STATE OF MINNESOTA
IN COURT OF APPEALS
A10-1516

Daniel Deegan, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

Filed May 31, 2011
Affirmed
Ross, Judge

St. Louis County District Court
File No. 69-K5-99-600552

David W. Merchant, Chief Appellate Public Defender, Bradford S. Delapena, Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

Mark S. Rubin, St. Louis County Attorney, Melanie S. Ford, Duluth, Minnesota (for respondent)

Considered and decided by Ross, Presiding Judge; Peterson, Judge; and Harten, Judge.*

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

U N P U B L I S H E D O P I N I O N

ROSS, Judge

Daniel Deegan pleaded guilty in 2000 for his role in abducting and then beating and stabbing a woman to death before dumping her body at a Duluth construction site. Deegan petitioned the district court to allow him to withdraw his 10-year-old guilty pleas to aiding and abetting both the kidnapping and second-degree murder. The district court denied his request without holding an evidentiary hearing because it believed that the record conclusively showed that the guilty pleas were validly entered into and there was no manifest injustice to be corrected. Because we conclude that Deegan entered his guilty pleas voluntarily and intelligently on solid factual grounds and no manifest injustice exists to require allowing him to withdraw them, we affirm.

FACTS

The facts leading to Deegan's guilty pleas are well established. A construction worker found Faye Wenell's dead body, face-down, at a Duluth construction site on the morning of March 14, 1999. A medical examiner concluded that she had been beaten with a blunt object and stabbed at least nine times in her chest, neck, back, and head. Investigators believed that she was likely beaten with a pool cue, stabbed with a steak knife, and dropped off at the construction site from a car with mismatched tires. Witnesses reported that she had been at the Red Lion Bar in Duluth the prior evening and had left at around 1:10 a.m. with Stacey Mullen, James Budreau, and appellant Daniel Deegan.

The day after Wenell's body was found, police encountered Deegan entering a stolen car with mismatched, muddy tires that matched the tracks at the construction site. The stolen car contained kitchen utensils and what police believed were blood stains. Deegan at first denied knowing Wenell but then admitted that he left the Red Lion Bar with her and Mullen.

Other witnesses came forward. One told police that Mullen came to her house on the morning of March 14, showered, and left behind bloody clothes, which police seized. Another witness told police that Mullen, Budreau, and Deegan arrived at her house shortly after 3:30 a.m. covered in blood. She said that Budreau announced that he had killed a woman and a man and left their bodies in the woods. She saw Mullen pull out a bloody maroon jacket from under her own jacket and put it into a plastic bag. Bar patrons recalled that Wenell had been wearing a maroon blazer the night of her murder.

Mullen gave police the following story. She, Budreau, and Deegan were drinking at the Red Lion Bar. Budreau declared that he wanted to "get" Wenell. He and Deegan had apparently been upset that Wenell supposedly once made a sexual pass at Deegan's girlfriend. Budreau and Deegan encouraged Mullen to befriend Wenell and convince her to leave with them in Deegan's car. Mullen successfully followed the plan. When the bar closed, Wenell left in Deegan's car with the trio. Wenell and Mullen sat together in the back seat, Budreau sat in front, and Deegan drove.

Deegan stopped the car. Budreau turned around and began punching Wenell and striking her with a broken pool cue. Mullen got out, and Deegan got into the backseat and also started punching Wenell. After Wenell was beaten unconscious, the trio dumped her

body at a construction site and drove away. But Budreau worried that Wenell might still be alive. At Budreau's urging, Deegan drove back to the construction site. Deegan and Budreau got out of the car, and Mullen did not see what they did next. When they returned to the car, they were carrying Wenell's jacket.

A grand jury indicted Budreau, Mullen, and Deegan for first-degree murder. Budreau alone stood trial. A jury found him guilty and the district court convicted him of first-degree premeditated murder, a conviction the supreme court affirmed. *See State v. Budreau*, 641 N.W.2d 919 (Minn. 2002). Mullen avoided trial by pleading guilty to second-degree murder and kidnapping, and she agreed to testify in Deegan's trial.

Deegan pleaded guilty in November 2000 to aiding and abetting both kidnapping and second-degree murder. In exchange for his pleas, the state agreed not to seek imprisonment longer than 30 years and to drop the first-degree murder charge. The agreement also provided that the district court could order a two-hour family-contact visit and a complete medical examination at the state's expense. The district court sentenced Deegan to 360 months in prison.

Three years after Deegan pleaded guilty, he began to challenge his convictions and the validity of his guilty pleas. A decision on the merits was delayed while he argued unsuccessfully to this court and then successfully to the supreme court that he was entitled to appointed counsel in his postconviction proceedings. *See Deegan v. State*, 711 N.W.2d 89 (Minn. 2006).

