

**STATE OF MINNESOTA
IN COURT OF APPEALS
A22-0080**

State of Minnesota,
Respondent,

vs.

Brock Alan Lawrence,
Appellant.

**Filed December 5, 2022
Reversed and remanded
Larson, Judge**

Washington County District Court
File No. 82-CR-20-3991

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

Michael A. Welch, Forest Lake City Prosecutor, Hebert and Welch, P.A., Forest Lake, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Sara J. Euteneuer, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Larson, Presiding Judge; Johnson, Judge; and Smith, Tracy M., Judge.

SYLLABUS

A guilty plea is not constitutionally valid if the defendant does not personally sign his or her petition to plead guilty, entered pursuant to Minn. R. Crim. P. 15.03, subd. 2, and the record does not otherwise demonstrate the defendant entered a voluntary and intelligent guilty plea.

OPINION

LARSON, Judge

In this direct appeal from his conviction for third-degree driving while impaired, a gross misdemeanor, appellant Brock Alan Lawrence challenges the constitutional validity of his guilty plea entered pursuant to Minn. R. Crim. P. 15.03, subd. 2. Lawrence contends the record fails to establish a voluntary and intelligent guilty plea because Lawrence did not sign the plea petition and the record otherwise fails to demonstrate the constitutional validity of his guilty plea. Because the record includes a plea petition that Lawrence's defense counsel signed and does not otherwise show Lawrence entered his guilty plea voluntarily and intelligently, we reverse and remand.

FACTS

On October 20, 2020, respondent State of Minnesota charged Lawrence with two counts of gross-misdemeanor third-degree driving while impaired pursuant to Minn. Stat. § 169A.20, subd. 1(1), (5), .26 (2020). At a pretrial hearing held via video conference, defense counsel informed the district court that the matter had “been resolved.” Defense counsel proposed that Lawrence would use the alternative method for pleading guilty found in rule 15.03, subdivision 2, which allows a defendant to avoid appearing personally at a hearing by pleading guilty using a signed plea petition filed with the district court. Defense counsel suggested to the court that defense counsel would “circulate a [plea] petition” to Lawrence and the state, obtain Lawrence's permission to sign the plea petition on Lawrence's behalf, and file the plea petition with the district court.

The district court questioned Lawrence on the record. The district court asked, and Lawrence confirmed, that Lawrence had consulted with his lawyer. The district court then confirmed that Lawrence understood that (1) the parties were discussing an agreement to enter a guilty plea; (2) the agreement needed to be in writing; (3) Lawrence needed to review any plea agreement he received; and (4) his defense counsel “could sign [the petition reflecting the agreement] for you and send it to the [c]ourt.” The district court explained that if Lawrence followed this procedure, the district court would then convict and sentence Lawrence without a hearing. The district court specifically asked Lawrence if “that process [was] okay”; Lawrence answered in the affirmative.

Defense counsel filed a written plea petition signed “O.B.O. B.A.L.[.]” signifying “on behalf of” Lawrence, with the district court several days later. The plea petition included the terms of a plea agreement and indicated that Lawrence pleaded guilty to Minn. Stat. § 169A.20, subd. 1(5). On November 2, 2021, the district court accepted the plea petition and signed a warrant of commitment, convicting Lawrence of one gross-misdemeanor count of third-degree driving while under the influence pursuant to Minn. Stat. § 169A.20, subd. 1(1).¹

Lawrence appeals.

¹ Lawrence argues the warrant of commitment does not reflect the agreed-upon terms in the plea agreement. The warrant of commitment refers to a conviction under Minn. Stat. § 169A.20, subd. 1(1) (“the person is under the influence of alcohol”). In contrast, the plea agreement refers to a violation of Minn. Stat. § 169A.20, subd. 1(5) (“the person’s alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the motor vehicle is 0.08 or more”). We need not reach this issue because we reverse and remand to allow Lawrence to withdraw his guilty plea.

ISSUE

Was appellant's guilty plea constitutionally valid where he did not sign his petition to plead guilty as set forth in Minn. R. Crim. P. 15.03, subd. 2, and the record does not otherwise demonstrate appellant entered his guilty plea voluntarily and intelligently?

ANALYSIS

Lawrence challenges the constitutional validity of his guilty plea, arguing it was neither voluntary nor intelligent.² Lawrence asserts that the district court used an inadequate process that failed to establish that Lawrence entered a voluntary and intelligent guilty plea.

An appellant may challenge a guilty plea's validity in the first instance on direct appeal. *Brown v. State*, 449 N.W.2d 180, 182 (Minn. 1989). We review whether a defendant entered a valid guilty plea de novo. *State v. Raleigh*, 778 N.W.2d 90, 94 (Minn. 2010). If a defendant entered an invalid guilty plea, we reverse and remand for the district court to allow a defendant to withdraw their guilty plea. *State v. Davenport*, 948 N.W.2d 176, 181 (Minn. App. 2020).

The Minnesota Rules of Criminal Procedure provide two procedures for a defendant to plead guilty when charged with a misdemeanor or gross misdemeanor. The first procedure requires a defendant to personally appear at a hearing to undergo questioning from the court or counsel. Minn. R. Crim. P. 15.02, subds. 1, 2. Alternatively, a defendant can avoid appearing at a hearing if a defendant or defense counsel

² The state did not file a brief in this appeal. We, therefore, consider Lawrence's arguments on the merits. *See* Minn. R. Civ. App. P. 142.03.

file[s] with the court a plea petition to plead guilty. The petition must be *signed by the defendant* indicating that the defendant is pleading guilty to the specified misdemeanor or gross misdemeanor offense with the understanding and knowledge required of defendants personally entering a guilty plea under Rule 15.02.

