

*This opinion is nonprecedential except as provided by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
A24-0896**

State of Minnesota,
Respondent,

vs.

Claude Michael McGriff,
Appellant.

**Filed April 7, 2025
Affirmed
Ede, Judge**

Steele County District Court
File No. 74-CR-23-1768

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

Robert J. Jarrett, Steele County Attorney, Aaron D. Pulanco, Campbell R. Housh, Assistant
County Attorneys, Owatonna, Minnesota (for respondent)

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

Considered and decided by Ede, Presiding Judge; Harris, Judge; and Florey, Judge.*

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

NONPRECEDENTIAL OPINION

EDE, Judge

In this direct appeal following a conviction of refusal to submit to chemical testing, appellant argues that he should be permitted to withdraw his guilty plea because it lacked a proper factual basis and was therefore inaccurate. We affirm.

FACTS

Respondent State of Minnesota charged appellant Claude Michael McGriff with: driving while under the influence of alcohol, in violation of Minnesota Statutes section 169A.20, subdivision 1(1) (2022); refusal to submit to a chemical breath test, in violation of Minnesota Statutes section 169A.20, subdivision 2(1) (2022); and driving after cancellation-inimical to public safety, in violation of Minnesota Statutes section 171.24, subdivision 5 (2022). McGriff pleaded guilty to the test-refusal offense, and the district court accepted McGriff's plea. The state agreed to dismiss the other two charges. The following summarizes the facts McGriff admitted during the hearing at which he pleaded guilty.

In November 2023, police officers discovered McGriff sleeping while seated behind the steering wheel of his vehicle at a fast-food restaurant. Officers observed an open bottle in plain sight in the vehicle's passenger compartment. The bottle contained liquor. McGriff was detained and transported to jail, where an officer read him an advisory about obtaining a chemical test of his breath. The officer asked McGriff to provide a breath sample. McGriff refused.

McGriff received a 36-month stayed prison sentence and the district court placed him on supervised probation. This appeal follows.

DECISION

McGriff challenges the validity of his guilty plea, arguing that the plea was inaccurate because it lacked a proper factual basis.

A defendant may challenge the constitutional validity of a guilty plea for the first time on direct appeal. *See Brown v. State*, 449 N.W.2d 180, 182 (Minn. 1989). “To be constitutionally valid, a guilty plea must be accurate, voluntary, and intelligent.” *State v. Raleigh*, 778 N.W.2d 90, 94 (Minn. 2010). “A defendant bears the burden of showing his plea was invalid.” *Id.* “Assessing the validity of a plea presents a question of law that [appellate courts] review de novo.” *Id.*

“For a guilty plea to be accurate, it must be supported by a proper factual basis.” *State v. Jones*, 7 N.W.3d 391, 396 (Minn. 2024). This requirement is satisfied when “the record contains sufficient evidence to support a conclusion that the defendant is guilty of at least as great a crime as that to which he pled guilty.” *Id.* “Even 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) (alteration in original).

McGriff contends that his guilty plea is inaccurate because he did not sufficiently admit to a key element of the test-refusal crime. He points to the fact that, during the plea colloquy, he was neither asked whether anyone read the breath-test advisory to him nor whether anyone advised him per the requirements of Minnesota Statutes section 169A.51

(2022), which governs drivers’ implied consent to chemical tests for intoxication. McGriff asserts the district court simply “announced” that an officer read him the breath-test advisory but did not ask him whether the advisory had, in fact, been read to him. He also maintains that it was unclear from the district court’s questioning “what ‘refused’ meant,” that he was not asked how he refused to take the breath test, and that the court did not inquire about the reason for his refusal, e.g., whether it was because he wanted to speak to an attorney. McGriff’s challenges to the validity of the factual basis for his plea require that we consider the elements of the test-refusal offense.

Any person who drives, operates, or is in physical control of a motor vehicle within the state consents to a chemical test of their blood, breath, or urine “for the purpose of determining the presence of alcohol.” Minn. Stat. § 169A.51, subd. 1. Section 169A.51 provides several circumstances in which a chemical test may be required, including “when an officer has probable cause to believe the person was driving, operating, or in physical control of a motor vehicle” while under the influence of alcohol and the person has refused to take a preliminary screening test. *Id.*, subd. 1(b)(3). And “[i]t is a crime for any person to refuse to submit to a chemical test . . . of the person’s breath under section 169A.51” Minn. Stat. § 169A.20, subd. 2(1).

“At the time a breath test is requested,” law enforcement must administer the breath-test advisory. Minn. Stat. § 169A.51, subd. 2. That advisory informs a person suspected of driving under the influence of alcohol: (1) “that Minnesota law requires [them] to take a test . . . to determine if [they are] under the influence of alcohol”; (2) “that refusal to submit to a breath test is a crime”; and (3) “that [they have] the right to consult an attorney, but

that this right is limited to the extent that it cannot unreasonably delay administration of the test.” *Id.* To sustain a conviction for refusing to submit to chemical testing under Minnesota Statutes section 169A.20, subdivision 2(1) (2022), “[a]ctual unwillingness to submit to testing must be proved.” *State v. Ferrier*, 792 N.W.2d 98, 101 (Minn. App. 2010), *rev. denied* (Minn. Mar. 15, 2011).

The district court engaged in the following colloquy with McGriff regarding his refusal:

DISTRICT COURT: Okay. And it also appears that, based on the officer’s observations, he did take you to the detention center, and he read you what we call the implied-consent advisory. Do you remember the officer telling you that you had the opportunity to consult with a lawyer before you decided whether or not you were going to proceed with testing there at the jail?

MCGRIFF: Yes, at the jail, that’s correct.

DISTRICT COURT: And after you got that advisory, did you then refuse to take the test that the officer requested?

MCGRIFF: That’s correct, yes.

We conclude that McGriff’s testimony provided an adequate factual basis for the reasonable inference that McGriff was unwilling to submit to chemical testing after receiving the entire breath-test advisory. *See Rosendahl*, 955 N.W.2d at 299. As noted above, the district court asked McGriff if he remembered the officer telling him that he had the opportunity to consult with a lawyer before deciding whether to proceed with the breath test. McGriff answered, “Yes, at the jail, that’s correct.” And when the district court asked McGriff if he refused to take the breath test after he “got that advisory,” McGriff responded: “That’s correct, yes.” At no point during the plea hearing did McGriff provide testimony that contradicted an essential element of the charged offense. This is unlike *State*

v. Mikulak, in which the defendant’s “statements negated the mens rea element of the charged offense” and the Minnesota Supreme Court consequently held that “the factual basis fail[ed] to satisfy the accuracy requirement.” 903 N.W.2d 600, 605 (Minn. 2017). Instead, the facts to which McGriff admitted support the reasonable inference that he refused to submit to chemical testing after the officer read him the entire breath-test advisory. *See Rosendahl*, 955 N.W.2d at 299.

McGriff also argues that the district court’s use of leading questions invalidated his guilty plea. We disagree. “The district court typically satisfies the factual basis requirement by asking the defendant to express in his own words what happened.” *Jones*, 7 N.W.3d at 396 (quoting *Raleigh*, 778 N.W.2d at 94). Although the Minnesota Supreme Court has cautioned that courts “should be particularly wary of situations in which the factual basis is established by asking a defendant only leading questions,” *Raleigh*, 778 N.W.2d at 94, it has never held that the use of leading questions automatically invalidates a guilty plea, *Jones*, 7 N.W.3d at 396.

Given the record before us, we conclude that McGriff has not met his burden to show that his plea lacked a proper factual basis and was inaccurate.

Affirmed.