

*This opinion is nonprecedential except as provided by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
A20-1540**

Christopher Paul Mattson, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed June 21, 2021
Reversed and remanded
Cochran, Judge**

Polk County District Court
File No. 60-CR-17-2555

Cathryn Middlebrook, Chief Appellate Public Defender, Benjamin J. Butler, Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

Greg Widseth, Polk County Attorney, Scott A. Buhler, First Assistant County Attorney, Crookston, Minnesota (for respondent)

Considered and decided by Larkin, Presiding Judge; Cochran, Judge; and
Cleary, Judge.*

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

NONPRECEDENTIAL OPINION

COCHRAN, Judge

Appellant challenges the district court's order denying his petition for postconviction relief, arguing that the district court erred by refusing to allow him to withdraw his guilty plea. Appellant contends that the factual basis for his guilty plea to the crime of failing to appear for court was not accurate. Because the factual basis was not sufficient to support the plea, we reverse and remand.

FACTS

This case arises from appellant Christopher Paul Mattson's absence from district court on two dates in 2017. On October 31, 2017, Mattson did not appear for a pretrial hearing that was scheduled to address matters in four felony cases against him. The district court continued the hearing until November 2, 2017. When Mattson did not appear for the second hearing, the district court issued a warrant for his arrest. Mattson was arrested in December 2017, approximately one month later. The state charged Mattson with felony failure to appear in violation of Minn. Stat. § 609.49, subd. 1(a) (2016).

In June 2018, Mattson pleaded guilty to the charge. At the plea hearing, Mattson provided a factual basis for *most* elements of the offense by personally admitting to the elements. Specifically, in response to questions from the district court, Mattson acknowledged that he had previously been charged with a felony, that a district court judge had informed him that he was required to make all future court appearances in that case, and that he had known that failing to appear could result in a warrant for his arrest or new criminal charges. Mattson also acknowledged the complaint's allegation that he did not

appear for court on October 31, 2017, and agreed that he did not appear on November 2, 2017.

With respect to the intent element of the offense—that he “intentionally fail[ed] to appear when required”—Mattson did not provide a factual basis by admitting to the element. *See* Minn. Stat. § 609.49, subd. 1(a). Instead, pursuant to the parties’ agreement, he entered an *Alford* plea¹ whereby he maintained his innocence with regard to that element but agreed that there was a substantial likelihood that, if the case proceeded to trial, a jury would find that certain evidence identified by the state was sufficient to prove the element. To establish the *Alford* plea on the intent element, the prosecutor began by reminding Mattson of a previous trial that Mattson had for a prior failure-to-appear charge. In that case, Mattson was found guilty via a bench trial of failing to appear for court on April 18 and 20, 2017. *State v. Mattson*, No. A18-0952, 2019 WL 1233556, at *1 (Minn. App. Mar. 18, 2019). The prosecutor next stated that “the evidence the [s]tate would present in this file would be similar to the evidence in that file.” The prosecutor then asserted that the state would have offered the following evidence in this case: the complaints filed against Mattson with respect to his underlying charges, which put Mattson on notice that failing to appear was a crime; the order for conditional or unconditional release, which required Mattson generally to appear for court; the court minutes from October 31 and November 2, 2017, showing that Mattson did not appear on those dates; and testimony from the police officer who arrested Mattson, showing that Mattson was arrested on his

¹ *See North Carolina v. Alford*, 400 U.S. 25, 38, 91 S. Ct. 160, 168 (1970).

outstanding warrant in December 2017. In response to a question from the prosecutor, Mattson agreed that there was a substantial likelihood that a jury would convict him based on that evidence.

The district court determined that Mattson's guilty plea was supported by sufficient evidence and accepted the plea. The court sentenced Mattson to prison for one year and one day but stayed execution of the sentence and placed Mattson on probation for four years.

Mattson petitioned for postconviction relief, requesting that the district court vacate his failure-to-appear conviction and allow him to withdraw his guilty plea. In his petition and a supporting memorandum, Mattson argued that his guilty plea was invalid because he did not admit, nor did the evidence establish, that his failure to appear was intentional. Specifically, Mattson contended that the factual basis for his plea was insufficient because it did not establish: (1) that he had actual knowledge of his court dates on October 31 and November 2, 2017; (2) that he had specific intent not to appear; (3) that he, alternatively, had general intent not to appear; and (4) that he had engaged in a volitional act or omission that caused him not to appear. He further argued that his plea was invalid because this court had subsequently reversed his prior conviction for failing to appear for court in April 2017 due to insufficient evidence of the intent element. *See Mattson*, 2019 WL 1233556, at *2-3 (concluding that the circumstantial evidence was insufficient to support Mattson's conviction because the state did not introduce any evidence that Mattson received notice of his April 2017 court dates).

