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Criminal Law—Accepting the Guilty Plea—State v. Goulette, 258 N.W.2d 758 (Minn. 1977)

CASE NOTES

Criminal Law—ACCEPTING THE GUILTY PLEA—*State v. Goulette,* 258 N.W.2d 758 (Minn. 1977).

Plea bargaining has been recognized officially by the Minnesota Supreme Court since 1968.[1] An integral part of our criminal justice system,[2] plea bargaining offers benefits both to the accused and to the state.[3] By pleading guilty to a reduced charge, a criminal defendant avoids the burden of a trial as well as the possibility that a more severe penalty will be imposed if convicted of a greater offense.[4] The state benefits from the guilty plea because prosecutors are not put to the burden of proving the charge, and the courts, confronted with an increasing number of criminal cases,[5] are not compelled to utilize scarce judicial resources for a full-length trial.[6]

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1. State v. Wolske, 280 Minn. 465, 468 n.4, 160 N.W.2d 146, 149 n.4 (1968) ("[T]he widely held view that plea bargaining is prohibited . . . [was] only recently rejected by this court in State v. Johnson . . . ."); *see* State v. Johnson, 279 Minn. 209, 214, 156 N.W.2d 218, 222 (1968) (recognizing that plea bargaining is not against public policy).

2. *See* Santobello v. New York, 404 U.S. 257, 260 (1971) ("The disposition of criminal charges by agreement between the prosecutor and the accused, sometimes loosely called 'plea bargaining,' is an essential component of the administration of justice."). *See generally* C. JONES & M. PETERSON, JONES ON MINNESOTA CRIMINAL PROCEDURE 278-96 (4th ed. 1974).

3. The advantages of the guilty plea were summarized by the United States Supreme Court in Brady v. United States, 397 U.S. 742 (1970), in which the Court stated:

> For a defendant who sees slight possibility of acquittal, the advantages of pleading guilty and limiting the probable penalty are obvious—his exposure is reduced, the correctional processes can begin immediately, and the practical burdens of a trial are eliminated. For the State there are also advantages—. . . with the avoidance of trial, scarce judicial and prosecutorial resources are conserved . . . .

Id. at 752; *accord,* Chapman v. State, 282 Minn. 13, 15-16, 162 N.W.2d 698, 700 (1968). *See generally* U.S. PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, THE CHALLENGE OF CRIME IN A FREE SOCIETY 134-37 (1967).

4. *See* Brady v. United States, 397 U.S. 742, 752 (1970); Chapman v. State, 282 Minn. 13, 16, 162 N.W.2d 698, 700 (1968) ("From the standpoint of the defendant whose guilt of a criminal offense is clear and provable, it is frequently better to acknowledge guilt than to pursue a fruitless contest which may lead to a sentence more severe than that likely to be imposed upon acceptance of the plea of guilty.").

5. For example, while 28,137 criminal cases were commenced in the federal district courts in 1960, 39,786 criminal cases were commenced in 1977. *See* Administrative Office of the U.S. Courts, *Annual Report of the Director, reprinted in* BUREAU OF THE CENSUS, U.S. DEP'T OF COMMERCE, STATISTICAL ABSTRACT OF THE UNITED STATES 194 (99th ed. 1978). In 1960, federal district courts entered final judgments for 30,512 criminal defendants; 53,188 criminal judgments were entered in 1977. *See id.*

6. *See* Brady v. United States, 397 U.S. 742, 752 (1970); Chapman v. State, 282 Minn. 13, 15-16, 162 N.W.2d 698, 700 (1968) ("From the standpoint of the state, the tender of a guilty plea eliminates the necessity of a complex and costly criminal trial. Congested court

Courts have recognized, however, that a criminal defendant's constitutional rights must take priority over the interests in judicial economy.[7] Thus, a standard has been established for determining when a trial court may accept a plea of guilty. To satisfy due process, a guilty plea must be entered voluntarily and intelligently,[8] and the defendant must have knowledge of the rights and privileges being relinquished.[9] Establishing a factual basis on the record is one important means of showing that this standard is satisfied.[10]

