**STATE OF MINNESOTA**
**IN COURT OF APPEALS**
**A20-0408**

State of Minnesota,
Respondent,

vs.

Christopher Ryan Shappell,
Appellant.

**Filed February 8, 2021**
**Reversed and remanded**
**Cochran, Judge**

Polk County District Court
File No. 60-CR-19-1459

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Greg Widseth, Polk County Attorney, Scott A. Buhler, First Assistant County Attorney, Crookston, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Sharon E. Jacks, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Cochran, Presiding Judge; Jesson, Judge; and Slieter, Judge.

**NONPRECEDENTIAL OPINION**

**COCHRAN**, Judge

In this direct appeal from the judgment of conviction of a felony violation of an order for protection, appellant challenges his sentence. He argues that the district court erred by sentencing him with a criminal-history score of seven, which he contends

incorrectly included (1) a felony point for a prior felony conviction that was used to enhance the current offense to a felony, and (2) a full custody-status point, rather than a one-half custody-status point, for his supervised-release status at the time of the current offense. We conclude that the Minnesota Sentencing Guidelines require that appellant receive a felony point for the prior felony conviction but that the district court erred by assigning Shappell a full custody-status point for his supervised-release status. We therefore reverse and remand to the district court for resentencing.

## FACTS

In July 2019, the State of Minnesota charged appellant Christopher Ryan Shappell with one count of felony violation of an order for protection. The state charged Shappell with a felony offense because Shappell previously had been convicted of two qualified domestic-violence-related offenses within ten years of the charged offense—a misdemeanor violation of an order for protection in 2015, and a felony domestic-assault-by-strangulation offense in 2015. *See* Minn. Stat. § 518B.01, subd. 14(d)(1) (2018). Shappell pleaded guilty to the charge.

Because Shappell committed the current offense in July 2019, he was sentenced under the 2018 version of the Minnesota Sentencing Guidelines, which were still in effect at that time. *See* Minn. Sent. Guidelines 2 (2018). A presentence-investigation report calculated his criminal-history score to be 7.5, consisting of 6.5 felony points and one custody-status point. The 6.5 felony points included a felony point for Shappell's 2015 domestic-assault-by-strangulation conviction, which was used to enhance the current offense to a felony. Shappell's felony-point total was rounded down to six in accordance

with the guidelines. *See* Minn. Sent. Guidelines 2.B.1.i (requiring an offender's felony-point total to be rounded down to the nearest whole number). Shappell was also assigned a full custody-status point because Shappell committed the current offense while on supervised release for a 2018 criminal-damage-to-property conviction. Because Shappell's total criminal-history score was seven and included a custody-status point, his presumptive sentence was enhanced by three months pursuant to the Minnesota Sentencing Guidelines 2.B.2.c. Accordingly, the presentence-investigation report calculated the presumptive range of Shappell's sentence to be 29-39 months.

At the sentencing hearing, Shappell did not dispute his criminal-history score. He instead moved for a downward dispositional departure, arguing that he should be placed on probation. The state argued in favor of a 33-month executed sentence. The district court denied both requests and imposed an executed sentence of 29 months, which is the low end of the presumptive guidelines range. This appeal follows.

**DECISION**

This case calls on us to interpret the Minnesota Sentencing Guidelines. The Minnesota Sentencing Guidelines Commission (the Commission) has promulgated the sentencing guidelines for district courts to use when imposing a sentence after conviction of a felony offense. *State v. Campbell*, 814 N.W.2d 1, 5 (Minn. 2012) (stating that the sentencing guidelines apply only to felonies); *State v. Williams*, 771 N.W.2d 514, 521 (Minn. 2009) (describing the purpose of the sentencing guidelines). The sentencing guidelines set forth the procedures that district courts must follow to calculate a defendant's criminal-history score. *Williams*, 771 N.W.2d at 521; *see* Minn. Sent. Guidelines 2.B.

After calculating a criminal-history score in a particular case, a district court uses that score to determine the defendant's presumptive sentence. *Williams*, 771 N.W.2d at 521.

