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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-0859**

State of Minnesota,
Respondent,

vs.

Robert Kenneth Icanberry,
Appellant.

**Filed June 22, 2026
Affirmed in part, reversed in part, and remanded
Harris, Judge**

Clay County District Court
File No. 14-CR-23-1216

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

Brian J. Melton, Clay County Attorney, Moorhead, Minnesota (for respondent)

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

Considered and decided by Bond, Presiding Judge; Reyes, Judge; and Harris, Judge.

NONPRECEDENTIAL OPINION

HARRIS, Judge

On appeal from his conviction of second-degree intentional murder, appellant argues that (1) the state presented insufficient evidence to sustain his conviction, (2) the district court abused its discretion by imposing the longest sentence available in the presumptive range under the Minnesota Sentencing Guidelines, (3) the district court clearly

erred by not awarding appellant additional jail credit, and (4) the district court erred by including a monetary fine as part of his sentence, which was unauthorized by law. Applying the circumstantial-evidence standard, we conclude that the evidence was sufficient to support appellant's conviction of second-degree intentional murder. We also conclude that the district court acted within its discretion when sentencing appellant to the longest sentence available in the presumptive range under the Minnesota Sentencing Guidelines. However, the district court clearly erred by not awarding appellant the appropriate amount of credit for time spent in custody. The district court also erred by imposing a \$50 felony fine, which is not authorized under Minnesota Statutes section 609.19, subdivision 1 (2022). Accordingly, we affirm in part, reverse in part, and remand.

FACTS

Respondent State of Minnesota charged appellant Robert Kenneth Icanberry with second-degree intentional murder under Minnesota Statutes section 609.19, subdivision 1(1) (2022). The charge arose from an April 2023 incident in which Icanberry stabbed T.K., resulting in T.K.'s death. The matter proceeded to a seven-day jury trial. The following facts summarize the trial evidence and record in a light most favorable to the jury's verdict.

In February 2023, T.K. moved into an apartment complex. Building staff monitor the main entrance 24 hours a day and maintain a log of residents and guests entering and exiting the complex. Staff record the date, the name of the resident, and the name of the resident's guest. The building is secured with a single point of entry; other entrances

remain locked. Fire exits are located throughout the building and trigger an alarm when opened. Staff maintain records of any instance in which an alarm is activated.

On March 30, 2023, at 7:02 p.m., T.K. arrived at his apartment complex accompanied by Icanberry. Icanberry remained overnight in T.K.'s apartment and left the following day at 12:18 p.m., as reflected in the guest log.

On April 1, 2023, at 8:38 p.m., a security guard on the overnight shift observed T.K. and Icanberry enter the apartment complex together. The security guard did not see Icanberry exit through the main entrance and noted this in the guest log. At 11:38 p.m., an alarm was triggered when someone exited through a patio door. The security guard observed a shadowy figure leaving the building at that time. Minutes later, surveillance footage from a temporary housing shelter adjacent to the apartment complex shows Icanberry entering the facility. The apartment complex and the shelter share a parking lot. Icanberry had been residing at the shelter since June 2022. In the footage, Icanberry was wearing a large tan coat when he entered the building.

On April 2, 2023, Icanberry appeared at the apartment complex front desk requesting to visit T.K. Staff attempted to contact T.K. by cellphone but received no answer. Icanberry then left the premises.

On April 3, 2023, Icanberry purchased a one-way bus ticket to Oakland, California, scheduled to depart on April 10, 2023. On the morning of April 10, 2023, surveillance footage shows Icanberry walking to a bus stop carrying a large garbage bag. Icanberry was no longer wearing the large, tan coat. Icanberry disposed of the garbage bag and entered the bus.

Two weeks later, T.K.'s case manager contacted law enforcement to perform a welfare check after growing concerned because T.K. stopped returning her phone calls and text messages. Moorhead police officers were dispatched to T.K.'s apartment and, upon entry, observed T.K. lying face down in the living room. T.K. was surrounded by a pool of blood and appeared to be deceased. Officers turned T.K. onto his back and observed stab wounds on T.K.'s abdomen and chest.

