

*This opinion is nonprecedential except as provided by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
A25-0385**

State of Minnesota,
Respondent,

vs.

Wayne Keith Parmenter,
Appellant.

**Filed February 23, 2026
Affirmed
Jesson, Judge***

Beltrami County District Court
File No. 04-CR-24-1552

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

David L. Hanson, Beltrami County Attorney, Symon S. Schindler-Syme, Assistant County Attorney, Bemidji, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jessica Merz Godes, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Wheelock, Presiding Judge; Schmidt, Judge; and Jesson, Judge.

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

NONPRECEDENTIAL OPINION

JESSON, Judge

Appellant Wayne Keith Parmenter challenges his conviction of illegally carrying or possessing a pistol without a permit under Minnesota Statutes section 624.714, subdivision 1a (2022). Before trial, Parmenter moved to suppress the pistol arguing that the evidence was unlawfully discovered when the police searched his car for controlled substances after arresting him for driving while impaired. In a separate motion, Parmenter challenged the constitutionality of section 624.714, subdivision 1a. The district court denied both motions. Because the district court correctly determined that the firearm was discovered incident to a lawful arrest and did not err by denying Parmenter's constitutional challenge, we affirm.

FACTS

In July 2024, the police observed a car run a red light.¹ They conducted a traffic stop and identified the driver as Parmenter. When the police interacted with Parmenter, they observed that he had pinpoint pupils and his eyes were glassy. Based on their training and experience the police determined that these were indicators of impairment.

During the stop, Parmenter agreed to perform a field sobriety test. The police observed other signs of impairment during the field tests, including a lack of smooth pursuit

¹ The following facts regarding Parmenter's arrest and the subsequent discovery of the firearm are drawn from the district court's order that Parmenter challenges on appeal. Parmenter does not challenge the district court's factual findings on appeal.

in both eyes and unsteady balance. As a result, the police believed Parmenter was under the influence of a controlled substance and arrested him.

After placing Parmenter under arrest, the police searched his car for controlled substances. The arresting officer believed, based on experience, that when people are using controlled substances and operating a car, they almost always have paraphernalia or controlled substances within the car. And the officer explained that underneath the driver's seat is a common place to find these items. When the police searched Parmenter's car, they discovered a pistol and ammunition beneath the driver's seat.

Respondent State of Minnesota charged Parmenter with one count of carrying or possessing a pistol without a permit² and one count of third-degree driving while impaired by a controlled substance.³

Parmenter filed a motion to suppress the evidence and dismiss both counts. At the omnibus hearing, the state dismissed the third-degree driving-while-impaired charge because the toxicology reports revealed that Parmenter did not have any amount of a controlled substance in his body at the time of traffic stop. However, based on the facts discussed above, the district court determined that the police had probable cause to arrest Parmenter and that they had searched his car incident to a lawful arrest. The district court therefore denied Parmenter's motion to suppress the pistol.

Parmenter later filed another motion requesting that the district court order a second omnibus hearing to determine the constitutionality of section 624.714, subdivision 1a. At

² Pursuant to Minnesota Statutes section 624.714, subdivision 1a.

³ Pursuant to Minnesota Statutes section 169A.20, subdivision 1(7) (Supp. 2023).

a pretrial hearing, Parmenter generally argued that another hearing was necessary to determine whether section 624.714, subdivision 1a remained constitutional in light of the United States Supreme Court’s decision in *New York State Rifle & Pistol Association, Inc. v. Bruen*, 142 S. Ct. 2111 (2022). The state contended that the Minnesota Supreme Court has already held that section 624.714, subdivision 1a is constitutional in a pre-*Bruen* opinion, *State v. Hatch*, 962 N.W.2d 661 (Minn. 2021).

The district court denied Parmenter’s motion and explained its reliance on *Hatch*: “It’s a precedential case. It is issued by the highest court here in Minnesota. I reviewed *Hatch*; I can’t find a distinction between the defendant there and your client. I think that the analysis is on point. And so, I am going to deny your motion.”

