

*This opinion is nonprecedential except as provided by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
A24-1953**

Reginald Scott Hubbard, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed August 25, 2025
Affirmed in part, reversed in part, and remanded
Bentley, Judge**

Yellow Medicine County District Court
File No. 87-CR-22-115

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

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

Mark A. Gruenes, Yellow Medicine County Attorney, Granite Falls, Minnesota (for respondent)

Considered and decided by Larson, Presiding Judge; Larkin, Judge; and Bentley, Judge.

NONPRECEDENTIAL OPINION

BENTLEY, Judge

In this appeal from an order denying postconviction relief, appellant Reginald Scott Hubbard challenges the postconviction court's denial of his petition without holding an evidentiary hearing. Hubbard seeks reversal of his conviction for violating a domestic

abuse no-contact order (DANCO) on two grounds: (1) his guilty plea is invalid for lack of a sufficient factual basis that he knowingly violated the DANCO, and (2) the DANCO underlying his conviction is invalid. Alternatively, Hubbard argues that his sentence must be reduced from 365 days to 364 days because of a retroactive statute that reduced the maximum sentence for a gross misdemeanor.

We determine that Hubbard's guilty plea is valid and that he waived a collateral challenge to the validity of the DANCO when he entered that guilty plea. Therefore, we discern no abuse of discretion in the postconviction court's summary denial of his petition and affirm Hubbard's conviction. We reverse Hubbard's sentence and remand for it to be reduced to 364 days.

FACTS

In December 2021, the district court held a hearing to address three open cases against Hubbard. One of those cases involved a domestic-assault charge for an incident from a few days before. The state asked the district court to issue a DANCO in connection with that charge. The district court stated, "We'll take up the DANCO in just a moment." After addressing other outstanding issues, including bail and conditions of release related to the domestic-assault charge, the district court took up the request for the DANCO. The district court heard from both the state and Hubbard's attorney on the issue and ultimately issued the DANCO, instructing Hubbard to have "no contact directly or indirectly with [the victim]." The district court added, "You may not go to her place of residence . . . or any other residence where [the victim] resides."

In March 2022, the state charged Hubbard with one count of violating a DANCO within ten years of a previous qualified domestic-violence related offense, in violation of Minn. Stat § 629.75, subd. 2(c) (2020). The complaint alleged that Hubbard exchanged more than 1,000 text messages with the victim and called her over 300 times from jail between January 9, 2022, and March 10, 2022.

Hubbard filed a petition to plead guilty to the offense. Hubbard submitted that he was “freely and voluntarily” entering a guilty plea “because . . . on January 9, 2022, [he] had contact with [the victim] when there was a DANCO in place.” At a plea hearing, Hubbard affirmed that he “[understood] that one of the charges is a DANCO violation.” He also admitted that he contacted the victim from jail on or around the dates alleged in the complaint despite “[knowing] that there was a [DANCO] in place[,] which required [him] to have no contact with [the victim].” And when the district court asked Hubbard if he called the victim even though he “knew [he] couldn’t do that,” Hubbard said, “Yes.” After finding that Hubbard “voluntarily and willingly” entered the plea and that there was a sufficient factual basis for the charge, the district court convicted him. Hubbard was sentenced to 365 days’ imprisonment, with 96 days’ credit for time served. That sentence was stayed for two years, during which time Hubbard would be on supervised probation.

In August 2024, Hubbard filed a petition for postconviction relief, seeking reversal of his conviction. He challenged the validity of the DANCO on the basis that the district court did not issue the DANCO at a “separate” hearing “immediately following a proceeding in which any pretrial release or sentencing issues are decided,” as required by statute. Hubbard also argued that his guilty plea was invalid because the record showed “he

was not served with the written DANCO, and the oral DANCO did not adequately inform him that he could not have electronic or phone contact with [the victim].” He submitted an affidavit to that effect.

In October 2024, the postconviction court summarily denied Hubbard’s petition. The court explained that the DANCO was valid because the issuing court complied with the procedural requirements and therefore “afford[ed] [Hubbard] with due process.” The court also concluded that Hubbard’s guilty plea was valid because, at the hearing, Hubbard “was explicitly told not to have any direct or indirect contact with” the victim, which was sufficient to put him on notice of his prohibited conduct. Therefore, “[w]hether [Hubbard] was served with a paper copy of the DANCO is irrelevant because the transcript shows he would have known he was not to have contact with [the victim].” Moreover, the court noted that Hubbard had signed a plea petition stating that he had contact with the victim even though he knew there was a DANCO in place. It further relied on the fact that the plea petition stated that Hubbard had discussed the charges, his rights, and the petition with his attorney, who also signed the plea petition.

Hubbard appeals.

DECISION

Hubbard asks this court to reverse the postconviction court’s decision denying his petition for relief without a hearing. Separately, Hubbard argues that his sentence must be reduced from 365 days’ imprisonment to 364 days. We address each argument in turn.

