

*This opinion is nonprecedential except as provided by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
A25-1109**

State of Minnesota,
Respondent,

vs.

Anthony Leandre Winston,
Appellant.

**Filed June 29, 2026
Affirmed in part, reversed in part, and remanded
Smith, John, Judge^{*}**

Hennepin County District Court
File No. 27-CR-23-6366

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

Mary F. Moriarty, Hennepin County Attorney, Robert I. Yount, Assistant County Attorney,
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Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Smith, Tracy M., Presiding Judge; Beane, Judge; and
Smith, John, Judge.

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

NONPRECEDENTIAL OPINION

SMITH, JOHN, Judge

We first reverse the district court’s imposition of multiple sentences for multiple victims on appellant Anthony Leandre Winston’s aiding and abetting charges and remand to the district court with instructions to vacate the sentence for count two. Second, we affirm the district court’s assignment of a severity level of nine to Winston’s offense of aiding an offender—accomplice after-the-fact in violation of Minnesota Statutes section 609.495, subdivision 3 (2022) because the district court did not abuse its discretion as to this issue. Third, we remand so that the district court may vacate Winston’s sentence for count two.

FACTS

On February 21, 2023, law enforcement responded to a shooting in which two victims were shot. Victim 1 suffered a gunshot wound to the head and died at the hospital, and victim 2 survived after suffering five gunshot wounds.

After an investigation, respondent State of Minnesota charged Winston with two counts of aiding an offender—accomplice after-the-fact in violation of Minnesota Statutes section 609.495, subdivision 3. Count one alleged that Winston “knew or had reason to know” that his co-defendant had committed intentional murder and that Winston aided his co-defendant after the fact “by destroying or concealing evidence of that crime, providing false or misleading information about that crime, or obstructing the investigation or prosecution of that crime.” Count two alleged that Winston’s co-defendant committed attempted murder and that Winston aided his co-defendant after the fact “by destroying or

concealing evidence of that crime, providing false or misleading information about that crime, or obstructing the investigation or prosecution of that crime.”

Winston pleaded guilty to both counts. At the plea hearing, Winston admitted that he was in the passenger seat of the vehicle when his co-defendant drove up to another vehicle, stopped the vehicle next to the passenger side of the other vehicle, opened the window, and shot 11 times towards the other vehicle. After the shooting, Winston and his co-defendant went to a friend’s house and cleaned the vehicle to remove any evidence of the shooting. The next day, Winston parked the vehicle in Minneapolis, then reported the vehicle as having been stolen.

The state asked the district court to assign a severity level of ten to count one, a severity level of nine to count two, and to impose an overall concurrent sentence of 150 months. Winston asked the district court to assign a severity level of seven to both counts and argued that he should not be sentenced for both offenses because multiple counts of aiding and abetting after the fact arising from a single behavioral incident are not subject to multiple sentences under Minnesota law. Winston also moved for a downward-dispositional departure if the district court assigned a severity level of eight or above, arguing that he was particularly amenable to probation.

The district court assigned a severity level of nine to Winston’s offenses and denied Winston’s motion for a downward-dispositional departure. For count one, the district court sentenced Winston to 117 months in prison, with credit for time served. For count two, the district court sentenced Winston to 120 months in prison, with credit for time served. The district court ordered Winston to serve his sentences concurrently.

DECISION

I. The district court erred in imposing multiple sentences.

Winston argues that the district court erred when it imposed multiple sentences—one for each victim—because aiding and abetting is a crime against the administration of justice, rather than a crime against a specific victim. The state agrees with Winston, conceding this issue.

“Whether a defendant commits multiple-victim crimes is a question of law, which this court reviews de novo.” *State v. Skipintheway*, 717 N.W.2d 423, 426 (Minn. 2006) (citation omitted). “Typically, when a person commits multiple offenses that all arise from a single behavioral incident, Minn. Stat. § 609.035 allows a [district] court to enter a sentence for only one of the crimes.” *Id.* (citation omitted). “But . . . this court has held that [district] courts are not prevented from giving a defendant multiple sentences for multiple crimes arising out of a single behavioral incident if: (1) the crimes affect multiple victims; and (2) multiple sentences do not unfairly exaggerate the criminality of the defendant’s conduct.” *Id.* (citation omitted).

