

*This opinion is nonprecedential except as provided by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
A23-1639**

State of Minnesota,
Respondent,

vs.

Angela Renee Jones,
Appellant.

**Filed August 5, 2024
Affirmed
Slieter, Judge**

Stearns County District Court
File Nos. 73-CR-21-8731, 73-CR-21-3952, 73-CR-23-4215

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

Janelle P. Kendall, Stearns County Attorney, Ole Tvedten, Assistant County Attorney, St. Cloud, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Erik I. Withall, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Bratvold, Presiding Judge; Segal, Chief Judge; and
Slieter, Judge.

NONPRECEDENTIAL OPINION

SLIETER, Judge

In this direct appeal from the judgment of conviction for second-degree intentional murder, appellant argues that her *Alford* plea was inaccurate because it was not supported by a strong factual basis, and because she did not acknowledge that the state's evidence

would be sufficient for a jury to find her guilty. Because the state presented a strong factual basis and appellant adequately agreed that she would be found guilty based upon these facts, we affirm.

FACTS

Appellant Angela Renee Jones pleaded guilty to second-degree intentional murder pursuant to Minn. Stat. § 609.19, subd. 1(1) (2020), as part of a global settlement with respondent State of Minnesota. She now seeks to withdraw her guilty plea to second-degree intentional murder, arguing that it was inaccurate.

Sometime between May 31 and June 2, 2021, Jones and her girlfriend, D.H., arrived at the victim's apartment. Later, D.H. left the apartment and Jones and the victim remained. When D.H. returned to the apartment, she heard a pop or bang and saw a flash. D.H. saw the victim lying on the ground, dying. Jones and D.H. then left the apartment. The victim's body was discovered the morning of June 2.

The medical examiner's report concluded that the victim died from a gunshot wound to the head. The bullet entered the victim's right upper lip and came to rest in the victim's vertebrae.

The casing from the bullet that was fired was found in the victim's apartment and matched the type of bullets that were found during an unrelated search of Jones' vehicle the previous March.

After the murder, Jones had a private conversation with D.H. that D.H. recorded. During the conversation, Jones told D.H. that she "took care of a problem" and D.H. understood the "problem" to be the victim. Jones also had a phone conversation with a

friend while she was in pretrial custody, which was recorded. During that phone call, Jones made comments that suggested that she killed the victim and explained her possible motive for killing the victim.

As part of the global settlement agreement, Jones entered an *Alford* plea to second-degree intentional murder. Based on the plea agreement, Jones was to be incarcerated for a total of 300 months. The district court accepted her guilty plea. After the plea hearing and at the request of the district court, the state submitted supplemental exhibits containing the evidence it had described during the plea hearing.

Jones appeals.

DECISION

Jones argues that her *Alford* plea was inadequate and, therefore, she should be permitted to withdraw her plea because: (1) the state did not present a strong factual basis in support of her guilty plea and, even if it had, (2) she did not adequately agree that the state's evidence was sufficient to support a finding of guilty beyond a reasonable doubt. We disagree.

“A defendant has no absolute right to withdraw a guilty plea after entering it.” *State v. Raleigh*, 778 N.W.2d 90, 93 (Minn. 2010). A defendant may, however, seek plea withdrawal for the first time in a direct appeal on the ground that the plea was not constitutionally valid. *Brown v. State*, 449 N.W.2d 180, 182 (Minn. 1989). “To be constitutionally valid, a guilty plea must be accurate, voluntary, and intelligent.” *Raleigh*, 778 N.W.2d at 94. The validity of a plea is a question of law reviewed *de novo*. *Id.*

The accuracy requirement of a valid guilty plea “protects the defendant from pleading guilty to a more serious offense than he could properly be convicted of at trial.” *Munger v. State*, 749 N.W.2d 335, 337 (Minn. 2008). An accurate guilty plea, therefore, must be established by an “adequate factual basis” sufficient “to support a conclusion that [a] defendant’s conduct falls within the charge to which he desires to plead guilty.” *Id.* at 337-38.

