



May 2017 Appellate Court Updates

[A16-0834](#) State of Minnesota, Respondent, vs. W.C. Luther Washington, Appellant.

Ramsey County District Court, Hon. Judge Leonardo Castro.

When determining whether a prior felony has decayed for the purpose of sentencing a current continuing offense, the "date of the current offense" is the date on which the continuing offense begins.
Affirmed. Judge Denise D. Reilly.

[A16-0447](#) State of Minnesota, Respondent, vs. Tyrell Deon Wilson, Appellant.

Affirmed. Judge Jill Flaskamp Halbrooks.

Ramsey County District Court, Hon. Judith M. Tilsen.

Appellant challenges his conviction of possession of a firearm by an ineligible person, arguing that the district court erred by permitting testimony that the officers who searched his apartment were assigned to the violent-crime enforcement team and evidence of approximately \$5,000 in cash that was found in appellant's closet. We affirm.

[A16-0907](#) State of Minnesota, Respondent, vs. Robert Arthur Litzau, Appellant.

Cass County District Court, Hon. Judge David Harrington.

Minn. Stat. § 609.50, subd. 1(2) (2014), prohibits a person from obstructing and resisting a peace officer effectuating that person's arrest.
Affirmed. Judge John R. Rodenberg.

A16-0170 State of Minnesota, Respondent, vs. Carlieke J. Carpenter, Appellant.

Hennepin County District Court, Hon. Fred Karasov.

The district court's authority to decide a post-verdict motion to acquit under Minnesota Rule of Criminal Procedure 26.03, subdivision 18, section 3, is the same in a court trial as in a jury trial.
Affirmed in part, reversed in part, and remanded. Judge Denise D. Reilly.

[A16-0743](#) State of Minnesota, Respondent, vs. Anthony Solon LaBatte, Appellant.

Affirmed. Judge Lucinda E. Jesson.

Concurring specially, Chief Judge Edward J. Cleary.

Yellow Medicine County District Court, Hon. Thomas W. Van.

Appellant Anthony Solon LaBatte challenges his conviction of felony driving while impaired, arguing that the district court erred by denying his motion to suppress evidence because the arresting officer impermissibly expanded the scope of the traffic stop and a substantial violation of the *Scales* recording requirement occurred. Because the officer had reasonable articulable suspicion of additional illegal activity to justify expansion of the stop, and because the *Scales* violation was not substantial, we affirm.

[A16-0565, A16-0880](#) State of Minnesota, Respondent, vs. Andre Verlin Anderson, Appellant.

Affirmed. Judge Edward Toussaint Jr.

Concurring specially, Judge John R. Rodenberg.

Concurring specially, Judge Kevin G. Ross.

St. Louis County District Court, Hon. John E. DeSanto.

Appellant challenges his convictions of aiding and abetting attempted second-degree murder, aiding and abetting first-degree assault, and aiding and abetting motor-vehicle theft, arguing that the district court erred by refusing (1) to strike a juror for cause; (2) to suppress the victim's pretrial identification; and (3) to permit an expert in eyewitness identification to testify. Appellant also challenges the district court's restitution order holding him jointly and severally liable for the arson loss of the victim's truck. We affirm.

[A16-1418](#) State of Minnesota, Respondent, vs. Cyrus Nyakundi Nyagwoka, Appellant.

Hennepin County District Court, Hon. Jay Quam.

Misdemeanor domestic assault is not a lesser-included offense of second-degree assault.
Reversed. Judge Heidi S. Schellhas.

[A16-0944](#) In the Matter of the Welfare of: T.D.B., Juvenile.

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

Chisago County District Court, Hon. Judge Suzanne Bollman.

In this appeal from an adjudication of underage consumption of alcohol, appellant T.D.B. argues that (1) the result of a preliminary breath test (PBT) was not admissible (a) under Minn. Stat. § 169A.41 (2014) and (b) because no search warrant was obtained before the PBT was administered, (2) his statement to police should have been suppressed because he was not given a Miranda warning, and (3) Minn. Stat. § 340A.503 (2014) does not apply when the alcohol was consumed in another state. We affirm in part, reverse in part, and remand.

[A16-0690](#) State of Minnesota, Respondent, vs. Michael Deangelo Ball, Appellant.