T.K.'s body was sent to the Ramsey County Medical Examiner's Office for an autopsy. The medical examiner noted that T.K.'s chest wound was five inches deep and penetrated his sternum and anterior ribs. The medical examiner also observed that the stab wound "went through his heart," which was determined to be fatal. The autopsy confirmed T.K.'s cause of death as a homicide from "multiple sharp force injuries."

The Minnesota Bureau of Criminal Apprehension (BCA) assisted in processing the crime scene. DNA found on a soda can in the apartment matched Icanberry. A vodka bottle found in the apartment had a mixture of DNA from three people, with T.K. being one of the two major contributors and Icanberry being excluded. A second vodka bottle had a mixture of DNA from two people with Icanberry being the major profile and T.K. being excluded. Police observed Icanberry's backpack near the kitchen table, which contained specific items purchased from a local Walmart on April 1, 2023. Additionally, police found T.K.'s monthly calendar that had "X" marks on each day of the month up to April 1, 2023. T.K. had a habit of crossing off his calendar every day. No other dates on the calendar were crossed off, including his birthday the following day. This led police to

believe the last day T.K. was alive was April 1. Police also discovered that Icanberry was T.K.'s last known visitor.

The BCA also tested fingerprints recovered from T.K.'s apartment. It identified a fingerprint on a dining room chair as belonging to J.P., who visited the apartment complex on April 22, 2020, and did not return thereafter. Police later arrested Icanberry in California. Icanberry had a knife in his pocket at the time of his arrest.

The BCA later conducted a DNA test on the knife and discovered the presence of blood. A forensic scientist found that the DNA mixture of the blood originated from three individuals, with the major component of the DNA originating from two people. The forensic scientist determined that Icanberry and T.K. could not be excluded as possible contributors to the DNA mixture. The forensic scientist determined that it was "a hundred billion times more likely that [the blood was] [T.K.'s] known [DNA] sample . . . versus three, unknown, unrelated individuals."

During a custodial interview, Icanberry told police that he and T.K. had been drinking on the night of the incident. He also told police that he left his backpack behind. Icanberry could not recall what happened or when he left T.K.'s apartment. Icanberry told law enforcement that he experienced memory issues. When police asked Icanberry about the tan coat he was wearing that night, he told police that he threw it away. Police were never able to locate Icanberry's tan coat. When police asked if he stabbed T.K. and blocked it out of his memory, Icanberry said that he did not think so but that it was a possibility.

At trial, the state called 28 witnesses and introduced over 200 exhibits. The defense rested without calling any witnesses. The jury found Icanberry guilty of second-degree murder.

At the sentencing hearing, Icanberry argued that he was entitled to additional jail credit other than what was indicated in the presentence investigation (PSI) report. The PSI report stated that Icanberry was arrested on April 25, 2023, which amounted to 675 days of jail credit. Icanberry believed that he was arrested on April 18, 2023, entitling him to 682 days of jail credit. The district court relied on the information provided in the PSI report but told Icanberry to file a subsequent motion if he found that the arrest date was incorrect.

The state requested a top-of-the-box sentence of 367 months, while Icanberry asked the court to impose a bottom-of-the-box sentence of 261 months.¹ The district court stated: “When a life is taken, there is no leniency in this court.” The district court sentenced Icanberry to 367 months in prison, awarded Icanberry 675 days of jail credit, and imposed a \$50 fine.

This appeal follows.

¹ “Each box in the Sentencing Guidelines grid contains a presumptive range and a presumptive duration. The longest and shortest terms in the presumptive range are commonly called the ‘top of the box’ and the ‘bottom of the box.’” *State v. Morgan*, 968 N.W.2d 25, 28 n.2 (Minn. 2021) (quoting *Rushton v. State*, 889 N.W.2d 561, 565 n.2 (Minn. 2017)) (citation omitted).

