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Minn. Stat. § 480A.08, subd. 3 (2012).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A13-0510**

State of Minnesota,  
Respondent,

vs.

Craig Desrosiers,  
Appellant.

**Filed March 3, 2014  
Affirmed  
Chutich, Judge**

Pine County District Court  
File No. 58-CR-12-293

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

John Carlson, Pine County Attorney, George R. Joyer, Assistant County Attorney, Pine  
City, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, F. Richard Gallo, Assistant  
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Connolly, Presiding Judge; Chutich, Judge; and  
Klaphake, Judge. \*

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\* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to  
Minn. Const. art. VI, § 10.

## UNPUBLISHED OPINION

**CHUTICH**, Judge

Appellant Craig Desrosiers challenges the validity of his guilty plea for misdemeanor assault and argues that he is entitled to withdraw his plea. He asserts that the factual basis for his conviction is insufficient to show that he acted with the requisite intent for the crime. Because the factual basis underlying Desrosiers's guilty plea adequately supports his conviction, we affirm.

### FACTS

Desrosiers was arrested in May 2012, for grabbing his wife by the neck and pulling her to the ground to stop her from leaving their apartment. Desrosiers was charged in Pine County District Court with felony domestic assault and gross misdemeanor fifth-degree assault. *See* Minn. Stat. § 609.2242, subd. 4 (2010); Minn. Stat. § 609.224, subd. 2 (2010). In January 2013, Desrosiers pleaded guilty to assault in the fifth degree, a misdemeanor. *See* Minn. Stat. § 609.224, subd. 1 (2010). He was sentenced the following month to 90 days in jail. This appeal followed.

### DECISION

Desrosiers asserts that he is entitled to a plea withdrawal because “his guilty plea [was] insufficient to fulfill the elements of the conviction.” He contends that his guilty plea was insufficient because he “did not admit [to] committing an act with intent to cause fear, nor did [he] admit [to] intentionally inflicting or attempting to inflict bodily harm upon another.” The state responds that Desrosiers's plea should be upheld because his actions objectively show that he intended to cause fear in, or inflict bodily harm upon,

his wife. Because the factual basis for Desrosiers's guilty plea was sufficient to establish all of the elements of misdemeanor assault, the district court did not err by accepting Desrosiers's plea.

An appellant "does not have an absolute right to withdraw a valid guilty plea," *State v. Theis*, 742 N.W.2d 643, 646 (Minn. 2007), and may withdraw a guilty plea "upon a timely motion" if "withdrawal is necessary to correct a manifest injustice." Minn. R. Crim. P. 15.05. "Manifest injustice occurs if a guilty plea is not accurate, voluntary, and intelligent[.]" *Perkins v. State*, 559 N.W.2d 678, 688 (Minn. 1997). Desrosiers bears the burden of showing that his guilty plea was invalid. *See Alanis v. State*, 583 N.W.2d 573, 577 (Minn. 1998). "Assessing the validity of a plea presents a question of law that we review de novo." *State v. Raleigh*, 778 N.W.2d 90, 94 (Minn. 2010).

"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). An appellant cannot withdraw a guilty 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. A guilty plea may be supplemented by "other evidence to establish the factual basis[.]" *Lussier v. State*, 821 N.W.2d 581, 589 (Minn. 2012). A guilty plea is valid when the record shows that the appellant "actually committed an offense at least as serious as the crime to which he is pleading guilty." *State v. Trott*, 338 N.W.2d 248, 251–52 (Minn. 1983).

Minnesota Statutes section 609.224, subdivision 1 (2010), defines misdemeanor assault as an action committed "with intent to cause fear in another of immediate bodily harm or death" or an action that "intentionally inflicts or attempts to inflict bodily harm

upon another.” For a guilty plea to be upheld under this statute, the factual basis must show that the appellant acted with intent. *See id.*; *State v. Fleck*, 810 N.W.2d 303, 308 (Minn. 2012).

“Intent may be proved by circumstantial evidence, including drawing inferences from the [appellant’s] conduct, the character of the assault, and the events occurring before and after the crime.” *In re Welfare of T.N.Y.*, 632 N.W.2d 765, 769 (Minn. App. 2001) (citing *Davis v. State*, 595 N.W.2d 520, 525–26 (Minn. 1999)); *see also State v. Hardimon*, 310 N.W.2d 564, 566 (Minn. 1981) (explaining that intent is usually proved with circumstantial evidence). The supreme court has upheld the acceptance of guilty pleas when the defendant was not questioned about intent, but the requisite intent was established by additional facts and circumstances. *See, e.g., State v. Russell*, 306 Minn. 274, 275, 236 N.W.2d 612, 613 (1975) (“[Appellant’s] answers to questions by the prosecutor in this case disclose a factual basis for the plea even though no question was specifically directed to the element of intent to kill.”); *State v. Hopkins*, 293 Minn. 522, 523, 198 N.W.2d 542, 542 (1972) (“[Appellant’s] answers to questions by the prosecutor disclose a factual basis for the plea even though no question was specifically directed to the element of intent.”).

Applying these principles, the facts that Desrosiers admitted during the plea hearing sufficiently show that he acted with intent to cause his wife fear of imminent bodily harm or intent to cause his wife imminent bodily harm:

THE COURT: Mr. Desrosiers, on May 8, 2012 you were living here in Pine City with your wife . . . , true?

THE DEFENDANT: Yep.

THE COURT: And you and [your wife] got into an argument on that date; is that true?

THE DEFENDANT: Yep.

THE COURT: And she told you she was going to leave the apartment, true?

THE DEFENDANT: Yeah.

THE COURT: And you didn't want her to leave; is that true?

THE DEFENDANT: Not necessarily, no.

THE COURT: She indicates that she was trying -- she tells law enforcement, anyway, that she was trying to leave and that you were upset that she was trying to leave so you walked up behind her, wrapped your hands around her neck, and pulled on her neck pulling her to the ground. Is that what happened?

THE DEFENDANT: Yes.

THE COURT: Mr. Desrosiers, in doing that would it be fair to say you caused [your wife] to fear imminent harm?

THE DEFENDANT: Sure.

THE COURT: Someone grabs you from behind around your neck and pulls you down, it would be reasonable for you or anyone else to be afraid of imminent harm, true?

THE DEFENDANT: Yeah.

THE COURT: And that's what -- you would agree that it was reasonable that she feared imminent harm?

THE DEFENDANT: Yeah.

The record demonstrates that Desrosiers acted with the requisite intent to commit misdemeanor assault on his wife based on Desrosiers's admitted conduct, the violent character of the assault, and the events occurring before the crime. *See In re Welfare of T.N.Y.*, 632 N.W.2d at 769. Although the district court did not specifically question Desrosiers about his intent, the record demonstrates that Desrosiers intentionally grabbed his wife by the neck, a particularly vulnerable part of the body, and pulled her to the ground. The complaint filed against Desrosiers states that the assault occurred during a domestic dispute, and that his wife told the police that Desrosiers physically attacked her to stop her from leaving their apartment. Desrosiers concedes that these violent actions

caused his wife to reasonably fear imminent bodily harm. Because Desrosiers's intent to cause his wife fear of bodily harm or intent to cause her bodily harm can be reasonably inferred from his violent behavior and admissions on the record, and no other inference is reasonable, the district court did not err by accepting his guilty plea. *See id.* Desrosiers's guilty plea is, therefore, valid, and he is not entitled to withdraw it.

**Affirmed.**