

*This opinion is nonprecedential except as provided by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
A25-2104**

Tarrance Fontaine Murphy, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed August 10, 2026
Reversed and remanded
Harris, Judge**

Hennepin County District Court
File No. 27-CR-17-10794

Cathryn Middlebrook, Chief Appellate Public Defender, Charles F. Clippert, Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

Mary F. Moriarty, Hennepin County Attorney, Nicole Cornale, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Considered and decided by Johnson, Presiding Judge; Harris, Judge; and Rasmusson, Judge.

NONPRECEDENTIAL OPINION

HARRIS, Judge

Appellant challenges the district court's denial of his second preliminary application to vacate his conviction for aiding and abetting second-degree felony murder. Because the

district court denied appellant's application without considering whether appellant acted with extreme indifference to human life, we reverse and remand.

FACTS

In May 2017, respondent State of Minnesota charged appellant Tarrance Fontaine Murphy with one count of second-degree intentional murder, one count of second-degree unintentional murder, one count of second-degree assault with a dangerous weapon, and one count of first-degree burglary. *See* Minn. Stat. § 609.19, subs. 1(1), 2(1), .222, subd. 1, and .582, subd. 1(c) (2016).

In December 2017, Murphy pleaded guilty to an amended charge of aiding and abetting second-degree unintentional murder and second-degree assault. At the plea hearing, Murphy admitted that he and several co-defendants planned to rob an apartment located in Bloomington. Murphy and his co-defendants entered the apartment where C.E. and N.T. were present. Murphy stated that he pointed a gun at N.T. with the intent of scaring her. Murphy testified that during the course of the burglary, C.E. was shot and killed. In April 2018, the district court imposed a 204-month sentence.

In December 2023, Murphy filed a *pro se* preliminary application to vacate his conviction under a newly enacted law that provided a means of obtaining relief from aiding-and-abetting felony-murder convictions under certain circumstances. *See* 2023 Minn. Laws ch. 52, art. 4, § 24, at 864-68. The district court summarily denied Murphy's preliminary application. The district court determined that Murphy was "barred from relief because he was a major participant in the underlying felony" and because he "admitted to assaulting one of the victims" by "pointing a loaded gun at one of the victims."

In September 2025, Murphy filed a second preliminary application for relief with the assistance of counsel. Murphy asserted that he did not cause C.E.’s death, was not a major participant in the underlying burglary, and did not act with extreme indifference to human life. The district court denied Murphy’s second preliminary application on the grounds that Murphy was a major participant in the underlying felony.

Murphy appeals.

DECISION

Murphy asserts that the district court abused its discretion in summarily denying his second preliminary application for relief because he was not a major participant in the underlying felony and did not act with extreme indifference to human life.

We begin with a discussion of the relevant law. Under Minnesota’s aiding and abetting statute, “[a] person is criminally liable for a crime committed by another if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures the other to commit the crime.” Minn. Stat. § 609.05, subd. 1 (2016). A person may also be liable for “any other crime committed in pursuance of the intended crime if reasonably foreseeable by the person as a probable consequence of committing or attempting to commit the crime intended.” *Id.*, subd. 2 (2016).

In 2023, the legislature narrowed the scope of liability for aiding and abetting second-degree felony murder. 2023 Minn. Laws ch. 52, art. 4, § 3, at 850-51 (codified at Minn. Stat. § 609.05, subd. 2a (Supp. 2023)). The amended statute provides that a person may not be held criminally liable for aiding and abetting second-degree felony murder for a death caused by another “unless the person was a major participant in the underlying

felony and acted with extreme indifference to human life.” Minn. Stat. § 609.05, subd. 2a(b) (Supp. 2023).

