

*This opinion is nonprecedential except as provided by  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  
A22-0091**

State of Minnesota,  
Respondent,

vs.

Matthew Allyn Defries,  
Appellant.

**Filed January 3, 2023  
Reversed and remanded  
Wheelock, Judge**

Wilkin County District Court  
File Nos. 84-CR-20-442, 84-CR-20-528, 84-CR-21-114, 84-CR-21-257

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

Joseph P. Glasrud, Wilkin County Attorney, Breckenridge, Minnesota (for respondent)

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

Considered and decided by Worke, Presiding Judge; Smith, Tracy M., Judge; and  
Wheelock, Judge.

**NONPRECEDENTIAL OPINION**

**WHEELOCK, Judge**

In this direct appeal from a final judgment of conviction, appellant argues that he must be permitted to withdraw all six of the guilty pleas he entered as part of a global plea agreement because his guilty pleas to placing a fictitious emergency call and trespass were

invalid as inaccurate. We reverse appellant's conviction for placing a fictitious emergency call and remand to the district court to allow reconsideration of its acceptance of appellant's global plea agreement.

## FACTS

Respondent State of Minnesota charged appellant Matthew Allyn Defries with various offenses in six separate Wilkin County District Court files over approximately two years. On August 4, 2021, Defries accepted a global plea agreement encompassing all six files at a plea hearing. Pursuant to the plea agreement, Defries pleaded guilty to misdemeanor trespass; gross-misdemeanor third-degree damage to property; gross-misdemeanor placing a fictitious emergency call; felony fifth-degree possession of a controlled substance; petty-misdemeanor possession of drug paraphernalia; and felony violation of an order for protection. The plea agreement provided for dismissal of Defries's misdemeanor disorderly-conduct charge and all remaining charges in the other files.

The district court accepted the plea agreement and sentenced Defries according to the terms of the agreement at a sentencing hearing in October 2021. Defries received stayed sentences for his convictions, and the district court placed him on probation with several conditions, including his continued participation in drug court.

Defries appeals.<sup>1</sup>

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<sup>1</sup> Respondent State of Minnesota did not file a brief. Thus, this matter proceeds under Minn. R. Civ. App. P. 142.03 (providing that the case is determined on the merits when respondent does not file a brief).

## DECISION

### **I. Defries’s guilty plea to placing a fictitious emergency call is invalid as inaccurate.**

It is a gross-misdemeanor offense to “place[] an emergency call and report[] a fictitious emergency with the intent of prompting an emergency response by law enforcement, fire, or emergency medical services personnel.” Minn. Stat. § 609.78, subd. 2(2) (2020). To establish a factual basis for a guilty plea to this offense, the state must prove that the defendant (1) placed an emergency call, (2) reported a fictitious emergency, and (3) made the call and reported a fictitious emergency with the intent of prompting an emergency response by law enforcement. *See id.*

Defries argues that his guilty plea to placing a fictitious emergency call is invalid as inaccurate because the factual basis for the plea did not establish that he reported a fictitious emergency. He relies on the plain meaning of the word “fictitious” to argue that reporting a fictitious emergency “requires more than just reporting an emergency that turns out to not be true”; it requires the intent to deceive law enforcement. He argues that because he did not intend to deceive law enforcement, he should be allowed to withdraw his invalid guilty plea.

Our first task, then, is to construe Minn. Stat. § 609.78, subd. 2(2), to determine what intent it requires and whether the factual basis Defries provided in support of his plea satisfies that requirement. Statutory interpretation is a question of law that appellate courts review de novo. *State v. Riggs*, 865 N.W.2d 679, 682 (Minn. 2015). “When interpreting a statute, the first question is whether the language of a statute is ambiguous.” *State v.*

*Pakhnyuk*, 926 N.W.2d 914, 920 (Minn. 2019). “A statute is ambiguous when its language is subject to more than one reasonable interpretation.” *Riggs*, 865 N.W.2d at 682. The canons of construction at Minn. Stat. § 645.08 (2022) guide our analysis of whether a statute is ambiguous. *Id.* One canon provides that we construe the meaning of words according to their “common and approved usage.” Minn. Stat. § 645.08(1).

“The plain language of the statute controls when the meaning of the statute is unambiguous.” *Pakhnyuk*, 926 N.W.2d at 920 (quotation omitted). A reviewing court “may consider applicable dictionary definitions” to determine a word’s plain and ordinary meaning where the legislature has not provided a definition of the term in the statute. *State v. Currin*, 974 N.W.2d 567, 572 (Minn. 2022).