DECISION

Icanberry raises four arguments on appeal. First, he argues that his conviction must be reversed because there is insufficient evidence to prove that he caused T.K.’s death or that he had the requisite intent to kill T.K. Second, he argues that the district court abused its discretion by imposing the longest sentence available in the presumptive range under the Minnesota Sentencing Guidelines. Third, Icanberry argues that he is entitled to additional jail credit for time spent in custody in California. Finally, he argues that the district court erred by imposing a monetary penalty as part of his sentence that was unauthorized by law. We address each argument in turn.

I. The evidence is sufficient to support Icanberry’s second-degree murder conviction.

Icanberry first argues that his second-degree murder conviction is not supported by sufficient evidence. Icanberry asserts that the circumstances proved are consistent with the rational hypothesis that he did not kill T.K., but that someone else killed him after Icanberry left his apartment. Alternatively, Icanberry argues that the circumstances proved are consistent with a reasonable hypothesis that he only intended to assault T.K.

A. Legal Standard

To prove that Icanberry committed second-degree murder, the state must prove, in relevant part, that Icanberry “cause[d] the death of a human being with intent to effect the death of that person or another, but without premeditation.” Minn. Stat. § 609.19, subd. 1(1). Second-degree murder is a specific-intent crime, as evidenced by the legislature’s use of the words “with intent to.” *State v. Fleck*, 810 N.W.2d 303, 309 (Minn.

2012). The legislature has defined “[w]ith intent to” to mean that “the actor either has a purpose to do the thing or cause the result specified or believes that the act, if successful, will cause that result.” Minn. Stat. § 609.02, subd. 9(4) (2022). Intent to kill is proved by evidence that the defendant “either had a purpose to kill [the victim] or believed that his actions, if successful, would kill [the victim].” *State v. Colgrove*, 996 N.W.2d 145, 152 (Minn. 2023). Intent may be inferred “from words and acts of the actor both before and after the incident.” *State v. Johnson*, 616 N.W.2d 720, 726 (Minn. 2000). And intent can also be inferred from the nature and extent of the victim’s wounds. *State v. Raymond*, 440 N.W.2d 425, 426 (Minn. 1989) (concluding that fatal cuts that severed a vein and artery, in addition to multiple stab wounds, showed intent to cause death); *see also Wolfe v. State*, 293 N.W.2d 41, 42 (Minn. 1980) (stating that stabbing the victim in the heart and fleeing the scene was sufficient evidence to support an intent to kill).

“[I]ntent is a state of mind that is usually proved with circumstantial evidence.” *State v. Balandin*, 944 N.W.2d 204, 217 (Minn. 2020). When reviewing the sufficiency of the circumstantial evidence, “we apply a two-step test.” *State v. Firkus*, 31 N.W.3d 468, 478 (Minn. 2026). “The first step requires us to ‘winnow down the evidence presented at trial by resolving all questions of fact in favor of the jury’s verdict,’ which results in ‘a subset of facts that constitute the circumstances proved.’” *Id.* (quoting *State v. Harris*, 895 N.W.2d 592, 600 (Minn. 2017)). “At the second step, we consider whether the reasonable inferences that can be drawn from the circumstances proved, when viewed as a whole and not as discrete, isolated facts, are consistent with the hypothesis that the accused is guilty and inconsistent with any rational hypothesis other than guilt.” *Id.* (quotations omitted).

