

STATE OF MINNESOTA

IN SUPREME COURT

A22-0164

Court of Appeals

McKeig, J.
Dissenting, Thissen, J., Hudson, C.J.
Took no part, Hennesy, J.

State of Minnesota,

Respondent,

vs.

Filed: July 31, 2024
Office of Appellate Courts

Deshawn Kejuan Woolridge Carter,

Appellant.

Keith Ellison, Attorney General, Lydia Maria Villalva Lijó, Assistant Attorney General,
Saint Paul, Minnesota; and

Patrick McDermott, Blue Earth County Attorney, Mankato, Minnesota, for respondent.

Cathryn Middlebrook, Chief Appellate Public Defender, Suzanne Senecal-Hill, Assistant
Public Defender, Saint Paul, Minnesota, for appellant.

S Y L L A B U S

1. The term “probation” as used in Minnesota Sentencing Guidelines 2.B.2.a(1) applies to a defendant subject to court-ordered conditions under a stay of adjudication following the defendant’s entry of a guilty plea to a felony offense.

2. The phrase “entry of a guilty plea” as used in Minnesota Sentencing Guidelines 2.B.2.a(2) refers to the defendant’s act of pleading guilty on the record.

3. In calculating appellant's criminal history score, the district court did not err in assigning him a custody status point because at the time appellant committed the current offense, he was on probation after entering a guilty plea to a felony offense.

Affirmed.

OPINION

McKEIG, Justice.

When a district court calculates an offender's criminal history score, Minnesota Sentencing Guidelines (Guidelines) 2.B.2.a directs the court to assign the offender a custody status point if the offender was on "probation" after "entry of a guilty plea" to a felony offense at the time the current offense was committed. This case requires us to decide whether this language from Guideline 2.B.2.a requires the district court to assign a custody status point to a defendant who commits a new offense while subject to court-ordered conditions under a stay of adjudication following the defendant's entry of a guilty plea to a felony offense.

Appellant Deshawn Woolridge Carter was convicted of first-degree criminal sexual conduct. When he committed the offense, Woolridge Carter was subject to court-ordered conditions under a stay of adjudication following his guilty plea to a felony theft offense. At sentencing, the district court included a custody status point in Woolridge Carter's criminal history score, concluding that the circumstances satisfied the requirements of Guideline 2.B.2.a. On appeal, Woolridge Carter argued that because no conviction had been entered for his felony theft offense, he was not on "probation" and also that the district court had not "entered" his guilty plea. The court of appeals affirmed. Because we

conclude that the assignment of one custody status point to Woolridge Carter's criminal history score was required under the unambiguous language of Guideline 2.B.2.a, we affirm.

FACTS

In 2021, a Blue Earth County jury found Woolridge Carter guilty of criminal sexual conduct in the first-degree for sexually assaulting K.O.¹ At the time he committed the offense, Woolridge Carter was subject to court-ordered conditions under a stay of adjudication following his guilty plea to a 2016 felony theft offense. A presentence investigation (PSI) report was prepared by a probation officer in anticipation of the district court's sentencing of Woolridge Carter for his criminal sexual conduct offense. The probation officer did not include a custody status point when calculating Woolridge Carter's criminal history score. Based on a criminal history score of zero, the probation officer recommended the district court impose a sentence within the presumptive sentencing range of 144 to 172 months.

After reviewing the PSI report, the State challenged the probation officer's calculation of Woolridge Carter's criminal history score. The State argued Guideline 2.B.2.a required the district court to assign Woolridge Carter one custody status point

¹ The jury also found Woolridge Carter guilty of the lesser-included offense of criminal sexual conduct in the third-degree. Because he was not sentenced on the lesser-included charge, that verdict is not relevant here.

because, when Woolridge Carter committed the current offense, he was on probation after entering a guilty plea to a felony offense.²

At sentencing, the district court agreed with the State and included one custody status point in Woolridge Carter’s criminal history score because the court concluded that Woolridge Carter was on felony probation when he committed the current offense, satisfying the requirements of Guideline 2.B.2.a. The addition of one point to Woolridge Carter’s criminal history score resulted in a higher presumptive sentencing range of 144 to 187 months. Based on a criminal history score of one, the court imposed a 156-month prison sentence—a sentence within the presumptive sentencing ranges for a criminal history score of either zero or one.

On appeal, Woolridge Carter argued that because no conviction had been entered for his felony theft offense due to the stay of adjudication, it could not be said that he was on probation or that the district court had entered his guilty plea. The court of appeals affirmed Woolridge Carter’s conviction and sentence, holding that Guideline 2.B.2.a unambiguously authorizes assignment of a custody status point to a defendant for an offense committed while on probation under a stay of adjudication. *State v. Woolridge Carter*, 986 N.W.2d 7, 16 (Minn. App. 2023). We granted Woolridge Carter’s petition for review.

² The Guideline at issue directs a district court to assign a custody status point to a defendant’s criminal history score if, among other conditions, the defendant was on probation at the time the current offense was committed. *See* Minn. Sent. Guidelines 2.B.2.a(1)(i).

ANALYSIS

On appeal, Woolridge Carter argues that, as used in Guidelines 2.B.2.a, the terms “probation” and “entry of a guilty plea” are ambiguous, and that extrinsic sources—including the history of and comments to Guideline 2.B.2.a—resolve those ambiguities in his favor.³ We disagree.

As relevant here, Guideline 2.B.2.a directs a district court to “[a]ssign one custody status point when the conditions in paragraphs (1), (2), and (3)(ii) . . . are met.” Minn. Sent. Guidelines 2.B.2.a. Those conditions are:

- (1) The offender was under one of the following custody statuses at the time the current offense was committed:
 - (i) *probation*;
 - (ii) *parole*;
 - (iii) *supervised release*;
 - (iv) *conditional release following release from an executed prison sentence . . .* ;
 - (v) *release pending sentencing*;
 - (vi) *confinement in a jail, workhouse, or prison pending or after sentencing; or*
 - (vii) *escape from confinement following an executed sentence.*
- (2) The offender was under one of the custody statuses in paragraph (1) *after entry of a guilty plea, guilty verdict, or conviction.*
- (3) The offender was under one of the custody statuses in paragraph (1) for one of the following:
...

³ The State contends that Woolridge Carter has forfeited the ambiguity arguments he raises before our court because they differ from arguments he made to the court of appeals. Having reviewed the record, we conclude that Woolridge Carter has simply refined his arguments, and therefore the forfeiture doctrine does not apply here. *Jacobson v. \$55,900 in U.S. Currency*, 728 N.W.2d 510, 523 (Minn. 2007) (concluding that the appellant was “not raising a new argument on appeal” but was instead “refin[ing] the argument” he made below).

(ii) any other felony[.]

Id. (emphasis added).

Relevant to our analysis is that under certain circumstances, a court may stay adjudication in a criminal case after a defendant’s entry of a guilty plea. *See* Minn. Stat. § 609.095(b) (2022) (allowing a court to not adjudicate the defendant’s guilt based on agreement of the parties); *see also* Minn. Stat. § 152.18 (2022) (authorizing stays for certain drug offenses). When adjudication is stayed, the district court does not record the defendant’s entry of a guilty plea, and therefore, no conviction is entered by the court. *Johnston v. State*, 955 N.W.2d 908, 911 (Minn. 2021) (holding that a “conviction” requires the court to accept and record a guilty plea).

The de novo standard of review controls our interpretation of the language in Guideline 2.B.2.a. *State v. Strobel*, 932 N.W.2d 303, 306 (Minn. 2019). Despite a court’s mandate to adhere strictly to statutes and its ability to depart from the Guidelines under certain circumstances, the principles of interpretation we use for the Guidelines are the same as those we use for statutes. *Id.* at 306–07. Therefore, our objective when interpreting the Guidelines is to effectuate the intent of the Minnesota Sentencing Guidelines Commission (Commission). *Id.* at 307 (describing the aim in interpreting the Guidelines as determining the intent of the Commission); *see also State v. Powers*, 962 N.W.2d 853, 858 (Minn. 2021) (“Our aim in interpreting a statute is to effectuate the intent of the Legislature.”). When interpreting statutes, “we presume that the Legislature acts with *full knowledge of existing law*, including the common law.” *Comm’r of Revenue v. Dahmes Stainless, Inc.*, 884 N.W.2d 648, 656 (Minn. 2016) (emphasis added); *see also In re*

Comm’n of Highways, 223 N.W. 915, 917 (Minn. 1929) (stating that when the Legislature enacts statutes, it “is presumed to have known and had in mind all existing laws relating to the subject-matter”).⁴ This principle applies with equal force when interpreting the Guidelines. See *Strobel*, 932 N.W.2d at 306–07.

We also presume that plain and unambiguous language in the Guidelines manifests the intent of the Commission. *Id.* at 307. It is only if the language of the Guidelines is ambiguous—meaning that it is subject to more than one reasonable interpretation—that we may consider extrinsic sources and canons. *Douglas v. State*, 986 N.W.2d 705, 711 n.4 (Minn. 2023) (explaining that extrinsic canons are only applied to determine the meaning of ambiguous statutory language); *State v. Overweg*, 922 N.W.2d 179, 184 n.3 (Minn. 2019) (same); *State v. Notch*, 446 N.W.2d 383, 386 (Minn. 1989) (explaining that when the language of a provision in the Guidelines is “clear and unambiguous,” the court will apply the plain language even if the comment to the Guidelines provision suggests a different outcome). Thus, our analysis begins with the language of Guideline 2.B.2.a.

