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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-1304**

State of Minnesota,
Respondent,

vs.

John Warren Harris,
Appellant.

**Filed April 6, 2026
Affirmed
Bratvold, Judge**

Ramsey County District Court
File No. 62-CR-20-414

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

John J. Choi, Ramsey County Attorney, Peter R. Marker, Assistant County Attorney, St. Paul, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Erik I. Withall, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Worke, Presiding Judge; Ross, Judge; and Bratvold, Judge.

NONPRECEDENTIAL OPINION

BRATVOLD, Judge

In this second appeal after a remand from this court for resentencing, appellant challenges his sentence, arguing that the district court erred by including a Florida felony conviction in calculating his criminal-history score. Appellant contends that his previous

felony conviction under a Florida statute is not equivalent to a felony under Minnesota law because “(1) the Florida great-bodily-harm element is broader than substantial bodily harm in Minnesota” and (2) the facts underlying his Florida conviction “do not describe substantial bodily harm in Minnesota.” Appellant maintains that his Florida conviction should be considered a gross misdemeanor to determine his criminal-history score. We affirm.

FACTS

Appellant John Warren Harris was convicted of first-degree criminal sexual conduct under Minn. Stat. § 609.342, subd. 1(e)(i) (Supp. 2019), and felony domestic assault under Minn. Stat. § 609.2242, subd. 4 (2018), for offenses he committed in January 2020.¹ For the criminal-sexual-conduct conviction, the district court sentenced Harris to 216 months in prison. The district court relied, in part, on Harris’s criminal-history score of three, which included one misdemeanor point, one point for a Florida felony conviction from a 2014 battery offense, and one point for Harris’s felony domestic-assault conviction from the January 2020 incident.²

Harris appealed. We affirmed in part as to Harris’s convictions. *State v. Harris*, No. A23-1708, 2024 WL 4927648, at *2-6 (Minn. App. Dec. 2, 2024). But as to Harris’s sentence, we reversed in part after determining that respondent State of Minnesota “did not

¹ Harris also was found guilty of four additional counts for which no sentence was imposed.

² Harris’s misdemeanor point also stemmed from an out-of-state conviction. On remand, the state presented evidence of Harris’s Florida misdemeanor conviction and the district court assigned one point, which was used in Harris’s criminal-history score. On appeal, Harris does not challenge the misdemeanor point in his criminal-history score.

put into evidence any proof regarding [Harris's] Florida convictions.” *Id.* at *6. We remanded for resentencing and allowed the state “to further develop the sentencing record” on Harris’s out-of-state conviction. *Id.* (quotation omitted).

On remand, the state introduced certified copies of judgments related to two Florida felony battery convictions. The judgments stated that Harris entered guilty pleas to two felony battery offenses for which he was sentenced.

Following argument by the parties at the resentencing hearing, the district court determined that the second Florida battery conviction, arising out of a 2014 offense, was “a felony level conviction in Minnesota, both because of the [offense] definition and also the sentence.” The district court assigned one point for the Florida felony battery conviction, which, when added to the other two points mentioned above, yielded a total criminal-history score of three. The district court resentenced Harris to 216 months in prison.

Harris appeals.

DECISION

Harris contends that the district court abused its discretion in imposing a sentence based, in part, on a criminal-history score that included one point for Harris’s Florida felony battery conviction. Appellate courts generally review a district court’s determination of a defendant’s criminal-history score for abuse of discretion. *State v. Pruitt*, 16 N.W.3d 856, 860 (Minn. App. 2025). Our deferential review also applies to criminal-history-score challenges based on out-of-state convictions. *State v. Edwards*, 900 N.W.2d 722, 727 (Minn. App. 2017), *aff’d mem.*, 909 N.W.2d 594 (Minn. 2018).

