



October 2017 Appellate & Supreme Court Decisions

[A15-1637](#) ***Danna Rochelle Back, Respondent, vs. State of Minnesota, Appellant.***

1. A claimant has not been “exonerated” under Minn. Stat. § 590.11, subd. 1(1)(i) (2016), unless the prosecutor dismisses the charges, even if an appellate court has already reversed or vacated the claimant’s conviction on grounds consistent with innocence.
2. When an appellate court reverses a conviction outright in a case involving only a single charge, the requirement that a prosecutor dismiss the charge before a claimant is eligible to file a petition for compensation violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution because it denies eligibility to a class of individuals based on a legally impossible act.
3. The remedy for the as-applied equal-protection violation in this case is to sever Minn. Stat. § 590.11, subd. 1(1)(i), from the remainder of the statute.

Reversed. Justice David R. Stras.

Concurring in part, dissenting in part, Justices David L. Lillehaug, Natalie E. Hudson and Margaret H. Chutich.

[A16-1339](#) ***State of Minnesota, Respondent, vs. Rashad Ramon Ivy, Appellant.***

- I. The term “offense” contained in Minn. Stat. § 609.322, subd. 1(b) (2014), refers to a single charge in a criminal complaint.
- II. The statutory aggravating factor of multiple victims contained in Minn. Stat. § 609.322, subd. 1(b)(4), is not implicated unless the specifically charged offense alleged multiple victims.

Affirmed in part, reversed in part, and remanded.

[A17-0568](#) ***State of Minnesota, Respondent, vs. Louis Ambrose, Appellant.***

Ramsey County District Court, Hon. Judge G. Tony Atwal.

In 2011, Louis Ambrose pleaded guilty to attempted second-degree intentional murder. The district court imposed a sentence that includes a restitution obligation of \$1,111.41. In 2015 and 2016, Ambrose filed multiple motions to correct his sentence, all of which the district court denied. In this appeal, Ambrose challenges his restitution obligation and the calculation of his criminal-history score.

Affirmed. Judge Matthew E. Johnson.

[A15-0005](#) ***State of Minnesota, Respondent, vs. Robin Lyne Hensel, Appellant.***

Court of Appeals.

1. Minnesota Statutes § 609.72, subd. 1(2) (2016), is facially unconstitutional under the First Amendment to the United States Constitution because it is substantially overbroad.
2. Because there is no reasonable narrowing construction of Minn. Stat. § 609.72, subd. 1(2), the remedy for the First Amendment violation is to invalidate the statute.

Reversed and remanded. Justice David R. Stras.
Dissenting, Justice G. Barry Anderson and Chief Justice Lorie S. Gildea.
Took no part, Justice David L. Lillehaug.

[A16-1792](#) ***State of Minnesota, Respondent, vs. Buster James Carson, Appellant.***
Anoka County District Court, Hon. Douglas B. Meslow.

Appellant challenges his conviction of first-degree criminal sexual conduct, arguing that the district court abused its discretion by failing to apply the fair-and-just standard when it denied his presentence motion to withdraw his plea. The district court did apply the wrong standard, but the totality of the record shows that appellant was treated fairly.

Affirmed. Judge R. A. (Jim) Randall.

[A17-0132](#) ***State of Minnesota, Respondent, vs. Antonio Dion Washington-Davis, Appellant.***
Ramsey County District Court, Hon. Judge Leonardo Castro.

Appellant Antonio Dion Washington-Davis challenges his resentencing on multiple convictions of prostitution-related offenses following a remand from this court, arguing that (1) the Minnesota Sentencing Guidelines Commission exceeded its authority by establishing a sentence enhancement based upon a prior human-trafficking conviction; and (2) his sentence unfairly exaggerates the criminality of his conduct.

Affirmed. Judge Lucinda E. Jesson.

[A16-1693](#) ***State of Minnesota, Respondent, vs. Rarity Shemeire Abdullah, Appellant.***
Ramsey County District Court, Hon. Judge Diane R. Alshouse.

Appellant challenges his conviction for possession of a firearm by an ineligible person under Minn. Stat. § 624.713, subd. 1(2) (2014), arguing that: (1) he is entitled to a new trial because the district court erred in admitting his brother's prior recorded statement identifying him; and (2) his conviction must be vacated because the evidence identifying him as the person in possession of the firearm was insufficient. We conclude that the evidence was sufficient to support the conviction, but because the district court erred when it admitted appellant's brother's prior recorded statement, we reverse and remand for a new trial.

Reversed and remanded. Judge Michael L. Kirk.

[A15-1823](#) ***State of Minnesota, Appellant, vs. Brian William Meger, Respondent.***
Court of Appeals.

State v. Her, 862 N.W.2d 692 (Minn. 2015), announced a new rule of constitutional criminal procedure that does not apply to the collateral review of respondent's sentence.

Reversed. Justice Anne K. McKeig.
Took no part, Justice Natalie E. Hudson.

[A17-0228](#) ***State of Minnesota, Respondent, vs. Dalfonzo Montreal Thompson, Appellant.***
Carver County District Court, Hon. Michael Wentzell.

In this appeal from his sentence following a probation violation, appellant argues that the district court (1) erred by failing to apply the analysis set forth in *State v. Austin*, 295 N.W.2d 246 (Minn. 1980), before revoking a stay of adjudication and imposing a stay of imposition and (2) incorrectly calculated his jail credit. We affirm the sentence modification as an intermediate sanction for a probation violation but reverse and remand the determination of appellant's jail credit.

Affirmed in part, reversed in part, and remanded. Judge Randolph W. Peterson.

[A16-1840](#) ***State of Minnesota, Respondent, vs. Dennis Dean Blumke, Appellant.***

Swift County District Court, Hon. David L. Mennis.

Appellant Dennis Dean Blumke challenges his impaired-driving conviction on the ground that the district court erred by denying his motion to suppress the results of his blood test in light of *State v. Birchfield*. Because appellant's judgment of conviction was not final at the time of *Birchfield's* release, we reverse and remand to the district court for further consideration.

Reversed and remanded. Judge Denise D. Reilly.

[A16-1888](#) ***State of Minnesota, Respondent, vs. Michael Lavale Powell, Appellant.***

Hennepin County District Court, Hon. William H. Koch.

In this appeal from his conviction of felony domestic assault, appellant argues that the state failed to prove beyond a reasonable doubt that the complainant was his family or household member and that the district court abused its discretion in admitting certain relationship evidence. We affirm.

Affirmed. Judge Randolph W. Peterson.

[A16-1940](#) ***State of Minnesota, Respondent, vs. Kelsey Anne Souder, Appellant.***

Carlton County District Court, Hon. Judge Leslie Beiers.

Minnesota Rule of Evidence 609 does not preclude evidence of a criminal defendant's conviction from being admitted to impeach the defendant's trial testimony simply because the conviction and its underlying offense occurred after the defendant's charged offense.

Affirmed. Judge Kevin G. Ross.

[A16-1382](#) ***State of Minnesota, Respondent, vs. Cortney John Edstrom, Appellant.***

Hennepin County District Court

The use of a narcotics-detection dog at the door of an apartment inside a secured, multi-unit apartment building implicates a legitimate expectation of privacy and is a search for purposes of the Fourth Amendment to the United States Constitution and article I, section 10, of the Minnesota Constitution that is unlawful absent a warrant or an exception to the warrant requirement

Reversed and remanded. Judge Roger Klaphake.