B. Circumstances Proved

We begin by identifying the circumstances proved. When viewing all questions of fact in the light most favorable to the guilty verdict, we are left with the following subset of facts as circumstances proved by the state: (1) On April 1, 2023, Icanberry and T.K. arrived at T.K.'s apartment complex at 8:38 p.m.; (2) Icanberry and T.K. had been drinking that night; (3) a security guard observed the men walking in, but never saw Icanberry exit through the main entrance; (4) at 11:38 p.m., someone exited the patio door, activating the alarm; (5) the security guard saw on surveillance footage a shadowy figure leave the building; (6) a few minutes later, surveillance footage of a temporary housing shelter adjacent to T.K.'s apartment complex captured Icanberry entering the facility; (7) Icanberry was wearing a large tan coat when he entered the building; (8) Icanberry was the last person to visit T.K.; (9) police believed that the last day T.K. was alive was on April 1, 2023; (10) no one had seen or heard from T.K. after that date; (11) on April 3, 2023, Icanberry purchased a one-way bus ticket to Oakland, California; (12) on the morning of April 10, 2023, surveillance footage captured Icanberry walking to a bus stop with a large garbage bag; (13) Icanberry disposed of the garbage bag and entered the bus; (14) Icanberry was no longer wearing his tan coat; (15) Icanberry later told police that he disposed of it; (16) on April 17, 2023, Moorhead police officers conducted a welfare check on T.K.; (17) when the officers arrived, they observed T.K. lying face down between the kitchen and living room area of the apartment surrounded by a pool of blood; (18) an autopsy confirmed T.K.'s cause of death as a homicide from multiple sharp-force injuries; (19) T.K. suffered stab wounds to his abdomen and chest; (20) the chest wound was five

inches deep and penetrated his sternum and anterior ribs; (21) the stab wound went through T.K.'s heart, which the medical examiner determined to be fatal; (23) DNA found on a soda can in the apartment matched Icanberry; (24) a vodka bottle found in the apartment had a mixture of DNA from three people, with T.K. being one of the two major contributors and Icanberry being excluded; (25) a second vodka bottle had a mixture of DNA from two people with Icanberry being the major profile and T.K. being excluded; (26) Icanberry's backpack was found near the kitchen table, and contained specific items he purchased from Walmart on April 1, 2023; (27) police discovered a knife in Icanberry's pocket on the day of his arrest which contained traces of blood; (28) the major contributor of the mixture of the DNA on the knife originated from two people; (29) Icanberry and T.K. could not be excluded as possible contributors to the DNA mixture; (30) the forensic scientist testified that it was "a hundred billion times more likely that [the blood was] [T.K.'s] known [DNA] sample . . . versus three unknown, unrelated individuals"; and (31) Icanberry told police that he did not think he stabbed T.K., but that it was a possibility.

C. Reasonable Inferences from Circumstances Proved

Turning to the next step, we evaluate "whether the reasonable inferences that can be drawn from the circumstances proved, when viewed as a whole and not as discrete, isolated facts, are consistent with the hypothesis that the accused is guilty and inconsistent with any rational hypothesis other than guilt." *Id.* at 483. At this stage, "we give no deference to the fact finder's choice between reasonable inferences." *State v. Andersen*, 784 N.W.2d 320, 329-30 (Minn. 2010) (quotation omitted).

As Icanberry concedes, the circumstances proved are consistent with a reasonable inference of guilt. Specifically, the evidence supports the inference that Icanberry caused T.K.'s death and, given the nature of the killing, that he acted with the intent to kill T.K. While Icanberry concedes that the circumstances proved are consistent with a reasonable inference of guilt, he argues that a rational hypothesis other than guilt exists. Specifically, Icanberry argues that the circumstances proved are also consistent with the rational hypothesis that Icanberry (1) did not kill T.K., or (2) did not intend to kill T.K. We address each argument in turn.

1. The circumstances proved are inconsistent with the hypothesis that Icanberry did not kill T.K.

Icanberry first argues that the circumstances proved are consistent with a rational hypothesis that he did not kill T.K. Icanberry acknowledged that he exited the patio door that night but argues that this fact does not demonstrate he killed T.K. Icanberry also argues that he merely purchased a one-way ticket to California, his home state, after struggling in Minnesota and that the purchase does not necessarily mean he fled Minnesota showing consciousness of guilt. And while Icanberry does not contest that his knife contained T.K.'s DNA, Icanberry suggests that there are "numerous ways" DNA can be transferred onto items. While these facts individually may be true, "we do not view each fact in isolation to determine whether it supports an inference of innocence." *Colgrove*, 996 N.W.2d at 155 n.9. Intent is drawn "from the totality of the circumstances." *Raymond*, 440 N.W.2d at 426. And viewing the circumstances as a whole, we are not persuaded that Icanberry's hypothesis is reasonable.

