

*This opinion is nonprecedential except as provided by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
A24-1514**

State of Minnesota,
Respondent,

vs.

Roland Ybarra,
Appellant.

**Filed July 28, 2025
Affirmed in part, reversed in part, and remanded
Connolly, Judge**

Martin County District Court
File No. 46-CR-24-75

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

Taylor McGowan, Martin County Attorney, Fairmont, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Hannah Laub, Assistant Public
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Schmidt, Presiding Judge; Connolly, Judge; and Smith,

John P., Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

Appellant challenges the district court's denial of his motion to suppress evidence discovered during a traffic stop. He argues that the deputy (1) did not have reasonable, articulable suspicion to expand the scope of the traffic stop to investigate impaired driving and drug-related criminal activity; and (2) did not have probable cause to arrest him for fifth-degree controlled-substance possession. Appellant also asserts that two of the district court's factual findings are clearly erroneous. Lastly, appellant argues that the district court erred by imposing multiple sentences. We affirm in part, reverse in part, and remand.

FACTS

On January 29, 2024, Martin County Sheriff's Deputy J.T. was patrolling near the city of Ceylon. He noticed a black Lincoln Navigator with dark window tint driving towards him. The vehicle stood out to him because he patrolled Ceylon "regularly" and had not seen the vehicle before. When the deputy and the vehicle met each other, the vehicle "immediately" pulled over to the side of the road. The vehicle drove away after the deputy was approximately a half mile away.

The deputy ran the vehicle's license plate and learned that it was registered to appellant Roland Ybarra. The deputy then turned around and saw that the Lincoln was parked at a residence. After calling an investigator and asking about appellant, the investigator informed the deputy that appellant had an "extensive drug history." The deputy also reviewed appellant's offense history through the Minnesota Government Access (MGA) site.

The deputy watched the vehicle, which was still parked at the residence, and noticed that “within a short period of time it was again leaving.” As the vehicle drove away from the residence, the deputy followed. He used his radar to check the vehicle’s speed, which showed that it was “traveling below the speed limit” and was “fluctuating” between 50 to 54 miles per hour.

The deputy then activated his lights to stop the vehicle for the window-tint violation. Appellant and one passenger, who sat in the front passenger seat, were in the vehicle. As the deputy approached, he noticed that the passenger had “freshly lit a cigarette” and the window was down. The deputy also saw a black butane torch near the center console area. A butane torch is commonly associated with methamphetamine use because it is hotter than a typical lighter, and it is “hard to make meth[amphetamine] smoke.” The deputy asked appellant for proof of insurance, which he did not have, and his driver’s license.

The deputy also noticed a “strong smell of . . . marijuana” coming from the vehicle. He informed appellant he could smell the odor and asked appellant a series of questions about it. He asked if appellant had a prescription marijuana card, which appellant did not have. He asked appellant if he had a “small amount” of marijuana in the vehicle. Appellant explained that people in the vehicle had used marijuana a couple hours earlier. The deputy inquired if those people had obtained the marijuana legally; appellant said they did. After asking how appellant knew that, appellant said he did not know but was “just giving them the benefit of the doubt.” Appellant did not show any signs of impairment.

After inquiring what they were doing in Ceylon, the passenger said they were visiting the passenger’s old roommate. The deputy noticed that the passenger had “sunken

in eyes, darker colored bags under his eyes, and that his teeth appeared rotten, which [are] indicators of what can be methamphetamine use.”

Upon returning to his squad car, the deputy asked dispatch about appellant’s probation status. Before learning the probation status, the deputy requested that a narcotics-detection canine come sniff the exterior of the vehicle. While waiting for the canine to arrive, the deputy measured the window tint and determined that the window was in violation of the legal limit. The deputy then contacted appellant’s probation agent, who informed the deputy that appellant was on probation for a first-degree drug offense.¹

When a second deputy arrived with the canine, it sniffed the exterior of the vehicle and made a “positive alert” to the presence of controlled substances. The canine did not make a final alert, which would mean the canine had located the contraband. The deputies searched the vehicle and found a meth bong underneath a “shammy cloth,” a larger meth bong sitting in the center console area, a “small amount of methamphetamine . . . in a screw-top container,” and two containers of marijuana. According to the first deputy, the methamphetamine was a “weighable amount,” and he was “visually able to tell it was less than a quarter gram.” In his report, he noted that the container tested positive for methamphetamine. Appellant was then arrested for fifth-degree controlled substance possession.