Minn. R. Crim. P. 15.03, subd. 2 (emphasis added).

“To be constitutionally valid, a guilty plea must be accurate, voluntary, and intelligent.” *Raleigh*, 778 N.W.2d at 94 (citing *North Carolina v. Alford*, 400 U.S. 25, 31 (1970)); *State v. Lyle*, 409 N.W.2d 549, 552-53 (Minn. App. 1987) (applying the constitutional standard to a plea petition). An accurate guilty plea is “established on a proper factual basis.” *Raleigh*, 778 N.W.2d at 94. Voluntariness refers to “what the parties reasonably understood to be the terms of the plea agreement” and whether the defendant pleaded guilty due to “improper pressure or coercion.” *Id.* at 96. Intelligence “ensures that a defendant underst[ood] the charges against him, the rights he [waived], and the consequences of his plea.” *Id.*

To establish a voluntary and intelligent guilty plea, the district court need not create a perfect record. *State v. Doughman*, 340 N.W.2d 348, 351 (Minn. App. 1983) (holding that “[w]hat is important is not the order or the wording of the questions, but whether the record . . . establish[es] that the plea was intelligently and voluntarily given”). If the “record reveals careful interrogation by the trial court and the defendant had full opportunity to consult with his counsel before entering his plea, the court may safely presume that the defendant was adequately informed of his rights.” *Hernandez v.*

State, 408 N.W.2d 623, 626 (Minn. App. 1987) (citing *State v. Propotnik*, 216 N.W.2d 637, 638 (Minn. 1974)).

But “[a] guilty plea must appear *on the record* to have been voluntarily and intelligently made.” *State v. Casarez*, 203 N.W.2d 406, 408 (Minn. 1973) (emphasis added) (citing *Boykin v. Alabama*, 395 U.S. 238 (1969)). For misdemeanor or gross-misdemeanor guilty pleas, the record can include “a verbatim record of the proceedings,” Minn. R. Crim. P. 15.09, and/or a plea petition “*signed by the defendant* and filed with the court as part of the record,” *State v. Nordstrom*, 331 N.W.2d 901, 905 (Minn. 1983) (emphasis added) (citing Minn. R. Crim. P. 15.09). Where the record is “so incomplete that there is no way of determining if defendant properly waived all of his [or her] rights,” a defendant must be allowed to withdraw their guilty plea. *Casarez*, 203 N.W.2d at 408; *see also Nordstrom*, 331 N.W.2d at 905 (“Otherwise adequate review by [an appellate court] of prior convictions under constitutional attack is impossible”).

Lawrence asserts that the record does not show that his guilty plea was voluntary and intelligent. Lawrence notes that the district court neither made on-the-record inquiries regarding Lawrence’s understanding of the agreement, his rights, and the consequences, nor ensured that Lawrence received and consented to the plea agreement because defense counsel, rather than Lawrence, signed the plea petition. *See Nordstrom*, 331 N.W.2d at 905. We agree.

Rule 15.03, subdivision 2, requires that, when using the alternative procedure for pleading guilty to a misdemeanor or gross misdemeanor, the defendant “must” sign the plea petition. Minn. Stat. § 645.44, subd. 15a (2020) (“must” is mandatory); *see also In re*

M.O., 838 N.W.2d 577, 583 (Minn. App. 2013) (“Courts may apply principles of statutory interpretation when interpreting rules of court.”). A defendant’s signature on a plea petition is important because the signature itself constitutes prima facie evidence that a defendant voluntarily and intelligently waived their constitutional rights. *See State v. Clark*, 361 N.W.2d 104, 107 (Minn. App. 1985) (“We hold that the *signed* [rule 15.03, subdivision 2] petition is a prima facie showing of a valid waiver of counsel.” (emphasis added)). And filing a plea petition with the defendant’s signature “is not a burdensome requirement.” *Nordstrom*, 331 N.W.2d at 905.

Here, without Lawrence’s signature, there is no prima facie evidence that Lawrence voluntarily and intelligently entered his guilty plea. And the record is otherwise “so incomplete” that we have “no way of determining” the validity of Lawrence’s guilty plea. *See Casarez*, 203 N.W.2d at 408. Specifically, nothing in the record shows that (1) Lawrence was advised of and forfeited his constitutional rights or (2) that Lawrence understood and agreed to the terms set forth in the plea agreement.

The statements made on the record at the pretrial hearing do not establish a voluntary and intelligent plea. At the pretrial hearing, defense counsel announced he would circulate a plea petition for Lawrence to review. But the pretrial hearing transcript neither indicates that a final agreement had been reached nor contains any terms of the proposed plea agreement, tentative or otherwise. The pretrial hearing transcript shows the district court asked Lawrence whether he had consulted with defense counsel prior to the pretrial hearing, but the district court did not ask whether Lawrence had discussed any specific terms of a proposed plea agreement. And the district court’s statements during the pretrial

hearing indicate its view that a final agreement had not been reached. More importantly, the record does not include any events that followed the pretrial hearing to establish that, at the time Lawrence's defense counsel signed and filed the plea petition, Lawrence voluntarily and intelligently entered a guilty plea.

Without further indicia that Lawrence received and reviewed the plea agreement, understood the terms of the plea agreement, and, thereafter, agreed to have his defense counsel sign the petition reflecting those terms on his behalf, the record fails to show Lawrence entered his guilty plea voluntarily and intelligently. We reverse and remand to the district court to allow Lawrence to withdraw his guilty plea to third-degree driving while impaired.

DECISION

Because Lawrence did not sign his plea petition as required under rule 15.03, subdivision 2, and the record does not otherwise show that his plea was voluntary and intelligent, we reverse and remand to allow Lawrence to withdraw his guilty plea.

Reversed and remanded.