When a defendant admits guilt, application of this standard presents few problems. The standard may be difficult to apply, however, when a defendant, while desiring to plead guilty, professes innocence. Doubt is cast upon the voluntariness and intelligence with which the plea is entered,[11] and establishing a factual basis to support the plea becomes more difficult.[12] In *State v. Goulette,*[13] the Minnesota Supreme Court

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calendars and overburdened prosecutors are relieved."); State *ex rel.* Welper v. Rigg, 254 Minn. 10, 16, 93 N.W.2d 198, 203 (1958) (guilty plea relieves prosecution of proving any essential elements of the crime).

7. *See* McCarthy v. United States, 394 U.S. 459, 466 (1969) ("[I]f a defendant's guilty plea is not equally voluntary and knowing, it has been obtained in violation of due process . . . ."). Both the United States Supreme Court and the Minnesota Supreme Court have recognized the guilty plea as an essential component of the administration of justice that must be attended by safeguards to ensure protection of the defendant's rights. *See* Santobello v. New York, 404 U.S. 257, 260-62 (1971); State v. Johnson, 279 Minn. 209, 214-15, 156 N.W.2d 218, 222-23 (1968). *See generally* H. ABRAHAM, FREEDOM AND THE COURT 3-7 (2d ed. 1972) (criminal justice must balance individual rights with the community's interest in an effective criminal justice system).

The criminal defendant who pleads guilty is still entitled to due process under the Constitution. *See, e.g.,* North Carolina v. Alford, 400 U.S. 25 (1970). The fifth amendment provides: "No person shall . . . be deprived of life, liberty, or property, without due process of law . . . ." U.S. CONST. amend. V. The fourteenth amendment explicitly requires the states to observe this maxim by declaring that no state shall "deprive any person of life, liberty, or property, without due process of law." U.S. CONST. amend. XIV.

8. *See* Boykin v. Alabama, 395 U.S. 238, 242 (1969); McCarthy v. United States, 394 U.S. 459, 466 (1969); State v. Casarez, 295 Minn. 534, 536, 203 N.W.2d 406, 408 (1973) (per curiam); State v. Jones, 267 Minn. 421, 427, 127 N.W.2d 153, 157 (1964); *cf.* State v. Neumann, 262 N.W.2d 426, 432 (Minn. 1978) ("The primary responsibility of the court when a plea of guilty is made is to ensure that the plea was not coerced . . . .").

9. *See, e.g.,* Brady v. United States, 397 U.S. 742, 748 & n.6 (1970); Kercheval v. United States, 274 U.S. 220, 223 (1927); State v. Neumann, 262 N.W.2d 426, 432 (Minn. 1978); Coolen v. State, 288 Minn. 44, 48, 179 N.W.2d 81, 84 (1970); State v. Jones, 267 Minn. 421, 427, 127 N.W.2d 153, 157 (1964).

10. *See, e.g.,* North Carolina v. Alford, 400 U.S. 25, 38 & n.10 (1970); McCarthy v. United States, 394 U.S. 459, 467 (1969); State v. Neumann, 262 N.W.2d 426, 432 (Minn. 1978); State v. Hoaglund, 307 Minn. 322, 327, 240 N.W.2d 4, 6 (1976); State v. Taylor, 288 Minn. 37, 41-42, 178 N.W.2d 892, 895 (1970).

11. *See* State v. Goulette, 258 N.W.2d 758, 760-61 (Minn. 1977).

12. *See* North Carolina v. Alford, 400 U.S. 25, 38 & n.10 (1970); *cf.* Holscher v. State, No. 49160, slip op. at 1-2 (Minn. May 18, 1979) ("While the usual way in which the [factual basis] requirement is satisfied is for the court to personally question defendant

addressed the question of how a trial court should apply the standard in such a situation.

