and he did not have any bruises and was behaving normally. Officers also obtained video-surveillance footage of the hallway outside Ambrose and C.S.’s apartment, which showed Ambrose leaving the children in the apartment several times on the day Z.A. was hospitalized and before C.S. had returned from work.

The state charged Ambrose by complaint about three days after Z.A. was hospitalized. In October 2019, Ambrose and his attorney told the district court that he wanted to enter an *Alford* plea to first-degree assault. In exchange for the *Alford* plea, the state agreed to recommend a guidelines sentence of 86 months in prison.

The state submitted many exhibits as its offer of proof at the plea hearing. The exhibits included police reports summarizing witness interviews—for example, six separate interviews with Z.A.’s treating physicians. Physicians diagnosed Z.A. with an acute subdural hematoma (brain bleed), brain bruises, retinal hemorrhage, bruises on his face and buttocks, a tear inside Z.A.’s mouth, rectal injuries, seizures, and a partially healed

ulna (“buckle” fracture of his wrist). The medical summaries stated that physicians performed tests and excluded most explanations for Z.A.’s injuries, but could not exclude abusive trauma. Z.A.’s physicians concluded that his injuries were less than 24 hours old when he was admitted. Based on many tests, the medical experts opined that there was no reasonable medical explanation for Z.A.’s injuries other than “non-accidental trauma.” The physicians also concluded that Z.A.’s injuries were “strongly suggestive of child abuse and abusive head trauma.” Finally, the state presented photographs of Z.A. before and after his injuries, and neurological scans of Z.A.’s brain and a normal infant brain.

The district court questioned Ambrose under oath. Ambrose agreed that he understood his constitutional trial rights, and wanted to waive them to accept the state’s offer. Ambrose submitted a written petition to plead guilty with an *Alford* addendum. Ambrose agreed that he had discussed the case and the medical reports with his attorney and wanted to proceed as requested.

In response to questions from his own attorney, Ambrose confirmed that he was the only person to care for Z.A. on the day of his hospitalization. He agreed that surveillance-video evidence from the apartment would prove that only he, C.S., and their daughter, were with Z.A. that day. Ambrose agreed that he messaged C.S. stating that Z.A. was “acting weird” and his eyes “were rolling back in his head.” Ambrose agreed that he had admitted he shook Z.A. He also agreed that the state could show that “someone” had inflicted intentional and great bodily harm upon Z.A., the evidence showed a “strong likelihood” the jury would find him guilty of assault, and the jury would find that Z.A. was vulnerable.

In response to questions from the prosecuting attorney, Ambrose acknowledged that the state's experts had diagnosed Z.A. with non-accidental abusive head trauma, among other injuries, and that Z.A. had permanent brain damage as a result of these injuries. In response to three separate questions, Ambrose agreed that he admitted to police that he shook Z.A. on the day he was hospitalized. Ambrose also agreed that his text messages confirmed this.

Ambrose stated that he understood the state's exhibits would be "all the evidence at trial" and that, based on this evidence, there was a substantial likelihood that the jury would find him guilty as charged. Ambrose agreed that the evidence presented would be sufficient to show he caused Z.A.'s injuries. Ambrose also agreed that if he took the case to trial, he would be facing far more prison time, because the jury was like to find that Z.A. was a vulnerable victim. At the close of his testimony, Ambrose again agreed that there was a substantial likelihood that the court or a jury would find him guilty beyond a reasonable doubt.

The district court found that the factual basis was sufficient and that the plea was voluntary and accurate, and accepted Ambrose's guilty plea to first-degree assault. After the hearing, the district court entered supplemental findings on the *Alford* plea because the court neglected "to make an independent and specific finding with respect to the sufficiency of the testimony and exhibits offered in support of the plea, which was an unintentional omission." The district court found that based on the facts offered in support of the plea, there was sufficient evidence to support a jury verdict of guilty. The district court later sentenced Ambrose to 86 months in prison.

This appeal follows.

DECISION

Ambrose asks this court to reverse his conviction and allow him to withdraw his guilty plea because the state failed to establish that Ambrose's actions "caused the great bodily harm." The state argues that we should affirm because the plea-hearing evidence sufficiently supports Ambrose's conviction for first-degree assault.