A defendant's criminal-history score is calculated by allotting "points" in four categories: prior felonies, custody status at the time of the offense, prior misdemeanors and gross misdemeanors, and prior juvenile adjudications. Minn. Sent. Guidelines 2.B. Regarding the first category, prior felonies, the guidelines generally instruct district courts to assign points for each prior felony conviction, with the number of points for each conviction dependent on the severity level of the prior felony offense. Minn. Sent. Guidelines 2.B.1.a-b; *see also State v. LaDoucer*, 479 N.W.2d 716, 717 (Minn. 1992) (discussing the same principle as applied to an earlier version of the guidelines). With respect to the second category, custody status at the time of the offense, a defendant generally will receive up to two points if the defendant was subject to a custody status—such as probation, parole, or supervised release—at the time he or she committed the current offense. Minn. Sent. Guidelines 2.B.2; *see also State v. Oreskovich*, 915 N.W.2d 920, 924 (Minn. App. 2018) (discussing the assignment of custody-status points under an earlier version of the guidelines).

After allocating points in these four categories, the district court combines the total scores from each category to arrive at a total criminal-history score. Minn. Sent. Guidelines 2.B. The district court then uses the defendant's criminal-history score, along with the severity level of the current offense, to locate the defendant's presumptive sentencing range on the appropriate guidelines' sentencing grid. Minn. Sent. Guidelines 2.C.1, 4.A (2018); *see also Taylor v. State*, 670 N.W.2d 584, 586 (Minn. 2003) (explaining that "[t]he

presumptive guidelines sentence is usually located in the cell of the guidelines grid where the offender's criminal history score and offense severity level intersect").

Here, the district court determined that Shappell had a criminal-history score of seven and imposed a guidelines sentence of 29 months in prison. Shappell argues that we must reverse and remand to the district court for resentencing because the district court made two separate errors in calculating his criminal-history score. He contends that the district court erred by assigning (1) a felony point for his prior felony conviction of domestic-assault-by-strangulation, and (2) a full custody-status point for his supervised-release status at the time of the current offense. Although Shappell did not object to his criminal-history score at the time of sentencing, he is entitled to challenge his score for the first time on appeal. *See State v. Maurstad*, 733 N.W.2d 141, 147 (Minn. 2007) (holding that a sentence based on an incorrect criminal-history score is an illegal sentence that may be "corrected at any time"). We address each of Shappell's arguments in turn.

## I. The district court did not err by assigning Shappell a felony point for his prior domestic-assault-by-strangulation conviction.

Shappell contends that the district court erred by assigning him a felony point for his prior felony conviction of domestic-assault-by-strangulation because that conviction was also used to enhance his current offense to a felony. He argues that the Minnesota Sentencing Guidelines supports his position.

Where the assignment of criminal-history points turns on an interpretation of the Minnesota Sentencing Guidelines, we review de novo the district court's determination of

an offender's criminal-history score. *State v. Strobel*, 932 N.W.2d 303, 306 (Minn. 2019). In interpreting the sentencing guidelines, an appellate court uses "the same principles as when interpreting statutes," including those contained in the canons of statutory construction set forth in Minn. Stat. § 645.08 (2018). *State v. Scovel*, 916 N.W.2d 550, 554 (Minn. 2018). "If the language of the [g]uidelines is plain and unambiguous, it is presumed to manifest the intent of the Minnesota Sentencing Guidelines Commission." *Strobel*, 932 N.W.2d at 307 (quotation omitted). We will "consider other factors to determine the Commission's intent only if the language of the [g]uidelines is subject to more than one reasonable interpretation." *Id.* (quotation omitted).

We read the sentencing guidelines "as a whole and interpret each section in light of the surrounding sections." *Id.* (quotation omitted). "When there is an apparent conflict between two provisions, we first attempt to construe the provisions to give effect to both." *Scovel*, 916 N.W.2d at 555 (quotation omitted). Moreover, we aim to interpret the guidelines in a way that is consistent with its comments, although the comments are merely advisory rather than binding. *Id.*

Shappell was convicted of felony domestic-assault-by-strangulation in 2015. When charging Shappell for the current offense—violation of an order for protection—the state used Shappell's felony domestic-assault-by-strangulation conviction, along with a misdemeanor conviction for violating an order for protection, to enhance the current offense to a felony. *See* Minn. Stat. § 518B.01, subd. 14(d)(1) ("A person is guilty of a felony . . . if the person violates this subdivision . . . within ten years of the first of two or more previous qualified domestic violence-related offense convictions."). As

recommended by the presentence-investigation report, the district court assigned Shappell one felony point for the prior domestic-assault-by-strangulation conviction.

