

*This opinion is nonprecedential except as provided by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
A21-0174**

State of Minnesota,
Respondent,

vs.

Jaston Cody Mattson,
Appellant.

**Filed January 18, 2022
Reversed and remanded
Bjorkman, Judge**

St. Louis County District Court
File No. 69VI-CR-20-570

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

Kimberly J. Maki, St. Louis County Attorney, Bonnie A. Norlander, Assistant County Attorney, Duluth, Minnesota (for respondent)

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

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

NONPRECEDENTIAL OPINION

BJORKMAN, Judge

Appellant seeks to withdraw his guilty plea to first-degree aggravated burglary, arguing that his plea was inaccurate because he did not provide a sufficient factual basis.

Because appellant's testimony negated the intent element of the offense and did not otherwise establish an adequate factual basis for his guilty plea, we reverse and remand.

FACTS

In October 2020, appellant Jaston Cody Mattson pleaded guilty to first-degree aggravated robbery in exchange for the state's agreement to dismiss a first-degree assault charge. During his plea hearing, Mattson testified that on May 22, 2020, around 3:30 a.m., A.S. gave Mattson and his girlfriend a ride to a nearby gas station. Mattson's girlfriend sat in the passenger seat, and shortly after they entered the car A.S. "tried to do sexual encounters" with her. Mattson "reacted" by shooting A.S. with a pellet gun and taking his cell phone.

During the plea colloquy, Mattson's attorney asked:

Q: Did you and [girlfriend] try to rob [A.S.]?

A: No.

Q: You understand the plea is to aggravated robbery. Which robbery means you tried to take somebody with force and extract something from them, like money or their wallet? Do you understand that?

A: Yes.

Q: So, what you are saying right now though is, we didn't rob him, nothing happened, it was just self-defense with [girlfriend].

A: Yes.

Q: The Court can't accept a plea if there is not a sufficient factual basis. You see the problem we have.

A: Yes, I understand—I understand but you had me under oath.

Q: Okay. Did you ever try to rob [A.S.]?

A: No. Did—did—did I rob him? Yes, but did I try to? No. I asked for his phone during the incident.

Q: Well, I am not sure how you could rob someone without trying. What did you take from him?

A: I took—I took his phone and an attach cord.

Q: Okay. And why—did you have permission to take his phone?

A: No.

Q: All right. And during the course of the taking the phone did you use the pellet gun on [A.S.]?

A: Yes.

Q: Where did you shoot [A.S.]?

A: In the back of the head.

Q: Did you also shoot him in the eye?

A: Yes.

Mattson agreed that A.S. sustained significant injuries, including loss of vision in his right eye. And Mattson expressly stated that he was not claiming innocence and that he did not act to defend his girlfriend.

The district court accepted Mattson's guilty plea and imposed the agreed-to 81-month prison sentence. Mattson appeals, arguing that he should be permitted to withdraw his plea because it is inaccurate.

DECISION

A defendant does not have an absolute right to withdraw a guilty plea. *State v. Mikulak*, 903 N.W.2d 600, 603 (Minn. 2017). But a court must allow a defendant to do so if “withdrawal is necessary to correct a manifest injustice.” Minn. R. Crim. P. 15.05, subd. 1. A manifest injustice exists if a plea is not valid. *State v. Raleigh*, 778 N.W.2d 90, 94 (Minn. 2010). A guilty plea is constitutionally valid only if it is accurate, voluntary, and intelligent. *Id.* A defendant may challenge the validity of his guilty plea for the first time on appeal. *State v. Newcombe*, 412 N.W.2d 427, 430 (Minn. App. 1987), *rev. denied* (Minn. Nov. 13, 1987). We review the validity of a guilty plea de novo. *Raleigh*, 778 N.W.2d at 94.

A guilty plea is accurate 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, 349-50 (Minn. 2003) (quotation omitted). The accuracy requirement is designed to “protect 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.” *Lussier v. State*, 821 N.W.2d 581, 588 (Minn. 2012) (quotation omitted). Typically, the factual basis for the plea is established when the defendant describes the crime in his own words. *Id.* at 589.¹ The factual basis of a plea is inadequate if “the defendant makes statements that negate an essential element of the charged crime.” *Mikulak*, 903 N.W.2d at 603 (quotation omitted).

A person commits first-degree aggravated robbery when they, while armed with a dangerous weapon, use force to take personal property from another person to which they know they are not entitled. Minn. Stat. §§ 609.24 (defining simple robbery), .245, subd. 1 (defining first-degree aggravated robbery) (2018). Robbery is a specific-intent crime, requiring the state to prove the defendant had “[s]pecific intent, or a purposeful or conscious desire to bring about a criminal result.” *State v. Charlton*, 338 N.W.2d 26, 30 (Minn. 1983). Our supreme court recently held that “the force element of simple robbery is satisfied the moment an actor *uses force for the purpose of overcoming* another person’s

¹ The allegations of the complaint may also establish the factual basis for a plea if the defendant “expressly testif[ied] as to the truthfulness and accuracy of these allegations . . . during his colloquy.” *State v. Rosendahl*, 955 N.W.2d 294, 300 (Minn. App. 2021). Mattson did not do so.

resistance to the taking or carrying away of property.” *State v. Townsend*, 941 N.W.2d 108, 112 (Minn. 2020) (emphasis added).

