STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1888

State of Minnesota,
Respondent,

vs.

Paul Andrew Youngstedt,
Appellant.

Filed December 14, 2020
Affirmed in part, reversed in part, and remanded
Cochran, Judge

Carver County District Court
File No. 10-CR-18-1070

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

Mark Metz, Carver County Attorney, Kevin A. Hill, Assistant County Attorney, Chaska, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Steven P. Russett, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Slieter, Presiding Judge; Bratvold, Judge; and Cochran, Judge.

U N P U B L I S H E D O P I N I O N

COCHRAN, Judge

Following a jury trial, appellant Paul Andrew Youngstedt was convicted of first-degree assault and motor-vehicle theft. The district court imposed concurrent sentences for the offenses and ordered Youngstedt to pay restitution.

In this direct appeal, Youngstedt advances several arguments. He argues that he is entitled to a new trial based on: (1) the district court's refusal to give a jury instruction on his defense; (2) the district court's refusal to declare a mistrial on the grounds that the prosecutor elicited testimony from which jurors could infer that Youngstedt invoked his right to silence; and (3) the prosecutor's "vouching" for the victim's credibility during the state's closing argument. Alternatively, Youngstedt argues that this court should vacate his concurrent sentence for motor-vehicle theft and vacate the restitution order for damage to the victim's car.

Because we conclude that the district court did not abuse its discretion by refusing to give the requested jury instruction, by refusing to declare a mistrial, or by sentencing Youngstedt for both offenses, and further conclude that any prosecutorial misconduct did not affect Youngstedt's substantial rights, we affirm in part. But because the district court erred in ordering Youngstedt to pay restitution for the damage he caused to the victim's car, we reverse and remand with instructions to vacate the restitution order.

FACTS

The state charged Youngstedt with second-degree attempted murder, first-degree assault, and motor-vehicle theft after a series of events involving Youngstedt and K.M., his former girlfriend. The evidence at trial established the following.

On October 29, 2018, K.M. went to visit Youngstedt at his home. The two had been in an on-again, off-again relationship for three or four years. Although K.M. had broken up with Youngstedt a few months earlier, they continued to spend time together.

Youngstedt had been drinking. At one point after K.M. arrived, Youngstedt drove off in his truck. K.M. observed Youngstedt driving at high speeds on the streets near his home and driving erratically on a nearby cornfield. When he returned, K.M. took his car keys and hid them in a dresser located in the living room. Youngstedt then slept for most of the day. After he awoke late that evening, he began searching for the car keys and told K.M. to find them. Youngstedt eventually found the keys, and the two started to argue about his driving. Youngstedt then threw the keys over his shoulder and yelled at K.M. to find them.

At trial, K.M. and Youngstedt offered differing accounts of what happened next. K.M. testified that while she was looking for the keys in the living room, Youngstedt went to the kitchen, grabbed two knives, and came toward her, holding one knife in each hand. According to K.M., Youngstedt then stabbed her in the abdomen with one of the knives. Youngstedt testified that the stabbing was an accident—that he picked up a knife from a coffee table in the living room and was going to the kitchen to return it when K.M. "just turned [around] into it."

After the stabbing, Youngstedt took K.M.'s car keys, got into her car, and attempted to exit the driveway but crashed the car into a skid loader located at the end of the driveway. He then ran to the house of a neighbor who works as an emergency medical technician (EMT). He told the EMT that K.M. had been stabbed, and asked him to come help. The EMT drove his car to Youngstedt's house and began tending to K.M.'s wound. Youngstedt arrived shortly after and the EMT asked him to wait outside. At some point while he was helping K.M., the EMT heard sirens and shortly thereafter heard Youngstedt drive away in the EMT's car. Youngstedt drove the EMT's car to a friend's home, where he was later arrested.

Youngstedt was charged with second-degree attempted murder, first-degree assault—great bodily harm, and theft of a motor vehicle.[1] At trial, a key issue was Youngstedt's intent. The jury found him not guilty of attempted murder, but guilty of first-degree assault and guilty of motor-vehicle theft. The district court sentenced Youngstedt to concurrent 160- and 23-month prison terms and ordered him to pay $5,500 in restitution for the damage to K.M.'s car. This appeal follows.