Shappell argues that the sentencing guidelines should not be construed to allow this prior felony, which was used to enhance the current offense to a felony, to also be included in the calculation of his criminal-history score. He first argues that the guidelines "unambiguously" prohibit a district court from assigning a felony point for a prior non-driving-while-impaired (DWI) felony offense where that felony has also been used to enhance the current offense. He maintains that, under the guidelines, a prior felony that is used to enhance the current offense can *only* be assigned a felony point if the prior felony is a DWI offense. Alternatively, Shappell argues that if this court finds the guidelines to be ambiguous on this point, we should apply the same interpretation because doing so would achieve the Commission's goal of ensuring fairness in sentencing.

The state counters that the district court did not err when it assigned a felony point for Shappell's prior domestic-assault-by-strangulation conviction because section 2.B.6 of the sentencing guidelines "unambiguously" provides that "[p]rior felony offenses used for enhancement must always be used in calculating the offender's criminal history score." The state further argues that the guidelines do not otherwise limit the application of this language to DWI offenses as urged by Shappell.

To analyze Shappell's argument, and determine whether the guidelines are clear or ambiguous, we must consider the sentencing guidelines as a whole. *Strobel*, 932 N.W.2d at 307. Two sections of the sentencing guidelines are relevant here. First, section 2.B.1 sets forth the general rule for assigning points for prior felony convictions. It provides that

district courts must "[a]ssign a particular weight . . . [to] *each felony conviction*, provided that a felony sentence was stayed or imposed before the current sentencing or a stay of imposition of sentence was given before the current sentencing." Minn. Sent. Guidelines 2.B.1 (emphasis added). Section 2.B.1 also provides several exceptions to the general rule under which certain felony convictions must *not* be assigned a felony weight—none of which are applicable here. *See* Minn. Sent. Guidelines 2.B.1.c-e, g, h. The second relevant section of the guidelines is section 2.B.6, which primarily sets forth rules governing how to assign criminal-history points for prior misdemeanor or gross-misdemeanor convictions that have been used to enhance the current offense to a felony.

Shappell bases his argument solely on the language of section 2.B.6. We therefore begin by examining the language of that section. In full, section 2.B.6 provides the following:

> 6. Felony Enhancement Due to Prior Misdemeanor or Gross Misdemeanor Convictions.
>
> a. Enhanced Felonies. When the current offense is a felony solely because the offender has previous convictions for misdemeanor and gross misdemeanor offenses, the prior misdemeanor conviction(s) on the targeted misdemeanor list provided in Minn. Stat. § 299C.10, subd. 1(e) or gross misdemeanor conviction(s) upon which the enhancement is based may be used in determining custody status, but cannot be used in calculating the remaining components of the offender's criminal history score.
>
> b. Counting Prior Misdemeanors and Gross Misdemeanors; Future Felony. Except as provide[d] in paragraph c, misdemeanor and gross misdemeanor offenses used to enhance the current offense must be used in calculating the offender's criminal history score on future offenses that are not enhanced felonies. *Prior felony offenses used for*

> *enhancement must always be used in calculating the offender's criminal history score.*
>
> c. Counting Prior Misdemeanors and Gross Misdemeanors; Felony Driving While Impaired (DWI). If the current offense is a felony DWI offense and the offender has a prior felony DWI offense, the prior felony DWI must be used in computing the criminal history score. The prior misdemeanor and gross misdemeanor offenses used to enhance the first prior felony DWI cannot be used in the offender's criminal history. Any other misdemeanor or gross misdemeanor DWI offenses may be included as provided in section 2.B.3.g.

Minn. Sent. Guidelines 2.B.6 (emphasis added).

The only reasonable interpretation of section 2.B.6 is that all felony offenses used to enhance the current offense to a felony must be included in an offender's criminal-history score. The language of sections 2.B.6.b and 2.B.6.c supports this conclusion. As quoted above, section 2.B.6.b provides that "[p]rior felony offenses used for enhancement must *always* be used in calculating the offender's criminal history score." Minn. Sent. Guidelines 2.B.6.b (emphasis added). This rule is not qualified by any other language in section 2.B.6. And, the rule is further reinforced by section 2.B.6.c, which specifically addresses felony DWI offenses. That section states that "[i]f the current offense is a felony DWI offense and the offender has a prior felony DWI offense, the prior felony DWI *must be* used in computing the criminal history score." (Emphasis added.)