The Minnesota Sentencing Guidelines set presumptive sentences for felony convictions using two factors—the severity of the offense and a convicted defendant’s criminal-history score. Minn. Sent’g Guidelines 2, 2.C.1 (Supp. 2019). “A defendant’s criminal-history score is calculated, in part, by allotting ‘points’ for each of a defendant’s prior convictions for which a felony sentence was imposed.” *State v. Williams*, 771 N.W.2d 514, 521 (Minn. 2009). “The state has the burden of proving by a preponderance of the evidence the facts necessary to justify consideration of out-of-state convictions in determining a defendant’s criminal history score.” *State v. Outlaw*, 748 N.W.2d 349, 355 (Minn. App. 2008) (quotation omitted), *rev. denied* (Minn. July 15, 2008). “The state also has the burden to establish the proper classification of a prior offense for inclusion in a criminal-history score.” *State v. Strobel*, 921 N.W.2d 563, 574 (Minn. App. 2018), *aff’d*, 932 N.W.2d 303 (Minn. 2019).

The guidelines provide that a district court “must make the final determination as to whether and how a prior non-Minnesota conviction should be counted in the criminal history score.” Minn. Sent’g Guidelines 2.B.5.a. “An offense may be counted as a felony only if” two requirements are satisfied: (1) the offense would be “defined as a felony in Minnesota” (felony-definition requirement), and (2) “the offender received a sentence that in Minnesota would be a felony-level sentence” (felony-sentence requirement). Minn. Sent’g Guidelines 2.B.5.b. The district court “does not have discretion to assign prior-felony points for a prior non-Minnesota offense unless both requirements are satisfied.” *Pruitt*, 16 N.W.3d at 860.

The parties agree that the felony-sentence requirement is satisfied by Harris’s 24-month sentence for his Florida felony battery conviction. *See* Minn. Stat. § 609.02, subd. 2 (2024) (defining “felony” as “a crime for which a sentence of imprisonment for one year or more may be imposed”).

But Harris contends that the felony-definition requirement—whether Harris’s Florida felony battery offense would be “defined as a felony in Minnesota”—is not satisfied. *See Pruitt*, 16 N.W.3d at 862. In analyzing the felony-definition requirement, the guidelines direct us to “[f]ind the *equivalent* Minnesota offense based on the *elements* of the prior non-Minnesota offense.” Minn. Sent’g Guidelines 2.B.5.b (emphasis added).

Harris was convicted under the Florida felony battery statute, which provides: “(1) A person commits felony battery if he or she: (a) Actually and intentionally touches or strikes another person against the will of the other; and (b) Causes *great bodily harm*, permanent disability, or permanent disfigurement.” Fla. Stat. § 784.041(1) (2024) (emphasis added).³ This opinion refers to (b) as the harm element. Harris argues that the harm element of the Florida felony battery statute is equivalent to the harm element of Minnesota’s misdemeanor fifth-degree assault statute.

The district court compared Florida’s felony battery statute and Minnesota’s first-degree assault statute, Minn. Stat. § 609.221, subd. 1 (2024), which requires, like the Florida felony battery statute, “great bodily harm,” among other harms. The district court

³ When calculating a criminal-history score, prior offenses are classified “using the law in effect at the time of sentencing on the current offense, not the law in effect when the prior offense was committed.” *State v. Morgan*, 968 N.W.2d 25, 27 n.1 (Minn. 2021).

reasoned that, because great bodily harm is “often associated” with first-degree assault in Minnesota, the Florida felony battery offense “certainly could meet” the felony-definition requirement. The district court also stated that “[w]hatever Mr. Harris indicated in his plea colloquy” for the Florida felony battery offense “met the definition of great bodily harm, permanent disability, or permanent disfigurement.”

After the district court concluded that the felony-definition requirement was met, the district court assigned one criminal-history point for Harris’s Florida felony battery conviction, which is appropriate for a third-degree assault conviction under Minnesota law. *See* Minn. Sent’g Guidelines 2.B.1.b (providing the “weight assigned to each prior felony sentence according to its severity level”). In doing so, the district court relied on the rule of lenity. *See State v. Thonesavanh*, 904 N.W.2d 432, 440 (Minn. 2017) (stating that the rule of lenity “directs courts to favor a more lenient interpretation of a criminal statute” (quotation omitted)). Because the district court’s application of the rule of lenity favors Harris and is not challenged on appeal, we need not consider this aspect of the district court’s decision.