At issue here is the meaning of the term “probation” and the phrase “after entry of a guilty plea” and whether these terms include a defendant who is subject to court-ordered conditions under a stay of adjudication. We analyze each term and phrase in turn, and then

⁴ The dissent notes that this case analyzed previously enacted portions of the *same* statute and then points out that Minnesota Statutes section 152.18 (authorizing stays of adjudication for certain drug offenses) and Guideline 2.B.2.a are *not* part of the same statute—which is entirely true. But both the statute and the Guideline give direction to a district court after a defendant has been found guilty of a crime, or, more simply, they both relate to the same subject matter.

determine whether the district court erred when it assigned Woolridge Carter a custody status point.

I.

First, we must determine the meaning of the word “probation” as intended by the Commission in Guideline 2.B.2.a.

A.

For more than 50 years, existing law has used the term “probation”—in both statutory text and case law—to describe court-ordered supervised conditions imposed without adjudication of guilt. For example, Minnesota Statutes section 152.18, subdivision 1 (1971),⁵ authorized a court to stay the defendant’s adjudication of guilt in certain drug cases. When describing the process, the statute reads in relevant part: “the court may, without entering a judgment of guilty and with the consent of such person, defer further proceedings *and place him on probation* upon such reasonable conditions as it may require and for a period, not to exceed the maximum term of imprisonment for such violation.”⁶ *Id.* (emphasis added).

⁵ This statute was first enacted in 1971. *See* Act of June 7, 1971, ch. 937, § 18, 1971 Minn. Laws 1923, 1937–38.

⁶ The Legislature has consistently used the phrase “defer further proceedings and *place him on probation upon such reasonable conditions* as it may require and for a period, not to exceed the maximum term of imprisonment for such violation” when authorizing stays of adjudication in other contexts. Minn. Stat. § 609.1056, subd. 3(d) (2022) (special procedures for military veterans) (emphasis added); Minn. Stat. § 609.3751, subd. 2 (2022) (special provisions for failure to support child or spouse) (emphasis added). Moreover, the Legislature has expanded the use of stays of adjudication to all cases in which the parties agree to a stay of adjudication. Minn. Stat. § 609.095(b) (2022).

We also explicitly used the word “probation” when referring to the court-ordered conditions imposed under a stay of adjudication prior to the creation of the Guidelines. In *State v. Goodrich*, 256 N.W.2d 506, 507 (Minn. 1977), a defendant was found guilty of two counts of possession of controlled substances. The trial court, “by authority of [section] 152.18, deferred imposition of sentence and, without entering a judgment of guilty, placed defendant on probation for 3 years.” *Goodrich*, 256 N.W.2d at 511–12. The *Goodrich* court explicitly referred to the court-ordered conditions placed upon the defendant as “the conditions of his probation,” acknowledging that after successful compliance with those conditions, “the proceedings against him were dismissed.” *Id.* at 512. Because a determination that court-imposed conditions following a stay of adjudication under section 152.18 constitute “probation” was necessary to the court’s mootness analysis,⁷ that determination was part of the existing law when the Guidelines were first promulgated 3 years later. In accordance with the principle stated in *Dahmes*

⁷ The dissent claims that the *Goodrich* court undertook no analysis of the word “probation,” but instead merely parroted the language of section 152.18. However, the defendant’s status on probation was essential to the court’s mootness analysis. 256 N.W.2d at 511. In rejecting “the state’s argument that defendant’s appeal is moot because of his discharge from *probation without adjudication of guilt*,” the *Goodrich* court explained that the fact that *the defendant had been placed on probation* exposed him to possible future adverse legal consequences that made his appeal not moot. *Id.* (emphasis added).

Stainless, Inc., 884 N.W.2d at 656, we must assume that in 1980, when the Guidelines were first promulgated,⁸ the Commission had full knowledge of that existing law.⁹

Because “probation” included court-ordered conditions imposed under a stay of adjudication at the time of the Guidelines’ initial promulgation, we presume the Commission knew that using the term “probation,” without adding a definition or further limiting language to the Guidelines themselves, could include conditions imposed under stays of adjudication.

But we do not stop our analysis there. Pre-ambiguity canons of interpretation lend additional support to the understanding that stays of adjudication are included in the Guidelines’ definition of “probation.” As discussed above, the principles of interpretation we use for the Guidelines are the same as those we use for statutes. *Strobel*, 932 N.W.2d at 306–07. Therefore, the whole-statute canon “provides that a [Guideline] should be read

⁸ See generally Minn. Sent. Guidelines (1980).

⁹ Note, however, that the dissent discusses the facts of *Dahmes* at length to differentiate it from the issue here, and we do not pretend that the cases are analogous. The dissent attempts to distinguish *Dahmes* by arguing that because the statute directs us to look to the common law when interpreting the statutory language in that case, see Minn. Stat. § 297A.61, subd. 10(b)(1) (2014), and 2.B.2.a of the Guidelines does not, we cannot consider the common law definition of “probation” because the Legislature did not direct us to do so in the statute’s text. But even if the Legislature does not explicitly direct us to look to the common law, “[w]e generally presume that a statute is consistent with the common law, and if the [L]egislature intends to enact a statute that abrogates the common law, the [L]egislature will do so by express wording or necessary implication.” *Goodyear Tire & Rubber Co. v. Dynamic Air, Inc.*, 702 N.W. 2d 237, 244 (Minn. 2005) (citing *In re Shetsky*, 60 N.W.2d 40, 45 (Minn. 1953)). Here, there is no express or implied indication that the Legislature intended to abrogate the common law with respect to the use of “probation” in section 152.18. Therefore, the proposition that the Commission was aware of the way “probation” was used by the Legislature—and of the common law understanding of the term—is not diminished by these differences.

and construed as a whole so as to harmonize and give effect to all its parts.” *State v. Johnson*, 995 N.W.2d 155, 160 (Minn. 2023) (citing *State v. Friese*, 959 N.W.2d 205, 212 (Minn. 2021)). The canon against surplusage requires us to “avoid interpretations that would render a word or phrase superfluous, void, or insignificant, thereby ensuring each word in a [Guideline] is given effect.” *State v. Galvan-Contreras*, 980 N.W.2d 578, 585 (Minn. 2022) (citation omitted) (internal quotation marks omitted).

To add a custody status point, paragraph (2) of Guideline 2.B.2.a requires that “[t]he offender was under one of the custody statuses in paragraph (1) after entry of a guilty plea, guilty verdict, *or* conviction.” (Emphasis added.) When the Commission unambiguously uses the word “or,” we read the term “in the disjunctive and require that only one of the possible factual situations be present in order for the statute to be satisfied.” *State v. Abdus-Salam*, 1 N.W.3d 871, 878 (Minn. 2024) (citing *Munger v. State*, 749 N.W.2d 335, 338 (Minn. 2008)) (internal quotation marks omitted). Because there is no ambiguity surrounding the use of “or,” here, paragraph (2) may be satisfied in any one of three ways: 1) entry of a guilty plea; 2) entry of a guilty verdict; *or* 3) entry of a conviction. Of the custody statuses listed, there is only one that could conceivably require a distinction between entry of a guilty plea or verdict and an ultimate entry of conviction: probation.¹⁰

¹⁰ “[P]arole,” “supervised release,” “conditional release following release from an executed prison sentence,” “confinement in a jail, workhouse, or prison . . . after sentencing,” and “escape from confinement following an executed sentence” are all custody statuses that *require* a conviction. Minn. Sent. Guidelines 2.B.2.a(1); *see also Schroeder v. Simon*, 985 N.W.2d 529, 534 n.2 (Minn. 2023) (“Supervised release is the current term for the release practice formally known as parole.”). “[R]elease pending sentencing” and “confinement in a jail, workhouse, or prison pending . . . sentencing” are

Because we conclude that the only reasonable interpretation of the term “probation” is one that includes court-ordered conditions imposed under a stay of adjudication, we must apply the plain and unambiguous meaning of the term, without considering extrinsic sources and canons, including the nonbinding comments to the Guideline provision. *Notch*, 446 N.W.2d at 386; *see also State v. Scovel*, 916 N.W.2d 550, 554–55 (Minn. 2018) (“If the Guidelines language is plain and unambiguous, it is presumed to manifest the intent of the Minnesota Sentencing Guidelines Commission . . .”).

B.

Woolridge Carter’s and the dissent’s contrary arguments about the meaning of the term “probation” miss the mark. According to Woolridge Carter and the dissent, the term “probation” can reasonably be interpreted to mean sanctions imposed upon an offender *only* following a criminal conviction. In support of this argument, Woolridge Carter quotes language from our decision in *State v. Jones*, 869 N.W.2d 24, 26 (Minn. 2015), where we said that Minnesota’s “probation statutes create an alternative to confinement *following a criminal conviction*.” (Emphasis added).

Woolridge Carter’s reliance on *Jones* is misplaced for two reasons. First, the language Woolridge Carter quotes does not state that probation *only* follows a criminal

custody statuses that automatically exist upon an entry of guilt through plea or verdict, making the entry of conviction irrelevant. Minn. Sent. Guidelines 2.B.2.a(1). “Probation” is the only custody status where an appreciable distinction exists between pre- and post-conviction. An interpretation that allows only for a person to be on “probation” following a conviction makes paragraph 2.B.2.a(2) superfluous. Accordingly, the dissent’s position that probation may *only* exist after entry of conviction—which makes paragraph (2) of Guideline 2.B.2a unnecessary—is in contravention of our principles of interpretation.

conviction. In fact, immediately succeeding the “following a criminal conviction” language, the *Jones* court quotes the statutory definition of “probation,” Minn. Stat. § 609.02, subd. 15 (2014), in which the requirement of a “conviction” is notably absent.¹¹ *Jones*, 869 N.W.2d at 26. Second, the “following a criminal conviction” language in *Jones* is obiter dicta because answering the question of whether a conviction is a prerequisite of probation was not necessary or essential to that analysis. See *Wandersee v. Brellenthin Chevrolet Co.*, 102 N.W.2d 514, 520 (Minn. 1960) (“Statements and comments in an opinion concerning some rule of law or legal proposition not necessarily involved nor essential to determination of the case in hand constitute obiter dicta, and lack the force of an adjudication.” (citation omitted) (internal quotation marks omitted))).

