

*This opinion is nonprecedential except as provided by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
A25-0962**

Shawn Patrick Agar, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed February 2, 2026
Affirmed
Smith, Tracy M., Judge**

Otter Tail County District Court
File No. 56-CR-22-947

Cathryn Middlebrook, Chief Appellate Public Defender, Julia Q. Brady, Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

Michelle M. Eldien, Otter Tail County Attorney, Kathleen J. Schur, Assistant County Attorney, Fergus Falls, Minnesota (for respondent)

Considered and decided by Harris, Presiding Judge; Smith, Tracy M., 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NONPRECEDENTIAL OPINION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 appeal from an order denying postconviction relief, appellant Shawn Patrick Agar argues that the district court abused its discretion by denying his request to withdraw his guilty plea to second-degree assault—fear (dangerous weapon) because the plea was inaccurate. We affirm.

FACTS

In October 2022, Agar pleaded guilty to second-degree assault—fear (dangerous weapon) in exchange for dismissal of a threats-of-violence charge and a downward dispositional departure to a stayed prison sentence and probation. At the plea hearing, the state asked Agar the following questions to establish a factual basis for the plea:

Q: Were you present in Otter Tail County, Minnesota, back on April 28 of 2022?

A: Yes, I was.

Q: And were you at a residence -- your brother's residence located . . . in Fergus Falls?

A: Yes, I was.

Q: Did you -- while you were there did you get into an argument with your brother?

A: Yes, I did.

Q: And during that argument did you state to him that you would stab or -- yes, you would stab him?

A: Yes, I did.

Q: Did you have a knife in your hand when you said that?

A: Yes, I did.

Q: Were you intending to scare your brother when you told him that?

A: Yes, I was.

Neither the district court nor Agar's counsel asked him any questions related to the factual basis. The district court accepted the plea and sentenced Agar to 39 months in prison, stayed for five years.

A year and a half later, the district court revoked Agar's probation and executed his sentence. Agar filed a petition for postconviction relief seeking to withdraw his plea, which the district court denied.

This appeal follows.

DECISION

Agar argues that the district court abused its discretion by denying his postconviction petition to withdraw his plea because his plea was inaccurate. We disagree.

Denials of postconviction petitions are reviewed for abuse of discretion. *Martin v. State*, 969 N.W.2d 361, 363 (Minn. 2022). A district court abuses its discretion if it “exercised its discretion in an arbitrary or capricious manner, based its ruling on an erroneous view of the law, or made clearly erroneous factual findings.” *Rhodes v. State*, 875 N.W.2d 779, 786 (Minn. 2016) (quotation omitted). Appellate courts “review a district court’s legal conclusions de novo and its findings of fact for clear error.” *Paul v. State*, 20 N.W.3d 48, 54 (Minn. 2025).

Agar argues his plea was invalid because it lacked an adequate factual basis. A plea’s validity is a question of law that is reviewed de novo. *State v. Raleigh*, 778 N.W.2d 90, 94 (Minn. 2010). “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, at any time, upon

a timely motion,¹ a district court “must allow a defendant to withdraw a guilty plea” when “withdrawal is necessary to correct a manifest injustice.” Minn. R. Crim. P. 15.05, subd. 1. “A manifest injustice exists if a guilty plea is not valid. To be constitutionally valid, a guilty plea must be accurate” *Raleigh*, 778 N.W.2d at 94 (citation omitted). A defendant bears the burden to show that their plea was not accurate. *Id.*

A plea is accurate if an adequate factual basis is established on the record, meaning that there are “sufficient facts on the record to support a conclusion that defendant’s conduct falls within” 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 offense at issue is second-degree assault—fear (dangerous weapon). A person commits that offense when they, “with a dangerous weapon,” commit “an act done with intent to cause fear in another of immediate bodily harm or death.” Minn. Stat. §§ 609.222, subd. 1, .02, subd. 10(1) (2020). “With intent to . . . means that the actor either has a

¹ For the first time on appeal, the state argues that Agar’s plea-withdrawal request was untimely under Minnesota Rule of Criminal Procedure 15.05, subdivision 1. The state contends that we should affirm the district court’s denial of the petition on this basis. But the state did not raise the timeliness issue in the district court in its response to Agar’s petition, nor was the issue considered by the district court. Therefore, the issue is not properly raised on appeal, and we do not address it. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (observing that appellate courts generally will not consider matters not raised to the district court). Moreover, the supreme court has made it clear that a motion to withdraw a guilty plea after sentencing must be brought in a postconviction petition and has rejected the proposition that rule 15 has a separate timing requirement. *James v. State*, 699 N.W.2d 723, 728 (Minn. 2005).

purpose to do the thing or cause the result specified or believes that the act . . . , if successful, will cause that result.” Minn. Stat. § 609.02, subd. 9(4) (2020). “Intent can be inferred . . . from the idea that a person intends the natural consequences of [their] actions.” *Nelson v. State*, 880 N.W.2d 852, 860 (Minn. 2016) (quoting *Stiles v. State*, 664 N.W.2d 315, 320 (Minn. 2003)).

