

*This opinion is nonprecedential except as provided by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
A23-1732**

State of Minnesota,
Respondent,

vs.

Arsenio Broderick Hanson,
Appellant.

**Filed August 19, 2024
Affirmed
Klaphake, Judge***

Mower County District Court
File No. 50-CR-23-611

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

Kristen Nelsen, Mower County Attorney, Michelle M. King, Assistant County Attorney,
Austin, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Max B. Kittel, Assistant Public
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Larson, Presiding Judge; Segal, Chief 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NONPRECEDENTIAL OPINION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

On appeal from his conviction of second-degree sale of a controlled substance, appellant Arsenio Broderick Hanson argues that he must be permitted to withdraw his guilty plea to correct a manifest injustice. We affirm.

DECISION

“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). But “a court must allow withdrawal of a guilty plea if withdrawal is necessary to correct a manifest injustice.” *Id.* An invalid guilty plea is a manifest injustice. *State v. Theis*, 742 N.W.2d 643, 646 (Minn. 2007).

“To be constitutionally valid, a guilty plea must be accurate, voluntary, and intelligent.” *Raleigh*, 778 N.W.2d at 94. A defendant may challenge the validity of his guilty plea for the first time on direct appeal. *Brown v. State*, 449 N.W.2d 180, 182 (Minn. 1989). The defendant bears the burden of showing that his plea was invalid. *Raleigh*, 778 N.W.2d at 94. “Assessing the validity of a plea presents a question of law that [appellate courts] review de novo.” *Id.*

Hanson argues that he is entitled to withdraw his guilty plea to correct a manifest injustice because his plea is inaccurate. An accurate guilty plea requires a factual basis “showing that the defendant’s conduct meets all elements of the offense to which he is pleading guilty.” *State v. Jones*, 921 N.W.2d 774, 779 (Minn. App. 2018), *rev. denied* (Minn. Feb. 27, 2019). This requirement “is satisfied if the record contains a showing that there is credible evidence available which would support a jury verdict that [a] defendant

is guilty of at least as great a crime as that to which he [pleaded] guilty.” *Nelson v. State*, 880 N.W.2d 852, 859 (Minn. 2016) (quotation omitted).

Here, Hanson pleaded guilty to an amended count of second-degree sale of a controlled substance under Minn. Stat. § 152.022, subd. 1(1) (2020), after he allegedly sold 19.26 grams of methamphetamine to a confidential reliable informant (CRI). The elements of that offense are: (1) the defendant, on one or more occasions within a ninety-day period, sold one or more mixtures of a total weight of ten grams or more containing methamphetamine; (2) the defendant knew or believed that the substance sold was a controlled substance; and (3) the defendant’s sale was unlawful. *See* Minn. Stat. § 152.022, subd. 1(1); *see also State v. Clarin*, 913 N.W.2d 717, 720 (Minn. App. 2018) (holding that the state must prove beyond a reasonable doubt that the appellant unlawfully possessed methamphetamine because “unlawfulness” is an element of the charge of second-degree controlled-substance crime under Minn. Stat. § 152.022 (2014)), *rev. denied* (Minn. Aug. 7, 2018). The word “unlawfully” means “selling or possessing a controlled substance in a manner not authorized by law.” Minn. Stat. § 152.01, subd. 20 (2020).

Hanson argues that his guilty plea is inaccurate because “unlawfully” is an element of the offense to which he pleaded guilty, and “there is no factual basis to establish [this] element.” We acknowledge that nowhere in the factual basis does Hanson specifically admit that he “unlawfully” sold a controlled substance. But in *Clarin*, when the defendant was charged with second-degree possession of methamphetamine, this court rejected an argument that the state failed to prove that the appellant did not have a lawful prescription for methamphetamine. 913 N.W.2d at 720-21. The court reasoned that, although

“possession of physician-prescribed methamphetamine is lawful,” the jury was allowed to infer that the appellant’s possession of methamphetamine was unlawful because the methamphetamine was in the form of “a white powder in an unlabeled clear plastic baggie,” not “in capsule or tablet form” in “a labeled container with appellant’s name on it.” *Id.* And in a guilty-plea context, this court stated that “[e]ven if an element to an offense is not verbalized by the defendant, a district court may nevertheless draw inferences from the facts admitted to by the defendant.” *Rosendahl v. State*, 955 N.W.2d 294, 299 (Minn. App. 2021) (quotation omitted).

Hanson contends that, unlike the facts in *Clarín*, there are no “facts from the plea colloquy that could allow even an inference that this sale here was unlawful.” We disagree. The record reflects that Hanson signed a plea petition stating that he wished to plead guilty to second-degree sale of a controlled substance. Hanson also acknowledged at the plea hearing that he (1) had “gone over the elements” of the offense, (2) was not making any claim that he was innocent, and (3) signed the plea petition. Moreover, Hanson admitted at the plea hearing that he sold, in exchange for money, over ten grams of what he believed to be methamphetamine to a CRI. And Hanson admitted that the substance he sold to the CRI tested positive for methamphetamine. Finally, Hanson made no claim that, under Minn. Stat. § 152.10 (2020), he is a person eligible to sell methamphetamine.¹ Hanson’s signed plea petition, his admissions at the plea hearing, and the fact that he was pleading

¹ Under Minn. Stat. § 152.10, only a licensed pharmacist, assistant pharmacist, or pharmacist intern under the supervision of a pharmacist is permitted to sell a stimulant or depressant drug.

guilty to second-degree sale of a controlled substance, were sufficient to permit the district court to draw the reasonable inference that his sale of methamphetamine was unlawful. *See id.* (stating that, in a guilty-plea context, “[e]ven if an element to an offense is not verbalized by the defendant, a district court may nevertheless draw inferences from the facts admitted to by the defendant”). On this record, there is no manifest injustice that needs to be corrected. Accordingly, Hanson is not entitled to withdraw his guilty plea.²

Affirmed.

² Relying on *Rosendahl*, Hanson also argues that we “should not consider any of the allegations in the complaint and should rely solely on the factual basis established during the plea colloquy” because “[n]either Hanson nor any other party at the plea hearing referenced or testified to the ‘truthfulness and accuracy of the allegations’ contained within the complaint.” *See Rosendahl*, 955 N.W.2d at 302 (concluding that, “in determining the accuracy of a guilty plea, the reviewing court does not consider allegations in the complaint unless the truthfulness and accuracy of the allegations have been expressly admitted to by the defendant”). He argues further that “[e]ven if this Court were to consider information contained in the complaint, the complaint still does not provide a factual basis to demonstrate [his] sale was unlawful.” But we need not consider these arguments because the factual basis established at the plea hearing was sufficient for the district court to infer that Hanson unlawfully sold the methamphetamine.