Following a one-day trial, the jury found Parmenter guilty of carrying or possessing a pistol without a permit. The district court entered judgment of conviction, imposed a stayed sentence, and placed Parmenter on supervised probation for two years.

Parmenter appeals.

DECISION

I. The district court did not err by denying Parmenter’s motion to suppress the pistol obtained from the warrantless search of his car.

Parmenter first challenges the denial of his motion to suppress the pistol. He argues that the district court erred when it determined that the search of his car was a constitutionally valid search incident to a lawful arrest.⁴ To evaluate this challenge of the

⁴ Parmenter does not challenge the district court’s determination that police had probable cause to arrest him and instead argues only that “[t]he search of [his] car did not satisfy either circumstance in which a search incident to arrest is justified.”

district court's pretrial order, we review factual findings for clear error and legal determinations de novo. *State v. Gauster*, 752 N.W.2d 496, 502 (Minn. 2008).

Both the United States and Minnesota Constitutions prohibit unreasonable searches and seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10. "In general, warrantless searches and seizures are unreasonable in the absence of a legally recognized exception to the warrant requirement." *State v. Horst*, 880 N.W.2d 24, 33 (Minn. 2016). Here, the police did not have a warrant to search the car. Therefore, unless an exception to the warrant requirement applies, the search of Parmenter's car was unconstitutional. *State v. Ture*, 632 N.W.2d 621, 627 (Minn. 2001).

One well established exception is a search incident to a lawful arrest. *State v. Bernard*, 859 N.W.2d 762, 766 (Minn. 2015), *aff'd sub nom. Birchfield v. North Dakota*, 579 U.S. 438 (2016). The purpose of this exception is to prevent the destruction of evidence and to remove "any weapons the arrestee might use to resist arrest or flee." *Ture*, 632 N.W.2d at 628. Accordingly, there are two possible justifications for a search of a vehicle incident to arrest: (1) "if the arrestee is within reaching distance of the passenger compartment at the time of the search," *or* (2) if "it is reasonable to believe the vehicle contains evidence of the offense of arrest." *Arizona v. Gant*, 556 U.S. 332, 351 (2009). And the scope of a search incident to arrest is very broad. *State v. Varnado*, 582 N.W.2d 886, 893 (Minn. 1998).

Here, the district court found that the police had probable cause to arrest Parmenter for driving while impaired by a controlled substance, the police reasonably suspected that Parmenter was under the influence of controlled substances, and the police's experience

was that “people who use controlled substances and operate vehicles almost always have paraphernalia or controlled substances within the vehicle.” Based on this record, the district court found that it was reasonable for the police to believe that evidence of the crime would be found in the car. The court therefore concluded that the warrantless search was a constitutional search incident to lawful arrest and denied Parmenter’s motion. We agree.

Our decision is grounded on the reasoning of *Gant*, in which the United States Supreme Court addressed the constitutional parameters of a warrantless search of a vehicle incident to a lawful arrest. 556 U.S. at 343-44. In *Gant*, the police arrested Gant for driving with a suspended license, handcuffed him, and locked him in the back of a patrol car. *Id.* at 335. The police then searched Gant’s car and found cocaine in the pocket of a jacket in the backseat. *Id.* The Supreme Court stated that a search incident to arrest is constitutionally justified where it is reasonable to believe that evidence relevant to the crime of arrest might be found in the vehicle. *Id.* at 343. But that rationale did not extend to Gant’s situation because “Gant was arrested for driving with a suspended license—an offense for which police could not expect to find evidence in the passenger compartment of Gant’s car.” *Id.* at 344. Accordingly, because the police could not have reasonably expected to find evidence of the crime of arrest in Gant’s car, the Court held that the warrantless search was unlawful. *Id.*

Here, unlike in *Gant*, the record supports the finding that the police who searched Parmenter’s car reasonably believed that evidence of the crime of arrest would be found in his car. Before searching Parmenter’s car, the police observed multiple signs of

impairment consistent with controlled-substance use. Based on these interactions, the police arrested Parmenter because they believed that he was under the influence of a controlled substance. The police also knew that “people who use controlled substances and operate vehicles almost always have paraphernalia or controlled substances within the vehicle.”