The defendant in *Goulette* was indicted as an accessory to first-degree murder,[14] an offense that carries a mandatory penalty of life imprisonment.[15] At the plea hearing, the defense counsel presented a summary of the prosecution's key evidence.[16] After this presentation, Goulette entered a negotiated plea of guilty to second-degree murder.[17] The defendant denied that he intended to assist his accomplice in committing the crime but, faced with the prosecution's strong case and the threat of life imprisonment if convicted after a trial, maintained his plea of guilty.[18] The trial court accepted the plea and sentenced the defendant to a maximum twenty-five year prison term for second-degree murder.[19]

Goulette appealed his conviction, arguing that the trial court erred in accepting his guilty plea because his testimony at the plea hearing indicated that he lacked the requisite intent to kill,[20] an element of second-degree murder.[21] According to the defendant, this lack of evidence of

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and have defendant express in his own words what happened, there are other ways of satisfying the requirement.").

13. 258 N.W.2d 758 (Minn. 1977).

14. *See id.* at 760. The defendant was present when his partner shot and killed their mutual acquaintance. *See id.* After the shooting, Goulette assisted his partner in disposing of the body and the car in which the victim was killed. *See* Appellant's Brief at 9-10. For such participation, a person may be held criminally liable, as an accessory, for a crime committed by another. *See* MINN. STAT. § 609.05 (1978).

15. Minnesota Statutes, section 609.185 provides:

> Whoever does either of the following is guilty of murder in the first degree and shall be sentenced to imprisonment for life:
>
> (1) Causes the death of a human being with premeditation and with intent to effect the death of such person or of another; or
>
> (2) Causes the death of a human being while committing or attempting to commit criminal sexual conduct in the first or second degree with force or violence, either upon or affecting such person or another.

MINN. STAT. § 609.185 (1978).

16. 258 N.W.2d at 760. The evidence of intent, as summarized by the defense counsel, consisted of statements by various witnesses given to the police, which indicated that Goulette "planned to get rid of somebody" and had purchased a gun. Appellant's Brief at 12. The defendant denied the most damaging of these statements. *See id.* at 13.

17. *See* 258 N.W.2d at 760.

18. *Id.*

19. *Id.*

20. *See id.* Goulette claimed that he had denied intending to aid his partner both before and during the killing. *See* Appellant's Brief at 11. In light of this denial, Goulette may have been guilty only of being an accessory after the fact. *See id.* at 19. An accessory after the fact is one who aids an offender to avoid arrest, an offense independent of the original crime which carries a maximum penalty of three years imprisonment and a fine of $3,000. *See* MINN. STAT. § 609.495 (1978).

21. *See* MINN. STAT. § 609.19 (1978) ("Whoever causes the death of a human being *with intent* to effect the death of such person or another, but without premeditation, is guilty of murder in the second degree and may be sentenced to imprisonment for not more than 40 years." (emphasis added)).

intent meant that the conviction was not supported by a factual basis and therefore should be reversed.[22]

In considering whether a trial court may accept a guilty plea accompanied by a claim of innocence,[23] the Minnesota court looked to the United States Supreme Court decision in *North Carolina v. Alford.*[24] In *Alford* the defendant maintained that he was innocent, claiming that the only reason he pled guilty to second-degree murder was to avoid the possible death sentence that he would risk if tried for first-degree murder.[25] The Court held that federal constitutional standards were not violated by the acceptance of the guilty plea because the plea had been entered voluntarily and intelligently and was supported by a strong factual basis,[26] but noted that states were permitted to restrict the circumstances under which the state courts could accept guilty pleas.[27]

Relying on *Alford,* the Minnesota Supreme Court held in *Goulette* that a guilty plea accompanied by a claim of innocence may be accepted by a trial court when the factual basis shows evidence that would support a jury verdict of guilty and establishes that the plea is voluntarily, knowingly, and understandingly entered.[28] Reviewing the acceptance of Goulette's plea, the court determined that the plea had been entered voluntarily, knowingly, and understandingly, and that factual evidence had been presented that would have supported a jury verdict of guilty had the case gone to trial.[29]

Although prior decisions of the Minnesota court had established that a guilty plea may be accepted when guilt is not admitted,[30] *Goulette* is

22. *See* Appellant's Brief at 19-20.