A defendant does not have an absolute right to withdraw a valid guilty plea. *State v. Farnsworth*, 738 N.W.2d 364, 371 (Minn. 2007). The Minnesota Rules of Criminal Procedure allow a defendant to seek to withdraw a guilty plea after sentencing if "withdrawal is necessary to correct a manifest injustice." Minn. R. Crim. P. 15.05, subd. 1. Manifest injustice is proven when an appellate court determines that a guilty plea is invalid. *State v. Theis*, 742 N.W.2d 643, 646 (Minn. 2007). To be constitutionally valid, a guilty plea must be accurate, voluntary, and intelligent. *Alford*, 400 U.S. at 31, 91 S. Ct. at 164, accord *Butala v. State*, 664 N.W.2d 333, 339 (Minn. 2003) ("The involuntariness of a guilty plea constitutes such a manifest injustice as to entitle a defendant to withdraw his plea." (internal quotation omitted)). A defendant bears the burden of showing his plea was invalid. *Alanis v. State*, 583 N.W.2d 573, 577 (Minn. 1998). A defendant may challenge the validity of his plea for the first time on appeal. *State v. Iverson*, 664 N.W.2d 346, 350 (Minn. 2003). Assessing the validity of a plea presents a question of law that this court reviews de novo. *See State v. Rhodes*, 675 N.W.2d 323, 326 (Minn. 2004).

Ambrose primarily argues that his guilty plea was inaccurate. A plea must be accurate to ensure that a defendant does not "plead[] guilty to a more serious offense than

that for which he could be convicted if he insisted on his right to trial.” *State v. Raleigh*, 778 N.W.2d 90, 94 (Minn. 2010). “To be accurate, a plea must be established on a proper factual basis.” *Id.* “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.” *State v. Genereux*, 272 N.W.2d 33, 34 (Minn. 1978). That said, “[t]he factual basis of a plea is inadequate when the defendant makes statements that negate an essential element of the charged crime because such statements are inconsistent with a plea of guilty.” *State v. Iverson*, 664 N.W.2d 346, 350 (Minn. 2003).

“The district court typically satisfies the factual basis requirement by asking the defendant to express in his own words what happened.” *Raleigh*, 778 N.W.2d at 94. The supreme court has “cautioned against the use of exclusively leading questions to establish a proper factual basis for a guilty plea.” *Lussier v. State*, 821 N.W.2d 581, 589 (Minn. 2012). Still, “a defendant may not withdraw his plea simply because the court failed to elicit proper responses if the record contains sufficient evidence to support the conviction.” *Raleigh*, 778 N.W.2d at 94.

Ambrose makes two arguments in support of his position that he should be allowed to withdraw his plea.

First, Ambrose contends that the district court failed to conduct an independent examination as required by the *Alford* plea procedure. An *Alford* plea occurs when a defendant maintains his innocence but pleads guilty because the record establishes, and the defendant reasonably believes, that the evidence is sufficient to obtain a conviction.

Alford, 400 U.S. at 37, 91 S. Ct. at 167; accord *State v. Goulette*, 258 N.W.2d 758, 761 (Minn. 1977). Thus, an *Alford* plea allows a defendant to plead guilty without expressly admitting the facts underlying the offense of conviction. *Id.* An *Alford* plea is valid only “if the court, on the basis of its interrogatories of the accused and its analysis of the factual basis offered in support of the plea, concludes that the evidence would support a jury verdict of guilty, and that the plea is voluntarily, knowingly, and understandingly entered.” *Goulette*, 258 N.W.2d at 761. Because the defendant’s decision to plead guilty while maintaining innocence casts doubt on the rationality of the defendant’s decision, the factual-basis requirement is “absolutely crucial” to determining the validity of the *Alford* plea. *Id.*

The Minnesota Supreme Court has held that, to sustain an *Alford* plea as accurate, there must be a “strong factual basis and the defendant’s agreement that the evidence is sufficient to support his conviction.” *Theis*, 742 N.W.2d at 649. The district court must “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.*

Although best practice is for the district court to make a separate determination during the plea hearing, we examine the record as a whole. *State v. Trott*, 338 N.W.2d 248, 251 (Minn. 1983). Here, the district court accepted Ambrose’s guilty plea, and found that Ambrose stated “a valid factual basis” for his guilty plea to first-degree assault. Later, the district court provided supplemental written findings and determined that “there is sufficient evidence to support a jury verdict of guilty.” We conclude that the district court

conducted an independent examination of the evidence and concluded that it satisfied the requirements of an *Alford* plea.