Upon searching appellant at the jail, jail staff found a “small plastic zip lock bag with a paper tab inside,” which appellant admitted was LSD. At some point, a bag “of

¹ It is disputed whether appellant was on probation or parole. The parties use the terms interchangeably. We will use probation for consistency.

what appeared to be meth” and a bag of pills dropped to the floor. The substances were later confirmed to be methamphetamine, oxycodone, and hydrocodone. Appellant denied possessing these substances.

Respondent State of Minnesota charged appellant by complaint with four counts of felony fifth-degree possession of a controlled substance under Minn. Stat. § 152.025, subd. 2(1) (2022), one count of misdemeanor failure to carry proof of insurance under Minn. Stat. § 169.791, subd. 2(a) (2022), and one count of petty-misdemeanor window-tint restriction under Minn. Stat. § 169.71, subd. 4(3) (2022). Appellant was not charged for the small amount of methamphetamine or for the marijuana found in his vehicle; only for the purported LSD tab, the bag of methamphetamine, and the oxycodone and hydrocodone pills found after he was in the jail.

Appellant moved to suppress the evidence, arguing that the deputy unlawfully expanded the stop by conducting a canine sniff and that the deputy lacked probable cause to arrest him because possession of less than 0.25 grams of methamphetamine was “decriminalized.” At the omnibus hearing, respondent presented testimony from both deputies, who testified consistent with the facts above. The first deputy, who stopped appellant, also testified to his experience working with controlled-substance use, including as a “narcotics resource officer,” “drug interdiction,” and a “drug recognition evaluator.” The district court received seven exhibits into evidence, including four police reports and three videos from the first deputy’s body-camera footage and squad-car footage. The district court denied appellant’s motion, concluding that the deputy lawfully expanded the stop by (1) inquiring about the marijuana odor and (2) conducting a canine sniff on the

vehicle. It also concluded that the deputy had probable cause to arrest appellant for a controlled substance crime after locating a weighable amount of methamphetamine in the vehicle.

After a bench trial, appellant was found guilty and convicted of three counts of felony fifth-degree possession of drugs as well as the no-proof-of-insurance and window-tint violations.² The district court sentenced appellant to 24 months in prison for each of the drug-possession convictions, 90 days in jail for the failure to carry proof of insurance, and fined him \$50 for the window-tint violation.

This appeal follows.

DECISION

Appellant first contends that the district court erred by denying his motion to suppress, arguing that the deputy (1) lacked reasonable, articulable suspicion to investigate him for impaired driving or drug-related criminal activity; and (2) lacked probable cause to arrest him. Each argument is addressed in turn.

“When reviewing a pretrial order denying a motion to suppress, we review the district court’s factual findings for clear error and its legal determinations de novo.” *State v. Ezeka*, 946 N.W.2d 393, 403 (Minn. 2020). “A factual finding is clearly erroneous if it does not have evidentiary support in the record or if it was induced by an erroneous view of the law.” *State v. Roberts*, 876 N.W.2d 863, 868 (Minn. 2016). We may “independently review facts that are not in dispute, and determine, as a matter of law, whether the evidence

² Appellant was found not guilty of possession of the LSD tab.

need be suppressed.” *State v. Gauster*, 752 N.W.2d 496, 502 (Minn. 2008) (quotation omitted).

I. Because there was reasonable, articulable suspicion to investigate appellant for drug-related criminal activity, the district court did not err by denying appellant’s motion to suppress.

