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**STATE OF MINNESOTA
IN COURT OF APPEALS
A10-2111**

Woynishet Woldemariam, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed July 25, 2011
Affirmed
Bjorkman, Judge**

Dakota County District Court
File Nos. 19HA-CR-09-3348, 19AV-CR-24320, 19AV-CR-08-10668

Jennifer M. Macaulay, St. Paul, Minnesota (for appellant)

Lori Swanson, Attorney General, St. Paul, Minnesota; and

James C. Backstrom, Dakota County Attorney, Nicole E. Nee, Assistant County
Attorney, Hastings, Minnesota (for respondent)

Considered and decided by Bjorkman, Presiding Judge; Halbrooks, Judge; and
Hudson, Judge.

UNPUBLISHED OPINION

BJORKMAN, Judge

Appellant challenges the district court's denial of her postconviction request to withdraw her guilty plea, arguing that the district court erred in its legal analysis and failed to make adequate factual findings. We affirm.

FACTS

On July 8, 2008, appellant Woynishet Woldemariam was charged with domestic assault for scratching the face of her children's father, A.T. She pleaded guilty to the charge on August 1 and received a stay of adjudication. Another incident occurred between Woldemariam and A.T. in December, and she was charged again with domestic assault. She pleaded guilty on January 23, 2009, and A.T. obtained an order for protection (OFP) against her. As a result of the January guilty plea, the district court revoked the stay of adjudication and accepted Woldemariam's August guilty plea. The district court stayed imposition of sentence on the two convictions and placed Woldemariam on probation.

In July 2009, Woldemariam was charged with violating the OFP by calling A.T. several times. Because of her two prior domestic-assault convictions, the charge was enhanced to a felony-level offense. Woldemariam pleaded guilty on October 19.

In January 2010, Woldemariam filed a postconviction petition seeking to withdraw her three guilty pleas. She asserted that the pleas were not accurate, voluntary, and intelligent, arguing that she is innocent of the charges but pleaded guilty due to postpartum depression and battered-woman syndrome. With respect to the OFP violation conviction, Woldemariam also argued that she was entitled to relief because withdrawal of her guilty pleas to the predicate domestic-assault offenses would leave an inadequate basis for the felony conviction.

After an evidentiary hearing, the district court concluded that Woldemariam's August 2008 guilty plea was not accurate because there was no factual basis for the intent

element of the offense, and granted her request to withdraw the plea. Because Woldemariam no longer had two prior domestic-assault convictions, the district court also ordered resentencing on the OFP violation offense. But the district court denied Woldemariam's request to withdraw her January 2009 guilty plea. This appeal follows.

D E C I S I O N

We review a district court's decision to deny postconviction relief for an abuse of discretion. *State v. Rhodes*, 675 N.W.2d 323, 326 (Minn. 2004). The scope of our review is limited to determining whether there is sufficient evidence to sustain the findings of the postconviction court. *State v. Ecker*, 524 N.W.2d 712, 716 (Minn. 1994). When considering a district court's denial of postconviction relief, we review issues of law de novo and findings of fact for sufficiency of the evidence. *Leake v. State*, 737 N.W.2d 531, 535 (Minn. 2007).

There is no absolute right to withdraw a guilty plea. *Shorter v. State*, 511 N.W.2d 743, 746 (Minn. 1994). After sentencing, a district court shall permit withdrawal only if a defendant demonstrates that "withdrawal is necessary to correct a manifest injustice." Minn. R. Crim. P. 15.05, subd. 1. Manifest injustice exists if a guilty plea is invalid. *Williams v. State*, 760 N.W.2d 8, 11 (Minn. App. 2009), *review denied* (Minn. Apr. 21, 2009). A guilty plea is valid only if it is accurate, voluntary, and intelligent. *Id.*

The district court considered Woldemariam's arguments and concluded that her January 2009 guilty plea was accurate, voluntary, and intelligent. Woldemariam challenges that decision, arguing that the district court's analysis of these factors was flawed and unsupported by adequate factual findings. We address each factor in turn.

Accuracy

“The accuracy requirement protects the defendant from pleading guilty to a more serious offense than he or she could be properly convicted of at trial.” *Alanis v. State*, 583 N.W.2d 573, 577 (Minn. 1998). The defendant must present a factual basis sufficient to establish that the elements of the offense to which she is pleading have been met. Minn. R. Crim. P. 15.02, subd. 2; *Ecker*, 524 N.W.2d at 716.

Woldemariam pleaded guilty to domestic assault, which involves the intentional infliction of bodily harm upon a “family or household member.” Minn. Stat. § 609.2242, subd. 1 (2008); *see also* Minn. Stat. § 609.02, subd. 10 (2008) (defining assault); *State v. Edrozo*, 578 N.W.2d 719, 723 (Minn. 1998) (stating that assault is a specific-intent crime). To establish a factual basis for the guilty plea, Woldemariam’s attorney posed the following question to her:

And today you’re pleading guilty because on December 23rd, 2008, . . . you were involved in an argument with your spouse, and you were arguing about the situations with your children at home and also the household chores, and you got angry, and because you were angry, you ultimately slapped your spouse in the face; is that correct?

Woldemariam responded, “Yes, I did.”

