

*This opinion is nonprecedential except as provided by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
A25-0521**

State of Minnesota,
Respondent,

vs.

Rashad Lavonte Lenear,
Appellant.

**Filed February 2, 2026
Affirmed in part, reversed in part, and remanded
Smith, Tracy M., Judge**

Wright County District Court
File No. 86-CR-24-1556

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

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Considered and decided by Smith, Tracy M., 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NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

In this direct appeal from a judgment of conviction for threats of violence, appellant Rashad Levonte Lenear argues that (1) his guilty plea was not accurate because the factual basis did not establish two elements of the offense, (2) the district court abused its discretion in denying his presentencing motion to withdraw his guilty plea as involuntary, and (3) the district court erred by assigning three criminal-history-score points for offenses committed as part of a single course of conduct involving multiple victims. We reject Lenear’s challenges to his plea and thus affirm his conviction, but we reverse his sentence and remand for fact-finding on his criminal-history score.

FACTS

Lenear was charged with felony threats of violence—reckless disregard and felony domestic assault. Pursuant to a plea agreement, Lenear pleaded guilty to threats of violence—reckless disregard in exchange for dismissal of the felony domestic-assault charge and imposition of a stayed sentence with five years of probation.

At the plea hearing, defense counsel first explained the plea. The plea petition was discussed and, Lenear authorized his counsel to electronically sign it on his behalf. Lenear asked if he would be released from jail that day, and his counsel said that it would be up to the district court. The district court emphasized that there was no guarantee that Lenear would be released that day and asked whether he was pleading guilty just to get out of jail. Lenear assured the district court this was not the case. The district court stated that it was important that Lenear not feel forced into pleading guilty, and Lenear responded, “No I

don't feel forced at all." Lenear agreed that he had "a clear mind today," and the district court noted he "seemed very confident" in his answers. The district court then reviewed Lenear's trial rights, and Lenear said he understood them and that he waived them. Thereafter, Lenear pleaded guilty, and the district court turned to the factual basis for his plea.

In response to questions from the prosecutor and the district court, Lenear admitted to the following facts. On the day of the offense, Lenear was at the victim's residence. The victim was his significant other at the time. They "had a disagreement" and "were both arguing and yelling and cussing and stuff like that." During the argument, Lenear "[c]alled her some B words" and said, "I will end you." He "didn't say it in a kind way." He thought that, when he said those things, the victim was "[p]robably hurt and stuff like that and just scared." Lenear believed that "people might feel that they're at risk of harm" because of him saying "I will end you" during an argument. He agreed that "a reasonable interpretation" of what he said to the victim was "that [he] would end her life."

The district court accepted Lenear's plea and adjudicated him guilty of felony threats of violence—reckless disregard. Before sentencing, Lenear moved to withdraw his plea on the ground that it was involuntary. After a hearing at which Lenear testified, the district court denied the motion. The district court sentenced Lenear to 21 months in prison, stayed for five years.

This appeal follows.

DECISION

Lenear makes three arguments on appeal. First, he argues that his plea was invalid because it was inaccurate. Second, he argues that the district court abused its discretion by denying his motion to withdraw his plea as fair and just because it was involuntary. Third, and in the alternative, he argues that his sentence should be reversed because it was based on an incorrect criminal-history score. We address each argument in turn.

I. Lenear’s plea was valid because it was accurate.

“Once a guilty plea has been entered, there is no absolute right to withdraw it.” *State v. Mikulak*, 903 N.W.2d 600, 603 (Minn. 2017). But a defendant must be permitted to withdraw a plea if the plea was constitutionally invalid. *Brown v. State*, 449 N.W.2d 180, 183 (Minn. 1989). An appellant may challenge the constitutional validity of their guilty plea in the first instance on direct appeal. *Id.* at 182. To be 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 to show his plea was not valid. *Id.* A plea’s validity is question of law reviewed de novo. *Id.*

Lenear challenges the accuracy of his plea. A plea is accurate if it has an adequate factual basis, meaning there are sufficient facts on the record to support a conclusion that the defendant is guilty of the crime charged. *State v. Iverson*, 664 N.W.2d 346, 349 (Minn. 2003). “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) (emphasis omitted). “The main purpose of the accuracy requirement is to protect a defendant from pleading guilty to a more serious

offense than he could be convicted of were he to insist on his right to trial.” *State v. Trott*, 338 N.W.2d 248, 251 (Minn. 1983). In determining whether the factual basis is adequate, a reviewing court “must examine a defendant’s admissions in light of all surrounding circumstances and in the context of an entire plea colloquy.” *State v. Jones*, 7 N.W.3d 391, 396 (Minn. 2024) (quotation omitted).