The United States and Minnesota Constitutions prohibit “unreasonable searches and seizures” by the government. U.S. Const. amend. IV; Minn. Const. art. I, § 10. “Warrantless searches and seizures are generally unreasonable.” *State v. Taylor*, 965 N.W.2d 747, 752 (Minn. 2021). But a police officer may “conduct a brief, investigatory stop” of a vehicle “when the officer has a reasonable, articulable suspicion that criminal activity is afoot.” *Id.* (quotation omitted). If evidence is seized in violation of the constitution, it must be suppressed. *State v. Diede*, 795 N.W.2d 836, 842 (Minn. 2011).

Reasonable suspicion must be “particularized” and based on “specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion.” *Terry v. Ohio*, 392 U.S. 1, 21 (1968). When determining whether reasonable suspicion exists, we consider the totality of the circumstances. *Taylor*, 965 N.W.2d at 752. Reasonable suspicion requires more than a “mere hunch.” *Id.* Under this standard, trained police officers may “draw inferences and deductions that might well elude an untrained person.” *State v. Lugo*, 887 N.W.2d 476, 487 (Minn. 2016) (quotation omitted). Analyzing reasonable suspicion is a “common-sense, nontechnical” approach that considers “the factual and practical considerations of everyday life,” and the standard is “not readily, or even usefully, reduced to a neat set of legal rules.” *State v. Lee*, 585 N.W.2d 378, 382 (Minn. 1998) (quotations omitted).

The justification for an initial search or seizure “will not necessarily provide a basis for subsequent expansions of the scope of that search or seizure.” *State v. Askerooth*, 681 N.W.2d 353, 364 (Minn. 2004). Each incremental intrusion during a traffic stop must be “tied to and justified by one of the following: (1) the original legitimate purpose of the stop, (2) independent probable cause, or (3) reasonableness, as defined in *Terry*.” *Id.* at 365. “Reasonableness, as defined by *Terry*, is an objective standard: would the facts available to the officer at the moment of the seizure . . . warrant a man of reasonable caution in the belief that the action taken was appropriate?” *State v. Sargent*, 968 N.W.2d 32, 38 (Minn. 2021) (quotation omitted).

Appellant contends that the district court made two clearly erroneous factual findings. First, he asserts that the district court clearly erred by finding that the deputy “noticed a black, duct taped torch in the center console of [appellant’s] vehicle” because the body-camera footage does not show the butane torch. Under our clear error review, we conclude the district court’s finding is supported by the record. We recognize that the body-camera footage does not capture the butane torch, or even the entire center console. But during the omnibus hearing, the deputy testified that he saw a “black torch, like a butane torch, that was near the center console area.” And the deputy’s incident report that was entered as evidence noted the same. The district court essentially made a credibility finding that the deputy saw the butane torch in the center console of the vehicle. We defer to such findings. *Kruse v. Comm’r of Pub. Safety*, 906 N.W.2d 554, 557 (Minn. App. 2018) (stating that “[i]n reviewing the district court’s factual findings, we defer to the district court’s credibility determinations”).

Second, appellant asserts that the district court clearly erred by finding that appellant's probation status contributed to the deputy's reasonable suspicion to expand the search. We agree. In its findings of fact, the district court noted that an investigator "told [the deputy] that he believed [appellant] was recently in prison. [The deputy] then checked [appellant's] criminal history through the MGA, observed some of his past drug history and noticed [appellant] was on probation." In its conclusions of law, the district court relied, in part, on appellant's probation status to determine that the deputy had reasonable, articulable suspicion of drug-related criminal activity to conduct a canine sniff of the vehicle. The district court's factual finding and conclusion are contrary to the deputy's testimony that he learned of appellant's probation status after requesting a canine sniff. Indeed, the deputy testified that he "wasn't using [the probation information] as reasonable suspicion." The deputy's body-camera footage confirms the same. Accordingly, it was clear error for the district court to find that appellant's probation status was a fact supporting reasonable suspicion to expand the stop, and we do not rely on this finding in our analysis of the deputy's reasonable, articulable suspicion.

Appellant next challenges the district court's determination that it was reasonable for the deputy to inquire about marijuana use. He argues that the odor of marijuana did not contribute to the deputy's reasonable, articulable suspicion to investigate him for driving under the influence or for other drug-related activity. We are not persuaded.

