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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0723**

State of Minnesota,
Respondent,

vs.

Jerome Allen Mindermann,
Appellant.

**Filed May 17, 2021
Affirmed in part, reversed in part, and remanded
Cochran, Judge**

Otter Tail County District Court
File No. 56-CR-17-2205

Keith Ellison, Attorney General, Michael Everson, Assistant Attorney General, St. Paul, Minnesota; and

Michelle Eldien, Otter Tail County Attorney, Fergus Falls, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Rachel F. Bond, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Cochran, Presiding Judge; Larkin, Judge; and
Gaïtas, Judge.

NONPRECEDENTIAL OPINION

COCHRAN, Judge

In this direct appeal from the judgment of conviction of seven counts of unlawful possession of a firearm and one count of fifth-degree sale of marijuana, appellant argues that the evidence is insufficient to prove that he possessed the firearms or sold marijuana

within the meaning of Minn. Stat. § 152.025, subd. 1(1) (2016). Alternatively, he argues that the district court erred by sentencing him for all seven firearm-possession offenses. We conclude that the evidence is sufficient to support the verdicts but that the district court erred in sentencing appellant. Accordingly, we affirm in part, reverse in part, and remand.

FACTS

In July 2017, the state charged appellant Jerome Allen Mindermann with one count of possession of a firearm by an ineligible person in violation of Minn. Stat. § 624.713, subd. 1(2) (2016), and one count of fifth-degree sale of marijuana in violation of Minn. Stat. § 152.025, subd. 1(1). In June 2019, the state filed an amended complaint and added six more counts of possession of a firearm by an ineligible person in violation of Minn. Stat. § 624.713, subd. 1(2). Mindermann proceeded to a jury trial.

At trial, the state presented the following evidence. On July 17, 2017, while Mindermann was on probation for a 2015 offense, Mindermann's probation officer received a report from Mindermann's wife. Wife told the probation officer that Mindermann was in possession of firearms and growing marijuana. The day after receiving the report, the probation officer went to Mindermann's home. Mindermann's wife and nephew lived in the house with him. Mindermann's brother owned the house and lived in a separate trailer on the same property. Mindermann's wife had been staying with her daughter for "a couple months" prior to July 17, 2017, but she discovered the guns and marijuana when she was at the house packing. Mindermann and his wife planned to move out of the house to a trailer so that Mindermann's ailing brother could move into the home

from his trailer. Wife was also at the house when the probation officer arrived the next day.

Wife met the probation officer at the home. While in the home, the probation officer observed marijuana and six firearms as well as ammunition. She observed four firearms and ammunition in Mindermann's bedroom. She knew the bedroom to be Mindermann's based on her previous probation-related visits to the home. And she observed two other firearms in a storage area. The probation officer relayed her findings to local police, who obtained and executed a search warrant that day. After police arrived, Mindermann's probation officer had no further involvement with the search. Mindermann was not home during the probation officer's visit or at the time the police executed the search warrant, and he had been away from the home for two days prior to that time.

Two police officers who had executed the search warrant testified at trial. The first officer testified that while executing the search warrant, he recovered "seven firearms; a couple bags . . . which [he] recognized to be consistent with marijuana; . . . and some ammunition for the firearms." He testified that he also located "five to seven plants of marijuana" outside the home. With regard to the seven firearms, the first officer testified that police found two firearms in a staircase off of a living room and five firearms in a bedroom that he believed to be Mindermann's. The officer testified that the bedroom contained medications and mail bearing Mindermann's name. He also testified that two of the seven firearms were found loaded with ammunition. Additionally, officers recovered ammunition corresponding to other firearms, either inside gun cases or in the general area

in which the guns were found. The first officer then specifically identified each firearm and testified to the location in which it was found.

The state then called a second officer who had searched Mindermann's home. The second officer testified that he located five mature marijuana plants outside Mindermann's home and several smaller immature plants inside Mindermann's home. The second officer found more marijuana and \$5,811 in cash in the kitchen. Most of the cash was banded into thousand-dollar increments. Officers recovered the marijuana in separate packaged quantities. The second officer testified that they recovered small plastic baggies "commonly found and used in the distribution of different controlled substances." Officers also found a digital scale with a leafy green substance on top and on the case. The state rested at the conclusion of the second police officer's testimony.