By 2010, his case was back in the district court on remand, reassigned to a different judge. The district court conducted a pretrial hearing, at which Deegan argued

that his guilty pleas were not entered accurately, intelligently, or voluntarily. He moved the district court to hold an evidentiary hearing so he could present evidence supporting his attempt to withdraw the pleas. The district court determined that the record conclusively showed that he was not entitled to postconviction relief, so there was no need for an evidentiary hearing.

This appeal follows.

D E C I S I O N

Deegan challenges the district court's decision to deny his petition for postconviction relief without affording him an evidentiary hearing. A hearing to resolve issues raised in a postconviction petition is not always required. One is required only if there are disputed material facts that must be resolved to determine the claim on its merits. *Powers v. State*, 695 N.W.2d 371, 374 (Minn. 2005); *see* Minn. Stat. § 590.04, subd. 1 (2008). The postconviction court found that the record conclusively proved that Deegan's pleas were accurate, voluntary, and intelligent and denied the petition. We review the postconviction court's decision to summarily deny the petition for abuse of discretion. *Powers*, 695 N.W.2d at 374. And in reviewing its decision, we rely on its findings unless they are unsupported by the record. *Id.* Because we agree that there are no material facts in dispute and the postconviction court was able to resolve the petition on its merits without need for a hearing, we hold that it did not abuse its discretion by denying him one.

Deegan argues that the postconviction court should have allowed him to withdraw his guilty pleas. A defendant may withdraw a guilty plea at any time "upon a timely

motion and proof to the satisfaction of the court that withdrawal is necessary to correct a manifest injustice." Minn. R. Crim. P. 15.05, subd. 1; *see also* Minn. Stat. § 590.01, subd. 1 (2008) (authorizing the district court to vacate a defendant's convictions if the convictions violated his legal rights). A manifest injustice occurs if the guilty pleas are invalid. *State v. Theis*, 742 N.W.2d 643, 646 (Minn. 2007). To be valid, guilty pleas must be accurate, voluntary, and intelligent. *Id*. Deegan contends that his guilty pleas fail to meet this standard. The record convinces us otherwise.

The postconviction court appropriately concluded that Deegan's pleas were accurate. For a plea to be accurate, a factual basis established on the record must show that the defendant's conduct meets the elements of the charge to which he is pleading guilty. *State v. Trott*, 338 N.W.2d 248, 251 (Minn. 1983). This requirement protects defendants from pleading guilty to charges for which the evidence does not support conviction. *Id*. The record at Deegan's plea hearing lays out a sufficient factual basis meeting the elements of both crimes to which he pleaded guilty. Deegan pleaded guilty to aiding and abetting kidnapping and second-degree murder. A person commits a kidnapping if he "confines or removes from one place to another, any person without the person's consent" and does so "[t]o facilitate commission of any felony or flight thereafter; or . . . [t]o commit great bodily harm or to terrorize the victim or another." Minn. Stat. § 609.25, subd. 1 (1998). A person has committed a second-degree murder if he "causes the death of a human being with intent to effect the death of that person or another, but without premeditation." Minn. Stat. § 609.19, subd. 1 (1998). A person has aided and abetted the commission of a crime if he "intentionally aids, advises, hires,

counsels, or conspires with or otherwise procures" another to commit the crime. Minn. Stat. § 609.05, subd. 1 (1998).

One approach to establishing a factual basis for a guilty plea is for the attorneys and district court judge to ask the defendant to relate, in his own words, what he did. *Trott*, 338 N.W.2d at 251. As the defendant describes the events, the attorneys and judge may ask him questions to elicit more detail. *Id.* This practice is not always followed, and it was not followed here. The factual details would be sketchy if we had only Deegan's words to consider. But we look to the whole record, beyond what the defendant said, when considering whether the facts support a plea. *Holscher v. State*, 282 N.W.2d 866, 867 (Minn. 1979). We consider all probative material that the district court had in front of it at the time, including witness statements, exhibits, testimony from hearings over which the same judge presided, statements by either counsel summarizing the state's case, and an unchallenged sworn complaint. *See Trott*, 338 N.W.2d at 252 (using the sworn complaint to bolster factual basis); *Holscher*, 282 N.W.2d at 867 (using evidence from an omnibus hearing and statements from prosecutor); *State v. Genereux*, 272 N.W.2d 33, 34 n. 2 (Minn. 1978) (using written witness statements and exhibits); *State v. Neumann*, 262 N.W.2d 426, 432–33 (Minn. 1978) (using evidence from partial trial), *overruled on other grounds by State v. Moore*, 481 N.W.2d 335 (Minn. 1992); *State v. Goulette*, 258 N.W.2d 758 (Minn. 1977) (using statement by defense counsel summarizing prosecution's case); *Williams v. State*, 760 N.W.2d 8, 13 (Minn. App. 2009) (using sworn complaint), *review denied* (Minn. Apr. 21, 2009).