It is a crime in Minnesota to use or possess certain marijuana products while in a motor vehicle:

Subd. 2. Use; crime described. It is a crime for a person to use cannabis flower, a cannabis product, a lower-potency hemp edible, a hemp-derived consumer product, or any other product containing an artificially derived cannabinoid in a motor vehicle when the vehicle is on a street or highway.

Subd. 3. Possession; crime described. It is a crime for a person to have in possession, while in a private motor vehicle on a street or highway, any cannabis flower, a cannabis product, a lower-potency hemp edible, a hemp-derived consumer product, or any other product containing an artificially derived cannabinoid that:

(1) is in packaging or another container that does not comply with the relevant packaging requirements in chapter 152 or 342;

(2) has been removed from the packaging in which it was sold;

(3) is in packaging that has been opened or the seal has been broken; or

(4) is in packaging of which the contents have been partially removed.

Minn. Stat. § 169A.36, subds. 2, 3 (Supp. 2023).

Where, as here, an incremental intrusion of a traffic stop is not tied to the original purpose of the stop, this court considers whether the intrusion was reasonable under the totality of the circumstances. *Askerooth*, 681 N.W.2d at 364-65. As such, we consider the odor of marijuana and the statutory scheme of marijuana use in conjunction with the other circumstances present. Before lawfully stopping the vehicle for the window-tint violation, the deputy noticed appellant’s “strange” driving conduct of pulling over upon meeting the deputy on the road and continuing to drive only after the deputy passed by his vehicle. *See State v. Johnson*, 444 N.W.2d 824, 827 (Minn. 1989) (a trooper had reasonable suspicion of criminal activity to justify a limited investigative traffic stop because of the driver’s “evasive conduct” of turning off the highway immediately after making eye contact with a

state trooper and then resuming in the same direction on the highway within a minute). After stopping the vehicle, the deputy observed the butane torch, which he knew is commonly associated with methamphetamine use. *See State v. Johnson*, 15 N.W.3d 843, 853 (Minn. App. 2024) (a deputy’s observation of a butane torch contributed to the requisite probable cause to search the interior of a vehicle with a canine sniff), *rev. denied* (Minn. Apr. 15, 2025). And the passenger’s appearance appeared consistent with methamphetamine use. *See State v. Garding*, 12 N.W.3d 697, 704 (Minn. 2024) (stating that the question of whether “*current possession* of drugs can reasonably be inferred from a person’s apparent recent drug use is a separate question that cannot be answered by looking to evidence of the passenger’s appearance alone” and that under the totality of the circumstances, “other facts may make the inference of current possession a reasonable one”). Finally, the deputy observed the “strong odor” of marijuana. Under the totality of the circumstances that existed at the time of the stop, including the fact that it is a crime to use or possess certain marijuana products while in a vehicle on a highway, it was reasonable for the deputy to inquire about the odor of marijuana to investigate drug-related activity.³

To convince us otherwise, appellant relies on three cases to support his argument. First, in *State v. Torgerson*, the Minnesota Supreme Court concluded that the odor of marijuana, without more, is insufficient to support the requisite probable cause to search a vehicle under the automobile exception to the warrant requirement. 995 N.W.2d 164, 174-75 (Minn. 2023). For a probable cause analysis, the odor of marijuana is “to be one of the

³ The deputy also found it “odd” that the vehicle was traveling below the speed limit. We do not consider such lawful conduct in our analysis.

circumstances considered as part of the totality of the circumstances in assessing whether there is a fair probability that contraband or evidence of a crime will be found in a particular place.” *Id.* at 173 (emphasis omitted). But *Torgerson* is distinguishable because here the challenged issues involve reasonable, articulable suspicion to investigate for drug-related criminal activity and expanding a traffic stop. The *Torgerson* court explicitly declined to address whether the odor of marijuana alone would give rise to reasonable, articulable suspicion. *Id.* at 169 n.4. Moreover, *Torgerson* considered whether the odor of marijuana contributes to probable cause under the statutory scheme that was in effect at the time of Torgerson’s arrest. *Id.* at 170. Consequently, at the time of the search in *Torgerson*, the totality of the circumstances must have given rise to a fair probability that the marijuana was being possessed or used in a criminally illegal manner, which “under the legal landscape [in effect] mean[t] more than a small amount of marijuana, that is not hemp, and is not being used under the medical cannabis registry program.” *Id.* at 173. Currently, use or possession in a vehicle on a street is a crime.

