

**MINNESOTA JUDICIAL TRAINING UPDATE****USE OF LEADING QUESTIONS IN GUILTY PLEAS**

**QUESTION:** Should judges accept a factual basis for a plea of guilty based on the common practice of asking defendants a series of leading questions, without the defendant ever stating in his own words what happened?

**ANSWER: NO** – The Minn Supreme Court has long discouraged this practice and has repeatedly warned the trial court that following such a practice may result in a defendant being allowed to withdraw the plea of guilty to avoid a manifest injustice. *State v. Raleigh, Mn Sup Ct, A08-2273, Feb 4, 2010.*

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**EXPLANATION:**

IN ALLOWING DEFENDANT TO WITHDRAW HIS PLEA, THE COURT STATED:

“We find it troubling that the court did not conduct any questioning of the defendant, particularly after [counsel] merely asked leading questions, requiring only that defendant acknowledge the state’s evidence as to the elements of the crime. We have previously stated that the trial court bears the primary responsibility to advise and interrogate the defendant in sufficient detail to establish an adequate factual basis for the plea, [so as to avoid the rather common inclination of counsel to elicit these facts by leading questions].”  
*State v. Hoaglund, 240 N.W.2d 4,6 (1976); State v. Trott, 338 N.W.2d 248, 251 (Minn. 1983).*

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**JUDICIAL TIP:**

The judicial use of leading questions when taking a plea of guilty has become a necessity in some courts because of large calendars and time constraints (especially with traffic and misdemeanor cases). At a minimum you should supplement your use of leading questions by asking at some point, **“Tell me what you did that makes you guilty of this offense.”**