I

We review a postconviction court’s decision to summarily deny a petition for an abuse of discretion. *Martin v. State*, 969 N.W.2d 361, 363 (Minn. 2022). “A postconviction court abuses its discretion when it has . . . based its ruling on an erroneous view of the law[.]” *Pearson v. State*, 891 N.W.2d 590, 596 (Minn. 2017) (quotation omitted). But a postconviction court need not hold an evidentiary hearing if “the petitioner alleges facts that, if true, are legally insufficient to grant the requested relief.” *State v. Sardina-Padilla*, 7 N.W.3d 585, 602-03 (Minn. 2024) (quotation omitted); *see also* Minn. Stat. § 590.04, subd. 1 (2024) (providing that a postconviction court must hold an evidentiary hearing “[u]nless the petition and the files and records of the proceeding conclusively show that the petitioner is entitled to no relief”).

Hubbard argues that the district court abused its discretion for two reasons. First, his guilty plea is invalid because there is an insufficient factual basis that he knowingly violated the DANCO. Second, the DANCO underlying his conviction is invalid because the district court did not follow proper procedures when issuing it. For reasons discussed below, we conclude that the district court did not abuse its discretion by summarily denying Hubbard postconviction relief because his petition conclusively shows that he cannot prevail on either argument.

A

Hubbard maintains that he must be allowed to withdraw his guilty plea, which was invalid because he did not know that the DANCO prohibited him from having electronic communication with the victim. The state argues there is no evidence that Hubbard

unknowingly violated the DANCO other than a “self-serving affidavit” that is contradicted by his plea colloquy.

Although “[a] defendant has no absolute right to withdraw a guilty plea,” a plea withdrawal must be allowed if “necessary to correct a ‘manifest injustice.’” *State v. Raleigh*, 778 N.W.2d 90, 93 (2010) (quoting Minn. R. Crim. P. 15.05, subd. 1). “A manifest injustice exists if a guilty plea is not valid,” and the “defendant bears the burden of showing his plea was invalid.” *Id.* at 94.

A valid guilty plea must be “accurate, voluntary, and intelligent.” *Taylor v. State*, 887 N.W.2d 821, 823 (Minn. 2016). “To be accurate, a plea must be established on a proper factual basis,” *Raleigh*, 778 N.W.2d at 94, which requires “sufficient facts on the record to support a conclusion that defendant’s conduct falls within the charge to which he desires to plead guilty,” *State v. Iverson*, 664 N.W.2d 346, 349 (Minn. 2003) (quotation omitted). In this context, the defendant must have “know[n] of the existence of a [DANCO] issued against the person and violate the order.” Minn. Stat. § 629.75, subd. 2(b) (2020). In assessing whether there is a proper factual basis to support a guilty plea, we must look at the entire record. *Lussier v. State*, 821 N.W.2d 581, 588-89 (Minn. 2012) (“Indeed, the plea petition and colloquy may be supplemented by other evidence to establish the factual basis for a plea.”). “[I]f the record contains sufficient evidence to support the conviction,” the plea may not be withdrawn on accuracy grounds. *Id.* at 589.

We review the validity of a guilty plea, which presents a question of law, de novo. *Barrow v. State*, 862 N.W.2d 686, 689 (Minn. 2015). “The scope of our review of factual

matters is limited to determine whether there is sufficient support in the record to sustain the postconviction court's findings." *State v. Nicks*, 831 N.W.2d 493, 503 (Minn. 2013).

The record contains sufficient evidence that Hubbard knew of the existence of the DANCO and knew that texting and calling the victim would constitute a violation of the order. In his plea petition, Hubbard wrote that he was pleading guilty because he "had contact [with the protected person] when there was a DANCO in place." And again, at the plea hearing, Hubbard acknowledged that he understood he was pleading guilty to violating a DANCO and that he was "entering th[e] plea freely and voluntarily." The plea colloquy between Hubbard and the court proceeded as follows:

Q: [H]ow do you plead, guilty or not guilty?

A: Guilty.

Q: All right, and it looks like this happened on or about January 9th, 2022 to March 10th, 2022, is that correct?

A: Yes.

....

Q: And did — was there a [DANCO] in place?

A: Yes.

Q: And did you violate the [DANCO] by contacting —

A: Yes.

Q: — the victim in this matter?

A: Yes, Your Honor.

....

Q: ... And you knew that there was a [DANCO] in place which required you to have no contact with her?

A: Yes, Your Honor.

Q: And you did — you did call her, is that right?

A: Yes.

Q: And you knew you couldn't do that, right?

