

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS**

A24-0602

A24-0862

State of Minnesota,
Respondent,

vs.

Hollis John Larson,
Appellant.

Filed March 3, 2025

Affirmed

Bentley, Judge

Carlton County District Court
File Nos. 09-CR-23-1332, 09-CR-22-986

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

Lauri A. Ketola, Carlton County Attorney, Jeffrey L.H. Boucher, Chief Deputy County Attorney, Carlton, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Roy G. Spurbeck, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Bentley, Presiding Judge; Worke, Judge; and Slieter, Judge.

NONPRECEDENTIAL OPINION

BENTLEY, Judge

While confined under a civil commitment order pursuant to statutes regulating the Minnesota Sex Offender Program (MSOP), appellant Hollis John Larson was charged on

two separate occasions with damage to property under Minn. Stat. § 609.595, subd. 1(4) (2020). During the pendency of those criminal matters, MSOP staff placed Larson on administrative-restriction status and housed him for periods in a high-security area (HSA). He ultimately pleaded guilty to one count of damage to property with the understanding that the other count would be dismissed but that he may have to pay restitution on both counts.

The district court sentenced Larson to 13 months' imprisonment on the convicted count and stayed execution for three years, and also ordered Larson to pay restitution on both originally charged counts. On appeal, Larson argues that the district court erred by denying him custody credit for the time he spent on administrative-restriction status and in the HSA in connection with both charges. Larson also filed a self-represented supplemental brief arguing that the district court erred in several ways. We see no grounds for reversal and therefore affirm.

FACTS

The following summarizes the relevant facts in the record before the district court at the time of sentencing.

At all times relevant to this appeal, Larson has been civilly committed to an MSOP facility in Moose Lake as a sexually dangerous person. In August 2021, Larson broke a window in his room at MSOP and refused to move to another room. As a result, MSOP employees placed Larson on administrative-restriction status¹ and in the HSA, which is a

¹ “Administrative restriction” is a measure used by MSOP staff “to maintain safety and security, protect possible evidence, and prevent the continuation of suspected criminal

more secure, segregated housing unit. In October 2021, while Larson was still on administrative restriction but no longer in the HSA, he again damaged a window in his room. After spending two days in the HSA, Larson was moved to a new room, where he broke another window, and was placed back in the HSA. The following year, in August 2022, while still on administrative restriction, Larson broke a metal shelving unit off a wall and used it to damage 16 windows in his unit. He was moved to the HSA again.

In June 2022, respondent State of Minnesota charged Larson under Minnesota Statutes section 609.595, subdivision 1(4) (damage to property that reduced the value of the property by more than \$1,000) for the conduct that occurred in August and October 2021. Then, in August 2023, the state charged Larson with violating the same provision for the conduct that occurred in August 2022. The two cases were consolidated in the district court.²

Larson waived his right to counsel and, representing himself, brought a mental-illness defense and moved the court for expert-witness fees. The district court ordered an examination and written report of Larson's mental condition, pursuant to Minn. R. Crim. P. 20.02, subd. 2, and reserved ruling on the issue of expert-witness fees. Then, before the district court ruled on the fee motion, Larson entered into a plea agreement with the state

acts." Minn. Stat. § 253D.02, subd. 2 (2024). It applies to "committed persons in a secure treatment facility who," as relevant here, "are suspected of committing a crime or charged with a crime" or "are the subject of a criminal investigation." *Id.* It may include "separation of a committed person from the normal living environment," such as in the HSA. *Id.*

² The cases were also consolidated with a third charge that was subsequently dismissed and is not relevant to the issues on appeal.

and pleaded guilty to the August 2023 charge. As part of the agreement, the state agreed to dismiss the June 2022 charge but reserved the right to request restitution on that charge.

At sentencing in January 2024, Larson argued that he was entitled to custody credit for the time he served on administrative restriction and in the HSA “while the[] charges were pending.” He stated that he was in the HSA, which was “more punitive, more restricted than Carlton County Jail,” for 514 days.³ The district court denied Larson’s request for custody credit because Larson’s “confinement at Moose Lake was unaffected by the charges.” The district court sentenced Larson to 13 months in prison and stayed execution for three years, during which time Larson would be placed on unsupervised probation.