Like Woolridge Carter, the dissent contends the term “probation” can reasonably be interpreted to mean sanctions imposed upon an offender *only* following a criminal conviction—which necessarily excludes sanctions before a criminal conviction. In support of its argument, the dissent relies on dictionary definitions to ascertain the commonly understood meaning of the term “probation.” It observes that some dictionaries have defined “probation” as “the action of suspending the sentence of a *convicted offender* and

¹¹ The State contends the absence of the word “conviction” in the criminal code’s statutory definition of “probation,” Minn. Stat. § 609.02, subd. 15, demonstrates that the Commission did not intend to limit the term “probation” to court-ordered conditions imposed after a conviction. We disagree. Unlike subdivision 1(c) of section 152.18, which was enacted 9 years *before* the Commission decided to use the term “probation” in Guidelines 2.B.2.a, subdivision 15 of section 609.02 was enacted 17 years *after* the Commission decided to use the term “probation” in Guidelines 2.B.2.a. See Act of May 30, 1997, ch. 239, art. IX, § 34, 1997 Minn. Laws 2742, 2884 (enacting Minn. Stat. § 609.02, subd. 15).

giving the offender freedom during good behavior under the supervision of a probation officer,” *Merriam Webster Collegiate Dictionary* 928 (10th ed. 1996) (emphasis added); *see also American Heritage Dictionary of English Language* 1090 (3d ed. 2000) (providing a nearly identical definition), and that Bryan Garner has defined “probation” as the “procedure by which *a convicted offender* is released subject to court-imposed conditions rather than being sent to jail.” Bryan Garner, *A Dictionary of Modern Legal Usage* 711 (Oxford Univ. Press, 3d ed. 2011) (emphasis added).

Setting aside the question of whether we should turn to dictionary definitions when over 50 years of existing law has used the term “probation” to describe court-ordered conditions imposed under a stay of adjudication, none of the dictionary definitions cited by the dissent define “probation” as sanctions imposed upon an offender *only* following a criminal conviction. Put another way, none of the definitions cited by the dissent exclude sanctions occurring before a conviction. As a result, those definitions are not actually in conflict with a definition of “probation” that also includes pre-conviction conditions of release.¹² Even if the dissent could locate a dictionary definition that defined “probation”

¹² In fact, dictionary definitions themselves cast further doubt on the reasonableness of Woolridge Carter’s and the dissent’s interpretation. One example in which Black’s Law Dictionary uses “probation” is a clear analogue to stays of adjudication. Specifically, a “deferred judgment” is defined as “[a] judgment placing a convicted defendant on *probation*, the successful completion of which will prevent entry of the underlying judgment of conviction.” *Black’s Law Dictionary*, 847 (7th ed. 1990) (emphasis added). At first glance, the inclusion of the phrase “convicted defendant” may suggest support for Woolridge Carter’s and the dissent’s position, but this same dictionary defines “conviction” as “the state of having been proved guilty,” with no mention of a requirement that a court actually *record* such finding of guilt. *Id.* at 335. Put differently, definitions in a prominent legal dictionary suggest that a defendant may be found guilty, placed on

as sanctions imposed upon an offender *only* following a criminal conviction, it makes little sense to resort to dictionary definitions when the Legislature itself had provided a clear example of how it used the term “probation” and our court had conducted a mootness analysis that was necessarily premised on a determination that court-imposed conditions following a stay of adjudication under section 152.18 constitute “probation.”¹³ See Minn. Stat. §152.18 (1976); *State v. Gibson*, 945 N.W.2d 855, 858 (Minn. 2020) (“A dictionary is merely evidence of common usage; it is not dispositive in defining common usage.”); *Goodrich*, 256 N.W.2d at 511.

Nor are we, as the dissent contends, using extrinsic canons to make our job easier. We simply find that it would be unreasonable to conclude that the Commission, with full knowledge of how “probation” was used by the Legislature, intended such stays to be excluded based on the plain language of the Guidelines—a determination that is supported by the whole-statute canon and the canon against surplusage. Ultimately, even if language appears to have more than one reasonable interpretation “at first glance,” we may still find “one clear meaning after analyzing the various potential interpretations.” *Goodman v. Best*

“probation,” and never have his “conviction” entered by the court if he successfully completes his supervised conditions—just like a stay of adjudication. So, where Woolridge Carter’s and the dissent’s favored dictionary definitions do *not* exclude a definition of “probation” that includes pre-conviction supervision conditions, there are other dictionary definitions that necessarily *require* inclusion of pre-conviction conditions.

¹³ The dissent claims that we rely on the “somewhat related” section 152.18 to “*exclude*” consideration of its preferred dictionary definitions. However, consideration of those alternative definitions is precisely the inquiry we have engaged in here, and below. Accordingly, factors *outside* of dictionary definitions—including the way “probation” is used in section 152.18—make plain that the dissent’s alternative definition is not reasonable.

Buy, Inc., 777 N.W.2d 755, 759 n.3 (Minn. 2010). An interpretation that “probation” as used in the Guidelines is limited to mean sanctions imposed only following a conviction is simply not reasonable.

Next, we address the dissent’s argument regarding the comments to the Guidelines. Because we do not find ambiguity in the term “probation” we need not explore the comments to the Guidelines to determine the Commission’s intent. The dissent, however, finds ambiguity and makes a vociferous case for the interpretation that probation may *only* exist after an entry of conviction based on the comments to the Guidelines. But the dissent’s reliance on those comments to interpret the Commission’s intent is not as straightforward as it claims.

The dissent suggests that language in comment II.B.201 (2002) directed district courts to apply the rule pre-conviction in only one specific circumstance, but that otherwise the general rule of Guideline 2.B.2.a “expressly limited the imposition of custody status points to persons who were in custody status following a conviction.” In reality, this comment does not highlight some unique exception to the Guideline. Rather, it plainly demonstrates the Commission’s *application* of its own Guideline. The comment states that probation given for an offense under section 152.18, subdivision 1, “will result in the assignment of a custody point *because* a guilty plea has previously been entered and the offender has been on a probationary status.” Minn. Sent. Guidelines cmt. II.B.201 (emphasis added). The dissent’s claim that this represents the “one specific circumstance” where a custody status point should be imposed for probationary status prior to a conviction is simply not supported.

The Commission could not have created such an exception via comment. *See State v. Jones*, 848 N.W.2d 528, 537 (Minn. 2014) (“Comments to the sentencing guidelines, however, are advisory and are not binding on the courts.”); *State v. Vanengen*, 3 N.W.3d 579, 583 (Minn. 2024) (discussing the “nonbinding comments to the guidelines”). But even if the Commission thought it could create an exception to the general rule in its comments, it would not have used the word “because,” which recognizes the *consistency* between section 152.18 and the criteria within the rule. Instead, to create an exception, the Commission would have used a word like “despite” or “notwithstanding” or another word indicating any sort of inconsistency between section 152.18 and the rule. This comment is not an exception. It plainly explains how the rule should be applied to pre-conviction supervision conditions. The Commission’s subsequent deletion of this comment does not rid the Guidelines of any exception to the rule—it merely deletes a non-binding comment.¹⁴

Simply, the comments fail to refute the fact that there is no language in Guideline 2.B.2.a. to suggest that the term “probation” does *not* include court-ordered conditions imposed under a stay of adjudication, and under well-established law, we cannot add such

¹⁴ Even if we *could* consider the nonbinding comments from the Commission, they offer more confusion than clarity. For example, the comment discussed above—II.B.201 (2002)—first states that “[p]robation given for an offense treated pursuant to Minn. Stat. § 152.18, subd. 1, will result in the assignment of a custody point because a guilty plea has previously been entered and the offender has been on a *probationary status*,” but it then states that “the custodial statuses covered by this policy are those *occurring after conviction* of a felony or gross misdemeanor.” (Emphasis added.) This single comment states that probation can exist pre-conviction, but then confoundingly states that it cannot. Though the comment has since been deleted from the Guidelines, this is evidence that reliance on comments to the Guidelines offers far less clarity than the dissent suggests.

language.¹⁵ *Save Lake Calhoun v. Strommen*, 943 N.W.2d 171, 177 (Minn. 2020) (explaining that we do not add words or phrases to unambiguous statutes or rules).

II

Woolridge Carter also contends that the term “entry,” in the framework of Guideline 2.B.2.a(2) is ambiguous where the paragraph reads: “The offender was under one of the custody statuses in paragraph (1) after *entry of a guilty plea*, guilty verdict, or conviction.” Minn. Sent. Guidelines 2.B.2.a(2) (emphasis added). Woolridge Carter argues that the term “entry,” or more accurately, the phrase “after entry of a guilty plea,” can be reasonably interpreted to either mean 1) a defendant has pleaded guilty on the record; or 2) the district court has accepted and recorded the guilty plea. With this proposed ambiguity in mind, Woolridge Carter advocates for the latter interpretation—that a district court alone has the power to “enter” a guilty plea through acceptance and recording. He then reasons that because a district court does not accept or record a guilty plea when imposing a stay of adjudication, Guideline 2.B.2.a therefore excludes stays of adjudication.

