

*This opinion is nonprecedential except as provided by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
A24-0552**

State of Minnesota,
Respondent,

vs.

Deborah Ann Kirchner,
Appellant.

**Filed January 21, 2025
Affirmed
Klaphake, Judge ***

Itasca County District Court
File No. 31-CR-23-1243

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

Jacob P. Fauchald, Itasca County Attorney, Cassidy L. Villeneuve, Assistant County Attorney, Grand Rapids, Minnesota (for respondent)

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

Considered and decided by Bjorkman, Presiding Judge; Johnson, Judge; and Klaphake, Judge.

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

NONPRECEDENTIAL OPINION

KLAPHAKE, Judge

On appeal from her conviction of first-degree sale of a controlled substance, appellant Deborah Ann Kirchner argues that she must be permitted to withdraw her guilty plea to correct a manifest injustice. We affirm.

DECISION

“Although a defendant does not have an absolute right to withdraw a valid guilty plea, a court must allow a defendant to withdraw a guilty plea, even after sentencing, if withdrawal is necessary to correct a manifest injustice.” *State v. Schwartz*, 957 N.W.2d 414, 418 (Minn. 2021) (quotation omitted). “A manifest injustice exists when a guilty plea is not valid. To be constitutionally valid, a guilty plea must be accurate, voluntary, and intelligent.” *State v. Jones*, 7 N.W.3d 391, 395 (Minn. 2024) (quotation omitted).

“Accuracy requires that the plea be supported by a proper factual basis, that there must be sufficient facts on the record to support a conclusion that [the] defendant’s conduct falls within the charge to which [s]he desires to plead guilty.” *Id.* (quoting *Schwartz*, 957 N.W.2d at 418). While defendants are generally encouraged to express what happened in their own words, the use of leading questions does not automatically invalidate a guilty plea. *Id.* at 396. And “[e]ven 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, 302 (Minn. App. 2021). “The validity of a guilty plea is a question of law that [appellate courts] review de novo.” *Schwartz*, 957 N.W.2d at 418.

Kirchner pleaded guilty to first-degree sale of a controlled substance, in violation of Minnesota Statutes section 152.021, subdivision 1(1) (2022), as part of a global plea deal. The charges arose after Kirchner allegedly sold methamphetamine on January 30, March 27, April 12, and May 8 of 2023. After obtaining and executing a search warrant on May 21, law enforcement located a bag containing over 100 grams of methamphetamine in the back seat of Kirchner's vehicle.

“A person is guilty of controlled substance crime in the first degree if . . . on one or more occasions within a 90-day period the person unlawfully sells one or more mixtures of a total weight of 17 grams or more containing cocaine or methamphetamine[.]” Minn. Stat. § 152.021, subd. 1(1).

Kirchner argues that her guilty plea lacked a proper factual basis to establish that her conduct met all the elements of the offense because she “did not make any admission regarding the weight of the methamphetamine she sold.” She argues that her agreement that she “sold or possessed” 100 or more grams “leaves open two distinct possibilities, either sale or possession of that quantity of controlled substance, to the exclusion of the other.” Kirchner also argues that “it is unclear whether the 90-day period start[ed] January 29, 2023, or sometime in March 2023.” We disagree.

The relevant portions of the plea transcript read as follows:

DEFENSE COUNSEL: And you've had an opportunity to review the probable cause in which they set forth as early as January 29th of 2023 that they began their investigation and they conducted—um—a controlled buy on or about March 27th of 2023, April 12th of 2023, May 8th of 2023. You understand that?

KIRCHNER: Yes

DEFENSE COUNSEL: And is it because you had been selling a controlled substance?

KIRCHNER: Yes.

DEFENSE COUNSEL: Now, what had you been selling, Ms. Kirchner?

KIRCHNER: Methamphetamine.

DEFENSE COUNSEL: And you knew it to be methamphetamine?

KIRCHNER: Yes.

...

DEFENSE COUNSEL: And how many times would you say that you had sold it within that time period between May 29th, I'm sorry, between January 29th and then May 21st?

KIRCHNER: A few.

DEFENSE COUNSEL: Do you know approximately how many times?

KIRCHNER: I don't.

DEFENSE COUNSEL: So, do you know within a 90-day period prior to May—um—starting on—in March—

KIRCHNER: I—I don't know any exact numbers on how many. No, I don't, ma'am.

DEFENSE COUNSEL: But you would agree that during that time period that you had 17 grams or more containing methamphetamine, *and that you sold or possessed 100 or more grams, is that correct?*

KIRCHNER: Correct.

(Emphasis added).

We conclude that Kirchner's guilty plea was supported by a proper factual basis because the fact that she sold 17 or more grams of methamphetamine during a 90-day period can be inferred from the other facts she admitted. Early in the plea colloquy, Kirchner was asked if she had time to review the probable cause charges, which alleged that she engaged in a series of controlled buys on March 27, 2023, April 12, 2023, and May 8, 2023, in Itasca County. Kirchner answered in the affirmative. March 27 to May 8 is a

span of 42 days, well within the 90-day period required under the statute. And Kirchner's later admission, that she "sold or possessed" 100 grams or more of methamphetamine within a 90-day period beginning in March, was sufficient for the district court to infer that Kirchner sold 17 grams or more during that time.

Thus, we conclude that Kirchner's guilty plea was accurate, and no manifest injustice occurred.

Affirmed.