In an *Alford* guilty plea, a defendant maintains innocence while also pleading guilty. *State v. Theis*, 742 N.W.2d 643, 648-49 (Minn. 2007) (citing *North Carolina v. Alford*, 400 U.S. 25, 37-38 (1970)); *see also State v. Goulette*, 258 N.W.2d 758, 761 (Minn. 1977) (adopting *Alford* rationale). Given this inherent conflict, *Alford* pleas require “careful scrutiny” of the factual basis. *Id.* An *Alford* plea is accurate when the following two components are met: (1) the state establishes a “strong factual basis” for the offense and (2) the defendant agrees that the evidence is sufficient to support conviction beyond a reasonable doubt. *Williams v. State*, 760 N.W.2d 8, 12-13 (Minn. App. 2009), *rev. denied* (Minn. Apr. 21, 2009). These two requirements “provide the [district] 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.” *Theis*, 742 N.W.2d at 649.

The evidence supported a strong factual basis.

Jones argues that the state did not present a strong factual basis to support her *Alford* plea. We are not persuaded.

The district court's responsibility is "to ensure that an adequate factual basis has been established in the record." *State v. Ecker*, 524 N.W.2d 712, 716 (Minn. 1994). In an *Alford* plea, "[t]he strong factual basis and the defendant's agreement that the evidence is sufficient to support his conviction 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." *Theis*, 742 N.W.2d at 649. But the district court need not make an express finding that there is a strong probability that the defendant would be found guilty of the crime to which they plead guilty. *State v. Johnson*, 867 N.W.2d 210, 217 (Minn. App. 2015), *rev. denied* (Minn. Sept. 29, 2015). Instead, "[t]he statement in *Theis* concerning what a district court must 'independently conclude' indicates merely that a district court must assure itself that the accuracy standard is satisfied." *Id.* (citing *Theis*, 742 N.W.2d at 649).

During the plea hearing and in response to the prosecutor's question, Jones agreed that the state had evidence that, if presented at trial, created a "substantial likelihood that a jury or judge . . . would find [her] guilty beyond a reasonable doubt." This included, among other evidence:

- (1) a medical examiner's report stating that the victim died by gunshot wound,
- (2) anticipated testimony by D.H. that (a) she and Jones visited the victim on the night the victim was murdered, (b) she left Jones and the victim in the apartment,

and when she returned she heard a bang or pop and saw a flash, and (c) she saw the victim dying before leaving the apartment with Jones,

(3) a bullet casing from the crime scene that matched casings found in Jones' car during a traffic stop two months before the murder,

(4) recorded statements made by Jones after the murder in which she said she "took care of a problem" and that "problem" was the victim,

(5) a recorded phone call in which Jones made statements suggesting that she killed the victim and explained her possible motive,

(6) a toxicology report showing that the victim had ingested certain drugs before dying, and

(7) that Jones had possessed those types of drugs in a backpack she owned.

Based on our review of the state's summary of evidence that it intended to produce at trial, we conclude that there was a strong factual basis for Jones' *Alford* plea.¹

Jones adequately agreed that the state's evidence was sufficient to support conviction beyond a reasonable doubt.

Jones argues that she did not adequately agree that the state's evidence was sufficient for a conviction, contending that the state's use of the phrase "substantial likelihood" did not meet the accuracy requirement.

¹ Though the district court sought, and received, from the state additional evidence after the plea hearing in the form of a computer flash drive, it is not clear what, if any, relevance this evidence had. The district court had already accepted Jones' *Alford* plea and we have now concluded this plea was supported by a strong factual basis as established on the record during the plea hearing. And, contrary to Jones' claim, the evidence submitted with the flash drive is consistent with the evidence discussed during the plea hearing. However, we reiterate that in the context of an *Alford* plea, the strong factual basis is best established by discussing the evidence with the defendant on the record or admitting the evidence at the plea hearing. See *Theis*, 742 N.W.2d at 649 (stating that "the better practice is for the factual basis to be based on evidence discussed with the defendant on the record at the plea hearing" and describing types of evidence commonly used in *Alford* plea hearings).