Despite the multiple-victim rule, the Minnesota Supreme Court has held that “[multiple] counts of being an accomplice after-the-fact, all arising from a single behavioral incident, were not multiple victim crimes, and are therefore not subject to multiple sentences under Minn. Stat. § 609.035.” *Id.* at 427.

Winston and the state agree that *Skipintheway* controls. In *Skipintheway*, the defendant pleaded guilty to three counts of aiding his co-defendant who had shot three victims. *Id.* at 424. The district court imposed three sentences. *Id.* We held that

Skipintheday had committed a crime against the administration of justice rather than a crime against each victim, so the multiple-victim exception did not apply. *Id.* The supreme court affirmed, reversing and vacating two of Skipintheday's sentences. *Id.* at 427.

As in *Skipintheday*, we reverse as to this issue and remand so that the district court may vacate Winston's sentence for count two.

II. The district court did not abuse its discretion in assigning a severity level of nine to Winston's offenses.

Next, Winston argues that the district court abused its discretion when it assigned a severity level of nine to his offenses because a severity level of seven would be more appropriate. Winston's argument is not persuasive.

"This court reviews a district court's severity level determination using an abuse of discretion standard." *State v. Bertsch*, 707 N.W.2d 660, 666 (Minn. 2006) (citation omitted). "A [district] court abuses its discretion when it reaches a clearly erroneous conclusion that is against logic and the facts on record." *State v. Vasquez*, 912 N.W.2d 642, 648 (Minn. 2018) (quotations omitted). "Judicial discretion has been defined as a legal discretion to be exercised in discerning the course prescribed by law . . . it is the exercise of discretion where there are two alternative provisions of law applicable, under which either of which the [district] court could proceed." *State v. Masood*, 739 N.W.2d 736, 740 (Minn. App. 2007) (quotations omitted). "Thus, if two or more outcomes of an issue are legally permissible, the [district] court has a choice to select any over the others." *Id.* On appeal we do not reweigh the evidence presented to the district court. *State v. Franks*, 765 N.W.2d 68, 73 (Minn. 2009) (citation omitted).

Minnesota Statutes section 609.495, subdivision 3 is an unranked offense under the Minnesota Sentencing Guidelines. Minn. Sent’g Guidelines 5.B. (2022). In *Kenard*, the supreme court recommended that the sentencing court consider the following non-exhaustive factors when determining the severity level for an unranked offense: (1) the gravity of the specific conduct underlying the unranked offense; (2) the severity level assigned to any ranked offense whose elements are similar to those of the unranked offense; (3) the conduct of and severity level assigned to other offenders for the same unranked offense; and (4) the severity level assigned to other offenders who engaged in similar conduct. *State v. Kenard*, 606 N.W.2d 440, 443 (Minn. 2000); *see also* Minn. Sent’g Guidelines 2.A.4. (2022) (codifying *Kenard*).

Winston asserts that the district court abused its discretion and should have assigned a severity level of seven to his offenses. Winston’s argument does not show that the district court assigned a legally impermissible severity level to his offenses. Instead, Winston asks us to reweigh the facts of the case under the *Kenard* factors and come to a different conclusion than that of the district court. This we will not do. *Franks*, 765 N.W.2d at 73; *see also Masood*, 739 N.W.2d at 741 (“[b]ecause it appears that there are at least two permissible outcomes respecting the propriety of convening a jury to decide departure factors, the [district] court did not abuse its discretion in choosing one of those permissible outcomes over the other.”).

The district court's decision to assign a severity level of nine to Winston's offenses is supported by the record and by caselaw. Therefore, the district court acted within its discretion.

Affirmed in part, reversed in part, and remanded.