But Woolridge Carter’s preferred interpretation is not reasonable. As noted above, we use the principles of statutory interpretation when interpreting the Guidelines. *See*

¹⁵ The dissent also highlights an email from a Commission staff member to the probation officer in this case. There exists no canon of interpretation or construction, either pre- or post-ambiguity, that would direct us to consider an email from the Commission staff when determining the intent of the Commission as it relates to interpretation of the Guidelines. The Commission does not speak through staff emails. When interpreting statutes, we do not reach out to a legislative aide when looking for legislative intent, so consistent with *Strobel*, we do not give interpretive weight to an explanatory email from a Commission staff member. 932 N.W.2d at 306–07 (“We apply the same principles of interpretation to the Guidelines as we apply to statutes . . .”).

Strobel, 932 N.W.2d at 306–07. Therefore, if the Commission unambiguously uses the word “or,” we read the term “in the disjunctive and require that only one of the possible factual situations be present in order for the [Guideline] to be satisfied.” *Abdus-Salam*, 1 N.W.3d at 878 (citing *Munger*, 749 N.W.2d at 338) (internal quotation marks omitted)). When doing so, we favor an interpretation that gives each word a distinct, non-identical meaning. *Friese*, 959 N.W.2d at 210.

One condition required to add a custody point is that a defendant’s custody status exists “after entry of a guilty plea, guilty verdict, *or* conviction.” Minn. Sent. Guidelines 2.B.2.a(2) (emphasis added). There is no ambiguity surrounding the use of the word “or,” so these three options *must* have distinct meanings. “Conviction” is defined in the Minnesota criminal code as “any of the following *accepted and recorded* by the court: (1) a plea of guilty; or (2) a verdict of guilty by a jury or a finding of guilty by the court.”¹⁶ Minn. Stat. § 609.02, subd. 5 (2022) (emphasis added). In other words, when a court accepts and records a guilty plea, it is an entry of conviction. So, if “entry of a guilty plea” could mean only that a guilty plea is accepted and recorded by the court as Woolridge Carter claims, there would be no functional difference between an entry of a guilty plea and an entry of conviction. These identical meanings flout our interpretive principles, and Woolridge Carter’s interpretation is therefore not reasonable.

¹⁶ The definition for “conviction” has remained unchanged since the recodification of Minnesota’s criminal code in 1963. *See* Act of May 17, 1963, ch. 753, art. 1, 1963 Minn. Laws 1185, 1186 (codified as amended at Minn. Stat. § 609.015, subd. 5 (1963)).

Put simply, the phrase “entry of a guilty plea” as used in Guideline 2.B.2.a(2), means that a defendant has pleaded guilty on the record, and there are no other reasonable interpretations of the term in this context. Because the term is not ambiguous, it plainly applies to a stay of adjudication imposed following a defendant’s entry of a plea of guilty to a felony offense.

III.

We now apply the above analysis of Guideline 2.B.2.a to the facts of this case. Here, Woolridge Carter entered a plea of guilty to felony theft on the record to a district court. The district court stayed adjudication and imposed supervision conditions. When Woolridge Carter later committed first- and third-degree criminal sexual conduct, he was still subject to those conditions.

Accordingly, Woolridge Carter was 1) on probation; 2) following his entry of a guilty plea; to 3) another felony. With all three conditions of Guideline 2.B.2.a satisfied, the district court was required to assign one custody status point to Woolridge Carter’s criminal history score. The district court did so, and consequently, we find no error.

CONCLUSION

For the foregoing reasons, we affirm the decision of the court of appeals.

Affirmed.

HENNESY, J., not having been a member of this court at the time of submission, took no part in the consideration or decision of this case.

DISSENT

THISSEN, Justice (dissenting).

I dissent. The district court erroneously included a custody status point in Deshawn Kejuan Woolridge Carter’s criminal history score. The district court concluded that Woolridge Carter was on probation for purposes of Minnesota Sentencing Guidelines (Guidelines) 2.B.2.a based on the fact that he was subject to court-ordered conditions imposed with a 2016 stay of adjudication when he committed sexual assault on August 31, 2019. *See* Minn. Stat. § 609.342, subd. 1(e)(i) (2020). He was convicted and sentenced for the crime in 2021. Guidelines 2.B.2.a, however, does not authorize the inclusion of a custody status point for an offender who is subject to court-ordered conditions under a stay of adjudication.

I dissent because the court says there is no ambiguity where ambiguity exists. If there is one thing that is plain about the word “probation” in Guidelines 2.B.2.a, it is that the meaning of the word is ambiguous—reasonable people reading that word in the context of the Guidelines provision could understand the ordinary meaning of the word, especially as applied here, in different ways. Further, other clues suggest that “probation” as used in Guidelines 2.B.2.a does not include conditions with a stay of adjudication. Most compellingly, the Minnesota Sentencing Guidelines Commission (Commission) itself has told us directly that violations of conditions for stay of adjudication are *not* to be counted when calculating custody points. In other words, the Commission—whose words we are interpreting—has told us that it does not consider conditions of a stay of adjudication to be

probation (or any other custody status under Guidelines 2.B.2.a). We should listen and, accordingly, I would reverse.

Guidelines 2.B.2.a directs a district court to assign a custody status point when three conditions (as relevant here) are met:

- (1) The offender was under “probation” at the time the current offense was committed;
- (2) The offender was under probation “after entry of a guilty plea, guilty verdict, or conviction”; and
- (3) The offender was under probation for committing “any other felony.”¹

Minn. Sent. Guidelines 2.B.2.a (2019). The question we confront is whether the term “probation” as used in Guidelines 2.B.2.a includes conditions imposed with a stay of adjudication.

At the outset, it is important to keep in mind that a stay of adjudication, by definition, means that no judgment of conviction is entered. For instance, in *Johnston v. State*, 955 N.W.2d 908 (Minn. 2021), we held that a person who had received a stay of adjudication following a guilty plea had no recourse under Minnesota’s postconviction statute, Minn. Stat. § 590.01 (2022), to later challenge the validity of the guilty plea because section 590.01 only applies when there is a conviction. We explained that “a person has not been convicted when there is a stay of adjudication” because “a conviction requires a district court to accept and record the guilty plea, guilty verdict, or finding of guilt by the court.” *Johnston*, 955 N.W.2d at 911 (cleaned up); see Minn. Stat. § 609.02,

¹ There is no dispute that the 2016 theft offense for which Woolridge Carter received a stay of adjudication was a felony.

subd. 5 (2022). But when adjudication is stayed, a guilty plea is not recorded because there is no adjudication of guilt. *Johnston*, 955 N.W.2d at 911.

I now turn to the question before us: Do conditions imposed with a stay of adjudication constitute “probation” for purposes of imposing custody points under Guidelines 2.B.2.a?

A.

I start by considering whether the meaning of “probation” as used in Guidelines 2.B.2.a is plain—that the word probation has only one reasonable meaning. *State v. Allison*, 999 N.W.2d 835, 838 (Minn. 2024) (stating that “[t]he language of a statute is ambiguous if it is subject to more than one reasonable interpretation” (citation omitted) (internal quotation marks omitted)). If there is only one reasonable meaning, then that is the meaning we must apply. *Id.* But if there is more than one reasonable meaning, we must look to other clues to sort out which reasonable meaning the Legislature intended. *Id.*

The Commission—the entity that was assigned by the Legislature to promulgate and revise the Guidelines, Minn. Stat. § 244.09, subd. 5 (2022)—did not define the word “probation” in the Guidelines. The Guidelines have an extensive list of definitions, but that list does not include the word “probation.” *See* Minn. Sent. Guidelines 1.B.

Therefore, we must turn to other sources to determine whether the word “probation” includes conditions imposed with a stay of adjudication. The court focuses on Minnesota Statutes section 152.18, subdivision 1 (1971). The provision authorized (and still authorizes) courts to defer prosecution for certain first-time drug offenders. It provided

that a “court may, without entering a judgment of guilty . . . defer further proceedings and place him on probation upon such reasonable conditions as it may require.” *Id.*

Further, in *State v. Goodrich*, we recognized that the Legislature used the word “probation” in Minn. Stat. § 152.18, subd. 1 (1976), to describe conditions imposed in a deferred prosecution as defined in that statute. 256 N.W.2d 506, 511 (Minn. 1977). In *Goodrich*, the defendant was charged with the possession of controlled substances subject to deferred probation under section 152.18, subdivision 1. *Goodrich*, 256 N.W.2d at 507. The defendant challenged the inventory search of his car that led to the discovery of the controlled substances. *Id.* We held that the evidence was inadmissible, being the fruit of an unconstitutional search. *Id.*

We also rejected the State’s argument that the mootness doctrine prevented us from reaching the question of whether the inventory search was unconstitutional. *Id.* at 511. The State argued that because the defendant had successfully met the conditions of the deferred prosecution stay, the criminal proceedings against him were dismissed and the conviction that resulted from the unconstitutional search no longer existed. *Id.* at 511–12. We observed that section 152.18, subdivision 1, expressly required that a non-public record of the discharge and dismissal be retained for unspecified use in determining the merits of subsequent proceedings. *Goodrich*, 256 N.W.2d at 512 (citing Minn. Stat. § 152.18, subd. 1). Accordingly, we held that the case was not moot because “a sufficient ‘possibility’ of ‘adverse collateral legal consequences’ ” existed. *Id.* at 512 (quoting *State ex rel. Djonne v. Schoen*, 217 N.W.2d 508, 510 (Minn. 1974)).