Therefore, the record supports the district court’s finding that the police reasonably believed that “the vehicle contains[ed] evidence of the offense of arrest.” *Id.* at 351; *see Davis v. United States*, 564 U.S. 229, 234-35 (2011) (stating that after *Gant*, an automobile search incident to a recent occupant’s arrest is constitutional if the police have reason to believe that the vehicle contains evidence relevant to the crime of arrest). Accordingly, the district court correctly determined that the search of Parmenter’s car was a constitutionally valid search incident to lawful arrest.

To persuade us otherwise, Parmenter argues that the only evidence relevant to the “crime of arrest” here—driving under the influence of a controlled substance—would be found on his person or in his body, not within the car. And he points to *New York v. Belton*, 453 U.S. 454 (1981), and *Thornton v. United States*, 541 U.S. 615 (2004), to support his argument that it “was not reasonable to believe that evidence relevant to the crime of arrest would be found in [his] vehicle.” We disagree.

Certainly, the facts here differ from *Belton* and *Thornton* where a vehicle search took place after the police smelled marijuana and saw suspected marijuana in the car, *Belton*, 453 U.S. at 455-56, and recovered drugs from the arrestee’s person, *Thornton*, 541 U.S. at 618. But these factual variations do not alter the parameters of a warrantless vehicle

search incident to a lawful arrest—and one such parameter is “when it is ‘reasonable to believe evidence relevant to the crime of arrest might be found in the vehicle.’” *Gant*, 556 U.S. at 343 (quoting *Thornton*, 541 U.S. at 632 (Scalia, J., concurring)). For the reasons discussed above, the record supports the finding that the police reasonably believed that Parmenter’s car contained evidence of controlled substance use while operating a vehicle—the crime of arrest here.

Finally, Parmenter argues that the search was not justified because there was no danger that he could reach anything in the car given that, at the time of the search, he was “handcuffed and confined to the back of a police squad car.” But the district court did not determine that the search of Parmenter’s car was justified because the driver’s seat was within his reach. Instead, the court reasoned consistent with *Gant*, that the search of the vehicle was justified because the police “had a reasonable belief that evidence of an intoxicating substance could be found in the vehicle and more specifically, under the seat.” Accordingly, Parmenter’s argument that the search was not justified based on his proximity to the driver’s seat does not persuade us to reach a different conclusion in this case.

Because the record supports the district court’s finding that the police reasonably believed that they would find evidence of the crime of arrest in Parmenter’s car, the court correctly determined that the search of the car was a constitutionally valid search incident to lawful arrest. We therefore discern no error in the denial of Parmenter’s motion to suppress the pistol.

II. The district court did not err by denying Parmenter’s motion to challenge the constitutionality of section 624.714, subdivision 1a.

Parmenter also challenges the district court’s denial of his motion to challenge the constitutionality of section 624.714, subdivision 1a, which prohibits people from carrying or possessing a pistol in a public place “without first having obtained a permit to carry the pistol.” Minn. Stat. § 624.714, subd. 1a. This statute, he asserts, may violate the Second Amendment of the United States Constitution which protects “the right of the people to keep and bear Arms.” U.S. Const. amend. II. And a hearing was necessary, Parmenter argues, in the wake of the Supreme Court’s decision in *Bruen*, which changed the analysis for determining whether a statute violates the Second Amendment.

Under *Bruen*, to determine whether a statute complies with the Second Amendment, “[a] court first must ask whether ‘the Second Amendment’s plain text covers an individual’s conduct.’” *State v. Gaal*, 21 N.W.3d 256, 263 (Minn. App. 2025) (quoting *Bruen*, 142 S. Ct. at 2126). If so, “the Constitution presumptively protects that conduct.” *Bruen*, 142 S. Ct. at 2126. And if the Second Amendment’s plain text covers the conduct, the court must then ask whether the government can “justify its regulation” by “demonstrat[ing] that the regulation is consistent with this Nation’s historical tradition of firearm regulation.” *Id.*; see also *United States v. Rahimi*, 144 S. Ct. 1889, 1897 (2024) (discussing *Bruen*).