23. Rule 15 of the Minnesota Rules of Criminal Procedure is designed to assist the trial court in accepting a plea of guilty. Essentially, the rule contains a list of questions to be asked by the court to ascertain whether acceptance of the plea is proper and, if applied in its entirety, makes no allowance for a guilty plea accompanied by a claim of innocence. *See* MINN. R. CRIM. P. 15.01. Further, the Note to rule 15.01 provides that "[i]t is desirable that the defendant also be asked to acknowledge that he has signed the Petition to Plead Guilty, suggested form of which is contained in the appendix A," *id.*, Note, one paragraph of which contains the defendant's acknowledgement that no claims of innocence are being made. *See id.* app. A(25).

24. 400 U.S. 25 (1970).

25. *See id.* at 28.

26. *See id.* at 37-38.

27. *See id.* at 39 ("The States in their wisdom may . . . by statute or otherwise . . . prohibit the practice of accepting pleas to lesser included offenses under any circumstances. But this is not the mandate of the Fourteenth Amendment and the Bill of Rights."). Some states do refuse to accept a guilty plea accompanied by a claim of innocence. *See, e.g.*, People v. Morrison, 348 Mich. 88, 91, 81 N.W.2d 667, 668 (1957) (guilty plea must be refused when the statements of the accused are inconsistent with the plea); State v. Reali, 26 N.J. 222, 224, 139 A.2d 300, 302 (1958) (per curiam) (guilty plea should be refused when defendant claims to be innocent).

28. *See* 258 N.W.2d at 760-61.

29. *See id.* at 762.

30. *See, e.g.*, State v. Fisher, 292 Minn. 453, 454, 193 N.W.2d 819, 820 (1972) (per

the first Minnesota case to hold that a guilty plea can be accepted when the defendant expressly claims to be innocent.[31] In *Goulette* the court recognized that the entry of a guilty plea, even though the defendant professes innocence, can be the result of a rational decision, voluntarily and intelligently made:[32] by entering a guilty plea a defendant can avoid the burden of a lengthy trial and the risk of being convicted of a greater

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curiam) (guilty plea can be accepted from defendant who, because of amnesia, has no recollection of crime or intent to commit it); State *ex rel.* Crossley v. Tahash, 263 Minn. 299, 308, 116 N.W.2d 666, 672 (1962) (guilty plea can be accepted from defendant who was too intoxicated to recall events of the crime); State *ex rel.* Norgaard v. Tahash, 261 Minn. 106, 114, 110 N.W.2d 867, 872 (1961) (guilty plea acceptable from defendant who cannot recall events of crime because of mere failure of memory).

31. *See* 258 N.W.2d at 761; *cf.* Pearson v. State, 308 Minn. 287, 288-89, 241 N.W.2d 490, 491 (1976) (per curiam) (appeal from guilty plea when defendant denied any criminal intent when plea was entered; "[W]e do not believe that the trial court erred in accepting the plea. . . . In so holding, we do not decide whether a trial court may, under extraordinary circumstances, accept a defendant's guilty plea notwithstanding a defendant's *unequivocal* denial of guilt." (emphasis in original)).

Adopting the rationale of *Alford*, the Minnesota court stated in *Goulette*:

> Until this case, we have not been faced directly with the issue of whether to follow the reasoning of the *Alford* case—that there are situations where *Alford*-type pleas make sense and should be accepted. We have cited *Alford* in a number of cases, but those were cases in which the defendants, while not maintaining their innocence, did not unequivocally admit guilt. . . .
>
> Facing the issue directly for the first time, we now hold that a trial court may accept a plea of guilty by an accused even though the accused protests that he is innocent . . . .

