

*This opinion is nonprecedential except as provided by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
A22-1586**

State of Minnesota,
Respondent,

vs.

Aaron Lavell Ross,
Appellant.

**Filed July 24, 2023
Affirmed
Klaphake, Judge ***

Stearns County District Court
File No. 73-CR-21-7342

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

Janelle P. Kendall, Stearns County Attorney, Kyle R. Triggs, Assistant County Attorney,
St. Cloud, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Sharon E. Jacks, Assistant Public
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Bryan, Presiding Judge; Smith, Tracy M., Judge; and
Klaphake, Judge.

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

NONPRECEDENTIAL OPINION

KLAPHAKE, Judge

Appellant Aaron Lavell Ross challenges the validity of his guilty plea for one count of felony violation of a domestic-abuse no-contact order (DANCO).¹ Because his plea was accurate, voluntary, and intelligent, we affirm.

DECISION

An appellant may challenge the validity of a guilty plea for the first time on direct appeal when the grounds for the challenge do not go outside the record on appeal. *State v. Newcombe*, 412 N.W.2d 427, 430 (Minn. App. 1987), *rev. denied* (Minn. Nov. 13, 1987). The appellant has the burden of showing that their guilty plea was invalid, and we review this question de novo. *State v. Raleigh*, 778 N.W.2d 90, 94 (Minn. 2010).

To be constitutionally valid, a guilty plea must be “accurate, voluntary, and intelligent.” *Id.* An accurate guilty plea is “established on a proper factual basis.” *Id.* Voluntariness refers to “what the parties reasonably understood to be the terms of the plea agreement” and whether the appellant pleaded guilty due to “improper pressure or coercion.” *Id.* at 96. Intelligence guarantees that the appellant understood the charges, the rights they waived, and the consequences of the plea. *Id.* Ross challenges his plea on all three grounds.

¹ This offense violates Minnesota Statutes section 629.75, subdivision 2(d)(1) (2020).

A. Ross's plea was accurate.

In his principal brief, Ross argues that his plea was not accurate because he did not establish a proper factual basis at his plea hearing. Ross pleaded guilty to one count of felony violation of a DANCO. This plea requires Ross to admit to five elements: Ross (1) violated the terms of (2) an existing DANCO (3) that he knew about, (4) he knew his behavior was prohibited by the DANCO, and (5) the violation occurred within ten years of the first of two or more previous qualified domestic-violence-related-offense convictions. *See* Minn. Stat. § 629.75, subd. 2 (2020).

Ross argues that he only admitted to one prior felony conviction for domestic assault, not two. He cites to the following colloquy during the factual basis portion of the plea hearing:

ROSS'S ATTORNEY: Okay. And were you previously convicted on April 6, 2018, of a felony domestic assault in Clay County?

ROSS: Yes.

ROSS'S ATTORNEY: And would you agree that both of those two convictions is what makes this one a felony?

ROSS: Yes.

But, after receiving Ross's appellate brief, the state contacted the court reporter because the original transcript "seemed odd." After checking the accuracy of the transcript, the court reporter filed an amended transcript, which corrected the colloquy as follows:

ROSS'S ATTORNEY: Okay. And were you previously convicted on April 6, 2018, of a felony domestic assault in Clay County?

ROSS: Yes.

ROSS'S ATTORNEY: And also convicted on March 12, 2018, of felony domestic assault in Clay County as well?

ROSS: Yes.

ROSS'S ATTORNEY: And would you agree that both of those two convictions is what makes this one a felony?
ROSS: Yes.

Because we approve the supplemental transcript under rule 110.05 of the Minnesota Rules of Civil Appellate Procedure, Ross's plea was accurate given that the factual basis he gave provided a proper foundation for his guilty plea. *See Raleigh*, 778 N.W.2d at 94.

B. Ross's plea was both voluntary and intelligent.

Ross alleges that his plea was neither voluntary nor intelligent because he did not understand the charges he faced, the rights he was relinquishing, and the consequences of doing so. But these are all requirements of an intelligent plea, not a voluntary plea. *Id.* at 96. Accordingly, we only analyze the intelligence prong of Ross's plea.

First, Ross argues that there is nothing to show that he understood the enhancement element of the charge to which he pleaded guilty. But because the amended transcript makes it clear that Ross did understand this aspect, this argument fails.

Second, Ross contends that he did not understand the rights he was relinquishing and the consequences of doing so. For example, Ross posits that his plea was unintelligent because the district court did not question him on a number of other matters of which a defendant should be informed under rule 15.01, subdivision 1, of the Minnesota Rules of Criminal Procedure, including:

- whether he was satisfied that his attorney was fully informed as to the facts of the case, had represented his interests, and fully advised him;
- whether he was under the influence, had a mental disability, or was undergoing treatment;
- whether he understood the state's witness would be required to testify in open court in Ross' presence;

- whether he understood that if he went to trial he had the right to testify, and if he did not, the prosecutor and judge couldn't comment to the jury on the failure to testify;
- whether he waived the right to testify;
- whether he was making any claim of his innocence; and,
- that he could move to withdraw his plea.