Mattson argues his guilty plea was inaccurate because he did not admit that he intended to rob A.S., and in fact, he negated the requisite intent by testifying that he “did not try to rob [A.S.]” These arguments have merit. We turn first to the issue of whether Mattson’s testimony negates an intent to use force to take the personal property of another.

Mikulak guides our analysis. During his plea hearing, Mikulak pleaded guilty to violating the law that makes it a crime to “knowingly violate” the predatory registration statute. *Mikulak*, 903 N.W.2d at 602. But he testified that, at the time of the charged offense, he did not know or remember that he was required to register within 24 hours of moving to a new county. *Id.* The supreme court concluded that Mikulak’s plea was not accurate because this testimony negated the mens rea element of the charged offense and he never withdrew or corrected it. *Id.* at 605.

As in *Mikulak*, Mattson stated that he was guilty of aggravated robbery but testified that he did not intend to commit that offense. Mattson’s attorney twice asked Mattson if he tried to rob A.S. The first time, Mattson simply responded, “No,” and agreed that he was trying to defend his girlfriend. After explaining that the district court could not accept a guilty plea that is not supported by the facts, Mattson’s attorney again asked Mattson if he tried to rob A.S. Mattson responded, “No. Did—did—did I rob him? Yes, but did I try to? No. I asked for his phone during the incident.” Mattson never stated why he used the pellet gun. The closest he came was agreeing that he used the pellet gun “during the

course of the taking of the phone.” We are not convinced that this statement corrects Mattson’s prior testimony that negated an intent to rob A.S.

The state points to *Nelson v. State*, in which the supreme court inferred the requisite factual bases for the intent and premeditation elements of murder from the defendant’s plea testimony. 880 N.W.2d 852, 860 (Minn. 2016). Nelson was charged with premeditated murder after stabbing a coworker in their employer’s parking lot. *Id.* at 854-55. During the plea hearing, Nelson admitted bringing a knife to work after contemplating it for several days, planning to stab his coworker, and leaving work to follow her outside even though his shift was not over. *Id.* at 855. And he admitted stabbing her multiple times, even after she fell to the ground. *Id.* But Nelson balked when asked whether he intended to kill her, stating “I think it was . . . just to get her hurt and then . . . to eat with her but it . . . went too far.” *Id.* The district court rejected Nelson’s postconviction argument that his guilty plea was invalid. *Id.* at 857. On appeal, the supreme court concluded that Nelson’s testimony that he had hurt feelings, brought a knife to work, and stabbed his coworker repeatedly supported the inference that Nelson intended to kill her and established an adequate factual basis for his guilty plea. *Id.* at 860.

The state urges us to likewise infer from Mattson’s testimony that he used the pellet gun with the intent to obtain A.S.’s phone. We are not persuaded to do so. The state points to Mattson’s testimony that he and his girlfriend were only in A.S.’s car for a short time, that he asked for the phone, and that he shot A.S. with the pellet gun “in the course” of taking A.S.’s phone as permitting an inference that he used force for the purpose of taking the phone. This argument overlooks a critical distinction between this case and *Nelson*.

After initially testifying that he did not intend to kill his coworker, and being advised that his testimony was not sufficient to support his guilty plea, Nelson answered “yes” when the district court asked, “And by doing that, isn’t it—you *intended* to kill her?” *Id.* at 856 (emphasis added); see *Rosendahl*, 955 N.W.2d at 299 (noting that Nelson “explicitly acknowledged to the district court during his colloquy his intent to kill the victim”). In contrast, Mattson never admitted that he used force in order to take A.S.’s phone. And he did not otherwise withdraw or correct his statements that negated the intent element of the offense. To the extent the state argues Mattson’s admission that he used the pellet gun “during the course of the taking” is sufficient, we decline to equate that statement with the requisite intent to use force “for the purpose of overcoming” A.S.’s resistance to him taking the phone. See *Townsend*, 941 N.W.2d at 111. The facts Mattson testified to after his express negation—that he demanded and took A.S.’s phone, and shot A.S. in the eye and the back of the head—fail to establish a factual basis for the intent element of aggravated robbery.

In sum, Mattson’s testimony was inconsistent with his guilty plea; he never admitted using force for the purpose of taking A.S.’s phone. And the facts he did acknowledge do not support an inference of intent that overcomes his express negation. Because Mattson’s guilty plea was inaccurate, it is invalid. Mattson is entitled to withdraw it.

Reversed and remanded.