Defense counsel called only one witness—Mindermann's wife. Wife testified that she called Mindermann's probation officer because her daughter told her that if she did not report the firearms to law enforcement she would never see her daughter or grandson again. According to wife, her daughter wanted her to separate from Mindermann. Wife also testified that the firearms in Mindermann's bedroom were placed there by her daughter and son-in-law. She explained that her daughter and son-in-law came to the house, found firearms in the storage area "upstairs," and brought them down to the bedroom. She further testified that her daughter and son-in-law were responsible for the marijuana found at the house. And wife testified that the cash was meant to pay carpenters working on a trailer that she and Mindermann planned to move into and that the money was wrapped in

thousand-dollar increments because it had come from a bank. She further testified that Mindermann's relative had brought "some guns over" to the house at some point.

On cross-examination, the prosecutor asked wife about the firearms. Wife changed her testimony. She testified that her daughter and son-in-law brought five firearms with them to the house, retracting her earlier statement that they placed guns found elsewhere in the house in Mindermann's bedroom. And she reiterated that they placed marijuana around the house as well as outside. Wife admitted that she called Mindermann's probation officer to report firearms and marijuana at the home. She also admitted that she never told the probation officer that the firearms or marijuana did not belong to Mindermann. And she admitted that she had never reported being threatened by her daughter in connection with her call to the probation officer until she testified at trial. On redirect, wife testified that she did not reveal the threats because she was concerned about what her daughter would do in response. Mindermann chose not to testify, and the defense rested.

The jury found Mindermann guilty of all counts. The district court entered judgment of convictions of all seven unlawful-possession-of-a-firearm counts and imposed concurrent 60-month sentences for each count. The district court also entered a judgment of conviction of fifth-degree sale of marijuana and imposed a concurrent 24-month sentence. This appeal follows.

DECISION

I. Mindermann's convictions are supported by sufficient evidence.

Mindermann challenges the sufficiency of the evidence of all eight of his convictions. Mindermann contends that the evidence at trial is insufficient to support his

seven unlawful-possession-of-a-firearm convictions because the state did not prove that he knowingly possessed the firearms. Similarly, he contends that his fifth-degree-drug-sale conviction must be reversed because the state failed to prove that he sold marijuana within the meaning of Minn. Stat. § 152.025, subd. 1(1). The state argues that the evidence is sufficient to support the convictions. We agree with the state.

When reviewing the sufficiency of the evidence supporting a conviction, we “view the evidence in a light most favorable to the verdict and assume the fact-finder disbelieved any testimony conflicting with that verdict.” *State v. Balandin*, 944 N.W.2d 204, 213 (Minn. 2020) (quotation omitted). “We will not overturn a verdict if, giving due regard to the presumption of innocence and to the prosecution’s burden of proving guilt beyond a reasonable doubt, the jury could reasonably have found the defendant guilty of the charged offense.” *Id.* (quotation omitted).

When the state proves a crime through circumstantial evidence, appellate courts conduct a heightened two-step analysis. *State v. Barshaw*, 879 N.W.2d 356, 363 (Minn. 2016). First, we identify the circumstances proved. *Id.* In doing so, we defer to the jury’s “acceptance of the proof of these circumstances and rejection of evidence in the record that conflicted with the circumstances proved by the [s]tate.” *Id.* (quotation omitted). We defer to the jury because even in cases involving circumstantial evidence, the jury is “generally in the best position to weigh the credibility of the evidence and thus determine which witnesses to believe and how much weight to give their testimony.” *Id.* (quotation omitted). Second, we “independently examine the reasonableness of all inferences that might be drawn from the circumstances proved to determine whether the

circumstances proved are consistent with guilt and inconsistent with any rational hypothesis except that of guilt.” *Id.* (quotation omitted). “If a reasonable inference other than guilt exists, then we will reverse the conviction.” *State v. Petersen*, 910 N.W.2d 1, 7 (Minn. 2018) (quotation omitted).

With this standard in mind, we examine the sufficiency of the evidence supporting Mindermann’s convictions. We first address the seven unlawful-possession-of-a-firearm convictions and then turn to the conviction for fifth-degree sale of marijuana.

