

*This opinion is nonprecedential except as provided by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
A22-0709**

Eziquel Ignacio Leal, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed March 6, 2023
Affirmed
Worke, Judge**

Blue Earth County District Court
File Nos. 07-CR-21-686 and 07-CR-21-290

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

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

Patrick R. McDermott, Blue Earth County Attorney, Susan B. DeVos, Assistant County Attorney, Mankato, Minnesota; and

Derek Archambault, Prosecutor for the City of Mankato, Eckberg Lammers, Stillwater, Minnesota (for respondent)

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

NONPRECEDENTIAL OPINION

WORKE, Judge

Appellant challenges the district court's denial of his petition for postconviction relief in which he sought to withdraw guilty pleas to violating a domestic-abuse no-contact order (DANCO), arguing that his pleas were not accurate because no DANCO existed. We affirm.

FACTS

In October 2020, appellant Eziquel Ignacio Leal was charged with making threats of violence against victim 1 (file 3433). He was also charged with violating a DANCO that protected K.G. (file 3403).

On October 21, 2020, the district court held a bail hearing on both files. The district court stated: "In file 3433 I'm going to require no . . . contact with the [v]ictim." Leal asked: "Which victim?" The district court replied: "Victim 1 in file 3433." The district court continued: "[I]n file 3403 No contact with the victim . . . whatsoever until we get this sorted out. . . . [N]o contact at all." Finally, the district court stated: "[I]n file 3433 in the separate DANCO hearing I do verify the photograph. And I will issue a DANCO in this case." The district court issued a pretrial DANCO, dated October 21, 2020, that prevented Leal from having contact with K.G. (the victim in file 3403). Although the DANCO did not have a file number indicated on it, it identified the protected person as K.G. Leal was served with the DANCO on the same day.

In January 2021, Leal was charged with violating a DANCO (file 290). *See* Minn. Stat. § 629.75, subd. 2(b) (2020). Leal pleaded guilty. The district court sentenced Leal to 90 days in jail. A DANCO remained in place until May 7, 2021.

In March 2021, Leal was charged with violating a DANCO within ten years of a prior conviction (file 686). *See id.*, subd. 2(c) (2020). Leal pleaded guilty. The district court sentenced Leal to 365 days in jail, staying 307 days for one year.

On January 10, 2022, Leal filed a postconviction petition requesting to withdraw his guilty pleas in files 290 and 686. He asserted that he pleaded guilty to violating a DANCO that was issued in file 3403, but no DANCO was issued in that case; rather, a DANCO was issued in file 3433 that involved victim 1. He claimed that because no DANCO existed on January 25, 2021, that prevented him from having contact with K.G., he could not have violated the DANCO and should be allowed to withdraw his guilty plea because he did not commit a crime by having contact with K.G. Leal argued that he should be allowed to withdraw his guilty plea in file 686 because, without the conviction in file 290, there was no basis to enhance the charge to a gross misdemeanor.

Following a hearing, the district court denied Leal's motion. The district court found that, at the bail hearing, the district court pronounced that a DANCO was being issued in file 3433 (not file 3403). The district court found that the pronouncement was "clearly a simple misstatement, which did not render the DANCO invalid." The district court concluded that Leal was not allowed to withdraw his guilty pleas because there was a valid DANCO and the factual bases provided at the plea hearings were accurate. This appeal followed.

DECISION

This court reviews the district court's denial of a postconviction petition for an abuse of discretion. *Pearson v. State*, 891 N.W.2d 590, 596 (Minn. 2017). A district court abuses its discretion when it “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). Factual findings are not clearly erroneous if they are supported by sufficient evidence in the record. *Cuypers v. State*, 711 N.W.2d 100, 103 (Minn. 2006). Leal “bears the burden to establish by a preponderance of the evidence that facts exist that warrant postconviction relief.” *See Tscheu v. State*, 829 N.W.2d 400, 403 (Minn. 2013).

Leal argues that he should be allowed to withdraw his guilty pleas to correct a manifest injustice. A defendant does not have an absolute right to withdraw a guilty plea. *State v. Raleigh*, 778 N.W.2d 90, 93 (Minn. 2010). But a district court must allow a defendant to withdraw a guilty plea when necessary to correct a manifest injustice. Minn. R. Crim. P. 15.05, subd. 1. “A manifest injustice exists if a guilty plea is not valid.” *Raleigh*, 778 N.W.2d at 94. The validity of a guilty plea is reviewed de novo. *Id.*

Leal argues that his guilty pleas are not valid because they are not accurate. A valid guilty plea is accurate, voluntary, and intelligent. *Id.* Leal must show that his pleas are not accurate. *See id.* The accuracy requirement is intended 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). A guilty plea is accurate if it is supported by an adequate factual basis. *State v. Theis*, 742 N.W.2d 643, 647 (Minn. 2007). Usually, an adequate factual basis is established by a defendant

explaining the circumstances surrounding the crime. *State v. Ecker*, 524 N.W.2d 712, 716 (Minn. 1994).

Here, in file 290, Leal pleaded guilty to violating a DANCO. Leal admitted that he was “aware of [a] DANCO on January 25, 2021,” that “prevent[ed] [him] from having contact with [K.G.],” and that he was with K.G. on January 25, 2021, and “violated that DANCO by being with . . . [K.G.] on that date.” Under Minn. Stat. § 629.75, subd. 2(b), “a person who knows of the existence of a [DANCO] issued against the person and violates the order is guilty of a misdemeanor.”

In file 686, Leal pleaded guilty to violating a DANCO. Leal admitted that on March 4, 2021, he was aware that a DANCO prevented him from having contact with K.G. and that he had contact with her on that date. Leal admitted that he had “a prior DANCO conviction that had been entered in 2021.” Under Minn. Stat. § 629.75, subd. 2(c), “[a] person is guilty of a gross misdemeanor who violates [a DANCO] within ten years of a previous qualified domestic violence-related offense conviction.”

Leal admitted to each element of the offenses; thus, his guilty pleas are accurate. Leal argues, however, that they are not accurate because in file 290, he admitted to the element that a DANCO existed, but a DANCO did not exist because the district court did not verbally announce the DANCO at the bail hearing. And if he could not be guilty of violating a DANCO, he could not be guilty of the offense in file 686 because the conviction in file 290 formed the basis for enhancing the offense to a gross misdemeanor. As the district court stated when it denied Leal’s petition for postconviction relief, the accuracy of

Leal's guilty pleas depends on whether there was a valid DANCO on January 25, 2021. We conclude that a valid DANCO existed.

At the bail hearing, the district court clearly ordered Leal to have no contact with either victim. The district court then filed a pretrial DANCO, dated October 21, 2020, that prevented Leal from having contact with K.G. Although the DANCO did not have a court file recorded on it, the DANCO identified the protected person as K.G. And Leal was served with the DANCO on October 21, 2020. Leal knew that a DANCO existed that prevented him from having contact with K.G. And although Leal claims that if he had been afforded a hearing on the DANCO he would have been able to support his position and a DANCO would not have been issued, this is not supported by the record because in file 3403 he was charged with violating a DANCO. Thus, a DANCO preexisted the DANCO issued in file 3403. As the postconviction court noted, the district court's pronouncement of a DANCO in file 3433, rather than file 3403, was a "misstatement, which did not render the DANCO invalid." The district court did not abuse its discretion by denying Leal's petition to withdraw his guilty pleas.

Affirmed.