Police believed the last day T.K. was alive was on April 1, 2023. Icanberry was the last person to visit T.K. And when Icanberry left T.K.'s apartment that night, he left through the patio door rather than the main entrance, setting off an alarm and alerting the security guard. It is reasonable to infer that Icanberry did so to avoid being seen by the security guard, who would have identified him and documented the time he left. It is also reasonable to infer that Icanberry left Minnesota and traveled to California shortly after to evade police. Additionally, Icanberry's argument that DNA can be transferred in "numerous ways" ignores the fact that T.K.'s cause of death was from multiple sharp force injuries. More specifically, T.K. suffered a fatal stab wound that went through his heart. When the BCA tested the blood found on Icanberry's knife, it determined that the major component of the DNA originated from two people. Neither Icanberry nor T.K. could be excluded as possible contributors to the DNA mixture. The forensic scientist testified that it was "a hundred billion times more likely" that the blood on the knife belonged to T.K. versus three unknown, unrelated individuals. Therefore, the circumstances proved are inconsistent with any rational hypothesis except that of Icanberry's guilt.

Icanberry also contends that the inferences are consistent with a rational hypothesis that someone else killed T.K. after he left the apartment. Icanberry points to DNA evidence of a handprint found on T.K.'s kitchen chair belonging to a different individual who previously visited T.K. Icanberry also points to DNA of a third individual found on the vodka bottle that T.K. was drinking from. It is well established that "the jury is in a unique position to determine the credibility of the witnesses and weigh the evidence before it." *Firkus*, 31 N.W.3d at 479 (quotation omitted). And the jury "is free to accept part and

reject part of a witness’s testimony.” *Id.* (quotation omitted). Even if the presence of DNA from a third individual is a circumstance proved, it does not support a reasonable inference that Icanberry did not kill T.K. when considering the circumstances proved as a whole. *See Andersen*, 784 N.W.2d at 332 (explaining that circumstantial evidence must be viewed as a whole and not examined in isolation).

Thus, viewing the circumstances proved in the light most favorable to the verdict, and applying the circumstantial-evidence standard, we conclude that Icanberry’s alternative hypothesis that he did not kill T.K. is inconsistent with the circumstances proved. *State v. Silvernail*, 831 N.W.2d 594, 599 (Minn. 2013) (citation omitted).

2. *The circumstances proved are inconsistent with the rational hypothesis that Icanberry did not intend to kill T.K.*

Icanberry argues that, even if the circumstances proved that he killed T.K., the circumstance proved do not lead to the hypothesis that he did so intentionally. Specifically, Icanberry asserts that the circumstances proved support an inference that he only intended to assault—not kill—T.K. Icanberry argues that T.K. only suffered two stab wounds, which lacked the brutality and duration necessary to kill him. *See Balandin*, 944 N.W.2d at 217 (holding that defendant’s intent to kill the victim could be inferred from a dozen blunt-force blows, multiple cuts, and strangulation). We disagree.

The supreme court rejected a similar argument in *Colgrove*, after the defendant inflicted a stab wound that punctured the victim’s diaphragm, lungs, and heart. 996 N.W.2d at 155. There, the defendant stabbed an unarmed victim in her kitchen twice before fleeing the scene. 996 N.W.2d at 152. The victim suffered a fatal five-inch stab wound to

her back, which punctured several organs. *Id.* at 151-52. Police also discovered that the tip of the knife was bent. *Id.* The supreme court held that it was reasonable to infer from the circumstances proved, which included the nature of the killing, that the defendant intended to kill the victim. *Id.*; *see also Raymond*, 440 N.W.2d at 426 (holding that intent to kill the victim could be inferred from the nature and extent of the stab wounds and the defendant leaving the victim to bleed to death); *State v. Andrews*, 388 N.W.2d 723, 728-29 (Minn. 1986) (holding that a single stab wound to the victim's back and the defendant's later attempt to leave the scene showed an intent to kill); *State v. Merrill*, 428 N.W.2d 361, 370 (Minn. 1988) (holding that a single fatal stab wound that passed through the breastbone and into the heart showed sufficient intent to kill). The supreme court reasoned that it was "not *reasonable* to infer from the circumstances proved, as a whole, that Colgrove only intended to assault [the victim] when he stabbed her." *Id.*