A. *The evidence is sufficient to support all seven convictions of unlawful possession of a firearm.*

The state charged Mindermann with seven counts of violating Minn. Stat. § 624.713, subd. 1(2), which provides that “a person who has been convicted of . . . a crime of violence” shall not “be entitled to possess ammunition or a pistol or semiautomatic military-style assault weapon or . . . any other firearm.” Mindermann stipulated before trial that he was ineligible to possess a firearm. To convict Mindermann of possession of a firearm by an ineligible person, the state was required “to prove in relevant part that he knowingly possessed the firearm.” *State v. Harris*, 895 N.W.2d 592, 601 (Minn. 2017).

Possession can be proved by evidence of actual or constructive possession. *Id.* at 601. Constructive possession exists “where the inference is strong that the defendant at one time physically possessed the [item] and did not abandon his possessory interest in the [item] but rather continued to exercise dominion and control over it up to the time of the arrest.” *State v. Florine*, 226 N.W.2d 609, 610 (Minn. 1975). The state may prove constructive possession in one of two ways. *Id.* at 611. The state can show that the item

was recovered from a place “under defendant’s exclusive control to which other people did not normally have access.” *Id.* Or, if the item was recovered from a place to which others had access, the state must show that “there is a strong probability (inferable from other evidence) that defendant was at the time consciously exercising dominion and control over it.” *Id.* “A defendant may possess an item jointly with another person.” *Harris*, 895 N.W.2d at 604 (citing *State v. Lee*, 683 N.W.2d 309, 316 n.7 (Minn. 2004)).

Because Mindermann was away from the home for two days when the firearms were discovered by police, the state was required to prove constructive possession of the firearms. Accordingly, we limit our sufficiency-of-the-evidence review to whether the evidence is sufficient to support constructive possession of the seven firearms. And, because the firearms were discovered in a house at which others lived, we focus our review on whether there is a strong probability (inferable from the evidence) that Mindermann consciously exercised dominion or control over the firearms. We begin by analyzing the evidence relating to the five firearms found in the bedroom. We then turn to the evidence relating to the firearms recovered from the storage area.

i. The evidence is sufficient to support the jury’s finding that Mindermann possessed the five firearms found in his bedroom.

Viewing the evidence in the light most favorable to the verdict, the circumstances proved at trial relevant to the bedroom-firearm convictions are as follows: (1) police recovered five firearms from Mindermann’s bedroom; (2) police recovered multiple items bearing Mindermann’s name—including mail and prescription medications—in close proximity to the firearms; (3) police discovered ammunition for the guns in Mindermann’s

bedroom, including inside a metal cabinet next to his bed; (4) Mindermann's nephew lived in the same house; and (5) wife reported to the probation officer that Mindermann was in possession of firearms in the residence.

These circumstances proved support the inference that Mindermann exercised dominion and control over the firearms recovered from his bedroom, and, therefore, that he constructively possessed all five firearms. First, the firearms were recovered in Mindermann's private space. Even though he had been out of the house for two days prior to the search, Mindermann had more control over that room than any other part of the house because it was not a shared space. Second, his many personal effects in the room corroborate his exclusive use of that bedroom. Third, the ammunition stored alongside the firearms shows that Mindermann had organized the storage of the firearms to some degree. And the ammunition recovered from the metal cabinet in his bedroom shows that he stockpiled ammunition beyond that which was kept with the guns in the cases. Fourth, wife's statement to the probation officer that Mindermann had firearms in the house shows that she was aware that Mindermann possessed multiple firearms.

Mindermann acknowledges that these circumstances "may give rise to a reasonable inference that [he] possessed the firearms by consciously exercising dominion and control over them." But he argues that, because his nephew also lived at the house and his brother lived nearby, the circumstances proved do not eliminate "the rational inference that [Mindermann] did not have dominion and control over the firearms and someone else did." In support of this alternative hypothesis, Mindermann notes that the supreme court held in *Harris* that the state must prove more than the defendant's mere proximity to an item to

show constructive possession. 895 N.W.2d at 601; *but cf. State v. Sam*, 859 N.W.2d 825, 834 (Minn. App. 2015) (recognizing that “[p]roximity is an important consideration in assessing constructive possession”) (quotation omitted); *see also State v. Simon*, 275 N.W.2d 51, 52 (Minn. 1979) (concluding defendant constructively possessed drugs, found near his passport, located in a bedroom of a shared home). While Mindermann is correct that mere proximity is not enough to establish constructive possession, we are still not persuaded that the circumstances proved support Mindermann’s alternative hypothesis.