In April 2024, the district court held a hearing to determine the amount of restitution Larson would have to pay. Larson objected to restitution, arguing in an affidavit prior to the hearing that he has “absolutely no income and does not expect any income for the foreseeable future.” (Emphasis omitted.) At the hearing, Larson argued that restitution is not appropriate because “MSOP incurred no out-of-pocket loss, no economic loss.” The district court ordered Larson to pay \$5,508.20 for the June 2022 charge and \$28,220 for the August 2023 charge.

Larson appealed both the January 2024 sentencing order and the April 2024 restitution order. He then filed a motion with this court to consolidate the appeals, which we granted.

³ Based on the record on appeal, we cannot independently verify the number of days Larson spent in the HSA.

DECISION

We first address Larson’s argument that he is entitled to custody credit for the time he spent on administrative-restriction status and in the HSA. We then address the arguments Larson raises in his self-represented supplemental brief.

I

A defendant bears the burden of establishing that they are entitled to custody credit “for time spent in custody ‘in connection with the offense or behavioral incident being sentenced.’” *State v. Roy*, 928 N.W.2d 341, 344-45 (Minn. 2019) (quoting Minn. R. Crim. P. 27.03, subd. 4(B)). Whether to award credit is a mixed question of fact and law that requires the district court to “determine the circumstances of the custody the defendant seeks credit for, and then apply the rules to those circumstances.” *State v. Johnson*, 744 N.W.2d 376, 379 (Minn. 2008). An award or denial of custody credit is “governed by principles of fairness and equity, and a reviewing court can only ‘address this issue on a case-by-case basis.’” *State v. Razmyslowski*, 668 N.W.2d 681, 683 (Minn. App. 2003) (quoting *State v. Dulski*, 363 N.W.2d 307, 310 (Minn. 1985)). In undertaking that review, appellate courts review the district court’s interpretation of the rules of criminal procedure de novo and “will not reverse a district court’s factual findings unless they are clearly erroneous or contrary to law.” *Johnson*, 744 N.W.2d at 379.

As a general matter, the Minnesota Supreme Court has held that placement in civil commitment or in a treatment facility may qualify for custody credit in certain circumstances. In *Asfaha v. State*, for example, the supreme court concluded that a defendant was entitled to custody credit for time spent in an intensive treatment program

as a condition of his probation, because the restrictions imposed were the “functional equivalent” of those in a juvenile correctional facility. 665 N.W.2d 523, 524 (Minn. 2003). And in *Razmyslowski*, this court concluded that the “restrictions and the confinement imposed” at an intensive treatment program, which were required as a condition of the defendant’s sentence, were “substantially similar” to those in *Asfaha* and, therefore, the defendant was entitled to custody credit for the time he spent at the program. 668 N.W.2d at 684.

However, *Asfaha* and *Razmyslowski* do not guide our analysis because the issue here is not whether Larson was placed in custody in connection with that offense. Larson was already in custody, through civil confinement, at the Moose Lake MSOP facility at the time of the August 2023 charge for which he was sentenced. Rather, the question is whether Larson is entitled to custody credit for some of the time spent at the Moose Lake facility during the pendency of the criminal proceedings because the conditions of his confinement changed in connection with the offense.