Here, the district court determined that Agar’s plea was accurate because “the facts to which [Agar] admitted did support the inference that the fear he intended to cause was fear of immediate bodily harm or death.” It reasoned that the “natural inference is that, when someone holding a knife threatens to stab the person, . . . [t]he natural and probable consequence of such a threat is to fear being stabbed immediately.” The district court also noted that Agar was close enough to the victim to be having an argument and that “a person need not be within striking distance for a threat to be immediate.” Agar makes three arguments that the district court abused its discretion by finding his plea accurate.

First, he argues that no authority supports an inference of intent to cause fear of immediate bodily harm or death solely from the fact that the defendant made a verbal threat while holding a knife. He points out that intent to cause fear of immediate bodily harm or death is often inferred in cases when other facts are present—for example, where the defendant brandishes the weapon or procures it for the sole purpose of causing fear. Without facts like these, Agar argues, it is not reasonable to infer that he intended to cause the requisite fear.

Agar’s argument is unconvincing. Just because facts found in other cases are absent here does not mean intent cannot be inferred on the present facts. Guilt can be “reasonably

inferred” from the facts admitted to by the defendant. *Nelson*, 880 N.W.2d at 861 (quotation omitted). Here, Agar admitted to arguing with the victim in the victim’s house. He admitted to threatening to stab the victim while holding a knife. He even admitted that he did this “intending to scare [the victim].” And the natural and probable consequence of scaring someone while holding a knife is that the victim will fear immediate bodily harm or death. *See id.* From these facts, Agar’s “intent to cause fear in another of immediate bodily harm or death” is a reasonable inference. Minn. Stat. § 609.02, subd. 10(1). While more facts could be present in a given case, their absence here neither contradicts nor prevents this inference.

Second, Agar argues that the district court erred by concluding that he intended to cause fear of harm that was immediate. He cites three cases that he argues show that, for harm to be immediate, the defendant must be within “striking distance” of the victim at the time of the threat. But, although these cases did involve the defendants being within a few feet of the victim, none explicitly imposed a requirement that a defendant be that close. *See State v. Soine*, 348 N.W.2d 824, 827 (Minn. App. 1984), *rev. denied* (Minn. Sept. 12, 1984); *State v. Patton*, 414 N.W.2d 572, 574 (Minn. App. 1987); *In re Welfare of E.M.T.*, No. A12-0111, 2012 WL 3792627, at *2 (Minn. App. Sept. 4, 2012), *rev. denied* (Minn. Nov. 20, 2012). Moreover, even if there is some distance between the defendant and the recipient of the threat at the moment of the threat, the recipient could still fear immediate harm if the defendant could use their weapon against them quickly. *See, e.g., State v. Kastner*, 429 N.W.2d 274, 276 (Minn. App. 1988), *rev. denied* (Minn. Nov. 16, 1988).

Here, the district court inferred immediacy because Agar and the victim were together in a house and “close enough to be having an argument.” The district court found support for its conclusion in *Ibrahim v. State*, 14 N.W.3d 294 (Minn. App. 2024). In that case, we rejected the defendant’s challenge to the accuracy of his plea to the same crime at issue here. *Ibrahim*, 14 N.W.3d at 305. Ibrahim argued that there was not an adequate basis to infer that he intended to cause fear of immediate harm or death when he threatened the bouncers who were escorting him out of a bar. *Id.* at 304.

Agar attempts to distinguish *Ibrahim* by arguing that, there, the plea colloquy established the defendant’s location relative to the bouncers whereas, here, the brothers’ location was not established and they could have been in different rooms or separated by a large dining room table. But in *Ibrahim*, we specifically noted the absence of information about Ibrahim’s “specific proximity” to the bouncers. *Id.* at 305. And, here, the fear of immediate harm can be reasonably inferred from the facts that, at the time that Agar made the threat, the brothers were in the same house and were arguing. While more facts about Agar’s specific proximity to the victim could be helpful, they are not necessary. *See State v. Epps*, 977 N.W.2d 798, 802 (Minn. 2022) (holding that even where a plea colloquy “could be substantially improved,” withdrawal was not necessarily required).

Finally, Agar argues that the exclusive use of leading questions during the plea colloquy is another factor that weighs in favor of plea withdrawal. Here, the factual basis was established solely through leading questions by the state. While the Minnesota Supreme Court has discouraged the use of leading questions to establish the factual basis for a guilty plea, *see, e.g., State v. Ecker*, 524 N.W.2d 712, 717 (Minn. 1994), “the use of

leading questions will not on its own invalidate a guilty plea,” *State v. Jones*, 7 N.W.3d 391, 398 (Minn. 2024). Agar acknowledges this principle but argues that “the use of exclusively leading questions is yet another factor that should be considered.” Given that the facts admitted to in Agar’s plea are sufficient to establish the elements of the offense, the use of leading questions alone does not warrant reversal here.

Because Agar’s plea is factually accurate, it is constitutionally valid. The district court did not abuse its discretion by denying Agar’s postconviction petition.

Affirmed.