**STATE OF MINNESOTA**
**IN COURT OF APPEALS**
**A22-0441**

Eddie Markeith Frazier, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed January 30, 2023**
**Affirmed**
**Bryan, Judge**

Polk County District Court
File No. 60-CR-17-900

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

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

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

Considered and decided by Larkin, Presiding Judge; Ross, Judge; and Bryan, Judge.

**NONPRECEDENTIAL OPINION**

**BRYAN**, Judge

In this appeal from the district court's order denying his petition for postconviction relief, appellant argues that his guilty plea was inaccurate. Because appellant's plea included a sufficient factual basis and appellant agreed that the anticipated trial evidence is sufficient for a jury to find him guilty of the offense, we affirm.

## FACTS

In May 2017, respondent State of Minnesota charged appellant Eddie Markeith Frazier with one count of second-degree intentional murder, one count of second-degree felony murder, and one count of second-degree murder of a person protected by an order for protection. Frazier ultimately entered an *Alford* plea to one count of second-degree intentional murder. The state agreed to an executed guideline sentence of 429 months and to dismiss the remaining counts.[1] In April 2019, the district court sentenced Frazier to 429 months in prison, consistent with the plea agreement. Frazier filed a petition for postconviction relief in April 2021, arguing that his *Alford* plea lacked a sufficient factual basis because he never acknowledged during the plea colloquy that the anticipated trial evidence was sufficient to prove that he did not act in the heat of passion. The district court denied the petition, and Frazier appeals.

The following facts summarize the allegations in the complaint, the testimony heard by the grand jury, and the anticipated trial evidence discussed during Frazier's *Alford* plea colloquy.

The complaint alleged that, on May 3, 2017, police received a 911 call and heard what sounded like furniture being moved before the call disconnected. Police responded to the apartment where Frazier lived with T.R.W., his romantic partner, but no one answered the door when police knocked. Later that day, police received a request for a

[1] An *Alford* plea allows a defendant to plead guilty while maintaining innocence of the charged offense because there is sufficient evidence for a jury to find the defendant guilty at trial. *State v. Goulette*, 258 N.W.2d 758, 760 (Minn. 1977) (discussing *North Carolina v. Alford*, 400 U.S. 25, 37 (1970)).

welfare check on T.R.W. and returned to the apartment. Officers entered the apartment and found T.R.W.'s dead body submerged in the bathtub and what appeared to be drag marks on the floor. An officer spoke with members of T.R.W.'s family, including T.R.W.'s sister, who said that she had spoken with Frazier. According to T.R.W.'s sister, Frazier stated that while he was intoxicated, he and T.R.W. got into a heated argument. Frazier claimed that, during the argument, T.R.W. stabbed him. In response, Frazier said he grabbed T.R.W., "blanked out," and brought T.R.W. into the bathroom. Believing she was dead, Frazier told T.R.W.'s sister that he left T.R.W.'s body in the bathroom. The complaint further alleged that another individual told police that Frazier admitted to killing T.R.W. and leaving her in the bathtub. According to the summary of Frazier's criminal history in the complaint, at the time of these events, Frazier had pending charges for domestic assault against T.R.W., and, pursuant to an order in one of those cases, he was prohibited from having contact with T.R.W.

In November 2017, the state presented testimony from more than a dozen witnesses to a grand jury. The testimony was generally consistent with the allegations in the complaint, but it also included additional details. For example, the medical examiner who performed the autopsy on T.R.W. testified to the following: T.R.W. died from "homicidal violence, including asphyxia by strangulation"; death from asphyxia by strangulation takes about four minutes; T.R.W. had multiple abrasions, contusions, and a laceration to her liver that had been inflicted shortly before her death; T.R.W. did not drown; and T.R.W.'s body had likely been placed in the bathtub after she died.

Several of T.R.W.'s family members also testified to the grand jury and they each described witnessing or hearing about Frazier abusing T.R.W. T.R.W.'s sister also testified regarding her phone conversation with Frazier on the day of T.R.W.'s death. She stated that Frazier kept repeating that he was "sorry" and "didn't mean to," and that he told her he "bear hugged [T.R.W.], [he] grabbed her, [he] just squeezed her so tight until . . . [he] thought she was faking." T.R.W.'s daughter stated that she also called Frazier that day, and that Frazier told her, "I don't know why and I'm sorry. It wasn't supposed to happen like that."