Woldemariam argues that this colloquy is insufficient because she did not admit A.T.’s factual claim that she scratched him and the facts were presented in the form of a leading question. We are not persuaded. Woldemariam admitted being angry at her

spouse¹ and slapping him in the face. And Woldemariam does not dispute that slapping A.T. in the face constitutes bodily harm. *See* Minn. Stat. § 609.02, subd. 7 (2008) (defining bodily harm as “physical pain or injury, illness, or any impairment of physical condition”). Nor was Woldemariam’s plea inaccurate because the factual basis was established through the use of a leading question. Although the supreme court has criticized the use of leading questions to establish the factual basis for a guilty plea, the practice itself does not invalidate the plea, particularly when the defendant directly admits to the elements of the offense. *See Ecker*, 524 N.W.2d at 717 (expressing concern about leading questions when defendant admitted only that a jury likely would find him guilty); *Shorter*, 511 N.W.2d at 747 (expressing concern about use of leading questions when defendant admitted only that the victim would testify to the elements of the offense). This is not a case involving a complicated factual scenario or complex offense elements. Woldemariam’s acknowledgement that she was angry and slapped A.T. in the face is sufficient both to establish the elements of domestic assault and to alleviate concerns that she was “pleading guilty to a more serious offense than . . . she could be properly convicted of at trial.” *See Alanis*, 583 N.W.2d at 577. Accordingly, we conclude that Woldemariam’s guilty plea was accurate.

Voluntariness

“The voluntariness requirement insures that a guilty plea is not entered because of any improper pressures or inducements.” *James v. State*, 699 N.W.2d 723, 728 (Minn.

¹ Woldemariam and A.T. were married in a religious ceremony but are not legally married.

2005 (quotations omitted). Woldemariam argues that her guilty plea was not voluntary because she was under duress as a result of A.T.'s abusive and coercive conduct and was suffering from depression and posttraumatic stress disorder.² In rejecting this assertion, the district court emphasized Woldemariam's contemporaneous statements and signed plea petition, both of which indicate that she understood what was happening and was freely and voluntarily pleading guilty. *See Ecker*, 524 N.W.2d at 719 (noting that defendant "repeatedly stated he was making his own decision"). The district court also determined that "while witnesses testified that [Woldemariam] may have felt intimidated by [A.T.'s] presence in the courtroom, his mere presence is insufficient to constitute a threat or create duress to such a degree that withdrawal of the guilty plea is necessary to correct a manifest injustice." And the district court determined that Woldemariam's claim that A.T. abused her did not mean that she did not commit the assault or prevent her from pleading guilty to the assault on her own volition.

Woldemariam argues that the district court improperly relied on the statements she made on the record at the time of the guilty plea and failed to make sufficient factual findings addressing her claim that the hidden pressures of domestic abuse impaired her thinking and emotional state. We disagree. First, it is appropriate for a district court to rely on a defendant's representations at the guilty plea hearing and in the plea petition because they are contemporaneous evidence of the defendant's state of mind. *See id.* at 718-19 (affirming rejection of claim that defense counsel pressured defendant into pleading because the record of the guilty plea revealed that the plea was defendant's

² On appeal, Woldemariam no longer invokes battered-woman syndrome.

decision); *Williams*, 760 N.W.2d at 14-15 (considering lack of factual support for claim of depression and duress against indications in plea petition regarding mental health and the absence of pressures or promises to plead). This evidence is no less relevant when a defendant claims that her plea was the product of domestic abuse. Such a claim requires consideration of the defendant's representations on the record at the time of the plea and convincing evidence not only that she was subjected to domestic abuse but that the domestic abuse caused her to plead guilty.

Second, the district court's written findings and legal analysis demonstrate it fully considered Woldemariam's claim that she is innocent but pleaded guilty due to A.T.'s verbal and physical abuse. Although the district court's findings of fact do not expressly discredit the testimony linking Woldemariam's guilty plea to the domestic abuse she experienced at A.T.'s hands, the court concluded, as a matter of law, that Woldemariam's "challenge to her guilty pleas on the basis of depression, duress, and battered woman syndrome fails to meet her burden of demonstrating a manifest injustice." And the district court explained that it found "no evidence suggesting that [Woldemariam] was improperly coerced or threatened into accepting her guilty pleas." The record supports these determinations. Woldemariam was represented by counsel and agreed to plead guilty to avoid jail time. She agreed to an adequate factual basis for the offense and maintained before the district court, and in her plea petition, that her plea was voluntary and uncoerced. On this record, we discern no error or abuse of discretion in the district court's rejection of Woldemariam's claim that she involuntarily pleaded guilty to an offense she did not commit.

Intelligence

A plea is intelligent when the defendant understands the charges, the rights that he or she is waiving by pleading guilty, and the consequences of the plea. *State v. Farnsworth*, 738 N.W.2d 364, 372 (Minn. 2007). Woldemariam argues that her plea was not intelligent because her distressed emotional state prevented her from actually understanding any of the advisories and waivers. We disagree. At the time of her plea, Woldemariam was represented by counsel, advised of the charge against her, and advised of the consequences of her plea, including the maximum possible sentence, the terms of her plea agreement with the state, and the possibility that her conviction could be used to enhance subsequent offenses.³ She agreed that she understood that she was waiving the right to a jury trial, the right to be presumed innocent, and the right to remain silent or testify in her own defense. On this record, we conclude that the district court did not abuse its discretion in relying on Woldemariam's contemporaneous representations indicating that her plea was intelligent rather than her postconviction claim that her abusive relationship with A.T. prevented her from understanding her situation.

Affirmed.

³ Woldemariam asserts that enhancement was not properly explained to her because defense counsel advised her that “the next charge would probably be a gross misdemeanor, and then a third subsequent charge would ultimately become a felony.” While counsel's advisory did not explain all of the intricacies of enhancement, it was not inaccurate, because at the time of the January 2009 plea the August 2008 plea had not been accepted.