Given wife’s statement to Mindermann’s probation officer that Mindermann possessed firearms in the house, it is not rational to conclude that Mindermann’s nephew (or someone other than Mindermann) exercised *exclusive* dominion and control over the firearms found in Mindermann’s bedroom. There is no basis for inferring that Mindermann did not have dominion and control over firearms found in his own bedroom. At a minimum, the circumstances proved provide a strong inference that Mindermann exercised *joint* dominion and control over the firearms in his bedroom. And, as discussed above, possession may be joint or exclusive. *Harris*, 895 N.W.2d at 601. Consequently, the only rational hypothesis based on the circumstances proved is that Mindermann constructively possessed the firearms found in his bedroom. In sum, the evidence is sufficient to support Mindermann’s unlawful-possession convictions related to the five firearms found in his bedroom.

- ii. *The evidence is sufficient to support the jury's finding that Mindermann possessed the two firearms recovered from the storage area.*

With respect to the two storage-area firearm convictions, the relevant circumstances proved are as follows: (1) police recovered two firearms from the stairwell storage area of the house; (2) Mindermann and his nephew lived in the house; (3) a metal cabinet in Mindermann's bedroom contained ammunition corresponding to one of the storage-area firearms; (4) police recovered five other firearms from Mindermann's bedroom; and (5) wife reported to the probation officer that Mindermann had guns in the residence.

These circumstances proved support the inference that Mindermann exercised dominion and control over the two storage-area firearms. First, wife told the probation officer that Mindermann possessed firearms in the house. Second, the metal cabinet in Mindermann's bedroom contained ammunition for one of the storage-area firearms, strongly indicating that Mindermann exercised dominion and control over that firearm. And because Mindermann exercised dominion and control over one of the storage-area firearms, it is reasonable to infer that he exercised dominion and control over both of the storage-area firearms. Therefore, we conclude that the circumstances proved regarding the storage-area firearms are consistent with guilt.

We next consider whether the circumstances proved are consistent with a rational hypothesis other than guilt. Mindermann makes the same alternative hypothesis argument with regard to the storage-area firearms as he makes with regard to the bedroom firearms. He contends that there is a rational inference that he did *not* exercise dominion and control over the storage-area firearms and someone else did. We acknowledge that this argument

presents a closer question than for the bedroom firearms, but we ultimately conclude that Mindermann has not set forth a rational alternative hypothesis.

We reach this conclusion for several reasons. First, wife reported to the probation officer that Mindermann was in possession of firearms at the house. Second, the probation officer visited the residence and observed firearms in both the storage area and Mindermann's bedroom. At no point did wife tell the probation officer that the firearms belonged to anyone other than Mindermann. Third, the storage of ammunition in Mindermann's bedroom for one of the storage-area guns is inconsistent with Mindermann's hypothesis because it demonstrates that he possessed the means to use one of the storage-area firearms independently of anyone else. While it is possible that his dominion and control may have been joint with someone else given the location of the storage-area firearms, possession can be joint or exclusive. *Harris*, 895 N.W.2d at 601. There is no rational basis to conclude that he was not exercising dominion and control over the two firearms. In sum, the circumstances proved at trial regarding the storage-area firearm convictions are consistent with guilt and inconsistent with any rational hypothesis except that of guilt.

B. The evidence is sufficient to support Mindermann's conviction of fifth-degree sale of marijuana.

Mindermann next argues that the evidence is insufficient to support his conviction of fifth-degree sale of marijuana. A person is guilty of fifth-degree sale of marijuana if he (1) sold one or more mixtures containing marijuana, and (2) knew or believed that the substance sold contained marijuana. Minn. Stat. § 152.025, subd. 1(1); *Florine*,

226 N.W.2d at 610. The definition of “sell” in this statute includes possessing marijuana with intent to sell. Minn. Stat. § 152.01, subd. 15a (2016). It also includes manufacturing marijuana. *Id.*, subd. 15a(1). Manufacturing “includes the production, cultivation . . . [or] packing” of a controlled substance. *Id.*, subd. 7 (2016). Growing marijuana constitutes cultivation. *State v. Hanson*, 468 N.W.2d 77, 77 (Minn. App. 1991), *review denied* (Minn. June 3, 1991). And a person harvesting marijuana and “doing any other acts generally deemed necessary to prepare it for smoking” is manufacturing marijuana under section 152.01, subdivision 7. *State v. Vogel*, 385 N.W.2d 35, 37-38 (Minn. App. 1986). At trial, Mindermann stipulated that the substance recovered from his home was marijuana weighing 49.96 grams.