Although perhaps not immediately apparent from the language of section 2.B.6.c, this language refers to a situation in which a prior felony DWI conviction is used to enhance a current DWI offense to a felony. *See* Minn. Stat. § 169A.24, subd. 1(2) (2018) (providing that a standard DWI offense must be enhanced to a felony where the defendant "has

previously been convicted of a felony under this section"). Consequently, section 2.B.6.c is reasonably interpreted as applying the rule of 2.B.6.b to the context of felony DWI offenses. In other words, because prior felonies used for enhancement must *always* be included in calculating an offender's criminal-history score, section 2.B.6.c specifies that a prior felony DWI used to enhance the current DWI offense to a felony must *also* be included in calculating an offender's criminal-history score. When all parts of section 2.B.6 are read together, they are reasonably interpreted as requiring prior felony offenses used for enhancement to *always*, *invariably*, and *at all times*, be included in an offender's criminal-history score.

This interpretation is also consistent with the general rule articulated in section 2.B.1 that district courts must assign a particular weight to "each felony conviction" for which a sentence was stayed or imposed. Minn. Sent. Guidelines 2.B.1. And, while section 2.B.1 provides several exceptions to this general rule, none of them pertain to felony convictions used to enhance the current offense. The language of section 2.B.1 therefore requires that *every* prior felony offense be counted in an offender's criminal history, save the convictions for which it expressly provides an exception.

Shappell asserts a different interpretation of section 2.B.6. In contrast to our reading of that section, Shappell contends that prior felony offenses used for enhancement are *not* included in an offender's criminal-history score *unless* the prior felony is a DWI offense. He argues that because section 2.B.6.c specifies that a prior felony DWI must be included in an offender's criminal-history score, the necessary implication is that prior non-DWI felony offenses used for enhancement are not to be counted in the criminal-history score.

In particular, Shappell argues that interpreting the guidelines as requiring *all* felony offenses to be included in the criminal-history score would render "superfluous" the language in section 2.B.6.c that pertains to prior DWI felonies. Moreover, Shappell attempts to distinguish the language in section 2.B.6.b—which states that prior felonies used for enhancement must *always* be included in the criminal-history score—by emphasizing that the title of section 2.B.6.b refers to "future felon[ies]." Based on the title of section 2.B.6.b, he argues that section 2.B.6.b applies only to sentencings for *future* offenses, and must not be followed when sentencing for the current offense.

Shappell's interpretation of section 2.B.6 is unreasonable. First, Shappell's argument that the rule in section 2.B.6.b applies only to sentencings for future offenses is unpersuasive. Foremost, the language of the rule set forth in 2.B.6.b is unqualified: "[p]rior felony offenses used for enhancement must *always* be used in calculating the offender's criminal history score." Minn. Sent. Guidelines 2.B.6.b (emphasis added). This rule uses the term "always," which belies its application only to future sentencings. And, the various subparts of section 2.B.6 contain no express exceptions to that rule. Moreover, as a general matter, a guideline's title is not part of the guideline itself and cannot be used to "alter the plain import of a [guideline's] explicit language within the scope of the title." *Hyland v. Metro. Airports Comm'n*, 538 N.W.2d 717, 720 (Minn. App. 1995); *see also* Minn. Stat. § 645.49 (2018).

Second, Shappell's argument that section 2.B.6.c implies that prior non-DWI felonies are to be treated differently than prior DWI felonies is similarly unpersuasive. As discussed above, section 2.B.6.c announces a rule pertaining specifically to felony DWI

offenses that is otherwise in accord with the general rules of sections 2.B.1 and 2.B.6—just as other prior felonies must generally be included in a defendant's criminal-history score, prior *DWI* felonies, used to enhance the current offense to a felony DWI offense, *must also* be included in the defendant's criminal-history score. In other words, section 2.B.6.c reflects a specific application to DWI offenses of the rules articulated in sections 2.B.1 and 2.B.6.b with regard to prior felonies.

The last two sentences of section 2.B.6.c support our interpretation. Those sentences establish that prior misdemeanor and gross-misdemeanor DWIs may be treated differently than other types of prior misdemeanor and gross-misdemeanor convictions under certain circumstances. Thus, when read in its entirety, Section 2.B.6.c appears to reflect that while the rules for prior misdemeanors and gross misdemeanors vary for DWI offenses, the general rule that prior *felonies* must be included in a defendant's criminal-history score still applies regardless of whether the prior felonies are DWIs.

