

MINNESOTA JUDICIAL TRAINING UPDATE

GUILTY PLEA HEARINGS:



THE DANGER OF USING LEADING QUESTIONS



LEGAL STANDARD:

1. To be constitutionally valid, a guilty plea must be **accurate**, voluntary, and intelligent. *State v. Raleigh*, 778 N.W.2d 90, 94 (Minn. 2010).
 - a. Note: This training update will only discuss the “**accurate**” requirement.
2. For a guilty plea to be “**accurate**” a proper factual basis establishing defendant’s guilt must be established. *State v. Ecker*, 524 N.W.2d 712, 716 (Minn. 1994).
3. Typically, a factual basis is established by defense counsel, the prosecutor, or the district court “questioning the defendant and asking the defendant to explain in his or her own words the circumstances surrounding the crime.” *Ecker*, 524 N.W.2d at 251.
4. A factual basis may also be established through the “testimony of witnesses and statements summarizing the evidence.” *Id.*
5. **The district court should not accept the guilty plea “unless the record supports the conclusion that the defendant actually committed an offense at least as serious as the crime to which he is pleading guilty.” *Id.* at 252.**

QUESTION: Should a judge accept a plea of guilty when the factual basis supporting the plea of guilty is 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 Minnesota Supreme Court has long discouraged the use of leading questions to establish a factual basis for a plea of guilty 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*, 778 N.W.2d 90 (Minn. 2010).

FOR EXAMPLE:

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).

JUDICIAL TIP:

The 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, judges and attorneys should supplement the use of leading questions by asking, **“Tell me what you did that makes you guilty of this offense.”**

Reference: Minnesota Judges Criminal Benchbook, 7th Edition, 2016 (Updated 2020), Chapter 3.