In other words, we applied the plain language of section 152.18, subdivision 1—including its use of the word “probation” to describe conditions imposed in a deferred conviction—to reach our decision. But we undertook no additional analysis of the meaning of the word “probation” and, consequently, the statement in *Goodrich* adds nothing more to the analysis of the meaning of the word “probation” in Guidelines 2.B.2.a than is provided by the Legislature’s use of the word “probation” in section 152.18, subdivision 1.

In addition to its reliance on the Legislature’s use of the word “probation” in section 152.18, subdivision 1, the court points to some dictionary definitions of words other than “probation” that indirectly support its position that “probation” may refer to conditions imposed without a conviction.

Based on this authority, I agree with the court that it is reasonable to interpret the Commission’s use of the word “probation” in Guidelines 2.B.2.a to include conditions imposed with a stay of adjudication. (For purposes of this analysis, I am comfortable with the court’s position that the act of “defer[ing] further proceedings” “without entering a judgment of guilty” under section 152.18, subdivision 1(c) (2022), is the functional equivalent of what we now refer to as a stay of adjudication.)

Indeed, I would go further than the court. For instance, although not central to our holdings, in cases we decided after the promulgation of Guidelines 2.B.2.a—when the Guidelines first used the word “probation” in connection with custody status points—we have referred colloquially and in passing to the conditions associated with a stay of adjudication as “conditions of probation.” *State v. Lee*, 706 N.W.2d 491, 495 (Minn. 2005); *State v. Krotzer*, 548 N.W.2d 252, 255–56 (Minn. 1996) (overruled in part as

recognized in *Lee*, 706 N.W.2d at 496). Moreover, the fact that the conditions imposed by the district court with a stay of adjudication look and operate like probation conditions imposed after a conviction also supports a conclusion that the meaning of “probation” adopted by the court is reasonable. In short, one reasonable meaning of “probation” includes conditions of a stay of adjudication.

But under our statutory interpretation methodology, the fact that one meaning of a word in a statute is reasonable does not end the inquiry. We must also consider whether there is another reasonable understanding of the word. If there is another reasonable understanding of the word, then we cannot conclude that the meaning of the statute is unambiguous and must consider other, non-textual clues to its meaning. *Allison*, 999 N.W.2d at 838 (stating that “the language of a statute is ambiguous if it is subject to more than one reasonable interpretation” (citation omitted) (internal quotation marks omitted)).

In this case, there is another reasonable meaning of the word “probation” as it is used in Guidelines 2.B.2.a: “probation” means sanctions imposed after a conviction. Common dictionary definitions of the word “probation” are consistent with this understanding of “probation” that is limited to sanctions imposed after a conviction. We may look to dictionary definitions to help us understand the meaning of words in the Guidelines. *See State v. Strobel*, 932 N.W.2d 303, 308 (Minn. 2019) (considering dictionary definitions to help determine the meaning of words in the Guidelines); *see In re Surveillance and Integrity Rev. (SIRS) Appeals by Trinity Home Health Care Servs. and Etyane Ayana*, 996 N.W.2d 178, 185 (Minn. 2023) (using dictionaries to help us

understand the ordinary meaning of statutory text). For instance, the *Merriam-Webster Collegiate Dictionary* (10th ed. 1996) defines “probation” as “the action of suspending the sentence of a *convicted offender* and giving the offender freedom during good behavior under the supervision of a probation officer.” *Id.* at 928 (emphasis added). Likewise, *The American Heritage Dictionary of the English Language* (3d ed. 2000) defines probation as “[t]he act of suspending the sentence of a *person convicted* of a criminal offense and granting that person provisional freedom on the promise of good behavior.” *Id.* at 1090 (emphasis added).

Further, because the word “probation” is being used in the Guidelines in a legal context, it is also worth considering legal definitions of the term “probation” that reflect how lawyers and judges understand the term. And those sources tell us that one reasonable way that lawyers understand the term “probation” mirrors the definition in lay dictionaries: the imposition of conditions after conviction. *Black’s Law Dictionary* defines “probation” as “a court-imposed criminal sentence that, subject to certain stated conditions, releases a *convicted person* into the community instead of sending the criminal to jail or prison.” *Probation, Black’s Law Dictionary* (11th ed. 2019) (emphasis added). Similarly, Bryan A. Garner’s *A Dictionary of Modern Legal Usage* (Oxford Univ. Press, 3d ed. 2011) defines “probation” as “the procedure by which a *convicted offender* is released subject to court-imposed conditions rather than being sent to jail.” *Id.* at 711 (emphasis added).²

² In *State v. Jones*, 869 N.W.2d 24 (Minn. 2015), we stated that “[o]ur probation statutes create an alternative to confinement following a criminal conviction.” *Id.* at 26. I agree with the court, however, that the language in *Jones* is not dispositive of the meaning

Based on these definitions, I conclude that another reasonable understanding of the ordinary meaning of the word “probation” is a court-ordered sanction imposed as an alternative to confinement after a person is convicted of a crime. As discussed above, a person subject to a stay of adjudication has not been convicted of a crime. *Johnston*, 955 N.W.2d at 911. Thus, conditions imposed by the district court with a stay of adjudication are not court-ordered sanctions imposed upon a person convicted of a crime. Accordingly, conditions imposed with a stay of adjudication do not fall within this meaning of “probation.”

B.

The court reaches a different conclusion that it is unreasonable to read the text of Guidelines 2.B.2.a to mean that the word “probation” is limited to a court-ordered sanction imposed as an alternative to confinement after a person is convicted of a crime. For the following reasons, I disagree with the court’s reasoning.

The court offers a mélange of statutory interpretation practices and alternative dictionary definitions of words other than “probation” to support its position; an analysis which in the end boils down to this: A common and uniform dictionary definition of “probation” is not a reasonable interpretation of the term because another interpretation of the term is also reasonable. But that is not how we interpret sentencing Guidelines, *see State v. Kirby*, 899 N.W.2d 485, 493 (Minn. 2017) (“The rules of statutory interpretation

of “probation”; it is at best a very weak clue favoring the conclusion that probation is limited to court-ordered sanctions imposed after a criminal conviction as an alternative to custody.

and construction apply to the Guidelines.”). And it is not clear why—in determining plain meaning—we should reject one reasonable meaning of a term over another reasonable meaning of a term.

1.

First, the court seemingly establishes a new statutory interpretation principle that if the Legislature has used a term in one way in statute (even, as here, in a way that has no common law pedigree), then we *must* interpret that term in the same way in different, not directly related statutes—and, indeed, in rules or guidelines adopted by an entity independent of the Legislature. Not only is the court’s new rule not supported by any legal authority, but it is not supported by any other evidence that the Commission was even thinking about stays of adjudication when it used the word “probation” in its initial version of the Guidelines in 1980 and 1981. The court merely assumes that the Commission had to know that the Legislature used “probation” in the context of deferred prosecutions under Minn. Stat. § 152.18 (2022) based on the fact that section 152.18 was enacted before the Guidelines provision. Notably, the initial 1980 Report by the Commission to the Legislature mentioned (and defined) stays of imposition and stays of execution but made no mention of stays of adjudication. Minn. Sent. Guidelines Comm’n, *Report to the Legislature* 58 (1980). This suggests that contrary to the court’s presumption, the Commission did not have stays of adjudication—or their cousin, deferred prosecutions under section 152.18—in mind when it placed the word “probation” in the custody status section of the Guidelines.

But more critically, even if we assume that the Commission knew about and considered the Legislature’s use of “probation” in section 152.18 (an entirely different provision), the court does not offer any reason to assume the Commission did not also consider (and ultimately use) the other broadly accepted ordinary meaning set forth in dictionaries, including legal dictionaries, that define “probation” as conditions imposed postconviction. The question we are answering is whether the ordinarily accepted meaning of “probation” as conditions imposed postconviction is unreasonable. The court cannot merely determine that one accepted ordinary use of a term is unreasonable at the pre-ambiguity phase solely based on an unsupported assumption that the enactor of the provision had in mind a different reasonable meaning and meant that meaning. Such “begs-the-question” logic is flawed. *See* Bryan A. Garner, *A Dictionary of Modern Legal Usage* 105, 672 (3d ed. 2011) (stating that begging the question, or *petitio principii*, is a “logical fallacy” where a person “bas[es] a conclusion on an assumption that is in as much in need of proof or demonstration as the conclusion itself”).

What the court appears to be doing is engineering a problematic expansion and misuse of the stability canon of imputed common-law meaning. Once again to be clear, I am not claiming here that the way that the Legislature used the word “probation” in section 152.18, subdivision 1, is not a clue as to the reasonable meaning of the term.³ My

³ It is not clear to me that the court can properly rely on its section 152.18, subdivision 1, argument in assessing the reasonable meaning of the word “probation.” The imputed common-law meaning canon is a dusty assumption telling us that a statute that uses a common-law term, without defining it, adopts its common-law meaning. For reasons stated below, I do not agree that the principle should be extended beyond

objection is to the court using the Legislature’s use of the word “probation” in section 152.18, subdivision 1, to *per se* rule out the possibility that there may be some other reasonable meaning of the word “probation.” That it cannot do. Using a stability canon in this way is an abdication of the court’s actual job of trying to effectuate the intent of the Commission.