The grand jury also heard testimony from police that, after finding T.R.W.'s body, they received information suggesting that Frazier had withdrawn money from T.R.W.'s bank account, purchased liquor at a convenience store, and taken T.R.W.'s car. When police attempted to arrest Frazier, he fled in the car, was shot in the arm, abandoned the car, fled on foot, and was found hiding in a shed.

At the plea hearing, the district court asked Frazier numerous questions, including whether he understood the nature of the offense to which he was pleading guilty, the meaning of an *Alford* plea, the terms of the agreement, and the rights that he was giving up by pleading guilty. The district court also inquired whether Frazier thought he had had sufficient time to discuss the case with his attorneys and whether he was satisfied that his attorneys had fully advised him. Frazier responded affirmatively to all of these questions.

The prosecutor then asked Frazier several questions to establish a factual basis for Frazier's plea. The questions and answers fill 24 pages of transcript. The prosecutor asked Frazier whether he understood that he was charged with "intentionally, feloniously, and

unlawfully causing the death of a human being with intent to effect the death of that person or another, but without premeditation." Frazier acknowledged that he did. Frazier also agreed that he caused T.R.W.'s death but disputed whether he did so intentionally. The prosecutor then walked through the state's evidence that would be presented at trial. The evidence that the prosecutor described included the following:

1) testimony from two police officers about a prior domestic assault against T.R.W. by Frazier;
2) a recorded statement from T.R.W. regarding that assault as well as photographs of T.R.W.'s injuries;
3) a recorded statement from Frazier acknowledging that he slapped T.R.W.;
4) evidence that Frazier had been charged with assault based on that incident and that a no-contact order had been issued that was still in place when T.R.W. was killed;
5) testimony from another police officer about an additional prior domestic assault of T.R.W. by Frazier, with another recorded statement from T.R.W.;
6) testimony from a 911 dispatcher that the dispatcher had received a 911 call from T.R.W. on the day that she was killed and that the call was interrupted;
7) testimony that the dispatcher had received a subsequent 911 call from the same number and that the caller identified himself as "James Moore" and stated that his granddaughter had accidentally called 911;
8) recordings of both 911 calls and the testimony of multiple individuals identifying the voices in the two calls belonged to T.R.W. and Frazier;
9) testimony from police officers that they went to T.R.W.'s apartment, heard what sounded like furniture being moved, and did not receive an answer at the door;
10) testimony from police officers that they found T.R.W.'s body submerged in the bathtub with what appeared to be drug paraphernalia and alcohol positioned nearby;
11) testimony from the medical examiner who performed the autopsy on T.R.W. describing her injuries, opining that the cause of death was manual strangulation, and explaining that manual strangulation takes approximately four minutes;

12) testimony that the evidence suggests that T.R.W. was killed in the bedroom, that her body was put in the bathtub, and that the crime scene was staged to look like an accidental death;
13) evidence that Frazier had accompanied T.R.W. to the emergency room to treat other injuries earlier that day, and that the new injuries found on her body had not been present then;
14) evidence that T.R.W.'s card was used to withdraw money after her death and that Frazier had purchased alcohol, taken T.R.W.'s car, packed his belongings into T.R.W.'s car, and driven it towards the Twin Cities;
15) testimony from several of T.R.W.'s family members about conversations they had with Frazier that day in which Frazier had allegedly told the family members that he killed T.R.W. accidentally;
16) telephone records showing that Frazier never called emergency personnel to assist with T.R.W.;
17) evidence that officers attempted to arrest Frazier; that he was shot in the arm; and that he fled, first at high speed in a car, and later on foot;
18) evidence that items including a can of alcohol with a receipt, two cell phones, T.R.W.'s card which had been used to withdraw money, and belongings packed up from T.R.W.'s apartment were found in the car;
19) a text message sent to Frazier the day of T.R.W.'s death stating that the family thought Frazier had drowned T.R.W. and that he should turn himself in;
20) testimony that Frazier told officers after his arrest that he fled because he possessed controlled substances, and that he did not mention T.R.W.;
21) evidence that Frazier had four prior domestic assault convictions involving two other victims; and
22) testimony from four individuals that they had previously seen Frazier assault T.R.W. or been told by T.R.W. that Frazier assaulted her.