The district court denied Mattson's petition. The court found that there was a sufficient factual basis in the record to support a finding that Mattson had knowledge of his October 31 and November 2, 2017 court dates and intentionally failed to appear. The court reasoned that Mattson had been advised on several occasions that failing to appear for court was a crime and that his repeated failures to appear for court in April, October, and November 2017, along with the fact that the warrant for his arrest was outstanding for a month, either showed his intent not to appear or provided a basis for the court to infer his intent. The district court also noted that Mattson never claimed lack of notice at the plea hearing and emphasized that Mattson specifically acknowledged that the evidence was sufficient to convict him. The court further rejected Mattson's contention that the reversal of his prior failure-to-appear conviction had any bearing on the present case, in part because this case involves a guilty plea rather than a jury trial.

This appeal follows.

DECISION

Mattson challenges the district court's denial of his postconviction petition to withdraw his guilty plea. A defendant may withdraw a guilty plea at any time, even after sentencing, if "withdrawal is necessary to correct a manifest injustice." Minn. R. Crim. P. 15.05, subd. 1. A manifest injustice occurs if a plea is not valid. *State v. Boecker*, 893 N.W.2d 348, 350 (Minn. 2017). "To be constitutionally valid, a guilty plea must be accurate, voluntary, and intelligent." *Id.* (quotation omitted). Determining the validity of

a guilty plea presents a question of law that we review de novo. *Barrow v. State*, 862 N.W.2d 686, 689 (Minn. 2015).²

Mattson challenges only the accuracy of his plea. The accuracy requirement is meant “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). For a guilty plea to be accurate, a proper factual basis must be established for each element of the offense. *State v. Jones*, 921 N.W.2d 774, 779 (Minn. App. 2018), *review denied* (Minn. Feb. 27, 2019). Typically, a factual basis is laid by “asking the defendant to express in his own words what happened.” *Nelson v. State*, 880 N.W.2d 852, 859 (Minn. 2016) (quotation omitted).

In an *Alford* plea, however, the defendant pleads guilty despite maintaining his innocence and admits that the state has sufficient evidence to convict him of the offense. *State v. Theis*, 742 N.W.2d 643, 647 (Minn. 2007) (citing *Alford*, 400 U.S. at 38, 91 S. Ct. at 168). An “adequate factual basis” for an *Alford* plea requires “two related components: [1] a strong factual basis and [2] the defendant’s acknowledgement that the evidence would be sufficient for a jury to find the defendant guilty beyond a reasonable doubt.”

² The state contends that we should review the validity of Mattson’s plea under the plain error standard rather than the de novo standard. The state asserts that plain error is the appropriate standard of review because Mattson “did nothing to preserve a challenge to the factual basis for his guilty plea.” But the prevailing law in Minnesota is that appellate courts apply the de novo standard to review the validity of guilty pleas. *State v. Mikulak*, 903 N.W.2d 600, 603 (Minn. 2017) (“The validity of a guilty plea . . . is a question of law, which we review de novo.”). And the case law makes no distinction between “preserved” and “unpreserved” errors. The state has not persuaded us to deviate from the de novo standard in this case.

Williams v. State, 760 N.W.2d 8, 12-13 (Minn. App. 2009), *review denied* (Minn. Apr. 21, 2009). The accuracy requirement for an *Alford* plea is satisfied when “[t]he strong factual basis and the defendant’s agreement that the evidence is sufficient to support his conviction 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.”³ *Theis*, 742 N.W.2d at 649. The supreme court has emphasized that a “strong factual basis” is necessary for an *Alford* plea “because of the inherent conflict in pleading guilty while maintaining innocence.” *Id.* at 648-49.

Here, Mattson entered a guilty plea to felony failure to appear in violation of Minn. Stat. § 609.49, subd. 1(a). Subdivision 1(a) provides:

A person charged with . . . a felony and released from custody . . . who *intentionally fails to appear when required after having been notified that a failure to appear for a court appearance is a criminal offense*, or after having been released on an order or condition that the releasee personally appear when required with respect to the charge or conviction, is guilty of a crime for failure to appear

Minn. Stat. § 609.49, subd. 1(a) (emphasis added). An essential element of this offense is that the defendant intentionally failed to appear for the court appearance as required. *See 10A Minnesota Practice*, CRIMJIG 24.21 (2020). Mattson argues that his plea was not accurate with regard to this element of the offense because the plea record lacks an

³ Mattson contends that the factual basis for his guilty plea must establish his guilt “beyond a reasonable doubt.” This argument ignores the supreme court’s clear directive that an *Alford* plea is accurate when there is a “strong probability” that a jury would find the defendant guilty of the charge. *Theis*, 742 N.W.2d at 649 (emphasis omitted). The district court applied the appropriate standard in this case.

adequate factual basis to establish that he intentionally failed to appear in court on the days in question. Because Mattson entered an *Alford* plea with respect to this element, the heightened *Alford* standard applies to our review of his argument.