The record reflects that the state offered circumstantial evidence to prove the fifth-degree sale of marijuana. Accordingly, we analyze the sufficiency of the evidence of the fifth-degree marijuana sale conviction under the circumstantial evidence test.

Viewing the evidence in the light most favorable to the verdict, the circumstances proved are as follows: (1) police found 49.96 grams of dried and packaged marijuana inside Mindermann’s home; (2) the only other person who lived in the home at the time besides Mindermann was his nephew; (3) marijuana was recovered in a crisper drawer in the refrigerator and in another kitchen drawer; (4) police found \$5,811 cash in a drawer near the marijuana in the kitchen; (5) police found a scale with leafy residue and a number of small plastic baggies; (6) police found five mature marijuana plants outside the home; (7) police found several immature marijuana plants inside the home; and (8) wife reported to the probation officer that Mindermann was growing marijuana at the home.

These circumstances proved are sufficient to support the hypothesis that Mindermann “sold” marijuana within the meaning of the statute by “manufacturing” or cultivating it. First, Mindermann’s wife told the probation officer that he was “growing marijuana.” Second, the mature and immature marijuana plants growing on the property strongly support the inference that Mindermann was manufacturing marijuana by cultivating it. And that dried marijuana was recovered in the home suggests that Mindermann was aware that the substance was marijuana because he was actively harvesting and storing it. Further, the dried marijuana indicates that Mindermann processed the plants by harvesting, drying, and otherwise preparing the marijuana to be smoked. Moreover, the quantity of marijuana recovered from the home was consistent with manufacture for purposes of sale and inconsistent with personal use. Thus, the circumstances as a whole are consistent with the hypothesis that Mindermann is guilty of fifth-degree sale of marijuana by manufacture. The circumstances proved also provide strong support for guilt based on possession with the intent to sell, but we need not consider that alternative means of selling marijuana to conclude that the circumstances proved are consistent with the hypothesis of sale of marijuana by means of manufacturing.

Mindermann argues that there is a rational alternative hypothesis of innocence—namely, that “the marijuana inside the house and the plants being grown outside the house were instead manufactured by someone else, such as his brother or nephew.” We are not persuaded. This hypothesis is contrary to wife’s statement to the probation officer that Mindermann was growing marijuana. And, at no point did wife tell the probation officer that the marijuana belonged to anyone else. Given the extensive presence of marijuana at

the home and wife's statement that Mindermann was growing marijuana, it is not reasonable to conclude that Mindermann was not involved in the cultivation of the marijuana. *See State v. Denison*, 607 N.W.2d 796, 800 (Minn. App. 2000) (affirming conviction for possession of marijuana recovered from common spaces in close proximity to defendant's personal effects), *review denied* (Minn. June 13, 2000). Thus, the circumstances proved at trial are consistent with the conclusion that Mindermann knowingly manufactured marijuana and are inconsistent with any rational hypothesis other than guilt.¹

II. The district court erred by imposing sentences for all seven firearm-possession offenses.

Mindermann argues that, even if the evidence at trial was sufficient to support his convictions, the district court erred by sentencing him on all seven counts of unlawful possession of a firearm. Mindermann contends that the district court should only have sentenced him on one of the seven counts because all seven counts were part of the same behavioral incident. The state concedes that all seven charges of unlawful possession of a firearm were part of the same behavioral incident, but it argues that the "firearms exception" allowed the district court to sentence Mindermann for all counts. We agree with Mindermann.

¹ Mindermann also argues that the state "had to prove actual possession" to show that he "possessed [the marijuana] with intent to sell or distribute." But the state argued that Mindermann both possessed the marijuana with intent to sell and, in the alternative, that Mindermann manufactured the marijuana. Because we conclude that the evidence is sufficient to prove that Mindermann manufactured the marijuana by cultivating and harvesting it, we do not reach his argument concerning the state's burden to show that he possessed it.