The supreme court touched on this issue in *Johnson*. 744 N.W.2d 376. There, the court held that civil confinement under the MSOP, although the functional equivalent of a jail, does not qualify for custody credit if the individual is civilly committed prior to the charges and there is “no evidence in the record that the terms of [the individual’s] confinement under civil commitment have been altered because of the criminal charges.” *Id.* at 380. On the facts of that case, which are also true here, the supreme court noted that the defendant’s sentence without custody credit did not “prolong [his] confinement” because the defendant was under civil commitment for an “indefinite” period. *Id.* And for

that reason, the supreme court concluded that the defendant was not entitled to custody credit for time spent in civil confinement during the pendency of the criminal charges. *Id.*

Larson argues that his circumstances are different from those in *Johnson* because, even if the criminal charges here did not prolong his confinement in civil commitment, he was placed on administrative restriction and spent time in the HSA in connection with the offenses underlying the two charges. He maintains that the terms of his confinement therefore had changed. We agree that the court in *Johnson* did not directly address the question of whether placement on administrative restriction or in a facility's HSA in connection with criminal charges for which an individual is eventually sentenced could qualify for custody credit.⁴ But we need not reach that issue here because, even assuming without deciding that a defendant could get custody credit for time spent in civil confinement if the charges materially changed the *conditions* of confinement but not the *duration*, Larson has not met his burden to establish that the August 2023 charges changed the conditions of his confinement.⁵

Larson argues that he is entitled to custody credit for the time spent on administrative restriction and in the HSA between August 2021 (the date of the first offense

⁴ The court did, however, conclude that a delay in treatment in connection with criminal charges would not warrant custody credit. *Johnson*, 744 N.W.2d at 380.

⁵ We acknowledge that a nonprecedential decision of this court reads *Johnson* as limiting the availability of custody credit to confinements that extend the duration of a civil confinement. *See State v. Roblero-Barrios*, No. A09-1009, 2009 WL 3575222, at *3-4 (Minn. App. Nov. 3, 2009). Nonprecedential opinions are not binding authority but may be cited for their persuasive value. Minn. R. Civ. App. P. 136.01, subd. 1(c). We do not consider the persuasiveness of *Roblero-Barrios* here because we do not reach the underlying question at issue in that case.

relating to the June 2022 charge) and December 2023 (the date of his guilty plea on the August 2023 charge, which resulted in the dismissal of the June 2022 charge). His arguments are unpersuasive for two key reasons.

First, Larson is not eligible for custody credit for time spent in custody in connection with the June 2022 charge. Custody credit is only available for time “in custody in connection with the offense or behavioral incident *being sentenced*.” Minn. R. Crim. P. 27.03, subd. 4(B) (emphasis added). Larson is not entitled to custody credit for time spent in the HSA in connection with the June 2022 charge because he was not sentenced for that charge.

Second, at the time of the offense in August 2022, which led to the August 2023 charge, Larson was already on administrative-restriction status and was thus subject to placement in the HSA, *see* Minn. Stat. §§ 253D.02, subd. 2, .18(b) (2024); and he had indeed been moved in and out of the HSA in connection with the various behavioral incidents that resulted in the June 2022 charge. The August 2023 charge, therefore, did not materially alter “the terms of [Larson’s] confinement under civil commitment.” *Johnson*, 744 N.W.2d at 380. During the entire pendency of the August 2023 charge, the only charge for which Larson was sentenced, he was already subject to administrative restriction and associated housing separation as a result of the June 2022 charge. Larson acknowledges as much, by arguing at sentencing and in his briefing on appeal that he seeks custody credit for the time “while [both] charges were pending,” beginning in August 2021.

Considering that the “policy behind giving custody credit is to ensure fairness and proportionality in sentencing,” *id.* at 379, we conclude that those purposes would not be

served by granting custody credit here because Larson was subject to the same restrictive conditions in civil confinement before and after the incident relating to the charge for which he was sentenced. His placement on administrative restriction and in the HSA during the relevant period do not reflect a de facto double sentence on the August 2023 charge that would warrant custody credit to ensure fairness or proportionality in his sentence. *See id.* at 380.

In his counseled brief, Larson requests that we remand for an evidentiary hearing to determine whether and how much credit he should receive. But Larson had the burden at sentencing to establish he was entitled to custody credit. *See Roy*, 928 N.W.2d at 345. And on the record before us, there is no way to disentangle any changes to the conditions of his confinement as between the June 2022 and August 2023 charges. That holds true even though the June 2022 charge was ultimately dismissed because administrative restriction, and associated housing restrictions, may extend “until [a] charge is disposed of.” Minn. Stat. § 253D.18(e) (2024). There is no indication in the record that Larson was removed from administrative restriction with respect to the June 2022 charge before he pleaded guilty, which disposed of that charge.

