

**A16-0350** Greenpond South, LLC, Appellant, vs. General Electric Capital Corporation, Respondent.

Hennepin County District Court, Hon. Thomas M. Sipkins.

When the business entities that were utilized in a Ponzi scheme filed for bankruptcy, a plaintiff lender-investor lacks authority to bring fraud-related claims arising out of the Ponzi scheme against an earlier lender-investor, absent an allegation of an injury separate and distinct from an injury suffered by the entities. Such fraud-related cause of action is derivative and belongs to the bankruptcy estate. Affirmed. Judge Carol A. Hooten.

**A15-1587** Lincoln Lamar Caldwell, Appellant, vs. State of Minnesota, Respondent.  
Hennepin County.

1. Neither the postconviction court nor the State substantially interfered with a recanting witness's decision to testify at an evidentiary hearing.

2. Where a recanting witness testified before invoking his Fifth Amendment right against self-incrimination, the postconviction court did not abuse its discretion by striking that testimony because the State did not have an opportunity to complete its cross-examination.

Affirmed. Justice Natalie E. Hudson.

Took no part, Justice Anne K. McKeig.

**A16-0618** State of Minnesota, Appellant, vs. Joshua Dwight Liebl, Respondent.  
Lac Qui Parle County District Court, Hon. Thomas W. Van Hon.

Absent application of a specific exception to the warrant requirement, law enforcement's warrantless installation and monitoring of a global positioning system mobile tracking device on a target's vehicle is an unreasonable search requiring suppression of the resulting evidence.

Affirmed. Judge John P. Smith

**A15-1578** State of Minnesota, Respondent, vs. Tommy William Mix, Appellant.  
Affirmed. Judge Denise D. Reilly. Polk County District Court, Hon. Eric P. Schieferdecker.

Appellant challenges his first-degree arson conviction on the grounds that (1) the conviction must be reversed because the evidence is insufficient to establish that he intentionally caused the fire and (2) that he is entitled to a new trial because the district court erred by admitting appellant's wife's testimony over his spousal-privilege objection. Because we determine that sufficient evidence supports the conviction and the district court did not commit reversible error by permitting appellant's wife to testify at trial, we affirm.

**A16-0350** Greenpond South, LLC, Appellant, vs. General Electric Capital Corporation, Respondent.

Hennepin County District Court, Hon. Thomas M. Sipkins.

When the business entities that were utilized in a Ponzi scheme filed for bankruptcy, a plaintiff lender-investor lacks authority to bring fraud-related claims arising out of the Ponzi scheme against an earlier lender-investor, absent an allegation of an injury separate and distinct from an injury suffered by the entities. Such fraud-related cause of action is derivative and belongs to the bankruptcy estate.

Affirmed. Judge Carol A. Hooten.

**A15-1981** State of Minnesota, Respondent, vs. Shawn Patrick Rush, Appellant.

Affirmed. Judge Larry B. Stauber, Jr.

Ramsey County District Court, Hon. Salvador Rosas.

On appeal from his conviction of possession of a theft tool, appellant argues that the prosecutor committed prejudicial misconduct when he argued during his rebuttal closing argument that the jury could consider that appellant failed to call a witness referenced in appellant's testimony when evaluating his credibility. Because the state demonstrated that there was no reasonable possibility that the misconduct significantly affected the jury's verdict, we affirm.

**A13-0931** State of Minnesota, Appellant, vs. Todd Eugene Trahan, Respondent.  
Court of Appeals.

1. Under *Birchfield v. North Dakota*, \_\_\_ U.S. \_\_\_, 136 S. Ct. 2160 (2016), the Fourth Amendment does not permit the State to prosecute respondent for violating Minn. Stat. § 169A.20, subd. 2 (2014), for refusing the blood test requested of him, absent the existence of a warrant or exigent circumstances.

2. Exigent circumstances did not exist to support a warrantless search of respondent's blood.

3. Because the good-faith exception to the exclusionary rule is a rule of evidence and respondent does not challenge the admission of any evidence, the good-faith exception does not apply.

4. Because respondent cannot be prosecuted for refusing to consent to an unconstitutional search, Minn. Stat. § 169A.20, subd. 2, which criminalizes an arrestee's refusal to take a warrantless blood test, is unconstitutional as applied.

