

*This opinion is nonprecedential except as provided by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
A22-0010**

Anthony Emerson Howson, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed August 1, 2022
Affirmed
Cochran, Judge**

St. Louis County District Court
File No. 69HI-CR-19-32

Cathryn Middlebrook, Chief Appellate Public Defender, St. Paul, Minnesota; and

Melissa Sheridan, Assistant Public Defender, Eagan, Minnesota (for appellant)

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

Kimberly J. Maki, St. Louis County Attorney, Aaron P. Welch, Assistant County Attorney,
Virginia, Minnesota (for respondent)

Considered and decided by Reilly, Presiding Judge; Cochran, Judge; and
Kirk, Judge.*

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

NONPRECEDENTIAL OPINION

COCHRAN, Judge

Appellant filed a petition for postconviction relief seeking to withdraw his guilty plea to second-degree intentional murder. Appellant now challenges the district court's order denying his request, arguing that his plea lacked an adequate factual basis. Because the factual basis provided by appellant at the plea hearing is sufficient to support appellant's plea, we affirm.

FACTS

In January 2019, respondent State of Minnesota charged appellant Anthony Howson with three offenses: second-degree intentional murder in violation of Minn. Stat. § 609.19, subd. 1(1) (2018), kidnapping in violation of Minn. Stat. § 609.25, subd. 1(3) (2018), and first-degree aggravated robbery in violation of Minn. Stat. § 609.245, subd. 1 (2018). The charges were based on allegations that Howson aided and abetted the kidnapping, robbing, and killing of J.L. *See* Minn. Stat. § 609.05, subd. 1 (2018) (setting forth criminal liability for aiding and abetting a crime of another). In February 2019, Howson and the state entered into a plea agreement. Howson agreed to plead guilty to second-degree intentional murder and, in exchange, the state agreed to dismiss the remaining counts. At the plea hearing, Howson entered his guilty plea and provided a factual basis for the plea. The following summarizes Howson's testimony at the plea hearing.

On January 5, 2019, Howson was at his apartment with Bailey French. French is the best friend of Howson's girlfriend. French asked Howson if she could invite J.L. over so that she and J.L. could “do[] business, meaning selling drugs, talking about drugs.”

Howson agreed, and J.L. came to Howson's apartment. After some time, J.L. left the apartment.

Later, Deshon Bonnell, a family friend of Howson, came over to the apartment. French told Howson and Bonnell that J.L. had made a sexual pass at her and had touched her inappropriately. French, Howson, and Bonnell were angry with J.L. French also told another individual, D.H., about what J.L. had done. D.H. told French to bring J.L. to his house so that they could "teach him a lesson" and "pretty much take all his stuff." French, Howson, and Bonnell found J.L. at a nearby auto shop and brought him to D.H.'s house. At D.H.'s house, they "pushed [J.L.] around a little bit . . . [j]ust [to] kind of scare him." They also took two phones, \$13, and a debit card from J.L. After they "roughed him up," D.H. gave the debit card back to J.L. and told J.L. to never make sexual advances towards French again. D.H. then told the others to drive J.L. somewhere, drop J.L.'s car off somewhere else, and go home.

Instead of dropping off J.L., Howson, French, and Bonnell then drove J.L. back to Howson's apartment. Howson, French, and Bonnell then held J.L. at Howson's apartment for several hours. Bonnell showed J.L. a gun and told him that he was not free to leave because of what he did to French. Bonnell also said to J.L. something to the effect of "you're not going to be able to live today." Howson, French, and Bonnell then came up with a plan to drive J.L. to a wooded trail in the city of Kerr, have Bonnell and French take him onto the trail, and shoot and kill him. Meanwhile, Howson, French, and Bonnell fabricated a story to confuse J.L. about their intentions. They told J.L. that they were going

to go meet up with the “Mexican Cartel,” sell them marijuana to get money for gas for J.L.’s car, and then bring J.L. home.

Several hours later, sometime between 2:00 and 3:00 a.m. on January 6, Howson drove French, Bonnell, and J.L. to Kerr. Howson, French, and Bonnell decided to make the drive at that hour because they believed the police department conducted its shift change around that time and, as a result, there would be fewer officers on patrol. During the drive, Howson knew that Bonnell was still in possession of a gun. Upon arriving in Kerr, Howson parked the car at a dead-end near a trail in a wooded area. French then asked Howson to switch shoes with her to make it easier for her to walk on the trail because she was wearing high heels. Howson agreed. The group told J.L. to put a bandana over his face and scrunch up his hood so that “the Mexican Cartel couldn’t see him.” French and Bonnell then walked with J.L. down the trail, while Howson stayed in the car. As he waited, Howson engaged in “wishful thinking” that Bonnell and French would just let J.L. go. But Howson’s “serious possible thinking was [J.L.] getting shot” because Howson knew that the plan was to shoot J.L.