The court bases this portion of its analysis on our decision in a tax case, *Comm’r of Revenue v. Dahmes Stainless, Inc.*, 884 N.W.2d 648 (Minn. 2016). *Dahmes Stainless* arose out of the sale by Dahmes Stainless, Inc. of drying systems and other industrial equipment that Dahmes manufactured for customers. *Id.* at 651. Dahmes collected and paid to the State sales taxes on the retail sales of its manufactured products. *Id.* The Commissioner of Revenue, however, imposed additional use taxes and interest on the components that Dahmes purchased and integrated into the industrial products it sold to customers. *Id.*

long-established common-law meanings of terms—something the court does not attempt to establish here. But I also observe that we have held that the imputed common-law meaning canon does not apply pre-ambiguity to help us determine whether more than one reasonable meaning of a statutory term or phrase exists. *See State v. Thonesavanh*, 904 N.W.2d 432, 439 n.4 (Minn. 2017) (citing *Kratzer v. Welsh Cos., LLC*, 771 N.W.2d 14, 21 (Minn. 2009)) (stating that the imputed common-law canon only applies after it is determined that the text is ambiguous); *see also State v. Stay*, 925 N.W.2d 428, 431 n.2 (Minn. 2019) (citing *Thonesavanh*, 904 N.W.2d at 439 n.4). I am not wholly convinced that limiting our ability to rely on the way a word is used in a definitional sense in a somewhat related statute—in the same way we use dictionary definitions—always should be precluded when assessing whether more than one reasonable meaning of a term exists. That may be especially true where, as here, there are other indications that the word “probation” is sometimes used colloquially to refer to conditions of release imposed in connection with a stay of adjudication. But I am convinced that we cannot point to the way a word is used in a somewhat related statute to *exclude* consideration of definitions from other widely accepted definitional sources that support another reasonable meaning of a word.

The Commissioner based its decision to impose additional taxes on the sale of the component parts on the definition of “retail sale” in Minn. Stat. § 297A.61, subd. 4(d) (2014). *Id.* That definition provided:

A sale of building materials, supplies, and equipment to owners, contractors, subcontractors, or builders for the erection of buildings or the alteration, repair, or improvement of real property is a retail sale in whatever quantity sold, whether the sale is for purposes of resale in the form of real property or otherwise.

Id. On appeal, the tax court disagreed and concluded that the Commissioner could not impose the additional use tax because the retail sale definition did not apply: Dahmes’s component purchases were not taxable retail sales of building materials, supplies, or equipment for the “improvement of real property.” *Dahmes*, 884 N.W.2d at 652. Rather, the manufactured products Dahmes sold were tangible personal property. *Id.* In addition, the tax court awarded attorney fees to Dahmes because the Commissioner’s position was not “substantially justified” by a “reasonable basis in law and fact” under the Minnesota Equal Access to Justice Act, Minn. Stat. § 15.471, subd. 8 (2014). *Dahmes*, 884 N.W.2d at 652. The Commissioner appealed, challenging the award of attorneys’ fees. *Id.*

Resolving this question turned on whether the manufactured products that Dahmes sold to its customers were “real property” or “tangible personal property.” *Id.* at 656. We looked to the statutory language of the tax code to guide our analysis. *Id.* We acknowledged that Chapter 297A did not define “real property.” *Dahmes*, 884 N.W.2d at 656. But we also observed that the statutory definition of “tangible property” included a proviso which states that the phrase “tangible personal property” did not include “large ponderous machinery and equipment used in a business or production activity [like the

manufactured products Dahmes sold to its customers] *which at common law would be considered to be real property.*” *Id.* (quoting Minn. Stat. § 297A.61, subd. 10(b)(1) (2014)) (emphasis added). In other words, the Legislature expressly directed the Commissioner and the courts to consider the common law in determining whether the “large ponderous machinery and equipment” that Dahmes sold was real property under the common law. *See id.*

We concluded that the Commissioner’s position that the products that Dahmes sold to customers were “improvements to real property” was not substantially justified.⁴ *Id.* at 661. As directed by the statute, we looked to the common law to make that determination. *Id.* at 656. In so doing, we made the unsurprising observation that, when the Legislature expressly directed us to look to the common law to determine whether large ponderous machinery and equipment was real property, it understood the then-current understanding of the types of large ponderous machinery and equipment that qualified as real property under the common law. *Id.* (citing as part of its analysis that “we presume that the Legislature acts with full knowledge of existing law, including the common law”).⁵ It

⁴ The Commissioner’s position that the products were improvements to real property turned on the conception that the products were “fixtures” and that, under the common law, fixtures are improvements to real property. *Dahmes*, 884 N.W.2d at 656. We rejected that position and agreed with Dahmes and the tax court, who asserted that the manufactured and installed products were “trade fixtures” which are not considered real property under the common law. *Id.*

⁵ In our *Dahmes* opinion, we cited to *Goodyear Tire & Rubber Co. v. Dynamic Air, Inc.*, 702 N.W.2d 237, 244 (Minn. 2005). *Dahmes*, 884 N.W.2d at 656. The court also cites *Goodyear* in this case. In *Goodyear*, however, we were actually applying the presumption that the Legislature did not intend to abrogate the common-law meaning of a word. 702 N.W.2d at 244. That is not true in this case.

makes sense to assume that the Legislature understood the status of the common law when it expressly directed that the common law be determinative of whether something is real property or tangible personal property in the very definitional statute we are interpreting. But this is very different from the court's conclusion that a reference to a non-definitional use of a word (like "probation") in a statute that is not directly related to the provision we are interpreting is the *only* reasonable meaning of the word we are interpreting. *Dahmes* is not controlling here; indeed, the court admits as much. *Supra* at 9.

More broadly, the court may be trying to extend the canon of imputed common-law meaning. This is misguided. The canon of imputed *common-law* meaning is just that. It is a judicially imposed gloss on statutory language—an assumption judges make about how legislatures operate—intended to serve the distinct purpose of preserving the stability of the common law developed over the years through case law. *See* Antonin Scalia and Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 320–21 (2012). Of course, the specific deferred prosecution provision in section 152.18 is not a common-law provision; it is a specific and targeted legislative enactment. We have never extended the use of the imputed common-law meaning canon in the way the court does in this case to say that once the Legislature has used a word in one statute in passing, the use of the same word in a distinct statute (or, as here, a guideline promulgated by an entity other than the Legislature) has the same meaning. And I do not see any good reason why we should extend a judicially created presumption about the meaning of words enacted by a different branch of government—especially in a case like this where (1) the Legislature did not define the term but merely used it in passing to describe a particular judicial process in a specific context,

and (2) we are not interpreting the words of a statute but instead the words of an independent commission charged with independently developing a set of rules.

I find support for my conclusion that we should not extend the canon of imputed common-law meaning in this case in the separate set of statutory interpretation rules we use to determine how and when we can use words in distinct but related statutory provisions to assess whether more than one reasonable meaning of a word exists:

We recognize that when two statutes were enacted at the same time and for the same purpose, we may properly consider both in our effort to understand the plain language of the statute—whether more than one reasonable interpretation of the language exists. We refer to this as the whole statute canon. *State v. Fugalli*, 967 N.W.2d 74, 80 (Minn. 2021) (describing the whole statute canon and noting that it applies when determining whether text is ambiguous). And that principle makes sense as a method for understanding what the Legislature intended when it enacted a statute. When two parts of a statute are enacted at the same time and for the same purpose, the Legislature has all of those provisions before it as it considers the legislative solution to the particular problem, including the language used to set forth that solution. Accordingly, it is reasonable to assume that all of the provisions inform the legislators’ understanding of the text of the statute it enacts. *See generally State v. Prigge*, 907 N.W.2d 635, 640 (Minn. 2018).

For that same reason, when trying to understand the plain meaning of a statute, we *cannot consider other statutes that were not enacted in the same legislative act as the provision we are interpreting*. The so-called related statutes canon, which allows us to construe together two statutes that were enacted separately but which share a common purpose and subject matter, only applies after we have determined that the statute we are interpreting has more than one reasonable meaning. *Fugalli*, 967 N.W.2d at 80 (describing the related statutes canon and stating that it applies after we have determined that statutory text is susceptible to more than one reasonable interpretation).

State v. Beganovic, 991 N.W.2d 638, 645 (Minn. 2023) (emphasis added).⁶ Applying these principles which more specifically address the issue we face in this case—the Legislature’s use of the word “probation” in section 152.18, subdivision 1—is not relevant at the pre-ambiguity stage of statutory analysis.⁷ This conclusion is buttressed by the fact that we have stated that the imputed common-law meaning canon—the canon which the court seemingly extends in this case—also does not apply when determining whether more than one reasonable meaning of a statutory term or phrase exists. *See State v. Thonesavanh*, 904 N.W.2d 432, 439 n.4 (Minn. 2017); *see, supra*, n.5. The court is using its expansion of the imputed common-law meaning canon as an end run around our related statutes precedent.

⁶ To be clear, I am not endorsing the principle that the related statutes canon always or ever applies when interpreting words used by the Legislature in a statute and words used by a different body with legislative-like powers like the Commission. That is an issue for another day.

⁷ The court relies on our 1929 decision in *In re Commissioner of Highways*, 223 N.W. 915 (Minn. 1929), where we said, “the Legislature is presumed to have known and had in mind all existing laws relating to the subject-matter, and to have enacted them in the light of such knowledge.” *Id.* at 917. But in that case, we were referring to previously enacted continuing portions of the *same* statute we were interpreting—a statute dealing with the specific topic of installation of safety devices on railroads—and applied the principle that the statutory provisions should be read harmoniously. *Id.* Here, of course, section 152.18 and Guidelines 2.B.2.a are not part of the same statute. One is a statute dealing with controlled substances and the other is a guideline adopted by the Commission to deal with sentencing for all crimes. Under the related statutes canon, the fact that section 152.18 and Guidelines 2.B.2.a relate to the same broadly defined subject matter of “giv[ing] direction to a district court after the defendant has been found guilty of a crime” (*supra* at 5 n.4) is irrelevant pre-ambiguity in determining the meaning of the text. Even post-ambiguity, such a broad shared purpose may stretch too far the related statutes canon.