Three times during Jones’ plea hearing, the prosecutor asked Jones if she agreed there was a “substantial likelihood” that she would be convicted. Jones claims that the phrase “substantial likelihood” does not satisfy the requirement set forth in *Theis*. She cites as support for her claim the supreme court’s conclusion in *Theis* that “the defendant’s acknowledgement that there is a *risk* that he could be convicted does not meet the standard for accuracy.” 742 N.W.2d at 650 (emphasis added). We are not persuaded by Jones’ argument.

In the context of a *Norgaard* plea,² we have previously determined that a defendant’s agreement that there was “a *substantial likelihood* that [he] would be found guilty” was a sufficient acknowledgement of the evidence’s sufficiency. *Williams*, 760 N.W.2d at 14 (emphasis added). Although the plea in *Williams* was a *Norgaard* plea there is no difference in the accuracy requirements for *Alford* and *Norgaard* pleas. *Id.* at 12-13. The language used, therefore, properly reflected the accuracy requirement.³

The first two times Jones agreed that there was a “substantial likelihood” she would be found guilty were immediately after she pleaded guilty and, upon review of the record, were clearly used by the prosecutor to inform Jones what the process for summarizing the factual basis would be.

Prosecutor: Thank you, Your Honor. Ms. Jones, my understanding is you have spoken to your attorney at length

² In a *Norgaard* plea, the defendant pleads guilty despite a failure to recall specifics of the offense. *Williams*, 760 N.W.2d at 12; *see also State ex rel. Norgaard v. Tahash*, 110 N.W.2d 867, 872 (Minn. 1961).

³ We reached the same conclusion, that “substantial likelihood” was sufficient for an *Alford* plea, in a nonprecedential case. *State v. Ranniger*, No. A15-1953, 2016 WL 7041865, at *3 (Minn. App. Dec. 5, 2016).

and you obviously know the evidence, and your jail phone calls show that you know the evidence in this case, correct?

Jones: Correct.

Prosecutor: And you're aware of the evidence the state would present and you're aware of any defenses you might make, correct?

Jones: Correct.

Prosecutor: You're choosing to plead guilty via *Alford* and you're admitting that there's a *substantial likelihood* that a jury or a judge reviewing all the evidence that would come in at trial would find you guilty of murder in the second degree; is that correct?

Jones: Correct.

Prosecutor: And although you're maintaining your innocence as to murdering [the victim], there are probably some things that we agree on, correct, about that evidence?

I'm going to ask you those first, and then I'm going to outline the state's additional evidence that would suggest that you were responsible for and ask you if you, again, agree that there's a *substantial likelihood* you would be convicted. Does that make sense?

Jones: Yes.

(Emphasis added). The third time Jones agreed that there was a "substantial likelihood" that she would be found guilty occurred after she heard all of the evidence that the state would submit at trial.

Prosecutor: You believe that all that evidence, including what we've talked about now and other evidence in the case you've talked about with your attorney, do you believe there's a *substantial likelihood* that a jury or a judge, your choice, would find you guilty beyond a reasonable doubt of intentionally killing [the victim]?

Jones: Yes.

(Emphasis added).

After the state described the evidence it would present at trial, Jones expressed awareness of the evidence and agreed that there was a substantial likelihood that she would be found guilty. The use of the phrase “substantial likelihood” satisfies the accuracy requirement that the offender admit that there is a strong probability that they would be found guilty. Therefore, we conclude that Jones admitted that the evidence was sufficient to find her guilty beyond a reasonable doubt.

Affirmed.