Bonnell and French walked J.L. down the trail and shot him. Howson heard two gunshots from the car. Bonnell or French then called Howson and told him they were done. Bonnell and French returned to the car, and Howson drove them back to his apartment. The medical examiner concluded that J.L. died as a result of gunshot wounds. At the plea hearing, Howson testified that at some point on January 5 or 6 he “was thinking about” contacting the police or trying to stop J.L.’s murder, “but never did.”

At the conclusion of the plea hearing, the district court accepted Howson's guilty plea. The district court later sentenced Howson to 306 months in prison in accordance with the plea agreement.

In September 2021, Howson filed a postconviction petition seeking to withdraw his guilty plea. In a supporting memorandum, Howson argued that his plea was invalid because he did not admit facts at the plea hearing showing that he intentionally aided in the commission of J.L.'s murder. In November 2021, the district court issued an order denying Howson's postconviction petition.

Howson appeals.

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 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. Fugalli*, 967 N.W.2d 74, 77 (Minn. 2021). "To be constitutionally valid, a guilty plea must be accurate, voluntary, and intelligent." *Id.* Determining the validity of a guilty plea presents a question of law, which we review de novo. *Barrow v. State*, 862 N.W.2d 686, 689 (Minn. 2015). We review a district court's decision to deny a postconviction petition for an abuse of discretion. *Jackson v. State*, 919 N.W.2d 470, 473 (Minn. 2018). "A postconviction court abuses its discretion when it has exercised its discretion in an arbitrary or capricious manner, based its ruling on an

erroneous view of the law, or made clearly erroneous factual findings.” *Id.* (quotation omitted).

Howson challenges only the accuracy of his plea. 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), *rev. denied* (Minn. Feb. 27, 2019). “[A] factual basis is inadequate when the defendant makes statements that negate an essential element of the charged crime.” *Mikulak*, 903 N.W.2d at 603 (quotation omitted). The accuracy standard requires a district court judge considering a guilty plea to “make certain that facts exist from which the defendant’s guilt of the crime charged can be reasonably inferred.” *Nelson v. State*, 880 N.W.2d 852, 861 (Minn. 2016) (quotation omitted).

Howson pleaded guilty to aiding and abetting second-degree intentional murder. Under Minnesota’s aiding-and-abetting statute, “[a] person is criminally liable for a crime committed by another if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures the other to commit the crime.” Minn. Stat. § 609.05, subd. 1. A person “intentionally aids” in the commission of a crime if “two important and necessary principles” are satisfied: (1) “the defendant knew that his alleged accomplices were going to commit a crime,” and (2) “the defendant intended his presence or actions to further the commission of that crime.” *State v. Milton*, 821 N.W.2d 789, 805 (Minn. 2012) (quotation omitted). In other words, to be guilty of aiding and abetting a crime, the defendant must have played a knowing role in the commission of the crime and taken no steps to thwart its completion. *State v. Ostrem*, 535 N.W.2d 916, 924 (Minn. 1995).

The supreme court has “distinguish[ed] between playing a knowing role in the crime and mere presence at the scene, inaction, knowledge and passive acquiescence.” *State v. Scruggs*, 822 N.W.2d 631, 640 (Minn. 2012) (quotations omitted). But “active participation in the overt act which constitutes the substantive offense is not required.” *Ostrem*, 535 N.W.2d at 924. The necessary state of mind for accomplice liability may be inferred from “presence at the scene of the crime, a close association with the principal offender before and after the crime, a lack of objection or surprise under the circumstances, and flight from the scene of the crime with the principal offender.” *State v. Bahtuoh*, 840 N.W.2d 804, 810 (Minn. 2013).

Here, the district court concluded that the factual basis for Howson’s plea was sufficient to establish that Howson intentionally aided French and Bonnell in the commission of J.L.’s murder. The district court determined that Howson’s testimony supported reasonable inferences that Howson knew French and Bonnell were going to kill J.L. and that Howson intended his presence and actions to aid in the commission of the murder. In reaching this conclusion, the district court analyzed both “necessary principles” of the “intentionally aids” element. *See Milton*, 821 N.W.2d at 805.