Minnesota law “generally prohibits multiple sentences, even concurrent sentences, for two or more offenses that were committed as part of a single behavioral incident.” *State v. Ferguson*, 808 N.W.2d 586, 589 (Minn. 2012) (quotation omitted); *see also* Minn. Stat. § 609.035 (2016). “[I]f a person’s conduct constitutes more than one offense under the laws of this state, the person may be punished for only one of the offenses.” Minn. Stat. § 609.035, subd. 1. This statute precludes multiple sentences to avoid unfairly exaggerating the criminality of the defendant’s conduct. *State v. Hill*, 918 N.W.2d 237, 242 (Minn. App. 2018). The statute also includes certain limited exceptions to this general rule. Minn. Stat. § 609.035, subds. 3-6. One such exception, the firearms exception, provides that “a prosecution for or conviction of . . . [unlawful possession of a firearm under] section . . . 624.713, subdivision 1, clause (2), is not a bar to conviction of *or punishment for any other crime* committed by the defendant as part of the same conduct.” Minn. Stat. § 609.035, subd. 3 (emphasis added).

The question before us is whether the firearms exception of section 609.035, subdivision 3, allows the district court to impose more than one sentence for multiple convictions of unlawful possession of a firearm arising out of the same behavioral incident. This court reviews de novo whether a district court erred by entering multiple convictions or sentences. *State v. Barthman*, 938 N.W.2d 257, 265 (Minn. 2020).

This issue turns on the phrase “any other crime” as used in section 609.035, subdivision 3. Statutory interpretation is a question of law that this court reviews de novo. *Roberts v. State*, 945 N.W.2d 850, 853 (Minn. 2020). The goal of statutory interpretation is to “effectuate the [l]egislature’s intent.” *State v. Bowen*, 921 N.W.2d 763, 765

(Minn. 2019) (quotation omitted). If the legislature’s intent is apparent from the “plain and unambiguous” language of the statute, this court does not engage in any further statutory construction. *State v. Townsend*, 941 N.W.2d 108, 110 (Minn. 2020).

Mindermann cites *State v. Holmes* to support his argument that the firearms exception does not authorize the multiple sentences imposed by the district court here. 778 N.W.2d 336 (Minn. 2010). The *Holmes* court construed the phrase “any other crime” as used in Minn. Stat. § 609.585 (2008) in the context of a first-degree-burglary conviction under Minn. Stat. § 609.582, subd. 1(c) (2008). *Id.* at 340-41. Section 609.585 states that a burglary conviction “is not a bar to conviction of or punishment *for any other crime* committed on entering or while in the building entered.” (Emphasis added.) The supreme court interpreted the phrase “any other crime” as used in section 609.585 to mean “a crime that requires proof of different statutory elements” than the offense for which the defendant had been convicted. *Id.* at 341.

We recently applied the reasoning from *Holmes* to a case involving two convictions: unlawful possession of a firearm and unlawful possession of ammunition. *State v. Nowels*, 941 N.W.2d 430, 435 (Minn. App. 2020), *review denied* (Minn. June 16, 2020). The district court sentenced the defendant for both offenses. *Id.* at 436. We concluded that because “the two possession crimes charged require proof of the *same* elements,” the firearms exception did not apply and the district court erred by imposing sentences for both offenses. *Id.* at 442-43. Here, because the seven possession crimes charged all arise under the same statute and therefore all require proof of the same statutory

elements, we conclude that the firearms exception does not apply to Mindermann's seven sentences.

The state argues that *Holmes* does not support Mindermann's position because unlike burglary, an element of which may be "a predicate crime that is wholly encompassed within the elements of burglary, possession of two separate firearms constitutes two separate criminal offenses." The state contends that we should look to whether proof of one offense necessarily proves another. But *Nowels* rejected this argument because the possession of a firearm does not necessarily fall within the factual elements of the possession of ammunition—a person can possess one without the other. *See id.* at 442-43. And where the statutory elements of the two offenses are identical, Minn. Stat. § 609.035 prohibits the district court from imposing sentences for both offenses. *Id.* Therefore, because the district court erred when it sentenced Mindermann on more than one firearm offense arising out of the same behavioral incident, we reverse and remand with respect to the firearm-possession offenses for the district court to vacate six of his seven sentences.

Affirmed in part, reversed in part, and remanded.