



February 2018 Supreme Court and Appellate Court Published Decisions

Supreme Court

A16-0198 *State of Minnesota, Respondent, vs. Emile Rey, Appellant.*

Court of Appeals.

1. The district court's imposition of mandatory-minimum restitution following appellant's conviction of identity theft did not result in a procedural or substantive due process violation.

2. The district court's order requiring appellant to pay mandatory-minimum restitution of \$1,000 to each of the 66 direct victims of appellant's offense was restitution, not an unconstitutional fine.

Affirmed. Justice G. Barry Anderson.

A17-0390 *State of Minnesota, Respondent, vs. Daryl Negel Curtis, Appellant.*

Ramsey County.

1. The district court did not abuse its discretion in declining to excuse a juror who was not actually biased.

2. The district court did not abuse its discretion in excluding reverse-*Spreigl* evidence on the ground that the defendant did not show by clear and convincing evidence that a third party was involved in a previous shooting.

Affirmed. Justice David L. Lillehaug.

A15-2075 *State of Minnesota, Respondent, vs. Matthew Vaughn Diamond, Appellant.*

Court of Appeals.

Ordering appellant to provide a fingerprint to unlock a seized cellphone did not violate his Fifth Amendment privilege against self-incrimination because the compelled act was not a testimonial communication.

Affirmed. Justice Margaret H. Chutich.

A16-0947 *State of Minnesota, Appellant, vs. Lionel Lopez, Respondent.*

Court of Appeals.

A hotel guest commits burglary when he enters another guest's room without consent and commits theft in that room.

Affirmed. Chief Justice Lorie S. Gildea.

Concurring, Justices David L. Lillehaug, Margaret H. Chutich and Anne K. McKeig.

A16-1647 *State of Minnesota, Respondent, vs. Jamil Joshua Eason, Appellant.*

Hennepin County.

Because appellant did not have a “review” on direct appeal, the postconviction court erred when it denied appellant’s request for appointed counsel for postconviction proceedings.

**Reversed and remanded. Justice David L. Lillehaug.
Dissenting, Justices David R. Stras and Anne K. McKeig.**

Appellate Court

A17-0284 State of Minnesota, Respondent, vs. A. S. R., Appellant.

Hennepin County District Court, Hon. Judge Ivy S. Bernhardson.

A criminal charge that is continued for dismissal and subsequently dismissed without an admission or finding of guilt is "resolved in favor of the petitioner" under Minn. Stat. § 609A.02, subd. 3(a)(1) (2016), presumptively entitling the petitioner to expungement under Minn. Stat. § 609A.03, subd. 5(b) (2016).

Reversed and remanded. Judge Louise Dovre Bjorkman

A16-2058 State of Minnesota, Respondent, vs. Daniel Patrick Brazil, Appellant.

Hennepin County District Court, Hon. Kathryn L. Quaintance.

A DataMaster breath-test result is direct evidence of the alcohol concentration in a person's body, and a conviction based on such a result and report is reviewed under the traditional direct-evidence analysis.

Affirmed. Judge John R. Rodenberg.

A17-0728 State of Minnesota, Respondent, vs. C. W. N., Appellant.

A17-0729 Redwood County District Court, Hon. Patrick R Rohland.

To be eligible for expungement of executive-branch records of a petty-misdemeanor or misdemeanor conviction under Minn. Stat. § 609A.02, subd. 3(a)(3) (2016), a petitioner must not have been convicted of a new crime for at least two years immediately preceding the filing of an expungement petition. To be eligible for expungement of executive-branch records a gross-misdemeanor conviction under Minn. Stat. § 609A.02, subd. 3(a)(4) (2016), a petitioner must not have been convicted of a new crime for at least four years immediately preceding the filing of an expungement petition.

Reversed in part and remanded. Judge Heidi S. Schellhas.

A17-0842 Mark Jerome Johnson, petitioner, Appellant, vs. State of Minnesota, Respondent.

A17-0883 Ramsey County District Court, Hon. G. Tony Atwal and Hon. Jennifer Frisch.

The new rules of procedure announced in State v. Trahan, 886 N.W.2d 216 (Minn. 2016), and State v. Thompson, 886 N.W.2d 224 (Minn. 2016), do not apply retroactively on collateral review of a final conviction.

Affirmed. Judge Edward Toussaint, Jr.

A17-0552 Philip George Kruse, petitioner, Appellant, vs. Commissioner of Public Safety, Respondent, and

A17-0564 State of Minnesota, Respondent, vs. Philip George Kruse, Appellant.

Renville County District Court, Hon. Randall J. Slieter.

Driving a vehicle on a marking that delineates a lane for traffic constitutes movement from the lane within the meaning of Minn. Stat. § 169.18, subd. 7(a) (2016).

Affirmed. Judge Michelle A. Larkin.

**A16-1567 *State of Minnesota, Respondent, vs. Russell Wayne Melanson, Appellant.*
Anoka County District Court, Hon. Judge Daniel A. O'Fallon.**

The district court's failure to give a limiting instruction sua sponte regarding the admission of relationship evidence was not plainly erroneous.

Affirmed. Judge Michael L. Kirk.

**A17-0474 *State of Minnesota, Respondent, vs. Fedor Pakhnyuk, Appellant.*
Scott County District Court, Hon. Caroline H. Lennon.**

A conviction for surreptitious interference with privacy under Minn. Stat. § 609.746, subd. 1(a) (2010), does not require the defendant to have the "intent to intrude upon or interfere with the privacy of a member of the household" when he enters the property of another.

Affirmed. Judge Diane B. Bratvold.

Dissenting, Judge Matthew E. Johnson.

**A17-0373 *State of Minnesota, Respondent, vs. Edwin Thomas Curtis, Appellant.*
St. Louis County District Court, Hon. James B. Florey.**

A district court determines competency under Minn. R. Crim. P. 20.01, subd. 5(f), based on the greater weight of the evidence without regard to burden of proof.

Affirmed. Judge Heidi S. Schellhas.

**A17-1108 *State of Minnesota, Appellant, vs. Dejonte Antwon Davis, Respondent.*
Hennepin County District Court, Hon. Jay Quam.**

A district court cannot require a victim to forgo reasonable restitution for out-of-pocket losses incurred as a result of a crime only because the defendant is in prison and does not have the ability to pay.

Reversed and remanded. Judge Lucinda E. Jesson.