It is true that we have at times used common-law understandings of a concept to provide insight into the ordinary meaning of statutory text. *See, e.g., U.S. Bank N.A. v. Cold Spring Granite Co.*, 802 N.W.2d 363, 372 (Minn. 2011) (using the common-law meaning of fraud to understand the ordinary meaning of the word fraud in Minn. Stat. § 302A.423 (2010)); *In re Welfare of D.D.S.*, 396 N.W.2d 831 (Minn. 1986) (without citation, using the common-law meaning of “from the person” in the theft statute, Minn. Stat. § 609.52, subd. 3(3)(a) (1984), a statutory crime based on common-law principles). But in none of these cases did we use the common-law concepts to *per se* rule out other legitimate and widely accepted sources for understanding ordinary meaning (like dictionaries) at the stage of determining whether statutory language was susceptible to more than one reasonable interpretation.⁸

⁸ We also have looked to the common law to fill in gaps where the statutory language does not address an issue—something that is not at issue here. For instance, in *Sanchez v. State*, 816 N.W.2d 550 (Minn. 2012), the court addressed when the limitations period for a petition brought under the postconviction statute, Minn. Stat. § 590.01 (2010), begins to run. The relevant portion of the postconviction statute provides that a petition “must be filed within two years of the date the claim arises.” Minn. Stat. § 590.01, subd. 4(c). We held that the claim arises when the petitioner knew or should have known he had a claim—an objective standard. *Sanchez*, 816 N.W.2d at 559. To reach that decision, we relied on the fact that “in the context of other time-limitation provisions, we have assessed the accrual of a cause of action based on an objective ‘knew or should have known’ standard.” *Id.* at 558; *see id.* at 559 n.8 (observing that we have applied an objective standard “uniformly to statutes of limitations across substantive legal areas”). We further observed that the Legislature did not provide for a standard different than our long-standing approach in the postconviction statute. *Id.* at 559.

Notably, in the portion of the *Sanchez* opinion where we addressed whether an objective or subjective accrual test should apply, we were not doing the same kind of statutory interpretation that we are doing in this case. We were not parsing the relevant text to try to understand the meaning of the words “claim arises.” No amount of parsing of those words could tell us if the Legislature meant that a claim arises when the petitioner

As I stated earlier, I do not quibble in this case with the court’s use of section 152.18, subdivision 1, and dictionary definitions of words other than “probation” as pieces of information about the ordinary meaning of “probation” as it was used by the Commission in Guidelines 2.B.2.a. But for all the reasons stated, I cannot accept the court’s use of a variation on the imputed common-law meaning canon (especially in a case where the court is not even relying on a common-law meaning) to hold that the use of the word “probation” in section 152.18, subdivision 1, is the only thing we can consider in determining whether there is more than one reasonable meaning of the word “probation.”

2.

I also disagree with the court’s position that the common dictionary definitions of “probation” upon which I rely are expansive enough to encompass court-ordered conditions before conviction. A fair reading of these definitions, which say that probation

subjectively knew that a claim existed or when a reasonable person should have known that a claim existed, and no such argument was made. Indeed, we did not frame our analysis in that section of *Sanchez* as one of statutory interpretation and certainly did not assess (or cite any cases regarding) whether the phrase “claim arises” is plain or ambiguous on that point. Compare *id.* at 558–59 (addressing whether accrual is assessed under a subjective or objective test), with *id.* at 556–58 (addressing whether the 2-year time limit in section 590.01, subdivision 4(c), applies to a claim brought under the interests of justice exception and citing and applying our general methodology for determining whether a statute is plain or ambiguous). In contrast, in this case, we are not trying to understand how to apply a standard set forth in a statute; we are trying to ascertain the meaning of the word “probation” and, more specifically at this point in the analysis, trying to determine if there is more than one reasonable meaning of the word.

These observations about what we were doing in the relevant portion of the *Sanchez* opinion is also true of other cases where we have looked to common-law usages of terms to understand how to apply standards established in statute. See *Gassler v. State*, 787 N.W.2d 575, 586 (Minn. 2010) (looking to our prior cases to determine what must be shown to obtain relief “in the interests of justice” under Minn. Stat. § 590.01, subd. 4(b)(5)).

involves the act of releasing a *convicted person* subject to conditions, is that probation is limited to conditions imposed following conviction. And regardless, the dictionary definitions of the word “probation” certainly do not affirmatively state (as the court insists *must* be the case) that probation applies to conditions imposed on persons who have not been convicted.

The court’s citation to definitions of words *other than the word “probation”* does not render unreasonable the uniform dictionary definition of the word “probation” as conditions imposed on convicted persons following a conviction. It merely supports the conclusion that there is more than one reasonable dictionary definition. *See In re J.M.M.*, 937 N.W.2d 743, 747 (Minn. 2020) (determining that the word “parent” was ambiguous because the dictionaries supported two different reasonable meanings of the word and the textual context did not render one reasonable and the other unreasonable).

The court also states that “it makes little sense to resort to dictionary definitions when the Legislature itself had provided a clear example of how it used the term ‘probation.’ ” *Supra* at 13. It cites no authority that supports that principle. *See id.* The case it does cite, *State v. Gibson*, 945 N.W.2d 855, 858 (Minn. 2020), simply states that “[a] dictionary is merely evidence of common usage; it is not dispositive in defining common usage.” *See id.* I am not claiming that the dictionary definition is *dispositive* in defining common usage; I am merely saying that it is legitimate (and here unrefuted) evidence of one common meaning of the term “probation” for both lawyers and ordinary persons. Indeed, in *Gibson*, the court *relied on* a dictionary definition. My position is entirely consistent with *Gibson*; it is the court’s position that is inconsistent with *Gibson*.

Of course, we may “set aside dictionary definitions when context makes clear that dictionary definitions may not fit,” *State v. Scovel*, 916 N.W.2d 550, 555 (Minn. 2018). That principle does not change my conclusion. Under that rule, the context we look to in determining whether a particular meaning of a word “fits” is the language of the provision we are interpreting (here Guidelines 2.B). *See, e.g., id.* (looking to other parts of Guidelines 2.B as context when interpreting the meaning of “current” in Guidelines 2.B.7.a). The court does not look at that context, however. It does not explain what it is in the Guidelines that renders the dictionary definition of “probation” unfit. Indeed, the court does not even mention the language of Guidelines 2.B.2.a (or, indeed, any provision of the Guidelines) in assessing whether the dictionary definitions of “probation” are a poor fit in the context of Guidelines 2.B.2.a. Instead, the court looks to how the Legislature used the word “probation”—again, in passing and not in a definition—in Minn. Stat. § 152.18, subd. 2(a) (2022). We have never stretched so far as to use an entirely separate statute to reject a dictionary definition based on context. It simply does not make sense (and, as with the use of the imputed common-law meaning canon above, runs afoul of the related statutes canon).

Citing *Goodman v. Best Buy, Inc.*, 777 N.W.2d 755, 759 n.3 (Minn. 2010), the court also asserts that “even if language appears to have more than one reasonable interpretation ‘at first glance,’ we may still find ‘one clear meaning after analyzing the various potential interpretations.’ ” *Supra* at 15. This assertion is problematic on several levels. First, the *Goodman* court did not address multiple meanings that were *reasonable* interpretations, but merely *possible* or *initially potential* interpretations. *Goodman*, 777 N.W.2d at 759

n.3. Second, and more importantly, the reason that we rejected some of the plausible interpretations of the statutory text in *Goodman* was because the text itself did not make sense if those plausible meanings applied; there were other *textual clues* in the statute that rendered those potential meanings unreasonable. *Id.* at 759.

3.

The court asserts that an interpretation that limits the word “probation” to conditions of the release imposed after conviction is ruled out as unreasonable by language in Guidelines 2.B.2.a(2) that states that a custody status point can be imposed if “[t]he offender was under one of the custody statuses in paragraph (1) after *entry of a guilty plea*, guilty verdict, or conviction.” (Emphasis added.)

That provision does not render unreasonable an interpretation of the word “probation” that is limited to court-ordered sanctions imposed as an alternative to confinement after a person is convicted of a crime. That is so because entry of a guilty plea can—and most often does—result in a conviction. Thus, when a defendant is charged with a new offense while on probation following a conviction, the defendant’s probationary status plainly would require imposition of a custody status point. My alternative reasonable interpretation of Guidelines 2.B.2.a does not render that language superfluous. Rather, the court’s position that the reference to entry of a guilty plea in Guidelines 2.B.2.a(2) means that conditions of release imposed in connection with a stay of adjudication following a guilty plea are “probation” simply begs the definitional question (what does “probation” mean?). The inclusion of the words “after entry of a guilty plea” does not exclude *either*

reasonable definition—and that is precisely the point. Certainly, the same argument would not hold for other custody statuses listed in Guidelines 2.B.2.a(1).⁹

In short, I conclude that one reasonable understanding of the ordinary meaning of the word “probation” as used in Guidelines 2.B.2.a includes conditions of release imposed following a stay of adjudication and another reasonable understanding of the ordinary meaning of the word “probation” is conditions of release imposed after a person has been convicted of a crime. Accordingly, the meaning of “probation” is ambiguous.

C.

I now turn to the question of resolving which of the two reasonable meanings of the word “probation” as used in Guidelines 2.B.2.a applies.