258 N.W.2d at 761 (citations omitted). In an earlier case, the Minnesota Supreme Court had intimated that a guilty plea should not be accepted when the defendant's testimony negates an essential element of the crime. *See* State *ex rel.* Schuler v. Tahash, 278 Minn. 302, 310, 154 N.W.2d 200, 207 (1967) ("It is settled that where a defendant, upon examination by the court after plea of guilty, states facts which would negate the existence of an essential element of the crime, a plea of guilty should not be accepted . . . .") (dictum). Thus, the *Goulette* decision may symbolize a retreat from the view of the court at the time *Schuler* was decided. *Compare id. with* 258 N.W.2d at 761. Before *Goulette* was decided, however, the Minnesota court had indicated the possibility that *Alford* might be followed. *See* Pearson v. State, 308 Minn. 287, 288-89, 241 N.W.2d 490, 491 (1976) (per curiam).

32. This was implicit in the court's holding in *Goulette*:

> [W]e now hold that a trial court may accept a plea of guilty by an accused even though the accused protests that he is innocent if the court, on the basis of its interrogatories of the accused and its analysis of the factual basis offered in support of the plea, concludes that the evidence would support a jury verdict of guilty, and that the plea is voluntarily, knowingly, and understandingly entered.

258 N.W.2d at 761.

The United States Supreme Court recognized this principle in Brady v. United States, 397 U.S. 742 (1970), when it declined to hold "that a guilty plea is compelled and invalid under the Fifth Amendment whenever motivated by the defendant's desire to accept the certainty or probability of a lesser penalty rather than face a wider range of possibilities extending from acquittal to conviction and a higher penalty authorized by law for the crime charged." *Id.* at 751. A plea of guilty was held not to be invalid merely because it was entered to avoid the possibility of a death sentence. *See id.* at 755.

offense.[33] Although a criminal defendant has no right to have the court accept a guilty plea,[34] implicit within the *Goulette* decision is the maintenance of a defendant's opportunity to obtain the benefits of a guilty plea. To hold otherwise could result in compelling a defendant to stand trial even though the defendant wishes to plead guilty.[35]

The decision in *Goulette* also recognized the advantages that accrue to the state through plea negotiation. Because a defendant who pleads guilty waives his constitutional right to be tried by a jury,[36] the state need not provide a costly trial, which affords some relief to overburdened prosecutors and congested court calendars and promotes thereby the state's interest in judicial economy.[37] The time saved by plea nego-

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33. *See* note 4 *supra* and accompanying text.

34. *See* Santobello v. New York, 404 U.S. 257, 262 (1971) ("There is . . . no absolute right to have a guilty plea accepted."); State v. Goulette, 258 N.W.2d 758, 762 (Minn. 1977) ("Neither the constitution nor our Rules of Criminal Procedure give to a criminal defendant an absolute right to have his plea of guilty accepted.").

35. *See* North Carolina v. Alford, 400 U.S. 25, 38-39 (1970); State *ex rel.* Crossley v. Tahash, 263 Minn. 299, 308, 116 N.W.2d 666, 672 (1962).

36. The sixth amendment provides: "In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the state and district wherein the crime shall have been committed . . . ." U.S. CONST. amend. VI. The Minnesota Constitution also guarantees this right in all criminal cases. *See* MINN. CONST. art. 1, § 6. The guilty plea, because it constitutes a conviction without trial, is a waiver of this constitutional right to a trial. *See, e.g.*, McMann v. Richardson, 397 U.S. 759, 766 (1970); McCarthy v. United States, 394 U.S. 459, 466 (1969).

Similarly, entry of a guilty plea is a waiver of the fifth amendment right against self-incrimination as to the crime admitted, *see, e.g., id.;* United States v. Pierce, 561 F.2d 735, 738 (9th Cir. 1977), *cert. denied*, 435 U.S. 923 (1978); United States v. Sherman, 474 F.2d 303, 305-06 (9th Cir. 1973), and a waiver of the sixth amendment right to confront opposing witnesses. *See, e.g.*, McCarthy v. United States, 394 U.S. 459, 466 (1969).