To act “intentionally,” a defendant must “have knowledge of those facts which are necessary to make the actor’s conduct criminal and which are set forth after the word ‘intentionally’” in the applicable statute. Minn. Stat. § 609.02, subd. 9(3) (2016). The statute in question here provides that a defendant is guilty of felony failure to appear if he, in relevant part, “intentionally fails to appear when required.” Minn. Stat. § 609.49, subd. 1(a). Applying the above standard to this statutory language indicates that the defendant must have knowledge of “when” he was “required” to appear in court. Accordingly, a showing that Mattson had notice of the specific court dates is a prerequisite to the failure-to-appear offense with which Mattson was charged. We conclude that the record in this case does not establish that Mattson had such notice.

At the plea hearing, the prosecutor specified that if the case were to go to trial, the state would have produced the following evidence to prove that Mattson intentionally failed to appear for court: the complaints filed against Mattson, which put Mattson on notice that failing to appear was a crime; the order for conditional or unconditional release, which required Mattson generally to appear for court; court minutes showing that Mattson failed to appear for court on October 31 and November 2, 2017; and testimony indicating that Mattson was arrested on his outstanding warrant in December 2017. Based on this evidence, it may be reasonable to infer that Mattson had *general* knowledge that he was required to appear for court in the fall of 2017. And Mattson’s past actions of failing to

appear in April 2017, along with the length of time during which he was on warrant status, make it less likely that Mattson’s failures to appear were accidental. But the standard for reviewing the sufficiency of an *Alford* plea is relatively high: there needs to be a “*strong probability*” that a jury would find that Mattson intentionally failed to appear when required. *Theis*, 742 N.W.2d at 649. The evidence, as described by the prosecutor at the plea hearing, fails to meet that standard. None of the evidence identified by the prosecutor and discussed with Mattson at the plea hearing included the dates (October 31 or November 2) that Mattson was required to appear. Similarly, none of the evidence supports a reasonable inference that Mattson actually knew the specific dates on which he was required to appear. Based on the evidence that the state asserted it would rely on if the case were to proceed to trial, we conclude that there is not a strong probability that a jury would find that Mattson intentionally failed to appear for court.

We are not persuaded otherwise by arguments raised by the state to counter Mattson’s assertion that his plea was inaccurate. First, the state argues that we should infer that Mattson had notice of his court dates because Mattson was represented by counsel at the plea hearing and Mattson did not claim at that time that he lacked such notice. The state’s argument is unconvincing. To establish an adequate factual basis for an *Alford* plea, two requirements must be satisfied: (1) a strong factual basis, and (2) the defendant’s acknowledgement that the evidence would be sufficient for a jury to convict him of the offense. *Williams*, 760 N.W.2d at 12-13. Mattson’s lack of objection at the plea hearing regarding the intent element is related to the latter requirement—his acknowledgement that the identified evidence would be sufficient to convict him. Even where that requirement

is met, a defendant's plea must still be supported by a *strong factual basis* sufficient to provide the district court with a basis to independently conclude that there is a *strong* probability that the defendant would be convicted. *Id.* As discussed above, the factual basis was insufficient to support Mattson's conviction. Missing was any evidence that Mattson had actual notice of the October 31 and November 2 court dates. The state did not identify any evidence that would support an inference that such notice was provided to Mattson, either directly or indirectly through his counsel. The factual basis on the intent element was not adequate to support his plea.

The state next argues that we should uphold the validity of Mattson's plea because criminal convictions carry a "presumption of regularity" and Mattson did not present any new evidence regarding the validity of the plea with his postconviction petition. *See, e.g., Hooper v. State*, 888 N.W.2d 138, 141 (Minn. 2016) ("A petition for postconviction relief is a collateral attack on a conviction that carries a presumption of regularity." (quotation omitted)). The state maintains that "the silent record as to whether [Mattson] had actual notice" of his court dates should weigh against Mattson's argument that his plea was invalid. Again, we are not convinced.

It is true that "a defendant bears the burden of showing his plea was invalid." *Boecker*, 893 N.W.2d at 350 (quotation omitted). But, as discussed above, the record from the plea hearing is sufficient by itself to show that the strong-factual-basis standard was not met in this case. Mattson did not need to provide any additional evidence to the district court along with his postconviction petition to meet his burden. The plea hearing transcript speaks for itself. And, contrary to the state's assertion, the "silence" in the record as to

whether Mattson had notice of his court dates shows that the factual basis for Mattson's plea failed to establish a key element of the offense: whether Mattson intentionally failed to appear for court when required. Mattson met his burden in the postconviction proceeding to show that the factual basis of his plea was insufficient.

In sum, we conclude that the factual basis for Mattson's plea was insufficient and therefore his plea was not accurate. Accordingly, we reverse and remand for the district court to permit Mattson to withdraw his guilty plea.

Reversed and remanded.