⁹ There is a textual wrinkle here that merits discussion. The language of Guidelines 2.B.2.a(2) does distinguish between “guilty pleas and verdicts” and “convictions.” For the reasons stated above, that distinction does not resolve the question of what “probation” means as a matter of plain language. But a closer look at the evolution of the Guidelines 2.B.2.a(2) explains why the words “guilty pleas and verdicts” was added. In 2003, the Commission amended 2.B.2.a(2) as follows:

2. One point is assigned if the offender:

- a. was on probation, parole, supervised release, conditional release, or confined in a jail, workhouse, or prison pending sentencing, following a guilty plea or verdict in a felony, gross misdemeanor, or extended jurisdiction juvenile case, or following a felony, gross misdemeanor or an extended jurisdiction juvenile conviction.

Minn. Sent. Guidelines Comm’n, *Adopted Modifications to the Sentencing Guidelines* 6 (2003). The Commission explained that the language was changed “to indicate that the Custody Status Point applies to offenders who escape before sentencing.” *Id.* There are times, especially following a guilty plea, when a district court will wait to enter a conviction until the sentencing hearing. The reason for adding the language had nothing to do with stays of adjudication.

In this case, the best clue to help determine which of the two reasonable meanings of “probation” the Commission intended when it adopted Guidelines 2.B.2.a is to listen to the Commission. A brief overview of the evolution of 2.B.2.a, particularly as it relates to section 152.18, subdivision 1, is necessary.

Language similar to current Guidelines 2.B.2.a was adopted by the Commission in 1980 when the Guidelines were first promulgated. Minn. Sent. Guidelines Comm’n, *Report to the Legislature* 28 (1980) (stating that “[t]he offender is assigned one point if he or she was on probation or parole or confined in jail, workhouse, or prison *following conviction* of a felony or gross misdemeanor or released pending sentencing at the time the felony was committed for which he or she was being sentenced” (emphasis added)). As noted earlier, in 1980, the Commission expressly considered stays of imposition and stays of execution in drafting the Guidelines but made no mention of deferred prosecutions under section 152.18, subdivision 1, or, more generally, stays of adjudication. *Id.* at 58; *see supra* at D-9.

In 1987, the Guidelines first suggested in Comment II.B.201 that custody points should be assigned when prosecution has been deferred under Minnesota Statutes section 152.18:

The basic rule assigns offenders one point if they were under some form of criminal justice custody *following conviction* of a felony or gross misdemeanor when the offense was committed for which they are now being sentenced. Criminal justice custodial status includes probation (supervised or unsupervised), parole, supervised release, conditional release, or confinement in a jail, workhouse, or prison, or work release, following conviction of a felony or gross misdemeanor, or release pending sentencing following the entry of a plea of guilty to a felony or gross misdemeanor, or a verdict of guilty by a jury or a finding of guilty by the court of a felony or

gross misdemeanor. *Probation given for an offense treated pursuant to Minn. Stat. § 152.18, subd. 1, will result in the assignment of a custody status point because a guilty plea has previously been entered and the offender has been on a probationary status.*

Minn. Sent. Guidelines 2.B.2 cmt. II.B.201 (1987) (emphasis added); *see* Minn. Sent. Guidelines Comm’n, *Proposed Modifications to the Sentencing Guidelines Effective August 1, 1987* (1987). Accordingly, although the general rule expressly limited the imposition of custody status points to persons who were in custody status following a conviction, the Commission explained that district courts should apply the rule in one specific circumstance where a conviction has not been entered—namely, where the court has imposed conditions of a stay associated with a deferred prosecution under section 152.18 for certain drug offenses.¹⁰

In 2012, the Commission restructured the Guidelines and for the first time explicitly referred to section 152.18 in Guidelines 2.B.2.a(2):

The offender was under one of the custody statuses in paragraph (1) after entry of a guilty plea, guilty verdict, or conviction. *This includes a guilty plea for an offense under Minn. Stat. § 152.18, subd. 1.*

Minn. Sent. Guidelines 2.B.2.a(2) (2012) (emphasis added); *see* Minn. Sent. Guidelines Comm’n, *Guidelines Revision Project Adopted Modifications* 16 (2012). Once again, the language is limited to section 152.18; it does not mention stays of adjudication generally.

In 2019, the Commission deleted the language related to section 152.18 in Guidelines 2.B.2.a(2). The change was debated by members of the Commission. Before

¹⁰ In 2010, the Commission moved the comment language about the section 152.18 to Comment I.B.202. Minn. Sent. Guidelines cmt. I.B.202 (2010).

the Commission adopted the change, Commission staff explained that eliminating the language related to section 152.18 “would eliminate the assignment of a custody status point for a § 152.18 stay of adjudication.” Minn. Sent. Guidelines Comm’n, *Proposed Modifications to the Sentencing Guidelines and Commentary, Effective August 1, 2019* 2, 5, 9 (2018).¹¹ The recommendation to eliminate the assignment of a custody status point for a section 152.18 stay of adjudication was adopted unanimously by the Commission on December 20, 2018. *Approved Meeting Minutes of the Minnesota Sentencing Guidelines Commission for December 20, 2018* 3–5.¹² The Commission further explained its decision as follows:

¹¹ The document may be found at https://mn.gov/msgc-stat/documents/meeting%20materials/2018/PublicHearingDecember/1August2019ProposedModificationsCHS_SVO.pdf. See also Nate Reitz, *Staff Memorandum to Minnesota Sentencing Guidelines Commission* 2 (Nov. 1, 2018) (stating that “[u]nder existing policy, stays of adjudication generally do not qualify for a custody status point” and explaining that the proposed change—later adopted by the Commission—is to “eliminate” the “lone exception” for a section 152.18 stay of adjudication) (<https://mn.gov/msgc-stat/documents/meeting%20materials/2018/November/Combined4ADocuments.pdf>). Thus, by August 1, 2019, even the lone exception had been eliminated from the Guidelines.

¹² The meeting minutes may be found at <https://mn.gov/msgc-stat/documents/meeting%20materials/2018/December/ApprovedMSGCMinutes20Dec2018.pdf>. Commission Chair Associate Justice (Ret.) Christopher Dietzen stated in his report that the proposed elimination of custody status points for section 152.18 stays of adjudication, among other changes, “will promote rationality and proportionality in certain sentences and make technical changes due to recent legislation and will not sacrifice public safety.” The changes were submitted to the Legislature for consideration during the 2019 session and the Legislature did not reject the changes. See Minn. Stat. § 244.09, subd. 11 (2022) (providing that “[a]ny modification which amends the Sentencing Guidelines grid, including severity levels and criminal history scores, or which would result in the reduction of any sentence or in the early release of any inmate, with the exception of a modification mandated or authorized by the legislature or relating to a crime created or amended by the

The Commission also reconsidered its rule distinguishing, for purposes of the custody status point, stays of adjudication granted under Minn. Stat. § 152.18 (applicable to some drug offenses) from all other stays of adjudication. Under the current rule, a stay of adjudication qualifies for custody status, but only if it was granted under § 152.18. The proposal repeals this distinction. The proposed modifications—to Guidelines § 2.B.2.a(2) and Comment 2.B.203—may be found on pages 61 & 65.

Minn. Sent. Guidelines Comm’n, *2019 Report to Legislature* 12 (2019).

The Commission could not be clearer. It recognized that for purposes of imposing custody status points, the Guidelines treated court-ordered conditions imposed in connection with deferred prosecutions under section 152.18, subdivision 1, differently than conditions imposed in connection with stays of adjudication generally. It wanted to eliminate that distinction. And it did so by eliminating the imposition of custody status points for persons who commit another offense while on deferred prosecution release under section 152.18, subdivision 1. In other words, with the exception of the section 152.18 deferred prosecutions, the Commission *never* intended custody status points to be awarded for stays of adjudication.

More critically to the resolution of this case, that language related to section 152.18 deferred prosecutions was deleted from the Guidelines in 2019, well *before* the 2021 sentence imposed on Woolridge Carter that is the subject of this appeal. Thus, even if one tried to make the argument that the Commission misunderstood the history of its own Guidelines, by the time Woolridge Carter was sentenced, the Commission was clear that

legislature in the preceding session, shall be submitted to the legislature by January 15 of any year in which the commission wishes to make the change and shall be effective on August 1 of that year, unless the legislature by law provides otherwise”).

under the Guidelines in effect when Woolridge Carter committed the offense that is the subject of this appeal, custody points are not to be assigned to a sentence for an offense that occurs while a person is under release conditions imposed as part of any type of stay of adjudication.

The clear intent and understanding of the Commission was reported to the district court in this case. The probation officer who prepared Woolridge Carter's Pre-Sentence Investigation report checked with the Commission about the precise interpretation question at issue before us and reported:

While the defendant was on supervision for a Felony Theft at the time of the current offense, a custody status point is not applicable because of the Stay of Adjudication. *Per an email from [a member of the Commission staff], 2.B.2.a(1) and 2.B.1(2) can be referenced related to this issue. . . . The "Guilty Plea" idea is misleading – no custody for Stay of Adjudication. The Guilty Plea really points only to "release pending sentencing" for a custody, they enter the plea and are to return for sentencing, then they commit the current offense.*

(Emphasis added.) Accordingly, the probation officer's report did not assign any custody status points.

In this dispute with two reasonable interpretations of the relevant language, we should listen and take seriously what the Commission, authorized by the Legislature to adopt, amend, and administer the Guidelines, is telling us about the Guidelines: custody status points should not be imposed for violations of release conditions imposed with a stay of adjudication.

The district court erred when it included a custody status point in Woolridge Carter's criminal history score for his stay of adjudication on a 2016 felony theft. Therefore, I

would reverse and remand to the district court for proper sentencing consistent with the Guidelines.

HUDSON, Chief Justice (dissenting).

I join in the dissent of Justice Thissen.