The offense at issue is felony threats of violence—reckless disregard. *See* Minn. Stat. § 609.713, subd. 1 (2022). A person commits reckless threats of violence when

- (1) through words or actions, [the person] communicates an intention to injure another or their property;
- (2) the threat is to commit a statutorily defined crime of violence;
- (3) in context, those words or conduct create a reasonable apprehension that [the person] will follow through with or act on the threat; and
- (4) [the person] makes the violent threat in conscious disregard of a substantial and unjustifiable risk that [their] words or conduct will cause extreme fear.

State v. Mrozinski, 971 N.W.2d 233, 240 (Minn. 2022) (citing Minn. Stat. § 609.713, subd. 1 (2022)). Lenear argues that the third and fourth elements lack an adequate factual basis.

Element Three: Reasonable Apprehension

The third element of the offense requires that Lenear’s words created a reasonable apprehension that he would follow through with or act on his threat. *See id.*

Lenear argues that his plea colloquy never established actual reasonable apprehension on the part of the victim. But “[t]he effect of a terroristic threat on the victim is not an essential element.” *State v. Schweppe*, 237 N.W.2d 609, 614 (Minn. 1975). Rather,

the requirement is that “the communication in its context would have a reasonable tendency to create apprehension that its originator will act according to its tenor.” *Id.* at 613 (quotations omitted).

Lenear’s communication in its context satisfies that requirement. Lenear admitted to saying, “I will end you,” while he was engaged in an argument with his significant other. He admitted that she was probably scared and hurt by this. He also agreed that a reasonable interpretation of what he said to the victim was that he would end her life and that, in the same circumstances, a person might feel at risk of harm. Based on these admissions, it is reasonable to infer that Lenear’s threat created a reasonable apprehension that he would follow through with the threat. There is therefore an adequate factual basis for the third element.

Element Four: Reckless Disregard

The fourth element requires that Lenear made the threat in conscious disregard of a substantial and unjustifiable risk that his words or conduct would cause extreme fear. *See Mrozinski*, 971 N.W.2d at 240.

Lenear argues that this element is not satisfied because, during his plea colloquy, he never admitted that he was aware of a risk of causing extreme fear or that he consciously disregarded that risk. But explicit verbalization of the offense elements is not necessary for a factually sufficient plea. *Rosendahl*, 955 N.W.2d at 299. And “a defendant may not withdraw his plea simply because the court failed to elicit proper responses if the record contains sufficient evidence to support the conviction.” *Raleigh*, 778 N.W.2d at 94. The

question is whether “facts exist from which” awareness of the risk and conscious disregard of it “can be reasonably inferred.” *Nelson v. State*, 880 N.W.2d 852, 861 (Minn. 2016).

The facts that Lenear admitted during the colloquy provide the context necessary to reasonably infer that Lenear was aware of the risk and consciously disregarded it. He admitted that he threatened to “end” his significant other. He admitted that his words probably scared the victim and that she might have felt at risk of harm. And he acknowledged that it was reasonable to interpret this as a threat to the victim’s life. From these admissions, it is reasonable to infer that he was aware of the risk and consciously disregarded it.

Lenear cites to this court’s nonprecedential opinion in *Isensee v. State*, in which we held the factual basis insufficient to establish the fourth element when the appellant admitted to making statements that could cause fear, but not extreme fear. No. A22-0572, 2022 WL 17086757, at *4 (Minn. App. Nov. 21, 2022). As an initial matter, we note that *Isensee* is not a precedential decision and is therefore not binding. *See* Minn. R. Civ. App. P. 136.01, subd. 1(c). In any event, *Isensee* is factually distinct and is not persuasive here. *Isensee*’s threat occurred in a bar. *Isensee*, 2022 WL 17086757, at *1. In his plea colloquy, *Isensee* admitted that he threatened to kill people, but he did not identify a specific person to whom his threat was directed. *Id.* *Isensee* stated that the threat was probably heard by only the bartender—whom he had known for years—and that she would not have been afraid that he would act on the threat. *Id.* *Isensee*’s statement contradicted an inference that he consciously disregarded a risk of causing extreme fear. Here, there are no such contradictory statements. Instead, the facts admitted by Lenear consistently create a context

that permits the reasonable inference that he acted in conscious disregard of the risk of causing extreme fear when he threatened to end his significant other's life.

Lenear also argues that his admissions that the victim was “[p]robably hurt and scared” and “might feel” at risk of harm are insufficient to show a “level of certainty” that his words would cause “*extreme* fear.” This argument is not compelling for two reasons. First, there is no certainty required by the element. There must only be a “substantial and unjustifiable risk” of causing fear or terror. *Mrozinski*, 971 N.W.2d at 240. Second, “[t]he test of whether words or phrases are harmless or threatening is the context in which they are used.” *Schweppe*, 237 N.W.2d at 613. The facts that Lenear admitted—threatening to end his significant other's life in the context of an argument with her—permit the reasonable inference that his words risked causing “extreme fear.” *Mrozinski*, 971 N.W.2d at 240; *see Nelson*, 880 N.W.2d at 861.