The present status of the waiver of constitutional rights under the guilty plea is expressed by the *Brady* trilogy, three United States Supreme Court cases decided the same day: Brady v. United States, 397 U.S. 742 (1970); McMann v. Richardson, 397 U.S. 759 (1970); Parker v. North Carolina, 397 U.S. 790 (1970). These three cases, taken together, make a guilty plea an absolute waiver. *See* Note, *The Waivability by Guilty Plea of Retroactively Endowed Constitutional Rights*, 41 ALB. L. REV. 115, 120 (1977). By entering a guilty plea, a criminal defendant waives all nonjurisdictional defects of the prior proceedings against him. *See* Busby v. Holman, 356 F.2d 75, 77 (5th Cir. 1966); United States v. Spada, 331 F.2d 995, 996 (2d Cir.) (per curiam), *cert. denied*, 379 U.S. 865 (1964). Because the guilty plea represents a break in the chain of events of the criminal process, appellate courts will not review any deprivation of rights, other than those affecting the voluntariness of the plea, that occurred prior to the entry of the plea. *See* Tollett v. Henderson, 411 U.S. 258, 267 (1973).

37. *See* note 6 *supra* and accompanying text. Chief Justice Burger, discussing the federal court system, stated that, historically and statistically, the amount of judicial manpower and facilities have been based on the premise that 90% of criminal defendants will plead guilty, leaving only 10% to be tried. He estimated that even a small change in the percentage rate could have a tremendous effect. For instance, a 10% reduction in guilty pleas would require twice the judicial resources now utilized. *See* Burger, *The State of the Judiciary—1970*, 56 A.B.A.J. 929, 931 (1970). In a 1975 survey in Alameda County, California, it was estimated that the number of judges would have to be increased from 60 to

tiation is significant; in Minnesota approximately ninety percent of all criminal convictions are obtained by guilty pleas.[38] By upholding the validity of Goulette's guilty plea, the court intimates approval of the state's extensive use of plea negotiation.

While the benefits offered by plea bargaining are substantial, the resulting guilty pleas would serve little purpose if they were unsupported by sufficient factual evidence. Recognizing the possibility that an innocent defendant might be coerced into entering a negotiated guilty plea,[39] the *Goulette* court emphasized the importance of establishing a sufficient factual basis when accepting a plea of guilty.[40] To ensure that the defendant is guilty of a crime at least as serious as the one to which the defendant is pleading guilty,[41] and to minimize thereby the possibility of convicting an innocent person,[42] trial courts have the critical responsibility of ascertaining whether a sufficient factual basis for the plea exists.[43] To establish the factual basis, the court in *Goulette*

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450 in order to try all the cases that were disposed of by negotiated guilty pleas. *See* Bechefsky & Kathov, *Plea Bargaining: An Essential Component of Criminal Justice*, 52 CAL. ST. B.J. 214, 279 (1977).

38. *See* THE TASK FORCE ON THE ADMINISTRATION OF JUSTICE, THE PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, TASK FORCE REPORT: THE COURTS 9 (1967) (In 1965, 91.7% of the convictions in Minnesota district courts were obtained by pleas of guilty.); Minnesota Statistical Analysis Center, Crime Control Planning Bd., Plea Bargaining in Minnesota 104 (1979). The significance of the time saved by guilty pleas comes from the relief given to the courts and prosecutors. *See* notes 6, 37 *supra* and accompanying text.

