

*This opinion is nonprecedential except as provided by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
A25-1287**

State of Minnesota,
Respondent,

vs.

Tamorris Mcquill Dempsey,
Appellant.

**Filed June 29, 2026
Affirmed
Jesson, Judge***

Clay County District Court
File Nos. 14-CR-24-2821, 14-CR-25-627

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

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

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

Considered and decided by Johnson, Presiding Judge; Bond, 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NONPRECEDENTIAL OPINION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

In this direct appeal, we address appellant Tamorris Mcquill Dempsey’s arguments that he received ineffective assistance of counsel related to a plea offer and that the district court’s 132-month sentence following his plea unfairly exaggerated the criminality of his conduct. We conclude that the record is insufficient at this point as to Dempsey’s ineffective-assistance-of-counsel argument and therefore decline to address the merits. But reaching the second issue, we determine that the district court’s imposition of three consecutive sentences following the plea does not exaggerate his criminality. As a result, we affirm the 132-month sentence.

FACTS

In August 2024, the respondent State of Minnesota charged Dempsey with six felonies: (a) attempted second-degree murder, (b) three counts of second-degree assault with a firearm, (c) first-degree burglary, and (d) unlawful possession of a firearm.¹ This set of charges stemmed from allegations of Dempsey going to the victims’ residence, assaulting one victim, and then shooting towards the home with the other two victims inside. This will be referred to as the “home-assault file.” As of January 2025, a settlement conference was scheduled for March 13, and a jury trial was scheduled for March 17.

¹ In violation of Minn. Stat. § 609.19, subd. 1(1) (2024), Minn. Stat. § 609.222, subd. 1 (2024), Minn. Stat. § 609.582, subd. 1(c) (2024), and Minn. Stat. § 609.165, subd. 1b(a) (2024), respectively.

Shortly before the scheduled trial, on February 26, 2025, Dempsey was also charged with felony third-degree assault and misdemeanor domestic assault for an unrelated event that occurred in September of 2023.² According to the complaint, Dempsey was seen yelling at someone in a grocery store parking lot and when a woman attempted to intervene, Dempsey grabbed the woman's neck and squeezed. This will be referred to as the "parking lot file."

An attorney from the public defender's office (the public defender) was appointed to represent Dempsey on both files. However, on February 21, 2025, a private attorney (private counsel) assumed representation of Dempsey on the home-assault file.

On March 10, 2025, private counsel filed a motion to withdraw, and the district court held a hearing the next day. Private counsel informed the court that at Dempsey's request, she was seeking to withdraw, and that Dempsey would like the public defender reappointed. At the March 11 hearing, Dempsey told the district court that between hiring private counsel and still communicating with the public defender, he had "some things confused." He explained that on March 6, private counsel informed him of a plea offer from the state that would expire on March 10. The offer was then retracted by the state on March 7. Dempsey stated that he did not have enough time to understand the offer.

The district court stated that it was concerned Dempsey was "playing games" so close to trial, expressed some difficulty with finding him indigent again after he had hired private counsel, and explained that even if the public defender's office were reappointed,

² In violation of Minn. Stat. § 609.223, subd. 1 (2022), and Minn. Stat. § 609.2242, subd. 1(1) (2022), respectively.

he may not be appointed the same attorney. Private counsel stated she did not wish to make any comments. In the end, the district court asked Dempsey if he wanted private counsel to withdraw or not, and Dempsey stated, “I wish for her to remain my attorney.”

Two days later, private counsel requested a plea hearing, which was held on March 14. At this hearing, private counsel represented Dempsey on the home-assault file, and the public defender appeared on the parking lot file. Dempsey entered an *Alford* plea in both files.³ The district court accepted the pleas.

With regard to the home-assault file, the state’s offer of proof explained that Dempsey and his son, Markees, went to the home of victim W.J., where W.J. was with his fiancé and her 11-year-old child. Dempsey began pounding on the front door, and when W.J. opened the door, Dempsey began assaulting him. Ring doorbell footage shows Dempsey asking Markees to go to the car and get a gun, and Markees then bringing the gun back to Dempsey. Dempsey then shot at the door and the window of the home. Five shell casings were recovered, and bullets were recovered from the door and siding of the home.⁴

On the parking lot file, the state’s offer of proof explained that victim M.H. was driving in a grocery store parking lot and observed Dempsey yelling at her friend. When

³ In an *Alford* plea, the defendant maintains his innocence but admits that the state has sufficient evidence to prove his guilt beyond a reasonable doubt at trial. See *North Carolina v. Alford*, 400 U.S. 25, 37-38 (1970).