Affirmed in part, reversed in part, and remanded. Judge Francis J. Connolly.

Hennepin County District Court, Hon. Elizabeth V. Cutter.

Appellant challenges his convictions, arguing that (1) the district court abused its discretion in denying his alternative motions for a mistrial or for striking a victim's in-court identification of appellant and in not granting a new trial based on inaccuracies in the victim's testimony and (2) the evidence was not sufficient for the jury to reasonably conclude that appellant was guilty. Because we see no abuse of discretion and sufficient evidence supports the jury's verdict, we affirm. However, because there was an error in the imposition of appellant's consecutive sentences, we reverse the sentence and remand for resentencing.

[A16-1638](#) State of Minnesota, Respondent, vs. Eddie Morris Miller, Appellant.

Reversed and remanded. Judge Roger M. Klaphake.

Hennepin County District Court, Hon. Toddrick S. Barnette.

Appellant Eddie Morris Miller challenges the validity of his guilty plea to a charge of violation of a domestic-abuse no-contact order, Minn. Stat. § 629.75, subd. (d)(1) (2014). Because Miller's admissions during the plea colloquy and the district court record fail to establish a sufficient factual basis to support his plea, we reverse.

[A16-0747](#) State of Minnesota, Respondent, vs. Desmond Lamart Jones, Appellant.

Affirmed. Judge Heidi S. Schellhas.

Stearns County District Court, Hon. Kris David-Halfen.

Appellant challenges his conviction of first-degree arson, arguing that (1) the district court violated his right of self-representation and erroneously admitted relationship evidence, (2) the prosecutor committed misconduct, and (3) the evidence is insufficient to support his conviction. We affirm.

[A16-0744](#) State of Minnesota, Respondent, vs. Corie Demetrius Bass, Appellant.

Affirmed. Judge Denise D. Reilly.

Hennepin County District Court, Hon. Judge Hilary L. Caligiuri.

Appellant Corie Demetrius Bass was charged as a prohibited person in possession of a firearm, in violation of Minn. Stat. § 624.713, subd. 1(2) (2016). Bass moved to suppress the gun evidence, arguing that the search was unlawful because the police lacked a sufficient basis for the stop. The district court denied the motion, and Bass appealed. Because we conclude that the police had reasonable, articulable suspicion to suspect one of the vehicle occupants of criminal activity, and because the officers' show of force and intrusion upon the entire group was a reasonable means of ensuring officer safety, we affirm.

[A16-0305](#) State of Minnesota, Respondent, vs. Ronald Gene Kremmin, Appellant.

Rice County District Court, Hon. John T. Cajacob.

The plain language of Minn. Stat. § 609.605, subd. 1(b)(8) (2014), which defines the crime of trespass, requires both a command to leave the property and a command not to return to the property.

Reversed. Judge Francis J. Connolly.

[A15-2075](#) State of Minnesota, Respondent, vs. Matthew Vaughn Diamond, Appellant.

Carver County District Court, Hon. Michael Wentzell.

A district court order compelling a criminal defendant to provide a fingerprint to unlock the defendant's cellphone does not violate the Fifth Amendment privilege against compelled self-incrimination.

Affirmed. Judge Tracy M. Smith.

[A16-0198](#) State of Minnesota, Respondent, vs. Emile Rey, Appellant.

Dakota County District Court, Hon. Judge Jerome B. Abrams.

The minimum-restitution provision in Minnesota Statutes section 609.527, subdivision 4 (2014), which requires a district court to order a person convicted of identity theft to pay restitution of not less than \$1,000 to each victim, does not violate substantive due process.

Affirmed. Judge Stephen L. Muehlberg.

[A15-1773](#) State of Minnesota, Respondent, vs. Manuel Guzman, Appellant.

Hennepin County.

1. The district court did not err when it denied appellant's pretrial motion to quash the indictment.
2. The district court did not abuse its discretion when it denied appellant's pretrial motion to disclose the entire grand jury transcript.
3. The district court did not violate appellant's right to present a defense when it excluded reverse-Spreigl evidence on the grounds that it was inadmissible under the rules of evidence governing relevancy, unfair prejudice, hearsay, and impeachment.
4. The district court's admission of evidence regarding appellant's incarceration for an unrelated offense was harmless.
5. The district court did not plainly err when it allowed a witness to testify on redirect examination that during one of the recorded calls between appellant and his girlfriend, appellant was talking in code about selling a gun.
6. Any alleged error in the district court's jury instructions was harmless.