Ross acknowledges this court held in *State v. Doughman* that failure to address all of the matters in rule 15.01 or to fully inform a defendant of all constitutional rights does not render a plea unintelligent and involuntary if the record is adequate to establish the intelligence of the plea. 340 N.W.2d 348, 351 (Minn. App. 1983), *rev. denied* (Minn. Mar. 15, 1984). He distinguishes his case from *Doughman* because he had no written plea petition.² But whether or not there was a plea petition, if the “record reveals careful interrogation by the [district] court and the defendant had full opportunity to consult with his counsel before entering his plea, the court may safely presume that the defendant was adequately informed of his rights.” *Hernandez v. State*, 408 N.W.2d 623, 626 (Minn. App. 1987) (citing *State v. Propotnik*, 216 N.W.2d 637, 638 (Minn. 1974)). And when the district court questioned Ross, he agreed that he wanted to enter into the plea agreement and that he “had enough time to talk to [his] attorney about the agreement.”

Furthermore, Ross's counsel “is not required to advise the defendant of *every* consequence for the defendant's plea to be intelligent.” *Taylor v. State*, 887 N.W.2d 821, 823 (Minn. 2016). Ross cannot point to a single consequence of his plea of which he was

² While there was no written plea agreement, Ross pleaded guilty as part of a global plea deal that resolved charges in multiple counties, which was put on the record orally at the combined plea and sentencing hearing. We note that many issues on appeal could have been avoided if there had been a written plea agreement.

not informed, and it is his burden to do so. *Raleigh*, 778 N.W.2d at 94. Because Ross had the full opportunity to consult counsel before entering his plea, he was adequately informed of his rights.

C. Ross’s pro se arguments are without merit.

In his pro se supplemental brief, Ross alleges a *Brady* violation and submits additional arguments regarding the intelligence and voluntariness of his plea.³

Ross argues that prosecutors did not disclose material evidence in violation of *Brady v. Maryland*, 373 U.S. 83 (1963). “Whether a discovery violation occurred is an issue of law which this court reviews de novo.” *State v. Palubicki*, 700 N.W.2d 476, 489 (Minn. 2005). Three elements must be met to prove a *Brady* violation: (1) the evidence must be favorable to the defendant because it would have been either exculpatory or impeaching; (2) the evidence must have been suppressed by the prosecution, intentionally or otherwise; and (3) the evidence must be material. *State v. Thoresen*, 965 N.W.2d 295, 304 (Minn. 2021). Evidence is material “if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different.” *Id.* (quotation omitted).

Ross has failed to establish that the third element was satisfied. Ross alleges that the prosecution withheld an incident report until after his plea. But the incident report in

³ Ross also alleges bias by the law enforcement officers involved in his case. Because Ross neither identifies what statute was violated nor provides caselaw to support his bias claim, we need not address it. *State Dep’t of Lab. & Indus. v. Wintz Parcel Drivers, Inc.*, 558 N.W.2d 480, 480 (Minn. 1997) (explaining that appellate courts decline to reach issues that are inadequately briefed).

question involves Ross reporting fraud by the victim. This information is not material to the charge Ross pleaded guilty to—felony violation of a DANCO. Because Ross cannot demonstrate that the incident report was material, his *Brady* claim fails.

Ross also offers additional arguments to show that his plea was neither voluntary nor intelligent, as argued by his counsel. Ross claims that his plea was not intelligent because he was not provided any discovery materials before he accepted the plea offer. If the record shows that a defendant had full opportunity to consult their counsel before entering a plea, courts may “safely presume” that a defendant was adequately informed of their rights. *Hernandez*, 408 N.W.2d at 626. Because Ross stated on the record that he understood the agreement and had enough time to talk with his attorney, his argument fails.

Ross next contends that he was coerced into taking the plea deal. Specifically, he posits that the alleged withholding of the incident report was part of an effort by multiple counties to “railroad” him into a global plea deal. The voluntariness of a plea is determined from the relevant circumstances. *State v. Danh*, 516 N.W.2d 539, 544 (Minn. 1994). At the hearing, Ross engaged in the following exchange with the court:

THE COURT: Has anybody made any threats or promises to you to enter into this agreement other than what we have outlined in court today?

ROSS: No. Just from my understanding—just what was outlined.

And the district court accepted Ross’s guilty plea, stating, “Mr. Ross, the Court will find, sir, that you have voluntarily pled guilty.” Because this testimony cannot be overcome by a vague assertion of coercion based on discovery that is not relevant to the guilty plea, Ross’s plea was voluntary.

In sum, Ross's plea was valid because it was accurate, voluntary, and intelligent. And Ross's pro se arguments to the contrary do not persuade us otherwise.

Affirmed.