⁴ Dempsey agreed the state would prove that Dempsey was shooting at the door and window of the home after W.J. ran inside. Prior to this, W.J. and his fiancé were yelling at Dempsey to leave because there was a child in the home. Dempsey was charged with three counts of second-degree assault for shooting at the home with the three victims inside.

M.H. attempted to intervene, Dempsey threw a phone at her through the open window of her vehicle. Dempsey then reached through the window, grabbed M.H. by the throat with his hand, and squeezed. M.H. would testify that the more she struggled, the harder Dempsey squeezed her neck. The state would also offer expert testimony on strangulation.

As part of a global plea agreement, the district court imposed a cumulative sentence of 132 months. The chart below summarizes the plea agreement and sentencing.

Home Assault File

Count	Statute	Charge	Disposition
1	§ 609.19, subd. 1(1)	Attempted second-degree murder	Dismissed
2	§ 609.222, subd. 1	Second-degree assault	Convicted. 36 months, concurrent w/ count 6.
3	§ 609.222, subd. 1	Second-degree assault	Convicted. 36 months, concurrent w/ counts 2 & 6.
4	§ 609.222, subd. 1	Second-degree assault	Convicted. 36 months, concurrent w/ counts 2, 3 & 6.
5	§ 609.582, subd. 1(c)	First-degree burglary	Dismissed.
6	§ 609.165, subd. 1b(a)	Felony firearm violation	Convicted. 60 months.

Parking Lot File

Count	Statute	Charge	Disposition
1	§ 609.223, subd. 1	Third-degree assault	Convicted – 12 months, concurrent w/home assault file.
2	§ 609.2242, subd. 1(1)	Domestic assault-fear	Dismissed
	TOTAL	36+36+60 = 132 MONTHS	

At the sentencing hearing, when asked if he would like to address the court, Dempsey stated that private counsel was ineffective, interfered with his personal life, did not file anything in his defense, and that her investigation was flawed. He also asserted he was pressured by her to take the offer, which he did not have time to consider, and that she had withheld the state's prior plea offer.

Dempsey then asked the court to consider a 96-month sentence, explaining that there was previously a 96-month offer from the state that he did not have sufficient time to consider.⁵ He alleged that the offer had a deadline of March 10, but he received it on the 6th, and the offer was retracted on the 7th. Dempsey stated that private counsel blamed the public defender for Dempsey not receiving the offer sooner, and that private counsel would not tell him when she received the offer. The district court asked Dempsey if he was requesting that the court reject the global 132-month plea agreement, and he said, "I'm gonna go through with the—with the plea."

Dempsey appeals.

DECISION

I. The record is insufficient for this court to evaluate Dempsey's ineffective-assistance-of-counsel argument on direct appeal.

Dempsey argues that he was denied effective assistance of counsel because private counsel did not promptly convey a 96-month plea offer from the state. We begin our analysis of this argument with the clear understanding that, when the prosecution offers a

⁵ Outside of Dempsey's comments at the hearings, the district court record does not reflect information confirming the dates or existence of the 96-month offer.

plea bargain, defendants have the right to effective assistance of counsel in being informed of and considering the offer. *Eason v. State*, 950 N.W.2d 258, 267-68 (Minn. 2020). On direct appeal, Minnesota courts use the *Strickland* test to evaluate ineffective-assistance-of-counsel claims. *State v. Ellis-Strong*, 899 N.W.2d 531, 535 (Minn. App. 2017) (citing *Strickland v. Washington*, 466 U.S. 668, 687 (1984)). Under the two-prong *Strickland* test, a defendant must show that “(1) counsel’s performance fell below an objective standard of reasonableness, and (2) that a reasonable probability exists that the outcome would have been different but for counsel’s errors.” *Andersen v. State*, 830 N.W.2d 1, 10 (Minn. 2013).