Second, in *State v. Burbach*—on which the *Torgerson* court relied—the court concluded that “an officer’s detection of the odor of alcohol coming from an adult passenger during a traffic stop does not, *by itself*, provide a reasonable, articulable suspicion of an open-container violation sufficient to permit an officer to expand the traffic stop by requesting to search the vehicle.” 706 N.W.2d 484, 489 (Minn. 2005) (emphasis added). But the facts of this case are distinguishable from *Burbach* as well because the deputy testified to additional facts that raised his suspicions.

Finally, in this court’s nonprecedential opinion in *State v. Dawson*, we applied the principles from *Torgerson* and *Burbach* and concluded that the odor of marijuana coming from a vehicle cannot support reasonable suspicion of an open-package violation to seize the driver by asking him to step out of the vehicle. No. A24-0573, 2024 WL 4481412, at *9-10 (Minn. App. Oct. 14, 2024), *rev. denied* (Minn. Feb. 18, 2025). In *Dawson*, an officer received a tip that Dawson’s vehicle was parked in a high-crime area along with another vehicle, and that one of the vehicles potentially contained a large amount of cocaine. *Id.* at *1. The officer approached Dawson’s parked vehicle, where he was sitting with a passenger, engaged them in conversation, detected the odor of marijuana, and finally seized Dawson by asking him to step out of the vehicle. *Id.* at *4-5. But *Dawson* is distinguishable here because appellant was already the subject of a lawful traffic stop when the deputy inquired about marijuana.⁴

Appellant next asserts that the district court erred by concluding that the deputy lawfully expanded the stop to include a canine sniff of the exterior of the vehicle. An officer must have reasonable, articulable suspicion of drug-related criminal activity to

⁴ We also note that this case is factually and legally distinguishable from our recent decision in *State v. Babineau*. ___N.W.3d___, ___, No. A23-1515, 2025 WL 1427646 (Minn. App. May 19, 2025) (Connolly, J., concurring specially). In *Babineau*, during a traffic stop, an officer in training told his training officer that he thought he smelled marijuana. *Id.* at *2. The trainer then reapproached the vehicle, told the driver to exit the vehicle, and inquired about the odor of marijuana. *Id.* We concluded that the odor of marijuana alone did not support the expansion of the stop, in part, because under the statutory scheme prior to August 1, 2023, marijuana was “not always a crime.” *Id.* at *5 (quotation omitted). Here, there are additional facts to support reasonable, articulable suspicion, and use or possession of certain marijuana products in a vehicle was a crime at the time of stop. See Minn. Stat. § 169A.36, subds. 2, 3.

conduct a canine sniff around the exterior of a vehicle during a routine traffic stop. *State v. Wiegand*, 645 N.W.2d 125, 135 (Minn. 2002); *see also Garding*, 12 N.W.3d at 702 (applying *Wiegand*).

Appellant addresses each factor of the deputy's reasonable, articulable suspicion to argue that the requisite standard was not met. Again, when analyzing reasonable suspicion, we look to the totality of the circumstances. *Taylor*, 965 N.W.2d at 752. We conclude that the totality of the circumstances supports the deputy's reasonable, articulable suspicion of drug-related activity to expand the stop by conducting a canine sniff. As previously discussed, the deputy observed the window-tint violation, strange driving conduct, the butane torch, the passenger's appearance, and a "strong odor" of marijuana. The deputy then inquired about the marijuana odor. Appellant denied having a medical marijuana card or having a small amount in the vehicle. But, according to the deputy's testimony, appellant explained "that a couple hours prior there had been people in the vehicle using marijuana." Appellant essentially admitted that a crime had been committed in his vehicle, which contributed to the deputy's reasonable, articulable suspicion that drug-related criminal activity was occurring. Accordingly, the requisite standard to conduct a canine sniff of the exterior of the vehicle was met.