We review the statutory language in question to assess whether the statute is ambiguous. The legislature did not define the word “fictitious” within the statute, so we turn to the applicable dictionary definition to discern the plain and ordinary meaning. “Fictitious” is defined as “[c]oncocted or fabricated, especially in order to deceive or mislead.” *The American Heritage Dictionary of the English Language* 654 (5th ed. 2018). We discern two possible interpretations of the common and approved usage of the word “fictitious”: either (1) the word is synonymous with false, and within the context of this offense, it would not require the actor to have knowledge of the falsity of the emergency; or (2) the word implies a subjective knowledge that the emergency is false at the time the actor reports the emergency.

We observe that the first interpretation of the word “fictitious” would render absurd results, and we therefore conclude that it is not reasonable to interpret “fictitious” to mean

that the actor need not have knowledge of the falsity of the emergency they are reporting at the time they make the report. For example, an individual could hear screams coming from their neighbor's house and call 911 to report an emergency, only to find out that the screams came from the neighbor's television. In this example, the individual reported an emergency in good faith but was unaware that no emergency actually existed. Under the first interpretation of the word "fictitious," this individual nevertheless would be guilty of placing a fictitious emergency call. It would be against reason and public policy to discourage individuals from placing emergency calls if they believe an actual emergency exists for fear that they would be charged with a crime if the emergency they report turns out to be false. Therefore, we conclude that the second interpretation of the word "fictitious" is the only reasonable interpretation, and the statute's language is unambiguous.

Based on this definition, Defries argues that the record does not support a finding that he made the emergency call with the intent to deceive or mislead or even that he knew no emergency existed at the time he made the call. We agree and conclude that the plain language of Minn. Stat. § 609.78, subd. 2(2), requires the actor to know the emergency is false at the time they place the fictitious emergency call.

We now turn to the factual basis established in support of Defries's guilty plea. Although a criminal defendant does not have an "absolute right" to withdraw a guilty plea, the court must allow withdrawal "to correct a manifest injustice." *State v. Raleigh*, 778 N.W.2d 90, 93 (Minn. 2010) (quotation omitted); accord Minn. R. Crim. P. 15.05, subd. 1. "A manifest injustice exists when a guilty plea is not valid"—that is, when the plea is not "accurate, voluntary, and intelligent." *State v. Fugalli*, 967 N.W.2d 74, 77

(Minn. 2021). This court reviews de novo the validity of a guilty plea. *Raleigh*, 778 N.W.2d at 94. The appellant bears the burden of proof to establish that his guilty plea was invalid. *Id.*

“To be accurate, a plea must be established on a proper factual basis.” *Nelson v. State*, 880 N.W.2d 852, 859 (Minn. 2016) (quoting *Raleigh*, 778 N.W.2d at 94). Before the district court accepts a guilty plea, the accuracy standard requires the court to “make certain that facts exist from which the defendant’s guilt of the crime charged can be reasonably inferred.” *Id.* at 861 (quotation omitted). The accuracy standard “protects the defendant from pleading guilty to a charge more serious than he could have been convicted of at trial.” *State v. Mikulak*, 903 N.W.2d 600, 603 (Minn. 2017). The defendant’s testimony must “support a conclusion that [the] defendant’s conduct falls within the charge to which he desires to plead guilty,” and therefore, a guilty plea is invalid as inaccurate if the defendant’s testimony “negate[s] an essential element of the charged crime.” *State v. Iverson*, 664 N.W.2d 346, 349-50 (Minn. 2003) (quotation omitted).

We conclude that the factual basis for the guilty plea is insufficient because neither the state nor the district court elicited any testimony regarding Defries’s knowledge or intent at the time he made the emergency call. The relevant portion of the colloquy that established the factual basis for Defries’s guilty plea at the plea hearing is as follows:

THE COURT: Okay, back on December 19th of 2020, did you make a 911 call?

DEFRIES: Yes, I did.

...

THE COURT: Okay. What were you reporting?

DEFRIES: A hostage situation.

THE COURT: Was it the truth?

DEFRIES: No, apparently not.

THE COURT: Maybe—okay, so I am not going to get into the weeds very deep here. But it turns out that that wasn't—that wasn't true, yes?