Parmenter submits that the district court erred by denying his constitutional claim in reliance on *Hatch*, a pre-*Bruen* decision in which the Minnesota Supreme Court

concluded that section 624.714, subdivision 1a, was constitutional under a strict scrutiny analysis.⁵

The constitutionality of a statute presents a question of law that we review de novo. *State v. Fitch*, 884 N.W.2d 367, 373 (Minn. 2016). But de novo review does not free us from our obligation to follow applicable precedent. And the Minnesota Supreme Court, in *Hatch*, specifically held that the statute Parmenter challenges was constitutional. 962 N.W.2d at 662.

In *Gaal*, we recently addressed whether another Minnesota statute which prohibits the possession of a firearm or ammunition by a person who has been convicted of a crime of violence, Minnesota Statutes section 624.713, subdivision 1(2) (2022), was constitutional since the United States Supreme Court decided *Bruen*. 21 N.W.3d at 262-265. There, we first considered whether *State v. Craig*, 826 N.W.2d 789 (Minn. 2013), existing Minnesota Supreme Court precedent that held that the statute was constitutional prior to *Bruen*, remained good law. *Id.* at 264. We explained:

It is an elementary principle that this court is bound by the opinions of the Minnesota Supreme Court on questions of both state and federal law. But the United States Supreme Court is the final authority concerning the interpretation of the United States Constitution. Thus, an opinion of the United States Supreme Court may overrule an opinion of the Minnesota Supreme Court on an issue of federal constitutional law.

⁵ Parmenter also contends that, to the extent the district court denied the motion because it was untimely, the district court erred because he challenged the constitutionality of the statute. Because the district court denied Parmenter's motion on the merits by relying on *Hatch*, we do not address his timeliness argument.

Id. at 264-65 (quotations and citations omitted). We also observed that the federal circuits were split in deciding whether their precedent that existed prior to *Bruen* remained valid. *Id.* at 265. And we recognized the uniqueness of the question before this court compared to our federal counterparts because we were asked to “determine the vitality of an opinion of a superior court, not our own court.” *Id.*

We thus emphasized that “an opinion of the Minnesota Supreme Court is a definitive statement of the law of Minnesota, and that this court should not encroach on the supreme court’s authority.” *Id.* (quotation and citation omitted). And we reasoned that, “given the lack of clarity and a federal circuit split, we see no reason to depart from our usual practice of applying supreme court precedent and leaving to the supreme court ‘the prerogative of overruling its own decisions.’” *Id.* (quoting *State v. Brist*, 812 N.W.2d 51, 57 (Minn. 2012)). We therefore concluded that the existing precedent from the Minnesota Supreme Court remained binding authority as to the constitutionality of Minnesota Statutes section 624.713, subdivision 1(2), until the supreme court instructed otherwise. *Id.*

That reasoning applies here as well.⁶ Parmenter asks this court to remand his case so that the district court can reassess the vitality of the supreme court’s decision in *Hatch*

⁶ We have recognized that the Supreme Court’s decision in *Bruen* changed the analysis for determining whether statutes are constitutional under the Second Amendment. *See State v. Jones*, 25 N.W.3d 732, 736 (Minn. App. 2025) (“To determine whether a challenged law infringes on a person’s Second Amendment right, the United States Supreme Court has declared that the inquiry must be ‘rooted in the Second Amendment’s text, as informed by history.’” (quoting *Bruen*, 142 S. Ct. at 2127)). And this court has applied that analysis to determine the constitutional validity of statutes that the Minnesota Supreme Court has not already addressed. *See id.* at 735-38; *see also Gaal*, 21 N.W.3d at 268-71. But that is not the case before us here.

