

*This opinion is nonprecedential except as provided by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
A22-1482**

Jason Elliot Peterson, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed April 10, 2023
Affirmed
Larkin, Judge**

Rice County District Court
File No. 66-CR-18-864

Cathryn Middlebrook, Chief Appellate Public Defender, Sara L. Martin, Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

Brian M. Mortenson, Rice County Attorney, Sean R. McCarthy, Assistant County Attorney, Faribault, Minnesota (for respondent)

Considered and decided by Larkin, Presiding Judge; Connolly, Judge; and Slieter, Judge.

NONPRECEDENTIAL OPINION

LARKIN, Judge

Appellant challenges the postconviction court's denial of his request for plea withdrawal. We affirm.

FACTS

Appellant Jason Elliot Peterson is required to register as a predatory offender with the Minnesota Bureau of Criminal Apprehension (BCA) based on a 2004 conviction of gross-misdemeanor criminal sexual conduct in the fifth degree. In April 2018, respondent State of Minnesota charged Peterson with two counts of knowingly violating predatory-offender registration requirements and one count of failing to register or update predatory-offender registration information.

On February 27, 2019, Peterson appeared for a plea hearing with advisory counsel. Pursuant to a plea agreement, Peterson pleaded guilty to one count of knowingly violating a registration requirement by failing to register, and the remaining counts were dismissed. The factual basis for his plea was proffered during the following exchange with the district court:

COURT: [B]etween March 10 and March 31st of 2017 you failed to register as a predatory offender. Tell me what that's all about?

PETERSON: Um, I never received the paperwork and I should have contacted them sooner and I didn't.

COURT: Should have contacted who?

PETERSON: The BCA for the paperwork.

COURT: Okay

PETERSON: I thought they were going to mail it to me but they never did so.

COURT: All right. So did you understand that during that time in March of 2017, that as a criminal sexual conduct violator

that you were required to register as a predatory offender. Did you understand that?

PETERSON: Yeah.

COURT: Okay.

PETERSON: Usually --

COURT: And you did not do it?

PETERSON: Usually they send me the paperwork.

COURT: Okay. But I'm not asking about paperwork, did you in fact register?

PETERSON: No.

Peterson stated that he called the BCA to get the registration paperwork "because it was never sent to [him]" and denied an allegation in the complaint that Peterson "had not returned the registration forms [because] he was falsely convicted." The state claimed on the record that "[t]he letters were mailed to [Peterson's] house" and that they had "evidence that the letters were mailed to [his] house." Peterson maintained that he never received the letters.

The state asked Peterson, "do you agree that you were required to register in March of 2017?" Peterson agreed that he was required to register. The state asked Peterson if he was "aware that [he] had a requirement to register?" Peterson replied that he was aware of his registration requirement. The district court accepted Peterson's guilty plea and sentenced Peterson consistent with the parties' plea agreement.

Peterson petitioned for postconviction relief, seeking to withdraw his guilty plea as inaccurate and therefore invalid, because he "did not admit during the plea colloquy to

intentionally violating the registration statute.” Peterson did not request a hearing on his petition. On August 17, 2022, the postconviction court summarily denied Peterson’s petition to withdraw his guilty plea.

Peterson appeals.

DECISION

We review the denial of a petition for postconviction relief for an abuse of discretion. *Pearson v. State*, 891 N.W.2d 590, 596 (Minn. 2017); *see also Andersen v. State*, 913 N.W.2d 417, 422 (Minn. 2018) (stating the summary dismissal of a postconviction petition is reviewed for an abuse of discretion). A postconviction court abuses its discretion if 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.” *Pearson*, 891 N.W.2d at 596 (quotation omitted).

Peterson challenges the postconviction court’s denial of his petition for plea withdrawal. He contends that he should be allowed to withdraw his guilty plea because it was inaccurate and therefore invalid. 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 court “must allow a defendant to withdraw a guilty plea . . . 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. A constitutionally valid guilty plea “must be accurate, voluntary, and intelligent.” *Id.* “A proper factual basis must be established for a guilty plea to be accurate.” *State v. Theis*, 742 N.W.2d 643, 647 (Minn. 2007) (quotation omitted). “The main purpose of the

accuracy requirement is to protect a defendant from pleading guilty to a more serious offense than he could be convicted of were he to insist on his right to trial.” *State v. Trott*, 338 N.W.2d 248, 251 (Minn. 1983). An assessment of the validity of a guilty plea presents a question of law that this court reviews de novo. *Raleigh*, 778 N.W.2d at 94.