39. *See, e.g.*, State v. Neumann, 262 N.W.2d 426, 432 (Minn. 1978) ("The primary responsibility of the court when a plea of guilty is made is to ensure that the plea was not coerced . . . ."); Coolen v. State, 288 Minn. 44, 48, 179 N.W.2d 81, 84 (1970) ("A plea of guilty . . . should not be accepted [when] . . . induced by misapprehension or ignorance."); State v. Wolske, 280 Minn. 465, 472, 160 N.W.2d 146, 151 (1968) ("Injustice results because defendant's self-conviction [guilty plea] has been induced by a form of official deceit or by means which are at least grossly unfair.").

40. *See* 258 N.W.2d at 761-62; State v. Hoaglund, 307 Minn. 322, 325, 240 N.W.2d 4, 5 (1976) (trial court has sole responsibility to establish adequate factual basis for guilty plea); Uviller, *Pleading Guilty: A Critique of Four Models*, 41 L. & CONTEMP. PROB. 102, 126 (Winter 1977) (*Alford* indicates trial judge must do more than ask prosecutor to justify charge; evidence establishing guilt must be shown).

41. Beaman v. State, 301 Minn. 180, 183, 221 N.W.2d 698, 700 (1974) (per curiam).

42. *See* Chapman v. State, 282 Minn. 13, 16, 162 N.W.2d 698, 700 (1968) ("The purposes of the criminal law are not served if defendants are permitted to plead guilty to offenses of which they are not in fact guilty.").

43. *See, e.g.*, 258 N.W.2d at 761 ("[W]hen an *Alford*-type plea is offered the trial court should not cavalierly accept the plea but should assume its responsibility to determine . . . whether there is a sufficient factual basis to support it."); State v. Hoaglund, 307 Minn. 322, 325, 240 N.W.2d 4, 5 (1976) ("[W]e have reversed where the trial court has not assumed full responsibility to establish an adequate factual basis before ordering a judgment of conviction upon a guilty plea."); State v. Taylor, 288 Minn. 37, 41-42, 178 N.W.2d 892, 895 (1970) ("It is essential, of course, that the record establish a factual basis for a plea of guilty, whether the factual showing is elicited by counsel or by the court itself.").

suggested that the prosecutor should introduce statements of witnesses and other items to aid the court in its determination.[44] Additionally, when appropriate, the prosecutor might call some of the state's witnesses to give a shortened version of the testimony they would otherwise give at the trial.[45] The importance of the factual basis was emphasized by the *Goulette* court's greater concern with the facts establishing a defendant's guilt than with the defendant's willingness to admit it.[46]

Guilty pleas are critically important to the administration of criminal justice, and the Minnesota court's decision in *Goulette* serves both the state's and the defendant's interests in continuing the extensive use of negotiated pleas. Historically, the court has been reluctant to invalidate guilty pleas,[47] emphasizing that pleas would be vacated only to correct

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44. *See* 258 N.W.2d at 761.

45. *See id.* In its brief in *Goulette*, the state cautioned that such an approach might be unduly burdensome:

> If this Court were to require the State to bring its witnesses before a trial court and have them subjected to cross-examination and impeachment, during the taking of a guilty plea, it would in effect be prohibiting the type of guilty plea permitted by the *Alford* decision and requiring such cases to be tried to a Judge.

Respondent's Brief and Appendix at 12. Nevertheless, witness testimony can be used at the plea hearing to establish the factual basis. *See* State v. Genereux, 272 N.W.2d 33, 34 n.2 (Minn. 1978) (per curiam) ("Other important ways of establishing factual basis would be to include written statements of witnesses as exhibits or to take testimony of certain witnesses."); *cf.* Holscher v. State, No. 49160, slip op. at 1-2 (Minn. May 18, 1979) ("While the usual way in which the [factual basis] requirement is satisfied is for the court to personally question defendant and have defendant express in his own words what happened, there are other ways of satisfying the requirement.").

46. *See* 258 N.W.2d at 761. The court held:

> [A] trial court may accept a plea of guilty by an accused even though the accused protests that he is innocent if the court, on the basis of its interrogatories of the accused and its analysis of the factual basis offered in support of the plea, concludes that the evidence would support a jury verdict of guilty.

Id.