II. Because the deputy had probable cause to arrest appellant, the district court did not err by denying appellant's motion to suppress evidence.

On appeal from a pretrial order on a motion to suppress, we consider "whether the police articulated an adequate basis" for the arrest. *State v. Onyelobi*, 879 N.W.2d 334,

342-43 (Minn. 2016) (quotation omitted). A warrantless arrest must be supported by probable cause. *State v. Glover*, 4 N.W.3d 124, 132 (Minn. 2024). Probable cause for an arrest exists “when a person of ordinary care and prudence, viewing the totality of circumstances objectively, would entertain an honest and strong suspicion that a *specific* individual has committed a crime.” *Id.* (quotation omitted). “Probable cause requires something more than mere suspicion but less than the evidence necessary for conviction.” *State v. Williams*, 794 N.W.2d 867, 871 (Minn. 2011).

Appellant contends that the police did not have probable cause to arrest him for possession of methamphetamine. He argues it was lawful for him to possess the container with a “residual amount of methamphetamine” at the time of the arrest.

In 2023, the Minnesota legislature amended the fifth-degree possession statute as follows:

Possession and other crimes. A person is guilty of controlled substance crime in the fifth degree and upon conviction may be sentenced as provided in subdivision 4 if:

(1) the person unlawfully possesses one or more mixtures containing a controlled substance classified in Schedule I, II, III, or IV, except a small amount of marijuana *or a residual amount of one or more mixtures of controlled substances contained in drug paraphernalia . . .*

2023 Minn. Laws ch. 52, art. 15, § 13, at 1051 (emphasis added); *see also* 2023 Minn. Laws ch. 63, art. 4, § 18, at 2831 (replacing “small amount of marijuana” with “cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products”). This provision became effective on August 1, 2023. 2023 Minn. Laws ch. 52, art. 15, § 13, at 1051.

The statute further provides:

Subd. 4. Penalty. (a) A person convicted under the provisions of subdivision 2, clause (1), who has not been previously convicted of a violation of this chapter or a similar offense in another jurisdiction, is guilty of a gross misdemeanor if: (1) the amount of the controlled substance possessed, other than heroin, is less than 0.25 grams or one dosage unit or less if the controlled substance was possessed in dosage units; or (2) the controlled substance possessed is heroin and the amount possessed is less than 0.05 grams.

(b) A person convicted under the provisions of subdivision 1; subdivision 2, clause (1), unless the conduct is described in paragraph (a); or subdivision 2, clause (2), may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

Minn. Stat. § 152.025, subd. 4(a), (b) (2022).

The parties agree that the statute exempts possession of a residual amount of methamphetamine contained in drug paraphernalia from criminal punishment, but they dispute the meaning of “residual amount” and “drug paraphernalia.” But we need not decide this issue under the circumstances of this case for two reasons.

First, the statute does not define a “residual amount,” but the penalty provision of the statute prohibits possession of *less than* 0.25 grams of methamphetamine. Minn. Stat. §§ 152.02, subd. 3(d)(2) (Supp. 2023) (methamphetamine is listed as a Schedule II controlled substance), .025, subd. 4(a). All that is required of police to establish probable cause is whether, under the totality of the circumstances, the police had an objectively reasonable suspicion that a crime has been committed. *State v. Williams*, 794 N.W.2d at 871. As such, if appellant possessed less than 0.25 grams of a controlled substance, such possession may give police probable cause to believe a crime occurred. At the omnibus

hearing, the deputy described the amount of methamphetamine found in the container as “a weighable amount” and asserted that he was “visually able to tell it was less than a quarter gram.” A “weighable amount” of methamphetamine demonstrates that it was reasonable for the deputy to have concluded that there was more than “residue” in the container.