Affirmed. Chief Judge Lorie S. Gildea.

Took no part, Justices Margaret H. Chutich and Anne K. McKeig.

**A15-0076** State of Minnesota, Appellant, vs. Ryan Mark Thompson, Respondent.  
Court of Appeals.

1. Under *Birchfield v. North Dakota*, \_\_\_ U.S. \_\_\_, 136 S. Ct. 2160 (2016), the Fourth Amendment does not allow the State to prosecute respondent for violating Minn. Stat. § 169A.20, subd. 2 (2014), for refusing the blood test requested of him.

2. Because the intrusion into respondent's privacy interests is greater than the government's need for a urine sample, a warrantless urine test does not fall within the search-incident-to-arrest exception to the Fourth Amendment's warrant requirement.

3. Because the good-faith exception to the exclusionary rule is a rule of evidence and respondent does not challenge the admission of any evidence, the good-faith exception does not apply.

4. Because respondent cannot be prosecuted under the Fourth Amendment for refusing to consent to an unconstitutional search, Minn. Stat. § 169A.20, subd. 2, which criminalizes an arrestee's refusal to take a warrantless blood or urine test, is unconstitutional as applied.

Affirmed. Chief Judge Lorie S. Gildea.

Took no part, Justices Margaret H. Chutich and Anne K. McKeig.

**A15-1828** State of Minnesota, Respondent, vs. Joseph Bullhead, Appellant.

Affirmed. Judge Francis J. Connolly.

Dissenting, Judge R. A. (Jim) Randall.

Hennepin County District Court, Hon. William H. Koch

Appellant challenges his conviction of second-degree criminal sexual conduct, arguing that the district court erred in admitting relationship evidence under Minn. Stat. § 634.20 (2014) and that a new trial is required because the relationship evidence significantly affected the jury's verdict. Because we see no error in the admission of the evidence and no undue prejudice to appellant, we affirm.

**A15-1871** State of Minnesota, Respondent, vs. Terrance Paul DeRoche, Appellant.

Affirmed. Judge Edward Toussaint, Jr.\*

*Dissenting, Judge Kevin G. Ross.*

Scott County District Court, Hon. Diane M. Hanson.

On appeal from his driving-while-impaired (DWI) convictions, appellant Terrance Paul DeRoche argues that the district court erred in denying his pretrial suppression motion because the officer's stop of appellant's vehicle was not supported by a reasonable, articulable suspicion of criminal activity. Because the district court did not err in concluding that the police officer had a reasonable, articulable suspicion to stop appellant's vehicle, we affirm.

**A15-1417** State of Minnesota, Respondent, vs. Devon Derrick Parker, Appellant.  
Affirmed in part, reversed in part, and remanded. Judge Roger M. Klaphake.\*  
Hennepin County District Court, Hon. Daniel H. Mabley.

On appeal from his conviction of second-degree intentional murder, appellant Devon Derrick Parker argues that the district court (1) erred in denying his request for a change of venue, and (2) abused its discretion by imposing an upward durational sentencing departure based on the fact that the crime occurred in the victim's zone of privacy. Because the district court acted within its discretion in denying Parker's change-of-venue request, we affirm his conviction; because the district court abused its discretion by imposing an upward durational departure at sentencing, we reverse and remand for resentencing.

**A15-1682** State of Minnesota, Respondent, vs. Ronald Casa Roby, Appellant.  
Affirmed. Judge Michael L. Kirk.  
Ramsey County District Court, Hon. Salvador Rosas.

Challenging his conviction of second-degree assault, appellant argues that he is entitled to a new trial because: (1) the jury rendered inconsistent verdicts when it also acquitted him of third-degree assault; (2) he received ineffective assistance of counsel; and (3) the district court abused its discretion in denying his request for a downward departure sentence. We affirm.

**A15-1455** State of Minnesota, Respondent, vs. Travis Loren Clemmensen, Appellant.

Affirmed in part and vacated in part. Judge Randolph W. Peterson.  
Steele County District Court, Hon. Judge Karen R Duncan.