We agree with the district court that the felony-definition requirement is satisfied for Harris’s Florida felony battery offense. The Florida felony battery statute requires “great bodily harm.” Fla. Stat. § 784.041(1)(b). Minnesota’s first-degree assault statute also requires a harm element and uses the same language: “Whoever assaults another and inflicts great bodily harm” may be punished for first-degree assault. Minn. Stat. § 609.221, subd. 1.

Florida statutes do not define “great bodily harm.” But the Florida felony battery statute’s harm element also includes “permanent disability” and “permanent disfigurement.” Fla. Stat. § 784.041(1)(b). These phrases are analogous to language in Minnesota’s statutory definition of great bodily harm, which includes “serious permanent disfigurement” and “permanent or protracted loss or impairment of the function of any bodily member or organ.” Minn. Stat. § 609.02, subd. 8 (2024).

Because the statutory language defining the harm element of the Florida felony battery offense is equivalent to the harm element in Minnesota’s first-degree assault statute, we conclude that Harris’s Florida felony battery conviction satisfies the felony-definition requirement for calculating his criminal-history score in Minnesota. *See Pruitt*, 16 N.W.3d at 861-62 (determining that “identical” language in Minnesota and federal statutes established equivalence between two offenses for a criminal-history score calculation).

We also consider Florida’s misdemeanor battery statute—which requires ordinary “bodily harm”—and conclude that it supports our conclusion that Florida felony battery is equivalent to Minnesota first-degree assault. Florida statutes provide that misdemeanor battery occurs when, among other things, a person “[i]ntentionally causes bodily harm to another person.” Fla. Stat. § 784.03(1)(a)(2) (2024). Like Florida battery statutes, Minnesota assault statutes require more than “bodily harm” for a felony offense. *Compare* Minn. Stat. § 609.224, subd.1 (2) (2024) (defining fifth-degree assault and providing misdemeanor punishment for a defendant who “intentionally inflicts . . . bodily harm”), *with* Minn. Stat. § 609.221, subd. 1 (defining first-degree assault and providing felony punishment for a defendant who “assaults another and inflicts great bodily harm”).

In short, based on our analysis of the Florida felony battery statute under which Harris was convicted, the Florida felony battery offense is equivalent to an offense under Minnesota’s first-degree assault statute. Because the felony-sentence and felony-definition requirements are satisfied for Harris’s Florida felony battery conviction, we conclude that the district court did not abuse its discretion by including Harris’s prior Florida felony battery conviction as a felony point when calculating Harris’s criminal-history score.

Harris argues otherwise for two reasons. First, he contends that the harm element is equivalent to Minnesota’s misdemeanor assault statute. Second, Harris maintains that his criminal-history score is incorrect because his Florida felony battery conviction did not “necessarily prove” a felony under Minnesota law.

Starting with Harris’s first reason, we consider Harris’s arguments for concluding that his Florida felony battery offense is equivalent to a misdemeanor fifth-degree assault in Minnesota. First, Harris contends that the harm element in Florida’s felony battery statute is “so broad, it includes injuries that fall under ordinary bodily harm in Minnesota” and “seems to include a range of injuries from life-threatening to anything more than a mere bruise.” We reject this argument because it ignores the language of the Florida felony battery statute, which requires “*great* bodily harm.” Fla. Stat. § 784.041(1)(b) (emphasis added). Harris’s argument also does not consider Florida’s misdemeanor battery statute, which punishes batteries that cause “bodily harm,” as does Minnesota’s fifth-degree assault statute. Fla. Stat. § 784.03(1)(a)(2); Minn. Stat. § 609.224, subd.1 (2).

Second, pointing to the district court’s reference to the rule of lenity and Minnesota’s third-degree assault statute, Harris argues that “great bodily harm” in the

Florida felony battery statute excludes the harm required by Minnesota’s third-degree assault statute.⁴ Harris maintains that the “district court found that the Minnesota equivalent offense” to his Florida felony battery offense “was third-degree assault based on its interpretation of Florida’s great bodily harm element in conjunction with the facts alleged in the Florida charging affidavit.”