Like in *Colgrove*, it is reasonable to infer Icanberry intended to cause T.K.'s death based on the nature of T.K.'s injuries. The wound to T.K.'s chest was five inches deep, penetrating his sternum and anterior ribs. The stab wound went through T.K.'s heart, which was determined to be fatal. Icanberry's behavior after the stabbing also supports a reasonable inference that he intended to kill T.K. When Icanberry visited T.K. on March 30, 2022, he exited through the main entrance the following day. But on the night of the incident, the security guard never observed Icanberry exit through the main entrance. At 11:38 p.m., someone exited through the patio door, activating the alarm. A few minutes later, surveillance footage captured Icanberry entering a temporary housing shelter, which shared a parking lot with T.K.'s apartment complex. Icanberry disposed of the tan coat he

was wearing that night. Two days later, Icanberry purchased a one-way bus ticket to California, and left Minnesota shortly thereafter. We conclude that the nature of T.K.’s injuries, coupled with Icanberry avoiding the main entrance and leaving Minnesota approximately a week later, are inconsistent with his hypothesis that he only intended to assault and not kill T.K.

Given the brutal nature of this injury, it is unreasonable to infer from these circumstances that Icanberry *only* intended to assault T.K. And while Icanberry contends that T.K. “only” suffered two stab wounds, intent to kill has previously been established from a single stab wound when considering the totality of the circumstances. In *Andrews*, the supreme court held that intent to kill could be inferred from a single stab wound to the victim’s back and the defendant fleeing the scene shortly thereafter. 388 N.W.2d at 728-29; *see also Merrill*, 428 N.W.2d at 370 (holding that a single stab wound to the heart showed sufficient intent to kill); *Wolfe*, 293 N.W.2d at 42 (stating that stabbing the victim in the heart and fleeing the scene was sufficient evidence to support an intent to kill). Here, the medical examiner determined that T.K.’s chest wound was deep enough to penetrate several organs, including his heart. And Icanberry fleeing T.K.’s apartment from an exit in which he would not be seen or identified indicates that Icanberry was aware of what he had done and was concerned with escaping. Accordingly, it is “not *reasonable* to infer from the circumstances proved, as a whole, that [Icanberry] only intended to assault [T.K.] when he stabbed [him].” *Colgrove*, 996 N.W.2d at 155.

Thus, viewing the circumstances proved in the light most favorable to the verdict, we conclude that there was sufficient evidence to convict Icanberry of second-degree murder because the circumstances proved are “consistent with a hypothesis of [Icanberry’s] guilt and inconsistent with any rational hypothesis other than guilt.” *Firkus*, 31 N.W.3d at 491.

II. The district court did not abuse its discretion by imposing the longest sentence available in the presumptive range under the Minnesota Sentencing Guidelines.

Icanberry argues that the district court abused its discretion by imposing a 367-month sentence at the top of the presumptive sentencing range. Icanberry asserts that the district court failed to exercise its discretion during the sentencing hearing by stating, “When a life is taken, there is no leniency in this court.”

“Sentences imposed by the district court are reviewed for [an] abuse of discretion.” *State v. Delk*, 781 N.W.2d 426, 428 (Minn. App. 2010), *rev. denied* (Minn. July 20, 2010). “A [district] court abuses its discretion when its decision is based on an erroneous view of the law or is against logic and the facts on the record.” *State v. Riley*, 792 N.W.2d 831, 833 (Minn. 2011).

