

*This opinion is nonprecedential except as provided by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
A24-1664**

State of Minnesota,
Respondent,

vs.

Brandon Matthew Mitchell,
Appellant.

**Filed July 14, 2025
Affirmed
Schmidt, Judge**

Brown County District Court
File No. 08-CR-23-1132

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

Charles W. Hanson, Brown County Attorney, Jill M. Green, Assistant County Attorney,
New Ulm, Minnesota (for respondent)

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

Considered and decided by Cochran, Presiding Judge; Reyes, Judge; and Schmidt,
Judge.

NONPRECEDENTIAL OPINION

SCHMIDT, Judge

Appellant Brandon Matthew Mitchell argues his guilty plea for electronic solicitation of a child was inaccurate. Because appellant's sworn admissions during his plea colloquy proved each element of the offense beyond a reasonable doubt, we affirm.

FACTS

Respondent State of Minnesota filed a criminal complaint against Mitchell for criminal sexual conduct. According to the complaint, an investigator with the Brown County Sheriff's Office held himself out to be a 13-year-old female child on a dating website. Mitchell sent a series of sexually explicit messages and they discussed meeting in person for sex. The officer obtained a search warrant for Mitchell's electronic devices, seized his phone, and took screen shots of their conversation. The state charged Mitchell with eight counts of criminal sexual conduct for the acts alleged in the complaint, including electronic solicitation of a child.

Mitchell signed a petition to plead guilty to one count of electronic solicitation of a child in exchange for the state dismissing all other charges. To establish the factual basis for his guilt at the plea hearing, defense counsel and the state asked Mitchell a series of questions that prompted "yes" or "no" answers.

Defense counsel questioned Mitchell first:

Q. Okay. Now let's go back to on or about December 1, 2023, at that particular time were you utilizing your computer to speak with somebody who is defined under the statute as a child under the age of fifteen years old—who you believed to be a child under the age of fifteen years old—and you had a conversation with that person, correct?

A. Yes.

Q. In fact, you had several.

A. Yeah.

Q. And that person was under the age of fifteen? You know that now—

A. Yeah.

Q. —that well, it was actually a law enforcement officer.

A. Yeah.

Q. But at the time you believed it was a person that was under the age of fifteen.

A. Well, the person was actually over eighteen.

Q. But then you understood through the course of the conversation that that person was in fact under the age of fifteen?

A. Yes.

Q. Okay, and during that course of that conversation, did you have that conversation with that person with the intent to arouse the sexual desire of any person, solicit that child for someone—person who is believed to be a child—to engage in sexual conduct?

A. Yes.

Q. And if you could explain to the Court just briefly what that entailed. Did you talk to that child about engaging in sexual acts?

A. Yes.

Q. And did you try to convince the child or suggest to that child that you would be open to committing sexual acts with that person?

A. Yes.

Q. Okay. And this all occurred—were you or was the person at the other end of this transmission, to the best of your belief, in the County of Brown, State of Minnesota?

A. Yes.

The state next questioned Mitchell:

Q. Mr. Mitchell, on December 1, 2023, did you engage in some sort of chat investigation while you were at your home using a computer?

A. Um, yes.

....

Q. When you were chatting with this individual, did the individual tell you that she was thirteen years old?

A. Yes.

Q. And after you were informed that she was thirteen years old, did you engage in further communications?

A. Yes.

Q. Page five of the criminal Complaint details some of the conversation. Have you seen page five of the criminal Complaint?

A. Yeah.

....

Q. Do you acknowledge that you sent those messages?

A. Yes

Q. And do you acknowledge that those messages were sent to, I guess, engage the sexual interest of the person who was receiving them?

A. Yes.

The district court accepted Mitchell's guilty plea, convicted him of electronic solicitation of a child but stayed imposition of sentence, ordered Mitchell to spend 60 days in the Brown County Jail, and placed Mitchell on supervised probation for five years.

DECISION

Mitchell argues that his plea was inaccurate because its factual basis relied solely on leading questions. We disagree.