Appellant supports his argument by relying on his trial testimony and that of a Bureau of Criminal Apprehension forensic scientist. But such trial testimony is irrelevant to our probable cause analysis. *See State v. Riley*, 568 N.W.2d 518, 524 (Minn. 1997) (excluding a fact not known to officers at the time of the arrest from the court’s analysis of probable cause).

Second, for this “residual amount” exception to apply, the residue must also be contained in drug paraphernalia. *See* 2023 Minn. Laws ch. 52, art. 15, § 13, at 1051. “Drug paraphernalia” is statutorily defined as

all equipment, products, and materials of any kind, except those items used in conjunction with permitted uses of controlled substances under this chapter or the Uniform Controlled Substances Act, which are knowingly or intentionally used primarily in (1) manufacturing a controlled substance, (2) injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance, or (3) enhancing the effect of a controlled substance.

Minn. Stat. § 152.01, subd. 18(a) (Supp. 2023).

Appellant argues that the screw-top container of methamphetamine was “drug paraphernalia.” But appellant again relies on his trial testimony, where he explained that he used the container to ingest the drug. Under the circumstances, we conclude that it was

objectively reasonable for the deputy to believe that a screw-top container with methamphetamine was not drug paraphernalia that was “used primarily” to inject, ingest, or inhale a controlled substance.⁵ See Minn. Stat. § 152.01, subd. 18(a).

Additionally, the deputy knew of appellant’s previous drug convictions and learned of his probation status. Because of appellant’s previous drug-related convictions, possession of a controlled substance under 0.25 grams constitutes a felony. In sum, the deputy had probable cause, under the totality of the circumstances, to arrest appellant for possessing methamphetamine that was more than a residual amount and that was not contained in drug paraphernalia. Accordingly, the district court did not err by denying appellant’s motion to suppress.⁶

III. The district court erred by imposing multiple sentences.

The parties agree that the district court erred by imposing multiple sentences for appellant’s three drug-possession convictions and should have imposed only one sentence

⁵ Before oral argument, appellant filed a letter containing supplemental authority as permitted by Minn. R. Civ. App. P. 128.05. He asserts that *State v. Johnston* is relevant to the definition of “drug paraphernalia.” No. A23-1562, 2024 WL 3755933 (Minn. App. Aug. 12, 2024). The issue in *Johnston* was whether the district court abused its discretion in denying the appellant’s motion for a downward durational departure by concluding that it could not consider the residue-exception amendment to Minn. Stat. § 152.025, subd. 2(1), which was not in effect at the time of the criminal act or at the sentencing hearing. *Id.* at *3. Because this court did not reach the issue of what constitutes “drug paraphernalia” in *Johnston*, we are unpersuaded that this nonprecedential case supports appellant’s argument. See Minn. R. Civ. App. P. 136.01, subd. 1(c).

⁶ Appellant also argues that the violations for the window tint and failure to provide proof of insurance and the marijuana found in the vehicle were not arrestable offenses. We do not address these arguments because Appellant was arrested for the possession of methamphetamine.

on appellant. A court may impose multiple convictions for different incidents arising out of a “single behavioral incident,” but it may not impose multiple sentences for such conduct. *State v. Papadakis*, 643 N.W.2d 349, 357 (Minn. App. 2002); see Minn. Stat. § 609.035 (2022). “The focus is on whether the conduct occurred at the same time and place and whether there was a single criminal objective.” *Papadakis*, 643 N.W.2d at 357. Whether an offense is subject to multiple sentences under Minn. Stat. § 609.035 is a question of law reviewed de novo. *State v. Ferguson*, 808 N.W.2d 586, 590 (Minn. 2012).

Here, appellant’s three convictions of fifth-degree controlled-substance possession stemmed from the drugs that were found when he was in the jail. Appellant’s conduct of possessing three different types of drugs occurred at the same time and for a single criminal objective, that of possessing the drugs for use; and thus, we agree with the parties that the conduct arose out of a single behavioral incident. We therefore reverse and remand for resentencing.

Affirmed in part, reversed in part, and remanded.