The legislature also enacted an uncodified law (the Act), which provided defendants previously convicted of aiding and abetting second-degree felony murder with an opportunity to file a petition to vacate their conviction. 2023 Minn. Laws ch. 52, art. 4, § 24, at 864-68. A person previously convicted of aiding and abetting second-degree felony murder was entitled to relief if the person demonstrated “by a preponderance of the evidence” that they “(1) did not cause the death of a human being; and (2) was not a major participant in the underlying felony and did not act with extreme indifference to human life.” 2023 Minn. Laws ch. 52, art. 4, § 24, subd. 7(b), at 867-68. In 2024, the legislature amended the Act to require that a petitioner need only show by a preponderance of the evidence that the petitioner “was not a major participant in the underlying felony *or* did not act with extreme indifference to human life.” 2024 Minn. Laws ch. 123, art. 4, § 20, subd. 7(b), at 2269 (emphasis added).

Before a person may petition for relief from a conviction of aiding and abetting felony murder, the person must file a preliminary application. 2023 Minn. Laws ch. 52, art. 4, § 24, subd. 4, at 865. The preliminary application must include, among other things, certain information about the applicant and a brief statement explaining why the applicant is entitled to relief. *Id.*, § 24, subd. 4(a)(1)-(6), at 865. The preliminary application is assigned to a reviewing judge, who must determine whether “there is a reasonable probability that the [applicant] is entitled to relief.” *Id.*, § 24, subd. 5(a), (c), at 865. If the reviewing judge denies the preliminary application, the judge must provide a brief

statement explaining why there is not a reasonable probability that the applicant is entitled to relief. *Id.*, § 24, subd. 5(h), at 866.

A reviewing judge’s denial of a preliminary application is an appealable order. *State v. Griffin*, 20 N.W.3d 57, 60 (Minn. 2025); *Raisch v. State*, 8 N.W.3d 237, 241 (Minn. App. 2024). We apply an abuse-of-discretion standard of review to the denial of a preliminary application under the Act. *State v. Griffin*, 24 N.W.3d 247, 254 (Minn. 2025). “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 in the record.” *State v. Hallmark*, 927 N.W.2d 281, 291 (Minn. 2019) (quotation omitted).

I. The district court did not abuse its discretion when it determined that Murphy was a major participant in the underlying felony.

Murphy first argues that he is entitled to relief under the Act because he was not a major participant in the underlying felony.

A “major participant” is defined as someone who

(1) used a deadly weapon during the commission of the underlying felony or provided a deadly weapon to another participant where it was reasonably foreseeable that the weapon would be used in the underlying felony;

(2) caused substantial bodily harm to another during the commission of the underlying felony;

(3) coerced or hired a participant to undertake actions in furtherance of the underlying felony that proximately caused the death, and where it was reasonably foreseeable that such actions would cause death or great bodily harm; or

(4) impeded another person from preventing the death either by physical action or by threat of physical action where it was reasonably foreseeable that death or great bodily harm would result.

Minn. Stat. § 609.05, subd. 2a(c) (2024).

Relying on the first definition of “major participant,” the district court concluded that there was not a reasonable probability that Murphy was entitled to relief, reasoning that Murphy met the “predicate underlying offense” of burglary by “commit[ing] a second-degree assault with a gun during the burglary.”

Murphy argues that he did not act as a “major participant” because he did not use a deadly weapon during the commission of the underlying burglary. Murphy contends that the burglary was “complete when the group . . . entered the building,” and that he later took possession of the firearm to commit the second-degree assault. Murphy asserts that, to commit first-degree burglary, he must commit the burglary and possess the dangerous weapon when entering the building. We are not persuaded.

For support, Murphy relies on the supreme court’s decision in *State v. Garcia-Gutierrez*, 844 N.W.2d 519, 522 (Minn. 2014). There, Garcia-Gutierrez was charged with first-degree burglary possession of a dangerous weapon after breaking into a house and stealing a locked safe containing a handgun and ammunition. *Id.* at 520. Police arrested Garcia-Gutierrez later that evening after he had forced the safe open. *Id.* Garcia-Gutierrez moved to dismiss the first-degree burglary charge because there was no evidence that he possessed or had knowledge of the gun until after the burglary was completed. *Id.* at 521. The district court dismissed the first-degree burglary charge, reasoning that there must be proof that Garcia-Gutierrez knowingly possessed or controlled the handgun during the commission of the burglary. *Id.* The supreme court reversed, holding that the plain language of the statute did not impose a knowledge requirement. *Id.* at 525-26. Rather, to commit first-degree burglary under Minnesota Statutes section 609.582 (2016), “a