DEFRIES: Yes, sir.

THE COURT: All right. Does anyone want a further—well, and [defense attorney], you waiving any and all defenses as to, you know, voluntary intoxication and anything like that?

DEFENSE ATTORNEY: Yes, we are.

From this exchange, it appears that Defries understood *at the time of the hearing* that the 911 call he made was based on an imagined emergency, but it is unclear whether Defries understood this *at the time he made the call*.

Because the district court did not establish any factual basis to prove Defries knew that the emergency he reported was false at the time he placed the emergency call, we conclude that Defries's guilty plea to placing a fictitious emergency call was inaccurate and therefore invalid. *See Nelson*, 880 N.W.2d at 859 (stating that there must be an adequate factual basis in the record for a plea to satisfy the accuracy requirement); *Iverson*, 664 N.W.2d at 349-50.

## **II. Defries's guilty plea to trespass is not properly before this court.**

Defries also argues that his guilty plea to misdemeanor trespass is invalid as inaccurate because the district court did not elicit testimony to establish a factual basis for the plea. However, Defries's guilty plea to trespass is contained in district court file 84-CR-20-205, which was not included in his notice of appeal.

A party may appeal a judgment by filing a notice of appeal with the clerk of the appellate courts. Minn. R. Crim. P. 28.02, subd. 4(1). The notice of appeal must specify the judgment or order from which the appeal is taken. *Id.*, subd. 4(2).

Here, Defries's notice of appeal specified that he was appealing from the judgment of conviction entered on October 27, 2021. However, the notice of appeal identified only district court files 84-CR-20-528, 84-CR-20-442, 84-CR-21-257, and 84-CR-21-114 as the files on appeal. This court can consider only those files identified in Defries's notice of appeal; thus, we cannot consider Defries's guilty plea to trespass in file 84-CR-20-205.

**III. Remand is appropriate to allow the district court to reconsider its acceptance of the global plea agreement.**

Defries's final argument is that his inaccurate guilty plea to placing a fictitious emergency call invalidates the entire plea agreement, so this court should reverse his convictions in all of the files and allow him to withdraw his guilty pleas to all of the offenses. He relies on the premise that global plea agreements "represent a bargained-for understanding between the government and criminal defendants." *State v. Meredyk*, 754 N.W.2d 596, 603 (Minn. App. 2008) (quotation omitted). These bargained-for agreements can be "intricate," and a change to one part of the agreement "may alter the nature of the entire agreement." *Id.* (citing *State v. Misquadace*, 629 N.W.2d 487, 491 (Minn. App. 2001), *aff'd*, 644 N.W.2d 65 (Minn. 2002)). This is because the conviction and sentencing components of some plea agreements are interrelated. *See State v. Coles*, 862 N.W.2d 477, 481 (Minn. 2015).

However, the cases on which Defries bases his argument, primarily *Misquadace*, do not stand for the proposition that this court may reverse all convictions entered as part of a global plea agreement when it determines that the guilty plea to one offense or one file is invalid. Rather, in *Misquadace*, this court determined that it could not modify the

appellant's sentence without remanding to district court because the sentence was part of "an intricate plea agreement involving many crimes." 629 N.W.2d at 491. The court found that "[e]verything [in the plea agreement] was interrelated" and that "it would be inappropriate . . . to make piecemeal corrections without regard to the effect of the corrections on the plea bargain." *Id.*; *see also State v. Montermini*, 819 N.W.2d 447, 455 (Minn. App. 2012) (holding that this court's remand instructions after appellant successfully challenged some of his convictions in a plea agreement also allowed the district court to vacate the unchallenged convictions in the plea agreement), *rev. denied* (Minn. Nov. 20, 2012). Ultimately, this court in *Misquadace* remanded the case for resentencing, stating that "the district court may also consider motions to vacate or to modify the agreement and may reconsider its own decision to accept the plea agreement." 629 N.W.2d at 491; *see also State v. Lewis*, 656 N.W.2d 535, 539 (Minn. 2003) (holding that the district court, on remand, may consider motions to vacate a conviction and plea agreement if it finds no grounds for an upward departure in the agreed-upon sentence from the plea agreement). Therefore, we conclude that remand to the district court is appropriate in this case so that the district court may reconsider its acceptance of Defries's plea agreement in light of our reversal of his conviction for placing a fictitious emergency call.

**Reversed and remanded.**