The Minnesota Sentencing Guidelines set presumptive sentences for felony offenses. Minn. Sent’g Guidelines 2.C (2022). “To determine the proper sentence to be imposed in any given case, a [district] court locates the cell on the grid that corresponds to the offense level and the offender’s criminal history.” *State v. Jackson*, 749 N.W.2d 353, 359 n.2 (Minn. 2008). As the Minnesota Supreme Court has explained:

[E]ach cell on the grid contains three different numbers. The lowest number is the minimum guidelines sentence for that particular cell, the highest number is the maximum guidelines sentence, and the middle number is what might be referred to as the presumptive fixed sentence All three numbers in any given cell [on the sentencing guidelines grid] constitute an acceptable sentence based solely on the offense at issue and the offender’s criminal history score—the lowest is not a downward departure, nor is the highest an upward departure.

Id.

“This court will not generally review a district court’s exercise of its discretion to sentence a defendant when the sentence imposed is within the presumptive guidelines range.” *Delk*, 781 N.W.2d at 428. “Presumptive sentences are seldom overturned.” *Id.* (quotation omitted). “Only in a rare case will a reviewing court reverse imposition of a presumptive sentence.” *Id.* (quotation omitted). “This court will generally not exercise its authority to modify a sentence within the presumptive range absent compelling circumstances.” *Id.* (quotation omitted). Compelling circumstances may exist when “the sentence is disproportionate to the offense or unfairly exaggerates the criminality of the defendant’s conduct.” *State v. Vang*, 847 N.W.2d 248, 264 (Minn. 2014).

Here, Icanberry had a criminal history score of zero. Under the sentencing guidelines, the presumptive range for second-degree intentional murder for a person with a criminal history score of zero is 261-367 months, with a presumptive sentence of 306 months. Minn. Sent’g Guidelines 4.A (2022). The district court imposed a top-of-the-box sentence of 367 months, which is within the presumptive range. Icanberry nevertheless argues that the district court failed to exercise its discretion by imposing a top-of-the-box sentence based solely on the nature of the offense. Icanberry argues that by stating, “When

a life is taken, there is no leniency in this court,” the district court basically implied that “all second-degree murderers will get a top-of-the-box sentence.” We disagree.

Icanberry’s sentence was neither disproportionate to his conviction of second-degree murder, nor did his sentence unfairly exaggerate the criminality of his conduct. *See Vang*, 847 N.W.2d at 264. Icanberry’s sentence is within the presumptive range and a district court is not required to explain its decision to impose a sentence within the presumptive range. *See State v. Van Ruler*, 378 N.W.2d 77, 80 (Minn. App. 1985). Furthermore, the district court’s decision to impose a top-of-the-box sentence was supported by the record, which sufficiently demonstrated that Icanberry caused T.K.’s death with an intent to kill. *See id.* at 80-81 (holding that we may not interfere with the district court’s discretion “as long as the record shows the [district] court carefully evaluated all the testimony and information presented before making a determination”).

Therefore, we conclude that the district court did not abuse its discretion.

III. The district court clearly erred by not awarding Icanberry additional jail credit.²

Next, Icanberry argues that he is entitled to more jail credit than what was initially indicated in the PSI report. Icanberry points out that the PSI report lists his arrest date as April 25, 2023, totaling 675 days of jail credit. Icanberry asserts that he is entitled to 682 days of jail credit because he was arrested by Freemont police on April 18, 2023.

“[T]he district court’s decision whether to award credit is a mixed question of fact and law.” *State v. Johnson*, 744 N.W.2d 376, 379 (Minn. 2008). “[T]he court must

² In its brief, the state does not respond to this argument.

determine the circumstances of the custody the defendant seeks credit for, and then apply the rules to those circumstances.” *Id.* “We review the factual findings underlying jail-credit determinations for clear error, but we review questions of law de novo.” *State v. Clarkin*, 817 N.W.2d 678, 687 (Minn. 2012). Findings of fact may be set aside if there is no reasonable evidence in the record to support those findings. *Asfaha v. State*, 665 N.W.2d 523, 526 (Minn. 2003). The district court does not have discretion in awarding jail credit. *Clarkin*, 817 N.W.2d at 687.