Howson contends that the factual basis for his guilty plea was inadequate because he did not admit facts demonstrating that he intentionally aided in the commission of J.L.’s murder. He focuses his argument on the second necessary principle—whether the defendant intended his presence or actions to further the commission of the crime. *Id.* He asserts that the factual basis for his plea failed to establish that he intended his presence and actions to aid the commission of J.L.’s murder. For the reasons set forth below, we

conclude that the district court properly analyzed both requirements of the “intentionally aids” element and that the factual basis was adequate to support Howson’s guilty plea.

First, as Howson appears to concede, he admitted sufficient facts at the plea hearing to show that he knew his accomplices were going to commit a crime. As the district court noted, Howson admitted to being intricately involved in helping Bonnell and French plan J.L.’s murder. Specifically, he stated that he discussed the plan to shoot and kill J.L. with Bonnell and French while they held J.L. at Howson’s apartment. His testimony also demonstrated that he was with Bonnell and French continuously from January 5, when French told him and Bonnell that J.L. had made a sexual pass at her, until J.L.’s murder during the early morning hours of January 6. Howson further stated that he saw Bonnell show a gun to J.L. and heard Bonnell say to J.L., “you’re not going to be able to live today.” He testified that he knew the plan was to shoot J.L. when he drove the group to Kerr and when Bonnell and French exited the car to walk J.L. down the trail. And Howson testified that, during the drive to Kerr, he knew that Bonnell was still in possession of a gun. Based on Howson’s testimony, the district court reasonably inferred that Howson knew that his accomplices were going to murder J.L.

Second, the record reflects that Howson admitted sufficient facts to show that he intended his presence and actions to further the commission of J.L.’s murder. His testimony established that he was closely associated with Bonnell and French, and that he actively assisted in planning and carrying out J.L.’s murder. Howson testified that Bonnell was a family friend, and that French was his girlfriend’s best friend. Furthermore, Howson acknowledged that he permitted Bonnell and French to hold J.L. at his apartment against

J.L.'s will for a number of hours preceding the murder. During that time, Howson discussed with Bonnell and French the plan to drive J.L. to Kerr, take him onto a trail, and shoot him. Howson also joined Bonnell and French in coming up with a story, intended to "confuse" J.L., that they were going to sell marijuana to the Mexican cartel and then drive J.L. home. Howson testified that when they left his apartment, he drove Bonnell, French, and J.L. to the trail in Kerr. Once they arrived, Howson further aided the commission of the crime by agreeing to switch shoes with French, making it easier for French to walk on the trail to the murder site. Howson then waited in the car while Bonnell and French walked J.L. down the trail and shot him. After the shooting, Howson drove Bonnell and French back to his apartment. The district court properly concluded that Howson's testimony at the plea hearing supports a reasonable inference that Howson intended his presence and actions to further the commission of J.L.'s murder.

Howson's arguments do not persuade us otherwise. Howson contends that his testimony at the plea hearing does not demonstrate that he intended his presence and actions to aid in the commission of J.L.'s murder because he did not admit to encouraging Bonnell or French to shoot J.L. and was not present when the shooting occurred. He further emphasizes his testimony that he engaged in "wishful thinking" that Bonnell and French would let J.L. go and that he "was thinking about" contacting the police or trying to stop the murder. Howson argues that he "[a]t most . . . passively acquiesced in Bonnell's and French's actions."

Howson's admissions at the plea hearing demonstrate that he did far more than passively acquiesce to Bonnell and French's conduct. He discussed with them the plan to

murder J.L. and participated in at least some of the planning. Then, knowing the details of that plan, Howson drove Bonnell, French, and J.L. to the scene of the murder, waited for Bonnell and French while they shot J.L., and then drove Bonnell and French away from the crime scene. Based on his own testimony, Howson played a knowing role in J.L.'s murder. Moreover, in light of Howson's admissions at the plea hearing, his additional testimony that he had merely "wish[ed]" that Bonnell and French would not kill J.L. and "was thinking about" attempting to stop the murder does not negate a reasonable inference that Howson intended his presence and actions to aid in the commission of J.L.'s murder. As the district court noted, Howson had "numerous opportunities to cease his involvement in the plan to kill J.L. and thwart the commission of the crime. Yet, despite these opportunities, [Howson] took no action to thwart the crime and, instead, did the opposite."

In sum, the district court reasonably inferred from Howson's testimony at the plea hearing that Howson knew that his accomplices were going to murder J.L. and intended his presence and actions to further the commission of that crime. The factual basis supporting Howson's guilty plea was therefore sufficient to establish that Howson intentionally aided in the murder of J.L. Accordingly, we conclude that Howson's guilty plea was accurate and that the district court did not abuse its discretion by denying Howson's postconviction petition seeking to withdraw the plea.

Affirmed.