Affirmed. Justice G. Barry Anderson.

[A16-0865](#) State of Minnesota, Respondent, vs. Quincy Darnell Harris, Appellant.

Affirmed. Judge Diane B. Bratvold.

Hennepin County District Court, Hon. Judge Nicole A. Engisch.

Appellant requests a new trial and reversal of his convictions of possession of controlled substances with intent to sell. Appellant argues that the district court abused its discretion in denying his motion to exclude the state's expert testimony, which was not disclosed until the first day of trial, in violation of the rules of criminal procedure. Because appellant fails to demonstrate prejudicial error, we affirm.

[A15-1542](#) State of Minnesota, Respondent, vs. Desean Lamont Thomas, Appellant.

Affirmed. Judge Thomas J. Kailtowski.

Ramsey County District Court, Hon. Salvador Rosas.

Appellant Desean Thomas challenges his convictions of four counts of aiding and abetting second-degree murder, including two counts committed for the benefit of a gang. Thomas argues (1) this court must reverse his convictions because the evidence was insufficient to corroborate the accomplice testimony, and (2) the district court erred in admitting evidence of two prior shootings. Thomas makes additional arguments for reversal in his pro se supplemental brief. We affirm.

[A16-1200](#) David Kenneth Schlicher, Petitioner, vs. Commissioner of Public Safety, Respondent.

Reversed and Remanded. Judge Peter M. Reyes, Jr.

Wabasha County District Court, Hon. Terrence M. Walters.

Appellant argues that the district court erred in sustaining the revocation of his driving privileges because his Fourth Amendment rights were violated when the officer seized him without a reasonable, articulable suspicion of criminal activity. We agree and reverse and remand.

[A16-1677](#) State of Minnesota, Appellant, vs. Jorge Armando Benavides, Respondent.

Affirmed. Judge Tracy M. Smith.

Dissenting, Judge Carol A. Hooten.

Kandiyohi County District Court, Hon. Michael J. Thompson.

Appellant State of Minnesota challenges the district court's suppression of evidence and dismissal of the drug-possession charge resulting from a traffic stop that led to a narcotics-detection dog sniff around a vehicle in which respondent Jorge Armando Benavides was a passenger. The state contends that the expansion of the scope of the stop was supported by reasonable, articulable suspicion and that, even if it was not, the evidence should not be suppressed because it inevitably would have been discovered during a routine inventory search after the vehicle was towed from a no-parking zone. Because the state has not shown that the officer had a reasonable, articulable suspicion of drug-related criminal activity and the record does not establish that the evidence inevitably would have been discovered, we affirm.

[A16-1914](#) State of Minnesota, Appellant, vs. Kartaris Lashawn Harris, Respondent.

Reversed and remanded. Judge Michael L. Kirk.

Ramsey County District Court, Hon. Judge Stephen L. Smith.

Appellant State of Minnesota challenges the district court's order granting respondent Kartaris Lashawn Harris's motion to suppress evidence and dismiss the complaint, arguing that the district court erroneously concluded that the police officer lacked a reasonable, articulable suspicion to justify stopping respondent's vehicle. We reverse and remand for further findings.

[A16-0446](#) State of Minnesota, Respondent, vs. DeSean Lamont Thomas, Appellant.

Affirmed. Judge John. P. Smith.

Dakota County District Court, Hon. Arlene Perkkio.

We affirm Appellant DeSean Lamont Thomas's convictions because he fails to demonstrate prejudice entitling him to a new trial and because his pro se arguments lack merit.

[A16-1538](#) State of Minnesota, Respondent vs. Bryan Lee Larson, Appellant.

Ramsey County District Court, Hon. Judge Nicole J. Starr.

The term "carry" in Minnesota Statutes section 624.7142, subdivision 1, subsection 4 (2014), which prohibits carrying a pistol in a public place while under the influence of alcohol, includes transporting the pistol unloaded in an enclosed case.

Affirmed. Judge Lucinda E. Jesson.