A defendant is entitled to credit for time spent in custody “in connection with the offense or behavioral incident being sentenced.” Minn. R. Crim. P. 27.03, subd. 4(B). “The defendant has the burden of establishing that he is entitled to jail credit for any specific period of time.” *Clarkin*, 817 N.W.2d at 687. “When determining whether to award custody credit, we distinguish between intrajurisdictional custody (custody within Minnesota) and interjurisdictional custody (custody outside of Minnesota).” *State v. Roy*, 928 N.W.2d 341, 345 (Minn. 2019). “For a defendant to receive credit on a Minnesota sentence for time spent in another jurisdiction’s custody, the defendant’s Minnesota offense must be the sole reason for the custody.” *Id.* (quotation omitted).

Here, the district court relied on the PSI report’s arrest date of April 25, 2023, when it awarded Icanberry 675 days of jail credit. The district court noted that if Icanberry was arrested on an earlier date, Icanberry could “certainly bring a motion.” At trial, Freemont police officers testified that, on April 18, 2023, they received information from the Moorhead police department that Icanberry was a person of interest in T.K.’s murder investigation. Freemont police located Icanberry within an hour of receiving the

information and arrested him that same day. The record demonstrates that Icanberry was arrested in California on April 18, 2023, and that his arrest was based solely on his second-degree murder charge in Minnesota.

Therefore, because the district court's factual finding about Icanberry's date of arrest is unsupported by the record, the district court clearly erred by only awarding 675 days of jail credit. Thus, we reverse and remand to the district court to award Icanberry seven additional days of jail credit for time spent in custody in California for the Minnesota murder.

IV. The district court erred by imposing a \$50 felony fine for Icanberry's second-degree murder conviction.

Lastly, Icanberry argues that the district court erred by imposing a \$50 felony fine as part of his second-degree murder conviction because Minnesota Statutes section 609.19, subdivision 1, does not provide a monetary penalty.³

We review the legality of a sentence de novo. *State v. DeRosier*, 719 N.W.2d 900, 903 (Minn. 2006). The legislature has the power to define criminal acts and designate the punishment for those acts. *State v. Osterloh*, 275 N.W.2d 578, 580 (Minn. 1978). By prescribing a criminal sentence, the district court acts as “the executor of the legislative power.” *Id.* “Judicial sentencing must strictly adhere to statutory authorization.” *State v. Jonason*, 292 N.W.2d 730, 733 (Minn. 1980). Minnesota Statutes section 609.19,

³ In its brief, the state does not respond to this argument.

subdivision 1, provides that the penalty for second-degree murder is “imprisonment for not more than 40 years.” The statute does not authorize imposition of a fine.⁴

Here, the district court imposed a \$50 fine for Icanberry’s second-degree intentional murder conviction. But because the legislature did not provide for imposition of a fine under section 609.19, subdivision 1, the district court lacked the authority to impose one.

We therefore affirm Icanberry’s conviction and sentence within the presumptive range for second-degree intentional murder, and reverse and remand for the district court to vacate the fine component of the sentence in accordance with the statute.

Affirmed in part, reversed in part, and remanded.

⁴ We addressed a similar issue in *State v. Welch*, No. A22-1515, 2023 WL 6799594 (Minn. App. Oct. 16, 2023), *rev. denied* (Minn. Feb. 20, 2024). There, the district court imposed a 480-month sentence and ordered Welch to pay a \$50 fine for a second-degree intentional murder conviction under Minnesota Statutes section 609.19, subdivision 1. *Welch*, 2023 WL 6799594, at *1. We reversed only the fine component of Welch’s sentence, holding that the district court lacked the authority to impose a fine because the statute did not authorize one. *Id.* at *3; *see also State v. Gardas*, No. A25-0266, 2025 WL 3707336, at *4-5 (Minn. App. Dec. 22, 2025) (holding that the district court erred by imposing a \$300 fine for attempted second-degree intentional murder). *See* Minn. R. Civ. App. P. 136.01, subd. 1(c) (“Nonprecedential opinions . . . are not binding authority . . . but nonprecedential opinions may be cited as persuasive authority.”).