that section 624.714, subdivision 1a, is constitutional. But *Hatch*, like *Craig*, binds lower Minnesota courts, including this one. Under these circumstances, there is no reason to depart from our usual practice of leaving to the supreme court “the prerogative of overruling its own decisions.” *Brist*, 812 N.W.2d at 57 (quotation omitted). As a result, we discern no error in the district court’s reliance on *Hatch* and denial of Parmenter’s motion to challenge the constitutionality of Minnesota Statutes section 624.714, subdivision 1a.⁷

III. Parmenter has forfeited the arguments in his pro se supplemental brief on direct appeal.

Parmenter also filed a pro se supplemental brief in which he seeks relief. There, he contends that he received ineffective assistance of counsel and that the prosecution engaged in misconduct.

⁷ To persuade us otherwise, Parmenter also argues that the remand is necessary for the parties to “develop the necessary factual record and legal arguments so that this Court and ultimately the Minnesota Supreme Court has an adequate record to review the district court’s decision on appeal.” It is true that parties are not ordinarily permitted to seek appellate review of issues that were not raised in, or considered by, the district court. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988); *see also Roby v. State*, 463 N.W.2d 580, 582 (Minn. 1988). However, the supreme court may still “address an issue in the interests of justice if addressing the issue will not work an unfair surprise on a party.” *Johnson v. State*, 673 N.W.2d 144, 147 (Minn. 2004). And the supreme court is authorized to request supplemental briefing on an issue that was not before the district court. *See State v. Thompson*, 937 N.W.2d 418, 421-422 n.2 (Minn. 2020) (noting that the supreme court could address an issue that was not raised before the district court when the parties agreed on the relevant facts, only disputed an issue of law, and provided supplemental briefing on that issue). We are therefore not persuaded that remand is necessary at this stage given the clear direction from the supreme court in *Hatch* that section 624.714, subdivision 1a, is constitutional.

When considering pro se arguments, several principles govern our review. Courts have a duty to reasonably accommodate pro se litigants, so long as there is no prejudice to the adverse party. *Kasson State Bank v. Haugen*, 410 N.W.2d 392, 395 (Minn. App. 1987). “Although some accommodations may be made for pro se litigants, this court has repeatedly emphasized that pro se litigants are generally held to the same standards as attorneys and must comply with court rules.” *Fitzgerald v. Fitzgerald*, 629 N.W.2d 115, 119 (Minn. App. 2001). Accordingly, claims in a pro se supplemental brief that are unsupported by either arguments or citation to legal authority are forfeited unless prejudicial error is obvious on mere inspection. *State v. Montano*, 956 N.W.2d 643, 650-51 (Minn. 2021).

Parmenter first claims that he received ineffective assistance of counsel because “Defense Counsel made several errors by not pursuing Parmenter’s defenses and arguments or by asking critical questions of [the arresting officer] during the Omnibus, at trial and not getting [a second officer’s] body camera footage or calling [the second officer] as a witness.” He further argues that “Defense also failed, forgot or chose not to pursue” a specific line of questioning with the arresting officer “despite Parmenter’s wish to do so,” and “did not address any of the other issues that Parmenter wanted presented and argued at both the Omnibus and trial.” Parmenter also asserts that the “Prosecution in this case engaged in misconduct by not admitting the officers’ mistakes but instead covering them up and manufacturing the case that he wanted to present instead of the facts that actually occurred.”

But although Parmenter generally cites to *Strickland v. Washington*, 466 U.S. 668, 686 (1984), he fails to set forth the legal standard to determine whether he received ineffective assistance of counsel. Nor does he cite to any legal authority that would support his argument that the prosecution engaged in misconduct. Parmenter therefore failed to adequately brief these issues, and prejudicial error is not obvious on mere inspection. Accordingly, he has forfeited these arguments on direct appeal. *See Montano*, 956 N.W.2d at 650-51. Because we conclude that Parmenter forfeited these claims on direct appeal, we do not reach the merits of his arguments.

Affirmed.