The prosecutor asked Frazier whether he understood that the state would present all of this evidence at trial, and Frazier acknowledged his understanding as to each one, individually.

The prosecutor then asked Frazier:

> Q: Now, knowing all that evidence, do you believe that if a jury here in Polk County were to see, hear and believe that evidence, that there's a substantial likelihood you could be found guilty, even though you're presumed innocent and I bear the burden of proving your guilt beyond a reasonable doubt?
> A. Yep.
> Q. And the reason you're entering your plea is you want to take advantage of the plea agreement. Correct?
> A. Yep.

The prosecutor confirmed the details of the plea agreement with Frazier, who acknowledged them and again reaffirmed that he had no second thoughts and had had time to discuss the plea with his attorneys. The prosecutor also asked the district court "to accept the previous documents that I filed with the court in relation to this matter . . . including the grand jury transcript, the trial exhibits, as well as some of the documents that were filed with the pretrial memorandum . . . to find an additional factual basis for this *Alford* plea," and Frazier's counsel replied that he did not object.

The district court then accepted Frazier's *Alford* plea as follows:

> THE COURT: Mr. Frazier, in conclusion, you're confident and believe a jury hearing that evidence would find you guilty of second-degree murder?
> THE DEFENDANT: Yes.
> THE COURT: I am going to make a finding on the record that there is sufficient evidence to support a jury verdict of guilty to murder in the second degree, intentional, in violation of Minnesota Statute 609.19, subdivision 1(1), and that Mr. Frazier's plea of guilty to this crime is voluntarily, knowingly and intelligently entered.
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> THE COURT: I have already reviewed the grand jury transcript and a lot of the evidence, if not all of the evidence, that has been subject to discovery in this case, Counsel, and I'll accept the defendant's guilty plea at this time.

## DECISION

Frazier asserts that his guilty plea was inaccurate because he did not acknowledge that the evidence was sufficient to prove beyond a reasonable doubt that he did not act in the heat of passion. Because the prosecutor thoroughly described the anticipated trial evidence and Frazier acknowledged that this evidence was sufficient to convict him of second-degree murder, we conclude that the district court did not abuse its discretion when it denied the petition.

A defendant may withdraw a guilty plea at any time if "withdrawal is necessary to correct a manifest injustice." Minn. R. Crim. P. 15.05, subd. 1; *see also James v. State*, 699 N.W.2d 723, 727 (Minn. 2005) (stating that, after sentencing, a motion to withdraw a guilty plea must be raised in a petition for postconviction relief). A manifest injustice occurs if a guilty plea is not constitutionally valid. *State v. Raleigh*, 778 N.W.2d 90, 94 (Minn. 2010). A constitutionally valid plea "must be accurate, voluntary, and intelligent." *Id.* "The accuracy requirement protects 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. To be accurate, a plea must be established on a proper factual basis." *Id.* (citations omitted). The factual basis must support a conclusion that the defendant's conduct meets every element of the offense to which the defendant pleaded guilty. *Barnslater v. State*, 805 N.W.2d 910, 914 (Minn. App. 2011).

In the context of an *Alford* plea, which involves an "inherent conflict in pleading guilty while maintaining innocence," a particularly "strong factual basis" is required. *State v. Theis*, 742 N.W.2d 643, 649 (Minn. 2007). Additionally, "the court must be able to

determine that the defendant, despite maintaining his innocence, agrees that evidence the State is likely to offer at trial is sufficient to convict." *Id.* This agreement can be ascertained by the defendant's acknowledgment "on the record at the plea hearing that the evidence the State would likely offer against him is sufficient for a jury, applying a reasonable doubt standard, to find the defendant guilty of the offense to which he is pleading guilty." *Id.* The strong factual basis for an *Alford* plea, coupled with the defendant's agreement that the evidence is sufficient to convict, must "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, notwithstanding his claims of innocence." *Id.* A defendant bears the burden of showing that a plea was invalid. *Raleigh*, 778 N.W.2d at 94. When reviewing the denial of a petition for postconviction relief, we review the district court's factual findings for clear error, its legal conclusions de novo, and its ultimate decision for an abuse of discretion. *Matakis v. State*, 862 N.W.2d 33, 36 (Minn. 2015).