This is not our reading of the district court’s conclusion. The district court determined that the language of the Florida felony battery statute was “very similar” to Minnesota’s first-degree assault statute, which tracks our conclusion that the two statutes are equivalent for the felony-definition requirement. And the district court analyzed the felony-definition requirement by referencing Harris’s plea testimony on the elements of the Florida felony battery statute. The district court concluded that Harris’s guilty “plea met the definition of great bodily harm” under the Florida statute.

Harris also argues that the statutory definition of “substantial bodily harm”—the harm element in Minnesota’s third-degree assault statute—“does not bear a catch-all clause” and thus requires proof of the injuries enumerated in the statute. Minn. Stat. § 609.223, subd. 1. This argument is unconvincing. The relevant harm element for our analysis is “great bodily harm,” not “substantial bodily harm.” Both Minnesota’s

⁴ The Minnesota third-degree assault statute provides felony punishment for a person who “assaults another and inflicts substantial bodily harm.” Minn. Stat. § 609.223, subd. 1 (2024). “Substantial bodily harm” is defined as “bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.” Minn. Stat. § 609.02, subd. 7a (2024).

first-degree assault statute and Florida’s felony battery statute require “great bodily harm.” Minn. Stat. § 609.221, subd. 1; Fla. Stat. § 784.041(1)(b).

Third, Harris contends that facts underlying his Florida felony battery conviction fall short of the harm element for a Minnesota first-degree assault conviction. But Harris recognizes, as we have noted, that the felony-definition requirement turns on the statutory elements of the Florida felony battery statute, not the facts of Harris’s Florida felony battery offense. Minn. Sent’g Guidelines 2.B.5.b.; *see also Pruitt*, 16 N.W.3d at 862-63 (rejecting the state’s argument that a reviewing court should consider the “nature of the offense” when analyzing the felony-definition requirement). Thus, we do not consider the parties’ arguments about the facts underlying Harris’s Florida felony battery conviction.

Alternatively, Harris asks this court to adopt the “necessarily-proven” approach used in *State v. Martin* to decide whether Harris’s Florida felony battery offense meets the felony-definition requirement. 941 N.W.2d 119, 125-26 (Minn. 2020). In *Martin*, the supreme court analyzed whether Martin’s prior California conviction triggered predatory-offender registration requirements under Minn. Stat. § 243.166, subd. 1b(b)(1) (2012). *Id.* at 122-26. The supreme court observed that subdivision 1b(b)(1) provided for registration when a non-Minnesota conviction “*would be* a violation” under Minnesota law. *Id.* at 124 (emphasis added).

The supreme court concluded that, under subdivision 1b(b)(1), an out-of-state conviction would require registration only “if proving the elements of the out-of-state offense would *necessarily prove* a violation” of a Minnesota law that requires registration. *Id.* (emphasis added). On the other hand, “if the elements of the out-of-state offense could

be proven without proving a violation of Minnesota law, then the out-of-state conviction would not be a violation of a Minnesota offense requiring registration.” *Id.*

We are not persuaded by Harris’s argument that the necessarily-proven approach stated in *Martin* should apply here. *Martin* did not involve the calculation of a criminal-history score. *Id.* at 122-26. And the supreme court has not applied the necessarily-proven approach in its own review of a district court’s calculation of a criminal-history score. We decline to extend the necessarily-proven approach to criminal-history scores.

Finally, we acknowledge, but need not consider, the parties’ arguments about Florida caselaw interpreting “great bodily harm” as used in the Florida felony battery statute. Neither party cites authority directing us to consider non-Minnesota caselaw when analyzing the felony-definition requirement for a prior out-of-state conviction. We therefore decline to do so.

In sum, because the harm element of the Florida felony battery statute is equivalent to the harm element of Minnesota’s first-degree assault statute, we conclude that Harris’s prior Florida felony battery offense meets the felony-definition requirement. Because Harris’s Florida felony battery conviction also satisfies the felony-sentence requirement, the district court did not abuse its discretion by including the Florida felony battery conviction in Harris’s criminal-history score. Thus, the district court did not abuse its discretion by assigning one prior-felony point to Harris’s criminal-history score for his Florida felony battery conviction.

Affirmed.