A defendant may withdraw a plea “to correct a manifest injustice.” Minn. R. Crim P. 15.05, subd. 1. To be valid, “a guilty plea must be accurate, voluntary, and intelligent.” *State v. Raleigh*, 778 N.W.2d 90, 94 (Minn. 2010). The validity of a guilty plea is a question of law that we review de novo. *Id.*

“The accuracy requirement protects a defendant from pleading guilty to a more serious offense than that for which he could be convicted if he insisted on his right to trial.” *Id.* “A proper factual basis must be established for a guilty plea to be accurate.” *State v. Ecker*, 524 N.W.2d 712, 716 (Minn. 1994). A proper factual basis is established when the record shows “there is credible evidence available which would support a jury verdict that defendant is guilty of at least as great a crime as that to which [they pleaded] guilty.” *Lussier v. State*, 821 N.W.2d 581, 589 (Minn. 2012).

The district court is responsible for ensuring that “an adequate factual basis has been established.” *Ecker*, 524 N.W.2d at 716. Although the court “need not personally interrogate the defendant,” it should do so when it is reasonably dissatisfied with the factual basis for the plea. *Id.* Nevertheless, “even if a district court [did] not elicit proper responses, a defendant may not withdraw [a] plea if the record contains sufficient evidence to support the conviction.” *Lussier*, 821 N.W.2d at 589 (quotations omitted). Specifically, we may consider whether the defendant specifically acknowledged “the truth and accuracy of facts constituting the essential elements of the crime.” *Rosendahl v. State*, 955 N.W.2d

294, 302 (Minn. App. 2021) (quotation omitted). We may also consider the allegations in the complaint, provided the defendant expressly admits to “the truthfulness and accuracy of [those] allegations.” *Ibrahim v. State*, 14 N.W.3d 294, 302 (Minn. App. 2024).

Here, Mitchell argues that his guilty plea was inaccurate because defense counsel and the state asked him leading questions “that pointed to obvious one-word responses, which [he] uttered in a mechanical fashion.” Mitchell then emphasizes that the district court did not follow up with any questions of its own.

The Minnesota Supreme Court has “repeatedly discouraged the use of leading questions to establish a factual basis.” *Nelson v. State*, 880 N.W.2d 852, 860 (Minn. 2016) (collecting cases). However, the use of leading questions—without more—does not invalidate a plea if the record establishes that the defendant’s conduct falls within the elements of the offense. *See Raleigh*, 778 N.W.2d at 95. Accordingly, leading questions must combine with other circumstances to render the factual basis for a plea inadequate. *See, e.g., Shorter v. State*, 511 N.W.2d 743, 746-47 (Minn. 1994) (determining that the “highly unusual” facts of the case justified plea withdrawal when defense counsel only asked leading questions, the district court failed to ask follow-up questions, and police officers were prepared to testify that the investigation was incomplete and there had been a potential discovery violation).

Although the form of questioning at Mitchell’s plea hearing could have been different to allow Mitchell to describe the facts in his own words, we conclude that Mitchell’s plea was accurate for two reasons. First, Mitchell does not point to circumstances beyond the questions themselves to cast doubt on the accuracy of his plea.

Without more than the form of the questions, Mitchell’s appellate arguments do not amount to a “manifest injustice,” Minn. R. Crim P. 15.05, subd. 1, especially when the supreme court has “never held that the use of leading questions automatically invalidates a guilty plea.” *See Nelson*, 880 N.W.2d at 860.

Second, the plea colloquy demonstrates that Mitchell admitted to each element of the offense. Those elements are:

A person 18 years of age or older who uses the Internet [or] a computer, . . . to commit any of the following acts, with intent to arouse the sexual desire of any person, is guilty of a felony[:]

. . .

(1) soliciting a child or someone the person reasonably believes is a child to engage in sexual conduct.

Minn. Stat. § 609.352, subd. 2a (2022). Under the statute, a “child” is “a person 15 years of age or younger.” *Id.*, subd. 1.

Here, Mitchell admitted: (1) he committed the conduct on his computer; (2) he communicated with someone that he believed was thirteen years old; (3) the person told him that she was thirteen and he continued communicating with her anyway; (4) he communicated with the child to arouse the child sexually and to solicit sex; and (5) he sent a series of sexually explicit messages to the child. The plea colloquy sufficiently established “the truth and accuracy of facts constituting the essential elements of the crime.” *Rosendahl*, 955 N.W.2d at 302 (quotation omitted). Therefore, we conclude that Mitchell entered an accurate plea.

Affirmed.