For these reasons, we discern no basis to reverse the district court’s decision declining to award custody credit.

II

In a self-represented supplemental brief, Larson makes several arguments for reversal, none of which are persuasive. In addition to the issue of custody credit discussed above, Larson argues that the district court erred by (1) refusing to grant default judgment

in his favor, (2) denying his request for expert-witness fees, (3) denying his motion to dismiss for lack of jurisdiction, (4) ordering him to pay restitution, (5) charging him by complaint rather than indictment, (6) accepting his guilty plea when he is mentally ill, and (7) subjecting him to double jeopardy. We have considered each of these arguments and conclude that Larson is not entitled to relief.

First, Larson does not support his arguments regarding default judgment with legal authority. A reviewing court “will not consider pro se claims on appeal that are unsupported by either arguments or citations to legal authority.” *State v. Bartylla*, 755 N.W.2d 8, 22 (Minn. 2008); *see also State v. Krosch*, 642 N.W.2d 713, 719 (Minn. 2002) (dismissing appellant’s arguments because the self-represented brief contained “no argument[s] or citation[s] to legal authority in support of the allegations”); *see State v. Andersen*, 871 N.W.2d 910, 915 (Minn. 2015) (“An assignment of error based on mere assertion and not supported by any argument or authorities in appellant’s brief is waived and will not be considered on appeal unless prejudicial error is obvious on mere inspection.” (quotation omitted)). Because Larson cites no legal authority to support his argument for default judgment, we decline to consider this argument.

Second, Larson’s arguments regarding his motion for expert witness fees are also not properly before this court. “A reviewing court must generally consider only those issues that the record shows were presented [to] and considered by the [district] court in deciding the matter before it.” *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (quotation omitted). Larson entered a guilty plea before the district court made a final ruling on his

motion for expert witness fees. Because the district court did not fully consider and decide the issue as a result of Larson's guilty plea, it is not properly before us.

Third, Larson's arguments relating to jurisdiction are "sovereign-citizen-type arguments," as the district court properly stated. This court has stated that "the sovereign-citizen jurisdictional defense has 'no conceivable validity in American law.'" *State v. Winbush*, 912 N.W.2d 678, 686 (Minn. App. 2018) (quoting *United States v. Schneider*, 910 F.2d 1569, 1570 (7th Cir. 1990)), *rev. denied* (Minn. May 29, 2018). Therefore, Larson is not entitled to relief on this issue.

Larson's remaining arguments are also foreclosed by precedent. First, the district court did not abuse its discretion in ordering Larson to pay restitution after considering testimony by MSOP employees and evidence of Larson's income, resources, and obligations, as required by statute. *See* Minn. Stat. § 611A.045, subd. 1(a) (2024); *see also State v. Cloutier*, 971 N.W.2d 743, 748 (Minn. App. 2022) (noting the statutory factors for the district court to consider in determining whether to order restitution), *aff'd*, 987 N.W.2d 214 (Minn. 2023). Second, the district court properly charged Larson by complaint rather than indictment because Larson's offense was not punishable by life imprisonment. *See* Minn. R. Crim. P. 17.04, subd. 1. Third, the district court did not err in accepting Larson's plea as "accurate, voluntary, and intelligent" based on Larson's mental examination and Larson's responses to the district court's questions. *See State v. Raleigh*, 778 N.W.2d 90, 94 (Minn. 2010). Fourth, and finally, Larson's conviction does not violate double jeopardy because his commitment at MSOP is civil in nature, not criminal. *See Hudson v. United*

States, 522 U.S. 93, 95 (1997) (differentiating between civil and criminal sanctions for purposes of double jeopardy). None of these arguments provide grounds for reversal.

Affirmed.