Second, Ambrose contends that the plea-hearing evidence does not prove beyond a reasonable doubt that Ambrose caused Z.A.’s injuries. To sustain Ambrose’s conviction of first-degree assault, the plea-hearing evidence must prove that Ambrose “assault[ed] another and inflict[ed] great bodily harm.” Minn. Stat. § 609.221, subd. 1. “Great bodily harm” is defined as “bodily injury which creates a high probability of death.” Minn. Stat. § 609.02, subd. 8 (2018). Assault is a general-intent crime which “requires only that the defendant engaged intentionally in specific, prohibited conduct.” *State v. Fleck*, 810 N.W.2d 303, 308 (Minn. 2012) (quotation omitted). Ambrose agrees that the plea-hearing evidence established Z.A. suffered great bodily harm, but contends that the evidence is insufficient to prove that he *caused* Z.A.’s injuries.

Ambrose argues that the plea-hearing evidence is insufficient because he never admitted that he caused Z.A.’s injuries and the state’s exhibits did not prove causation.³ We are not persuaded. The plea-hearing evidence established that Ambrose admitted to

³ Ambrose relies on caselaw from other jurisdictions that have questioned the validity of the “shaken-baby syndrome”/abusive head trauma diagnosis. See *State v. Consaul*, 332 P.3d 850 (N.M. 2014); *People v. McFarlane*, 926 N.W.2d 339 (Mich. Ct. App. 2018); *State v. Edmunds*, 746 N.W.2d 590 (Wis. Ct. App. 2008); *In Re Fero*, 367 P.3d 588 (Wash. Ct. App. 2016). These cases do not apply for two reasons. First, the opinions either evaluated the sufficiency of evidence supporting a conviction or discussed the admissibility of expert evidence. Second, the infants had injuries and medical diagnoses that differed from Z.A.’s injuries and medical diagnoses. Ambrose also relies on medical articles that discuss some of Z.A.’s diagnoses. See, e.g., Kent Hymel et al., *Intracranial Hemorrhage and Rebleeding in Suspected Victims of Abusive Head Trauma*, in *7 Child Maltreatment* 329, 332 (2002). But the articles are not helpful, as they speak generally about the diagnoses. More importantly, these articles are not record evidence in this case.

shaking Z.A. and that Ambrose was the only caregiver for Z.A. on the day he was injured as well as the day before his injury. Indeed, C.S. was working the day of Z.A.'s hospitalization. Medical evidence showed that Z.A.'s brain injury occurred within 24 hours of Z.A.'s hospitalization.

The plea-hearing evidence established that Z.A.'s injuries were recent and consistent with being shaken, Ambrose admitted that he had shaken Z.A., and the medical evidence ruled out other causes of Z.A.'s injuries. Ambrose's testimony agreed with this summary of the state's evidence.

Q: Okay. And that the evidence the State has that you had shaken him, that he has injuries consistent with being shaken, and those injuries, as the doctors opined, are what caused the abusive head trauma, right? You understand that that's what the State's evidence showed?

A: What you say?

Q: That shaking is consistent with those injuries?

A: Okay.

Q: And that there were no other medical causes they could find which would cause those injuries, right?

A: Yeah.

Q: Is that a yes?

A: Yeah.

Thus, the plea-hearing evidence showed that Z.A. experienced abusive head trauma by a non-accidental injury that occurred when he had one caregiver, Ambrose, who admitted shaking the infant. In addition, Ambrose agreed that, based on the evidence at the plea hearing, there was a substantial likelihood the jury or a court would find him guilty beyond a reasonable doubt.

We conclude that the factual basis was sufficient to support Ambrose's conviction of first-degree assault. As a result, Ambrose's guilty plea is accurate and therefore valid.

Affirmed.