Shappell, however, argues that "[t]he only interpretation that gives effect to the entire provision is that non-DWI prior felonies used to enhance the current non-DWI offense are not to be included in the person's criminal history score." In other words, he maintains that section 2.B.6 contains an implicit rule that prior felony convictions used to enhance the current offense are counted in a criminal-history score *only* where those prior felonies are DWIs. He argues that any other interpretation would render superfluous language in section 2.B.6.c regarding counting of prior DWI felonies. We do not find Shappell's interpretation to be a reasonable interpretation of the guidelines as a whole. Section 2.B.1 sets forth the general rule, section 2.B.6.b applies that general rule

unqualifiedly to prior felonies used for enhancement, and section 2.B.6.c reiterates that rule in the specific context of felony DWI offenses. We can discern no method of analysis that would permit us to construe section 2.B.6.c as establishing an implicit exception to the general rules set forth explicitly in sections 2.B.1 and 2.B.6.b.

In sum, Shappell's interpretation of section 2.B.6 is not reasonable. To the contrary, the language of the sentencing guidelines, considered in its entirety, unambiguously requires that *all* prior felony offenses be included in an offender's criminal-history score, regardless of whether they are used for enhancement, provided they would otherwise be assigned a weight under section 2.B.1. Because we determine that the sentencing guidelines are plain and unambiguous, we need not consider Shappell's arguments regarding the Commission's intent. *See Scovel*, 916 N.W.2d at 555. We therefore conclude that the district court did not err by assigning Shappell a felony point for his prior domestic-assault-by-strangulation felony conviction.

## II. Shappell is entitled to be resentenced because the district court erred by assigning him a full custody-status point rather than a one-half point for his supervised-release status at the time of the current offense.

Shappell also argues that the district court erred by assigning him a full custody-status point for his supervised-release status at the time of the current offense for a 2018 felony criminal-damage-to-property conviction. He contends that under the common law "amelioration doctrine" he is entitled to the benefit of the 2019 revisions to the sentencing guidelines which would require that he receive only a one-half custody-status point. We agree.

The 2018 sentencing guidelines were in effect when Shappell committed the current offense in July 2019. Under that version of the guidelines, an offender received a full custody-status point if the offender committed the current offense while on supervised release for a felony conviction. Minn. Sent. Guidelines 2.B.2.a(1)(iii), a(3). The Commission revised section 2.B.2.a in the 2019 guidelines to require that an offender on supervised release receive only a one-half custody-status point in such circumstances. *Id.* (2019). The 2019 revisions took effect on August 1, 2019, while Shappell's case was pending in the district court.

The amelioration doctrine provides that changes in a law that serve to mitigate punishment must be applied to offenses committed before the law's effective date, as long as no final judgment has been reached and the legislature has not made a clear statement of intent to abrogate the amelioration doctrine. *State v. Kirby*, 899 N.W.2d 485, 490 (Minn. 2017). Amendments to the sentencing guidelines are treated the same as statutory amendments for the purposes of the amelioration doctrine. *See State v. Robinette*, 944 N.W.2d 242, 248-50 (Minn. App. 2020) (applying the amelioration doctrine to a modification to the sentencing guidelines), *review granted in part* (Minn. June 30, 2020). We review the applicability of the amelioration doctrine de novo. *See id.* at 248-49; *see also Strobel*, 932 N.W.2d at 306 (providing that the interpretation of the sentencing guidelines is subject to de novo review).

Shappell argues that the amelioration doctrine requires this court to reverse his sentence and remand to the district court to reduce his criminal-history score by one-half point. The state does not dispute that the amelioration doctrine applies to this case. Instead,

the state argues that this error was harmless because even if Shappell's custody status point were reduced by one-half point, Shappell's presumptive sentence range would not change.