An ineffective-assistance-of-counsel claim should generally be raised in a postconviction petition for relief, rather than on direct appeal. *State v. Gustafson*, 610 N.W.2d 314, 321 (Minn. 2000). This approach may provide the court with additional facts to explain the defense attorney’s decisions, so the district court may fully consider whether counsel’s performance failed to meet the *Strickland* test. *Id.* For example, testimony from counsel and other witnesses who have knowledge of communications regarding the plea agreement between counsel and the defendant may be available. *Robinson v. State*, 567 N.W.2d 491, 495 (Minn. 1997). And appellate courts may decline to reach the merits of an ineffective-assistance-of-counsel claim on direct appeal when the record is inadequate. *Gustafson*, 610 N.W.2d at 321.

Here, the only information in the record regarding counsel’s communications with Dempsey on the alleged plea offer is contained within statements Dempsey made to the district court at the March 11 and May 12, 2025 hearings. At the March 11 hearing, Dempsey told the court,

Hiring [private counsel] and dealing with [the public defender,] I had got some things confused. I had got an offer from the prosecutors, and I had received some information March 5th from her. She had talked to me on the phone, ma'am, and she had talked to me and visited me March 6th, and I noticed the paper date said February 26th. [Private counsel] had did some paperwork February 24th. She was looking into my case and doing some things, and I had a whole totally misconception about what was going on.

...

By the time I got the papers or other, I had a visit with [private counsel] on March 6th, and the date said I had an option until March 10th, and then the same day, she had told me that [the prosecutor] had—pulled the offer for the 7th. I didn't even have hours. I didn't even have time to understand or even negotiate the deal with—with [private counsel], let alone [the public defender] had supposedly mentioned it to me before, but there was other things that [private counsel] had mentioned to me about the offer and speaking with you, and I'm just caught in the whole moment of everything.

And at the sentencing hearing, Dempsey asked the court to consider a 96-month sentence because he received ineffective-assistance-of counsel. He explained that private counsel told him that she had mentioned the offer to him in February, but that he never saw “the paper” until March 6. According to Dempsey, the paper had a March 10 deadline, and that “[w]hen I considered it on March 10th to take the 96 months, they said they pulled the plea.” Dempsey said he relied on the March 10 deadline and then the offer was retracted on the 7th. And having received the offer on March 6, which was then retracted on March 7, Dempsey explained that he had “less than 20 hours to make a decision.” Private counsel declined to comment on anything Dempsey stated.

The above quotes and summary of Dempsey's statements to the district court are insufficient to review Dempsey's claims under the *Strickland* test. The record does not

contain any information from which to determine whether counsel's performance fell below an objective standard of reasonableness. Private counsel said very little on the record overall and never commented on Dempsey's allegations. Nor did she confirm his version of events. Any conclusions reached by this court as to whether private counsel's representation was deficient would be pure speculation. *See Gustafson*, 610 N.W.2d at 321 (“[T]he record before us is devoid of the information needed to explain the attorney’s decisions. Under these facts, any conclusions reached by this court as to whether Gustafson’s attorney’s assistance was deficient would be pure speculation.”). Furthermore, despite making his concerns known to the district court, Dempsey still stated under oath that he wished to move forward with the 132-month offer.

Dempsey’s claims require consideration of facts not in the record. Accordingly, we decline to reach the merits of those claims without prejudice to Dempsey’s right to raise them in a postconviction proceeding.

II. Dempsey’s sentence does not unfairly exaggerate the criminality of his conduct.

Dempsey next argues that his sentence should be reduced because the consecutive sentencing he received exaggerates the criminality of his conduct. “We review a district court’s decision to impose consecutive sentences for an abuse of discretion.” *State v. Ali*, 895 N.W.2d 237, 247 (Minn. 2017). And a decision regarding permissive, consecutive sentences like those imposed here, will not be overturned unless the overall sentence “unfairly exaggerates the criminality of the defendant’s conduct.” *State v. McInnis*, 962 N.W.2d 874, 892 (Minn. 2021); *see also* Minn. Stat. § 244.11, subd. 2(b) (2024) (permitting appellate review of a sentence to determine if it is “unreasonable” or

“excessive”). When evaluating whether a sentence meets this standard, we look to past sentences received by other offenders. *State v. Fardan*, 773 N.W.2d 303, 322 (Minn. 2009). And we rely on our “collective, collegial experience in reviewing a large number of criminal appeals from all the judicial districts.” *State v. Norton*, 328 N.W.2d 142, 146-47 (Minn. 1982).