First-degree heat-of-passion manslaughter is a lesser included offense of second-degree intentional murder. *State v. Leinweber*, 228 N.W.2d 120, 125 (1975); *see also State v. Johnson*, 719 N.W.2d 619, 625 (Minn. 2006). When a person "causes the death of a human being with intent to effect the death of that person or another, but without premeditation," that person is guilty of second-degree intentional murder. Minn. Stat. § 609.19, subd. 1(1) (2016). When a person "intentionally causes the death of another person in the heat of passion provoked by such words or acts of another as would provoke a person of ordinary self-control under like circumstances," that person is guilty of first-

degree manslaughter. Minn. Stat. § 609.20(1) (2016). Thus, when a defendant is charged with second-degree intentional murder, "[o]nce [the] defendant raises a claim of heat of passion, the burden shifts to the state to prove beyond a reasonable doubt the absence of heat of passion." *State v. Robinson*, 539 N.W.2d 231, 238-39 (Minn. 1995).

Frazier contends that he needed to specifically acknowledge that the state's evidence would have been sufficient to prove the absence of heat of passion at trial.[2] Frazier's argument contradicts applicable caselaw, which does not require specific admissions regarding each element of an offense when making an *Alford* plea. *See, e.g.*, *State v. Ecker*, 524 N.W.2d 712, 717 (Minn. 1994) (holding that defendant did not need to express the requisite intent for the charged crime); *see also State v. Klug*, 839 N.W.2d 723, 728 (Minn. App. 2013) (same). In light of this caselaw, we decline to hold that a defendant must specifically acknowledge, element-by-element, that the anticipated evidence is sufficient to prove each element of the offense.

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[2] In making this argument, Frazier refers to cases addressing when a defendant is entitled to a jury instruction on a heat-of-passion defense. *See*, *e.g.*, *State v. Dahlin*, 695 N.W.2d 588, 598 (Minn. 2005). For its part, the state argues that the evidence—including Frazier's interruption of the 911 call, staging of the crime scene, failure to call for emergency assistance, and subsequent flight, coupled with the four minutes necessary to manually strangle T.R.W.—is inconsistent with heat of passion, and no instruction would have been required. *See State v. Stewart*, 624 N.W.2d 585, 590 (Minn. 2001) (observing that defendant's actions were inconsistent with heat of passion because rather than "clouded reason or weakened willpower," they demonstrated "a rational, calculating and controlled emotional state of mind—attempting to avoid detection for the crime he just committed"). The state also disagrees with Frazier's characterization of the absence of heat of passion as an essential element of the offense. In light of our decision regarding the applicability of *Ecker* and *Klug*, we need not address the parties' arguments regarding whether a jury instruction would have been required at a hypothetical trial or whether absence of heat of passion is an element of second-degree intentional murder.

The prosecutor led Frazier through a colloquy summarizing the anticipated trial evidence and spanning 24 pages. During this colloquy, the prosecutor specifically described anticipated witness testimony and numerous other pieces of evidence that the state would introduce at trial, asking Frazier whether he understood each one. Frazier expressed his understanding as to all of them. The prosecutor also asked the district court to "accept the previous documents that I filed with the court in relation to this matter . . . including the grand jury transcript, the trial exhibits, as well as some of the documents that were filed with the pretrial memorandum . . . to find an additional factual basis," and Frazier did not object. This anticipated evidence, coupled with Frazier's general agreement that the evidence is sufficient to convict him of second-degree intentional murder, "provide[s] the court with a basis to independently conclude that there is a *strong* probability that [Frazier] would be found guilty of the charge to which he pleaded guilty, notwithstanding his claims of innocence." *Theis*, 742 N.W.2d at 649 (Minn. 2007). We therefore discern no abuse of discretion in the district court's decision to deny Frazier's petition.

**Affirmed.**