47. *See* Bishop, *Guilty Pleas in the Northern Midwest*, 25 DRAKE L. REV. 360, 390 (1975) (according to survey, Minnesota Supreme Court affirmed 177 out of 197 appeals from convictions based on guilty pleas).

The Minnesota court's attitude toward appeals from guilty pleas and the finality of judgment was succinctly stated in Chapman v. State, 282 Minn. 13, 162 N.W.2d 698 (1968):

> [O]nce the plea is accepted and a judgment of conviction is entered upon it, the general policy favoring the finality of judgments applies to some extent, at least, in criminal as well as in civil cases. . . . While the state has no reason to imprison a man for a crime which he did not commit, "[w]e are not disposed to encourage accused persons to 'play games' with the courts at the expense of already overburdened calendars and the rights of other accused persons awaiting trial" by setting aside judgments of conviction based upon pleas made with deliberation and accepted by the court with caution.

Id. at 16, 162 N.W.2d at 700 (quoting Everett v. United States, 336 F.2d 979, 984 (D.C. Cir. 1964)) (footnote omitted); *see* Beltowski v. State, 289 Minn. 215, 219, 183 N.W.2d 563, 566 (1971) (failure to require defendant to abide by properly accepted plea agreement

manifest injustice.[48] So long as the criminal defendant is afforded due process and steps are taken to avoid the conviction of an innocent person, the court appears to be satisfied. Convictions based on guilty pleas will be upheld in Minnesota, provided the standards for accepting the pleas are applied properly, within the limits established by the United States Supreme Court in *Alford*.

Evidence—Remedies—Property Rights—Torts—*Busch v. Busch Construction, Inc.*, 262 N.W.2d 377 (Minn. 1977).

In this 1977 decision, the Minnesota Supreme Court addressed the doctrine of curative admissibility, discussed remittiturs and the reasonableness of jury verdicts, expanded the right of women to bring actions for future medical expenses, and adopted a comparative fault analysis in strict products liability suits.

In *Busch v. Busch Construction, Inc.*,[1] the Minnesota Supreme Court addressed a number of significant issues that affect the law of evidence,[2] damages,[3] married women's property rights,[4] and products liability.[5] *Busch* involved six consolidated personal injury actions arising out of a single vehicle accident. The accident victims contended that a plastic particle broke loose from the turn signal switch prior to the accident, causing the steering wheel to lock and the vehicle to go out of control.[6] General Motors, manufacturer of the automobile, disputed the plaintiffs' theory of causation, maintaining that the accident resulted from the driver falling asleep at the wheel or his inattention.[7] After a twelve week trial, the jury found Lando Busch, the vehicle's driver, fifteen percent at fault, and General Motors, on a strict liability theory, eighty-five percent at fault.[8]

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would have adverse effect on use of plea negotiations as an aid to effective administration of justice); Note, *supra* note 36, at 123.

48. *See, e.g.*, Coolen v. State, 288 Minn. 44, 48, 179 N.W.2d 81, 84 (1970) ("[A]n application to withdraw a plea of guilty . . . should be granted whenever necessary to correct a manifest injustice."); Chapman v. State, 282 Minn. 13, 20-21, 162 N.W.2d 698, 703 (1968) ("We have refused to order vacation of a guilty plea when manifest injustice has not been demonstrated."); ABA PROJECT ON MINIMUM STANDARDS FOR CRIMINAL JUSTICE, STANDARDS RELATING TO PLEAS OF GUILTY § 2.1(b), Commentary § 2.1(b) (Approved Draft 1968).

1. 262 N.W.2d 377 (Minn. 1977).
2. *See* notes 9-32 *infra* and accompanying text.
3. *See* notes 33-44 *infra* and accompanying text.
4. *See* notes 45-65 *infra* and accompanying text.
5. *See* notes 66-100 *infra* and accompanying text.
6. 262 N.W.2d at 383-84.
7. *Id.*
8. *Id.* at 383.