Because the facts admitted by Lenear during his plea colloquy support reasonable inferences sufficient to prove the third and fourth elements of the threats-of-violence offense, his plea has an adequate factual basis and withdrawal is not warranted on the ground of inaccuracy.

II. The district court did not abuse its discretion in denying Lenear's presentence motion to withdraw his plea as involuntary.

Before a defendant is sentenced, the district court has discretion to allow a plea withdrawal “if it is fair and just to do so.” Minn. R. Crim. P. 15.05, subd. 2. Under this standard, the district court must consider “reasons advanced by the defendant” in their motion and “any prejudice” to the prosecution for “actions taken in reliance” on the plea.

Id. The defendant has the burden to show a fair and just reason, and the state bears the burden of showing prejudice. *Raleigh*, 778 N.W.2d at 97.

Denial of a motion for plea withdrawal as fair and just is reviewed for an abuse of discretion, and reversal is warranted “only in the rare case.” *Id.* A district court abuses its discretion if it improperly applies the law or makes clearly erroneous factual findings. *Gilbert v. State*, 2 N.W.3d 483, 487 (Minn. 2024).

Lenear argues that he established that his plea was involuntary for two reasons: (1) when he pleaded guilty, he was taking medication that affected his decision-making and (2) he was pressured into pleading guilty so that he could be released from jail. The district court found to the contrary and denied the motion. Its findings are supported by the record.

As the district court observed, during the evidentiary hearing on his plea-withdrawal motion, Lenear testified that, while he was in custody, including when he pleaded guilty, he was taking a medication for anxiety. But, the district court found that, although medications can interfere with a person’s decision-making ability, this “was not the case here.” During his plea colloquy, Lenear agreed that he had “a clear mind.” The district court even noted that Lenear “seemed very confident” in his answers. And the district court found Lenear’s contrary testimony in the motion hearing not credible because Lenear was “uncertain and evasive,” and we give this credibility finding “due regard.” Minn. R. Civ. P. 52.01. The record supports the district court’s finding that Lenear’s plea was not involuntary due to the effect of medication.

The record also supports the district court’s finding that Lenear did not plead guilty just to get out of jail. During the plea colloquy, the district court went out of its way to make sure this was the case, explaining that it was important that Lenear not plead guilty because he thought he would be released from custody. Lenear responded to the district court’s concern, stating, “I’m not pleading just to get out of jail. . . . I’m not doing it just to get out at all.” Lenear also confirmed in his plea petition that he did not “make the claim that the fact that [he had] been held in jail since [his] arrest and could not post bail caused [him] to decide to plead guilty in order to get the thing over with rather than waiting for [his] turn at trial.”¹ And while Lenear testified to the contrary at his motion hearing, again, the district court did not find that testimony credible. The record supports the district court’s finding that Lenear’s plea was not involuntary based on the pressure of continued custody.

In his reply brief, Lenear makes two new arguments why the district court abused its discretion in denying plea withdrawal. Even assuming this court should consider these arguments, *see Moorhead Econ. Dev. Auth. v. Anda*, 789 N.W.2d 860, 887 (Minn. 2010) (explaining that raising issues for appeal in a reply brief is not proper practice), they are unavailing.

First, he asserts that the district court “did not conduct a full voluntariness inquiry” during the plea hearing, citing Minnesota Rule of Criminal Procedure 15.01,

¹ Lenear challenges the state’s reliance on the plea petition. He argues that “the record does not establish that [he] had read the full plea petition document,” citing the transcript of the plea hearing. But the transcript of the hearing on Lenear’s plea-withdrawal motion reflects that, at that hearing, Lenear acknowledged having read the petition prior to his plea.

subdivision 1(5). Rule 15.01, subdivision 1, lays out questions that must be asked of the defendant before the district court can accept a plea. Subdivision 1(5) states that the judge must determine whether the defendant is under the influence of drugs or intoxicating liquor, has a mental disability, or is undergoing medical or psychiatric treatment. Minn. R. Crim. P. 15.01, subd. 1(5). Lenear argues that the district court merely asked whether he had a “clear mind” and that that inquiry was insufficient. But failure to follow Rule 15.01 does not necessarily make a guilty plea invalid. *State v. Doughman*, 340 N.W.2d 348, 351 (Minn. App. 1983), *rev. denied* (Minn. Mar. 15, 1984). Lenear has the burden of showing that his plea was involuntary, and he does not explain how the claimed deficiency by the district court shows that his plea was involuntary in light of the record as a whole.