In this appeal from convictions of third-degree assault and domestic assault, appellant argues that (1) his third-degree-assault conviction must be reversed because the state did not prove that the assault resulted in substantial bodily harm; and (2) his domestic-assault conviction must be vacated because domestic-assault is a lesser-included offense of third-degree assault, or his sentence for domestic assault must be vacated because both offenses were committed during a single behavioral incident. We affirm appellant's convictions and vacate his sentence for domestic assault.

**A15-1637** *Danna Rochelle Back, petitioner, Appellant, vs. State of Minnesota, Respondent.*

Hennepin County District Court, Hon. Margaret A. Daly.

I. In determining whether a person who was previously convicted of second-degree manslaughter based on culpable negligence is an "exonerated" person

under Minnesota Statutes section 590.11, subdivision 1(1)(i) (2014), and is therefore potentially eligible for compensation under the Minnesota Imprisonment and Exoneration Remedies Act, Minnesota Statutes sections 611.362 to 611.368 (2014), a reversal of the conviction on the ground that the person owed no legal duty to the victim or the perpetrator is a reversal "on grounds consistent with innocence" within the meaning of section 590.11, subdivision 1(1)(i).

II. Minnesota Statutes section 590.11, subdivision 1(1)(i), violates the Equal Protection Clause of the Minnesota Constitution by defining "exonerated" to require not only the vacation or reversal of a judgment of conviction "on grounds consistent with innocence," but also the dismissal of the charges by a prosecutor.

Reversed and remanded. Judge Carol A. Hooten.

Dissenting, Judge Jill Flaskamp Halbrooks.

**A15-1247, A15-1255** State of Minnesota, Appellant (A15-1247), Respondent (A15-1255), vs. Randall Samuel

Stempfley, Respondent (A15-1247), Appellant (A15-1255).

Affirmed in part, reversed in part, and remanded. Judge Renee L. Worke.

Dissenting, Judge Jill Flaskamp Halbrooks.

Cass County District Court, Hon. Judge David Harrington.

In these consolidated appeals, Stempfley challenges his conviction and sentence arguing that: (1) the evidence was insufficient to prove that he aided and abetted third- and fourth-degree criminal sexual conduct; (2) under the law-of-the-case doctrine, the sufficiency of the evidence should be assessed against the jury instruction, which in this case included an unnecessary additional element; and (3) the district court erred in imposing a ten-year conditional-release term. The state argues that the district court abused its discretion in granting Stempfley's motion for a downward dispositional departure. We affirm Stempfley's conviction and the district court's downward dispositional departure, but reverse the ten-year conditional-release term and remand so the district court can correct the sentence

**A15-0708** *State of Minnesota, Respondent, vs. Quintin Lynn Thomas, Appellant.*  
St. Louis County District Court, Hon. Mark A. Munger.

I. Under Minnesota Rule of Criminal Procedure 26.03, the district court has discretion to grant or deny the state's motion to reopen its case to offer additional evidence where the motion is made after the state has rested without proving an element of its prima facie case and the defense has moved for judgment of acquittal.

II. In exercising its discretion on a motion to reopen, the district court should consider (a) when the motion is made, (b) whether the evidence is material, not

cumulative, and concerns a controlling issue, and (c) whether the state had an improper purpose for failing to offer the evidence earlier.

Affirmed. Judge Diane B. Bratvold.

**A15-1653** State of Minnesota, Respondent, vs. Ian Blair Lindemyer, Appellant.

Affirmed in part, reversed in part, and remanded. Judge Randolph W. Peterson.  
Hennepin County District Court, Hon. Judge Carolina A. Lamas.

Appellant challenges his two first-degree criminal-sexual-conduct convictions, one for sexual penetration and the other for sexual contact, arguing that the district court committed reversible error by admitting *Spreigl* evidence. Because the state failed to provide proper notice of the *Spreigl* evidence and the district court relied on the *Spreigl* evidence when finding appellant guilty of the sexual-contact offense, we affirm in part, reverse in part, and remand.

**A15-1664** State of Minnesota, Respondent, vs. Nathaniel Jon Fritz, Appellant.

Reversed and remanded. Judge Randolph W. Peterson.

Washington County District Court, Hon. Susan Miles.

In this appeal from a conviction of fourth-degree assault following his guilty plea, appellant argues that his guilty plea is invalid because the factual basis presented at the plea hearing failed to establish that appellant possessed the required criminal intent and that he inflicted demonstrable bodily harm. We reverse and remand.