The district court's record contains an abundance of facts supporting Deegan's guilty pleas. Deegan admitted that he was at the Red Lion Bar the night of Wenell's killing, that he drove the car carrying Wenell and the others from the bar, that Wenell was beaten in the backseat of that car, and that he helped the others to abduct and intentionally kill her. The sworn complaint supplements these admissions. It states, "Deegan was mad at Ms. Wenell because he thought she had once made a pass at his girlfriend." He and Budreau "persuaded Defendant Mullen to befriend Ms. Wenell and entice her" into his car. Deegan "got in the back seat and also punched Ms. Wenell many times." At one point, Deegan "was holding [Wenell] in the car while Defendant Budreau was beating Ms. Wenell from the outside of the car." Budreau and Deegan "carried the body to where [Wenell] was left and drove off." Deegan soon "drove back and [he and Budreau] went to the body and did something that Defendant Mullen said she did not want to even watch." These facts together include all elements necessary to establish a basis for Deegan's guilty pleas to aiding and abetting both the kidnapping and second-degree murder.

The district court also appropriately determined that the record demonstrates conclusively that Deegan's plea was voluntary. The requirement that pleas be voluntary ensures that criminal defendants are not improperly pressured or induced into pleading guilty. *James v. State*, 699 N.W.2d 723, 728 (Minn. 2005). We review voluntariness by looking at all relevant circumstances. *State v. Raleigh*, 778 N.W.2d 90, 96 (Minn. 2010). Deegan maintains that the pleading transcript "creates a strong impression" that he pleaded guilty "to acquire a medical examination and a contact visit" and because he

"lacked confidence in defense counsel and the jury selection process." The argument does not prevail.

The voluntariness finding is supported by Deegan's acknowledgment in his plea agreement that he did *not* claim to be innocent, that he was knowingly waiving his right to require the state to prove his guilt beyond a reasonable doubt, and that he had sufficient time to discuss his case with two attorneys and was satisfied with their representation. And the postconviction court found that Deegan's guilty pleas were not conditioned on the medical examination or the family visits.

We hold finally that the district court also appropriately deemed Deegan's plea to be intelligent. For a plea to be intelligent, the defendant must understand the charges, the rights that he is waiving by pleading guilty, and the consequences of his plea. *State v. Farnsworth*, 738 N.W.2d 364, 372 (Minn. 2007). The postconviction court reasonably considered the intelligence of Deegan's plea in light of his having completed the approved plea petition, admitted on the record that he understood his rights, and acknowledged specifically that he understood he was giving up a potential duress defense. The intelligence determination is sound.

Deegan points out a weakness in the plea colloquy and contends that it bears on the intelligence of his pleas. He maintains particularly that the following exchange between him and the prosecutor indicates that his driving the car, and nothing more, formed the basis of the plea to accomplice liability:

> THE PROSECUTOR: Okay. And I understand that you drove the car while Faye Wen[el]l was in the back seat, is that right?
> THE DEFENDANT: Yeah.

> THE PROSECUTOR: Was she able to get out if she wanted to?
> THE DEFENDANT: I can't remember.
> THE PROSECUTOR: Okay, well she was being beaten by Mr. Budreau, is that right?
> THE DEFENDANT: Yeah.
> THE PROSECUTOR: And do you understand that by you driving the car from the Red Lion like that, that makes you an accomplice to the kidnapping of her, do you understand?
> THE DEFENDANT: I guess that's the way the law is, yes, so yeah.

The evidence indicates that Deegan understood that he needed to do more than drive a car to be liable as an aider and abettor. The prosecutor asked Deegan if he understood that "by you driving the car from the Red Lion *like that*, that makes you an accomplice to the kidnapping of her, do you understand?" Read in context, "like that" does not refer merely to the fact of driving, as Deegan suggests; it refers to the preceding two sentences, in which the prosecutor asked whether Wenell could have freed herself from the car and whether during the driving she had been beaten by Budreau. Deegan's transporting the kidnapped victim while knowing the circumstances of her abduction and his continuing to transport her along with her primary assailant Budreau during the fatal beating constitutes intentionally aiding in the substantive crimes Deegan pleaded guilty to.

Deegan also argues that he did not understand the importance of his mental state during the crime and therefore did not understand the significance of waiving a duress defense. This argument is undermined by the fact that he repeatedly claimed that he understood he was giving up that defense. He also had two attorneys who had the opportunity to explain to him what rights he was surrendering.

Aside from his argument that his guilty pleas were not accurate, voluntary, and intelligent, Deegan provides no basis for his assertion that a manifest injustice would result from refusing to allow him to withdraw them. The record conclusively supports the postconviction court's findings and holding that Deegan's pleas were accurate, voluntary, and intelligent and that allowing him to withdraw them is not necessary to avert any manifest injustice.

Affirmed.