Based on our independent review of the law, we agree with the parties that the amelioration doctrine applies in this case. *See State v. Hannuksela*, 452 N.W.2d 668, 673 n.7 (Minn. 1990) (stating that even if the parties agree on an issue, "it is the responsibility of appellate courts to decide cases in accordance with the law"). The amelioration doctrine applies where: "(1) the Legislature made no statement that clearly establishes the Legislature's intent to abrogate the amelioration doctrine; (2) the amendment mitigates punishment; and (3) final judgment has not been entered as of the date the amendment takes effect." *Kirby*, 899 N.W.2d at 490. Here, the first requirement is met because this court held in *State v. Robinette* that the legislature did not make a statement establishing its intent to abrogate the amelioration doctrine with respect to the 2019 revisions to Minnesota Sentencing Guidelines section 2.B.2. 944 N.W.2d at 248-51. While *Robinette* discussed a different amendment to section 2.B.2.a than is at issue in the present case, the Commission revised the provision at issue here at the same time as the one discussed in *Robinette*. *See* Minn. Sent. Guidelines Comm'n, *2019 Report to the Legislature* (Jan. 11, 2019). *Robinette*'s holding therefore applies equally in this case.

The amelioration doctrine's second requirement, mitigation of punishment, is also met because receiving a one-half custody-status point, as opposed to a full custody-status point, results in a lower criminal-history score, which can result in a shorter presumptive sentence. *See Kirby*, 899 N.W.2d at 495-96 (concluding that an amendment to the sentencing guidelines mitigated punishment because it reduced the defendant's

presumptive sentence and "reduced sentences for the majority of drug offenders"). And, the third requirement is met because Shappell's case was pending in the district court at the time the 2019 guidelines took effect on August 1, 2019. Consequently, all three requirements for application of the amelioration doctrine are satisfied and it applies in this case. Shappell was accordingly entitled to the benefit of the 2019 revisions to section 2.B.2.a, and the district court erred by assigning Shappell a full custody-status point for his supervised-release status, rather than a one-half custody-status point.

The state contends that the district court's error was harmless and therefore does not require reversal because Shappell's presumptive sentence range would remain the same if Shappell's criminal-history score were reduced by one-half custody-status point. We disagree. The supreme court has unequivocally held that "a sentence based on an incorrect criminal history score is an illegal sentence . . . correctable at any time." *Maurstad*, 733 N.W.2d at 147 (quotation omitted). And we have previously applied that principle and remanded for resentencing where the appellant-defendant's sentence was based on an incorrect criminal-history score, even though his sentence would still fall within the same presumptive sentencing guidelines range when calculated with the correct criminal-history score. *State v. Provost*, 901 N.W.2d 199, 201-02 (Minn. App. 2017) (concluding that "Provost's 48-month sentence, which was within the presumptive guidelines range of 41 to 57 months when calculated with Provost's incorrect criminal history score, was also within the presumptive guidelines range of 37 to 51 months when calculated with his corrected criminal history score," but remanding nonetheless because the *Maurstad* court

"at no point . . . indicate[d] that its decision was premised on the fact that the corrected sentence would be outside the presumptive guidelines range").

Here, applying the 2018 sentencing guidelines, the district court calculated Shappell's criminal-history score to be a seven. That score included a full custody-status point. If the district court had instead applied the 2019 revision to section 2.B.2.a, and assigned Shappell only a one-half custody-status point, Shappell's criminal-history score would have been 6.5.[1] Even assuming Shappell's presumptive sentence remains the same with a score of 6.5, under *Maurstad* and *Provost*, Shappell's sentence is an illegal sentence because it was calculated with an incorrect criminal-history score. Accordingly, we must reverse and remand to the district court to resentence Shappell with a corrected criminal-history score of 6.5.

In sum, we conclude that the district court erred by assigning Shappell a full-custody status point, rather than a one-half custody-status point, for his supervised-release status at the time of the current offense. Because Shappell was sentenced with an incorrect criminal-history score, we reverse and remand to the district court for resentencing.

**Reversed and remanded.**

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[1] Under the 2019 guidelines, Shappell's score would include the same 6.5 felony points as his 2018 score, *rounded down* to six in accordance with Minn. Sent. Guidelines 2.B.1.i (2019). And Shappell would also receive a one-half custody-status point instead of a full point due to the 2019 revision to section 2.B.2.a. Therefore, Shappell's final criminal-history score under the 2019 guidelines' revisions would total 6.5.

The state incorrectly contends that Shappell's final, revised score would be seven rather than 6.5 because the state fails to recognize that Shappell's 6.5 felony points would still be rounded down to six under Minn. Sent. Guidelines 2.B.1.i.