Peterson admitted to failing to register as a predatory offender and pleaded guilty to knowingly violating a predatory-offender registration requirement under Minn. Stat. § 243.166, subd. 5(a) (2016). Under that statute, a person is guilty of an offense if he “knowingly violates any of its provisions or intentionally provides false information.” Minn. Stat. § 243.166, subd. 5(a). “[K]nowledge of the law at the time of the violation is an element of the offense of knowingly violating a provision of the predatory-offender-registration statute.” *State v. Mikulak*, 903 N.W.2d 600, 604 (Minn. 2017).

Peterson does not dispute that he failed to register. Instead, Peterson argues that the factual basis for his plea was inadequate to establish his guilt because he insisted that he “never received the paperwork that was usually sent to him prior to registering” and “appeared to believe receipt of paperwork was necessary” to register.

Peterson relies on *Mikulak*, in which the supreme court held that a guilty plea to knowingly violating a provision of the predatory offender registration statute under Minn. Stat. § 243.166, subd. 5(a), was inaccurate and therefore invalid for lack of knowledge. *Id.* at 605. When proffering the factual basis for his guilty plea, the *Mikulak* defendant stated that he did not register as a predatory offender because “he assumed he had a week” to register after a triggering event, when in fact he was required to register within 24 hours. *Id.* The defendant stated that although he previously may have been told about the 24-hour

registration requirement, he did not remember the requirement at the time of the triggering event. *Id.* The supreme court determined that the factual basis was inadequate because “knowledge of the law is an element of the offense of knowingly violating a provision of the predatory-offender-registration statute.” *Id.*

Peterson argues that, as in *Mikulak*, his plea did not establish the statutorily required knowledge because the “implication” of his statements was that “he did not knowingly violate the statute. Rather, he was waiting for the BCA to send him the paperwork.” Peterson’s reliance on *Mikulak* is unavailing because the defendant in that case stated that although he may have been told about the 24-hour registration requirement, he did not remember the requirement at the time of the triggering event. *Id.* In contrast, Peterson agreed that he was “aware that [he] had a requirement to register” when he failed to register and stated that he “should have contacted” the BCA sooner about his missing paperwork. The postconviction court determined that Peterson’s statements admitted to a knowing failure to register, which it determined was an “essential element” of the statute.¹ At no point during the plea colloquy did Peterson state that he believed his duty to register was legally triggered by receipt of the paperwork, as he now alleges in his brief. In sum, this case is unlike *Mikulak* because the *Mikulak* defendant stated that he was unaware of his registration requirement whereas Peterson stated that he was aware of his duty to register.

¹ The postconviction court relied on the 2019 amendment of Minn. Stat. § 243.166, rather than the 2016 version under which Peterson was charged. The amendment did not alter the offense element requiring a knowing violation of the registration law.

Peterson also relies on *State v. Alarcon*, 932 N.W.2d 641 (Minn. 2019). In that case, Alarcon argued that the state failed to prove that he was aware of the event that triggered his duty to register. *Alarcon*, 932 N.W.2d at 645. The supreme court held that because the circumstances proved were consistent with the reasonable inference that Alarcon did not know of the event that triggered his 24-hour registration requirement, the state did not present sufficient evidence at trial to support Alarcon's conviction for knowingly failing to register within 24 hours. *Id.* at 649-50. Unlike the circumstances in *Alarcon*, Peterson admitted that he knew of his registration requirement and that he should have contacted the BCA to fulfill it.

Once again, the accuracy requirement protects a defendant from "pleading guilty to a more serious offense than he could be convicted of were he to insist on his right to trial." *Trott*, 338 N.W.2d at 251. The postconviction court determined that "[t]he facts contained in the record, including [Peterson's] own words, point to the conclusion that [Peterson] was aware of his requirement to register at the time when he failed to register." We agree. Peterson's statements during the plea hearing are more accurately categorized as an excuse for why he did not comply with his registration requirement than proof that he did not know of his registration requirement.

In conclusion, the plea colloquy shows that Peterson did not plead guilty to an offense greater than he could have been convicted of if he had gone to trial. Peterson's guilty plea is accurate under that standard. Thus, the postconviction court did not abuse its discretion in denying Peterson's request for plea withdrawal.

Affirmed.