A: Yes.^[1]

¹ We note Hubbard's point that "the factual basis for the DANCO violation was established exclusively through the district court's leading questions." Although the use of leading

On postconviction review, “a defendant is not entitled to an evidentiary hearing if [his] allegations lack factual support and are directly refuted by [his] own testimony in the record.” *Williams v. State*, 760 N.W.2d 8, 14 (Minn. App. 2009) (citing *Stutelberg v. State*, 741 N.W.2d 867, 872 (Minn. 2007)), *rev. denied* (Minn. Apr. 21, 2009). That is the case here. In his affidavit, Hubbard alleged, without factual support, that he “was not served with a [DANCO]” and “was not aware of a DANCO that prohibited [him] from” having electronic communication with the victim. Those statements are “directly refuted by [Hubbard’s] own testimony” from the plea hearing. *See id.*; *see also Crow v. State*, 923 N.W.2d 2, 10 (Minn. 2019) (quotation omitted) (stating that an evidentiary hearing is not required when a petitioner’s claim rests “solely on conclusory, argumentative assertions without factual support”). In short, there were no “material facts . . . in dispute which ha[d] not been resolved in the proceedings resulting in conviction and which must be resolved in order to determine the issues raised on the merits.” *Riley v. State*, 819 N.W.2d 162, 167-68 (Minn. 2012) (quotation omitted).

The record conclusively shows that Hubbard’s guilty plea was valid and that he is not entitled to relief. Therefore, we conclude that the district court did not abuse its discretion when it summarily denied Hubbard’s petition on that basis. *See Martin*, 969 N.W.2d at 363.

questions is discouraged, *Raleigh*, 778 N.W.2d at 95, that on its own does not invalidate a guilty plea, *State v. Jones*, 7 N.W.3d 391, 396 (Minn. 2024).

B

Next, Hubbard argues that his conviction must be reversed because the DANCO underlying his conviction is invalid. He maintains that the district court did not comply with various statutory requirements when issuing it, resulting in a violation of his due-process rights. The state argues that Hubbard waived any challenges to the DANCO when he pleaded guilty to violating it.

We are persuaded by the state's argument. A valid guilty plea waives "all non-jurisdictional defects arising prior to the entry of the plea." *Dikken v. State*, 896 N.W.2d 873, 878 (Minn. 2017) (citing *State v. Ford*, 397 N.W.2d 875, 878 (Minn. 1986)); *see also Tollett v. Henderson*, 411 U.S. 258, 267 (1973) (explaining that a criminal defendant who has pleaded guilty to a crime "may not thereafter raise independent claims relating to the deprivation of constitutional rights that occurred prior to the entry of the guilty plea" because "a guilty plea represents a break in the chain of events which has preceded it in the criminal process"). Indeed, as the supreme court noted in *Dikken*, if a "defendant . . . must have knowledge of every possible error that could be challenged on appeal, there would be nothing left of the rule that only jurisdictional challenges may be entertained after a criminal defendant has pleaded guilty." 896 N.W.2d at 878. Hubbard could have challenged the validity of the DANCO if he had proceeded to trial, including by stipulating to the prosecution's case under Minnesota Rule of Criminal Procedure 26.01, subdivision 4, to preserve any challenge to the DANCO for appellate review. Instead, he pleaded guilty and admitted that a DANCO was in place that prohibited him from contacting the victim by phone. We therefore conclude that Hubbard waived his collateral

attack on the DANCO by pleading guilty and we decline to address the argument on the merits.²

II

Finally, and for the first time on appeal, Hubbard argues that his sentence must be reduced to 364 days under a statute that lowered the maximum sentence for a gross misdemeanor from 365 days to 364 days.³ We agree. Minn. Stat. § 609.0342(b) (2024) (“Any sentence of imprisonment for . . . 365 days imposed or executed before July 1, 2023, shall be deemed to be a sentence of imprisonment for 364 days.”). The statute has retroactive effect. *See* 2023 Minn. Laws ch. 52, art. 6, § 6, at 918 (providing that the section “applies . . . retroactively to offenders who received a gross misdemeanor sentence” before the law was enacted).

Hubbard’s 365-day sentence was imposed on August 24, 2022, or “before July 1, 2023,” and must therefore be reduced to 364 days. Minn. Stat. § 609.0342(b). We reverse in part and remand for the district court to amend Hubbard’s sentence accordingly.

Affirmed in part, reversed in part, and remanded.

² Hubbard argues that he did not waive a challenge to the validity of the DANCO because it renders his guilty plea inaccurate. But as we have explained, “[t]o be accurate, a plea must be established on a proper factual basis.” *Raleigh*, 778 N.W.2d at 94. In his plea petition, Hubbard stated that he “had contact with [the victim] when there was a DANCO in place,” and again at the plea hearing, he acknowledged that there was “a [DANCO] in place.” Because he admitted to the element of the offense that he “[knew] of the existence of a [DANCO] issued against” him, Minn. Stat. § 629.75, subd. 2(b), his plea was accurate on this point.

³ The state “takes no position regarding . . . [Hubbard’s] request for a reduction of his sentence to 364 days.”