Second, Lenear argues that the state failed to show prejudice if he were permitted to withdraw his plea. The district court found that the state had demonstrated prejudice, noting that Lenear had put pressure on the victim to “fix this” when communicating with her in violation of a domestic-abuse no-contact order. As an initial matter, we need not reach this issue because a district court may deny plea withdrawal even if there is not prejudice to the state when, as here, a defendant has failed to advance a valid reason why plea withdrawal would be fair and just. *Raleigh*, 838 N.W.2d at 224. In any event, we are not persuaded by Lenear’s argument. He contends that his contact with the victim had no bearing on whether the prosecution would be prejudiced during a retrial. But we see no error in the district court’s determination that the concerning pressure on the victim could have prejudiced the state if the plea was withdrawn.

In sum, we discern no abuse of discretion in the district court’s denial of Lenear’s motion to withdraw his plea.

III. Lenear’s sentence must be reversed and remanded for fact-finding on his criminal-history score.

Lenear argues that his sentence must be reversed because it is based on an incorrect criminal-history score. Specifically, he argues that the score includes too many points assigned for offenses that the state failed to prove were not part of a single course of conduct. Although Lenear did not raise this issue in the district court, the argument is not forfeited because “a defendant may not waive review of his criminal history score calculation.” *State v. Maurstad*, 733 N.W.2d 141, 147 (Minn. 2007).

Appellate courts review a district court’s criminal-history-score calculation for an abuse of discretion. *State v. Oreskovich*, 915 N.W.2d 920, 926 (Minn. App. 2018). A sentence based on an incorrect criminal-history score is an abuse of discretion. *State v. Woods*, 945 N.W.2d 414, 416-17 (Minn. App. 2020). “When multiple offenses arising from a single course of conduct involving multiple victims were sentenced,” the criminal-history score should include “only the weights from the two offenses at the highest severity levels.” Minn. Sent’g Guidelines 2.B.1.d(2) (Supp. 2023). To determine whether offenses arose from a single course of conduct, the court must consider (1) “whether the offenses occurred at substantially the same time and place and (2) whether the conduct was motivated by an effort to obtain a single criminal objective.” *State v. Bakken*, 883 N.W.2d 264, 270 (Minn. 2016) (addressing whether offenses arose out of a “single behavioral incident”) (citation and quotation omitted); see *State v. Drljic*, 876 N.W.2d 350, 354 (Minn. 2016) (applying

the “single behavioral incident” analysis to the question whether prior offenses involving multiple victims arose from a “single course of conduct”). The state bears the burden of proving by a preponderance of the evidence that the offenses were not part of a single course of conduct. *Bakken*, 883 N.W.2d at 270.

Here, Lenear’s sentencing worksheet noted three criminal-history points. It gave him one point for violation of a no-contact order and two points for two violations of a harassment restraining order. The disposition date and expiration date for all three offenses matched on the worksheet. Lenear’s presentence investigation report listed the same offense date, the same file number, and the same county for all three offenses. The report also indicated that Lenear received stays of imposition and was discharged from probation in 2020 for all three offenses. This is the extent of the record regarding the calculation of Lenear’s criminal-history score. Lenear argues that the record shows that these offenses “were part of a single course of conduct” and that he therefore only should have received two criminal-history points for those offenses.

The state does not dispute the facts in the record but instead contends that the case should be remanded to develop the record for fact-finding on the prior offenses. The state argues that, because Lenear never raised the issue below, it never had a chance to meet its burden of showing the offenses were not part of a single course of conduct and that it should be permitted to do.

Lenear did not object to his criminal-history score in the district court, so the state never presented evidence and the district court never made a factual determination on the question of whether the three offenses arose out of a single course of conduct. The only

information in the record regarding the offenses are their dates, location, and dispositions. “Determining whether multiple offenses are part of a single behavioral incident is not a ‘mechanical’ exercise, but rather requires an examination of all the facts and circumstances.” *Bakken*, 883 N.W.2d at 270. We disagree with Lenear that the record establishes that the offenses were part of a single course of conduct and that he should be assigned only two criminal-history points for the offenses.

Instead, we agree with the state that the matter should be remanded for fact-finding on the question. *See State v. Outlaw*, 748 N.W.2d 349, 356 (Minn. App. 2008) (reversing and remanding for the state to develop the sentencing record regarding whether the defendant’s out-of-state prior convictions could support an aggravated sentence), *rev. denied* (Minn. July 15, 2008).

As a result, we reverse Lenear’s sentence and remand for fact-finding on whether Lenear’s prior offenses arose from a single course of conduct. The state may present evidence to meet its burden on remand.

Affirmed in part, reversed in part, and remanded.