Here, the district court imposed two consecutive sentences of 36 months for assault in the second-degree, and another consecutive sentence of 60 months for unlawful possession of a firearm. This was not a departure from the guidelines; the sentences imposed on these offenses reflect the statutory minimums. *See* Minn. Stat. § 609.11, subd. 5(b) (2024) (providing for “not less than five years”); Minn. Stat. § 609.11, subd. 5(a) (2024) (providing for “not less than three years”). Moreover, consecutive sentences for second-degree assault are permissive under the guidelines. Minn. Sent’g Guidelines 2.F.2 (describing permissive consecutive sentences). And Dempsey also received a concurrent sentence for one of the second-degree assault charges in the home-assault file and a concurrent sentence in the parking-lot file.

Because Dempsey’s crimes in the home-assault file involved the egregious conduct of shooting at a house with three people inside, imposing consecutive sentences for two of the assault victims and for the firearm charge does not exaggerate the criminality of his conduct. It is a well-established principle that a defendant is more culpable when there are multiple victims. *State v. Alger*, 941 N.W.2d 396, 400 (Minn. 2020). And the supreme court has “repeatedly affirmed the imposition of multiple consecutive sentences in cases

involving violent crimes against multiple victims.” *Sanders v. State*, 23 N.W.3d 86, 93 (Minn. 2025).

To convince us otherwise, Dempsey relies on two nonprecedential cases in which, he asserts, other defendants received shorter sentences for far more serious conduct.⁶ We address each case in turn.

In *State v. Wiley*, the defendant broke into a home in the middle of the night and shot at the two victims, but the gun misfired. No. A09-135, 2009 WL 3255600 at *1 (Minn. App. Oct. 13, 2009), *rev. denied* (Minn. Dec. 15, 2009). The jury found the defendant guilty of first-degree burglary and two counts of second-degree assault and the district court imposed consecutive sentences of 48-month sentence for the first-degree burglary conviction and 36-month sentences for each assault conviction, for a total of 120 months. *Id.* Dempsey argues his offense was less serious than the defendant in *Wiley* because Dempsey’s crime occurred during the day, and he only shot at the exterior of the home rather than “directly at the two victims.”

We are not persuaded. As part of his *Alford* plea, Dempsey acknowledged that the state’s evidence would permit a jury to find that he shot towards the window *where victim W.J. was standing* and shot at the door *as W.J. fled through it*. Further, Dempsey’s crime involved three victims, and he only received consecutive sentences for two of the assaults. Finally, the defendant in *Wiley* was not convicted of unlawful possession of a firearm,

⁶ Nonprecedential opinions are not binding authority but may be cited as persuasive authority. *See* Minn. R. Civ. App. P. 136.01, subd. 1(c).

which carries a mandatory minimum of 60 months. *Wiley* does not demonstrate that Dempsey's sentence exaggerated the criminality of his conduct.

Nor does Dempsey's sentence conflict with *State v. Chatman*. In *Chatman*, the defendant got into an altercation with an unknown man and shot towards the man. No. A18-1410, 2019 WL 3407180, at *1 (Minn. App. July 29, 2019), *rev. denied* (Minn. Oct. 29, 2019). The bullet missed and struck another person waiting at a nearby bus stop, who survived his injuries. *Id.* Like Dempsey, the defendant in *Chatman* received a 60-month sentence for unlawful possession of a firearm. *Id.* The Chatman defendant also received 60-months for second-degree assault, and 160-months for first-degree assault, to be served concurrently. *Id.*

Chatman does not convince us that Dempsey's sentence exaggerated the criminality of his conduct. Dempsey went to the victim's home, brought his son as back-up, and immediately began assaulting W.J. when he opened the door. He asked for his son to get him a gun from the car and told W.J. he was going to kill him. Dempsey then shot multiple times at the window and exterior of the home, with an 11-year-old child inside. The assertion that firing once is "much more serious" than firing numerous times, directly at a home with three people inside, is not logical.

In sum, the consecutive sentences Dempsey received were permissible, do not unfairly exaggerate the criminality of his conduct, and the district court did not abuse its discretion by following the plea agreement and imposing the consecutive sentences.

Affirmed.