defendant must not only commit burglary—an unlawful entry into a building coupled with commission of a crime or intent to commit a crime inside—he must also possess, when entering or at any time while in the building . . . a dangerous weapon.” *Id.* at 522 (citing Minn. Stat. § 609.582, subd. 1(b)).

Murphy’s reliance on *Garcia-Gutierrez* is misplaced. First, the facts in *Garcia-Gutierrez* are distinguishable from the case before us. Unlike *Garcia-Gutierrez*, Murphy and his co-defendants entered C.E.’s apartment with the handgun. The handgun was not discovered among C.E.’s stolen property. Second, *Garcia-Gutierrez* indicates that, in addition to committing the burglary, a defendant must also possess a dangerous weapon when entering the building “*or at any time while in the building.*” 844 N.W.2d at 522 (emphasis added). A defendant may be charged with first-degree burglary even if they did not possess the dangerous weapon when entering the building. And Murphy conceded at his plea hearing that, while inside C.E.’s apartment, he took possession of the gun and pointed it at N.T.

Furthermore, the first-degree burglary was not “complete when the group entered the building.” First-degree burglary encompasses more than just an illegal entry alone. A person commits first-degree burglary if he or she “enters a building without consent and with intent to commit a crime, or enters a building without consent and commits a crime,” *and* if any of the following elements are also present: (1) “the building is a dwelling and another person . . . is present in it when the burglar enters,” (2) the burglar possesses a dangerous weapon “when entering or at any time while in the building,” or (3) “the burglar assaults a person within the building.” Minn. Stat. § 609.582, subdivision 1(a)-(c).

All of these elements are present in this case. At his plea hearing, Murphy testified that C.E. and N.T. were inside the apartment when he and his co-defendants entered. Murphy admitted that, while he was inside the apartment, he took possession of the handgun and pointed it at N.T. Murphy also testified that he pointed the firearm at N.T. with the intent to “scare” her. The unlawful entry of an occupied dwelling, as well as Murphy’s possession and use of the firearm inside the apartment are sufficient to establish that he was a major participant in the underlying burglary.

Accordingly, the district court acted within its discretion when it determined that Murphy was a major participant in the underlying felony.

II. The district court abused its discretion by summarily denying Murphy’s second preliminary application without analyzing whether he acted with extreme indifference to human life.

Murphy also argues that the district court erred by not addressing whether he is entitled to relief because he did not act with extreme indifference to human life.

Murphy may be entitled to relief if he can prove that he either “was not a major participant in the underlying felony *or* did not act with extreme indifference to human life.” 2024 Minn. Laws ch. 123, art. 4, § 20, subd. 7(b)(2), at 2269 (emphasis added). Murphy raised both arguments in his preliminary application. The district court determined that there was no reasonable probability that Murphy was entitled to relief under the Act because Murphy “committed a second-degree assault with a gun during the burglary.” But the 2024 amendment requires that the district court not only address the major-participant aspect of the second prong but must also consider whether Murphy had “act[ed] with extreme indifference to human life.” *Id.* at § 20, subd. 7(b), at 2269. The district court did

not analyze the extreme-indifference aspect of the second prong before determining that there was no reasonable probability that Murphy was entitled to relief. Therefore, we conclude that the district court abused its discretion by denying the second preliminary application based solely on the determination that Murphy was a major participant in the underlying felony without determining whether Murphy acted with extreme indifference to human life.

Accordingly, we reverse and remand to the district court with instructions to determine whether Murphy acted with extreme indifference to human life before determining whether there is a reasonable probability that Murphy is entitled to relief under the Act.

Reversed and remanded.