D E C I S I O N

I. The district court did not abuse its discretion when it denied Youngstedt's requested jury instruction.

Youngstedt argues that the district court abused its discretion by denying his request to give a jury instruction on his accident defense. We are not persuaded.

[1] The state also charged Youngstedt with fifth-degree drug possession and driving with a restricted driver's license. Later, those two charges were dismissed.

A district court has "considerable latitude" in selecting the language for its jury instructions. *State v. Gatson*, 801 N.W.2d 134, 147 (Minn. 2011) (quotation omitted). Nevertheless, an instruction must not "confuse, mislead, or materially misstate the law," *State v. Kelley*, 855 N.W.2d 269, 274 (Minn. 2014). On appeal, the jury instructions are reviewed "in their entirety to determine whether they fairly and adequately explained the law of the case." *State v. Kuhnau*, 622 N.W.2d 552, 555-56 (Minn. 2001). We will not reverse a trial court's decision on jury instructions absent an abuse of discretion. *State v. Mahkuk*, 736 N.W.2d 675, 682 (Minn. 2007).

Youngstedt asked the district court to instruct the jury as follows:

> The defendant testified that [K.M.] was accidentally stabbed and therefore this incident was an accident, not on purpose or intentional. The State has the burden of proving beyond a reasonable doubt that this incident was not an accident and was, in fact, a criminal act.

The district court denied Youngstedt's request on the grounds that the court's intended instructions incorporated the defense's theory of the case. The court ultimately gave jury instructions that defined the elements of each crime and were consistent with the Jury Instructions Guide.

Generally, a district court must give an instruction on the defendant's theory of the case if there is evidence to support it. *State v. Johnson*, 719 N.W.2d 619, 629 (Minn. 2006). In evaluating whether to give an instruction, "the evidence is viewed in the light most favorable to the party requesting the instruction." *State v. Edwards*, 717 N.W.2d 405, 410 (Minn. 2006). Here, Youngstedt testified that he did not intentionally stab K.M. but rather K.M. accidentally impaled herself on the knife. Viewed in the light most favorable

to Youngstedt, this testimony likely provided sufficient evidence to warrant an accident instruction.

Nonetheless, even where the evidence supports giving a party's proposed instruction, "[t]he court need not give the instruction as requested by the party if it determines that the substance of that request is contained in the court's charge." *State v. Ruud*, 259 N.W.2d 567, 578 (Minn. 1977). In *State v. Gustafson*, the supreme court specifically addressed the failure to give an accident instruction in a case involving first-and second-degree assault charges. 610 N.W.2d 314, 316, 319 (Minn. 2000). The supreme court noted that it has held that "the failure to give an accident instruction is not error if the trial court's instructions adequately inform the jury that a finding of intent is a prerequisite to a finding of guilt, and the arguments of the prosecutor and defense counsel further explain this to the jury." *Id.* at 319 (citing *State v. Stapek*, 315 N.W.2d 603, 604 (Minn. 1982); *State v. Schluter*, 281 N.W.2d 174, 177 (Minn. 1979)). Applying this standard, the supreme court concluded that the trial court did not err when it failed to give the jury an accident instruction. *Id.*

Youngstedt argues that the standard announced in *Gustafson* was not met in this case and therefore the district court erred by failing to give the accident instruction. Youngstedt raised the accident defense for two of the charges—the attempted murder charge and the first-degree assault charge. We need only address his argument with regard to the assault instruction because the jury did not convict Youngstedt of attempted murder. For the following reasons, we conclude that the *Gustafson* standard was met and the district court did not err by failing to give the accident instruction. First, the district court's assault

instruction was sufficient to inform the jury that a finding of intent was a prerequisite to a finding of guilt. Specifically, the court instructed the jury, in relevant part, as follows:

> The term assault, as used in this charge, is the intentional infliction of bodily harm upon another. Intentional means that the actor either has a purpose to do the thing or cause the result specified, or believes that the act performed by the actor if successful will cause the result. In addition, the actor must have knowledge of those facts that are necessary to make the actor's conduct criminal, and that are set forth after the word intentional.

This instruction explained that intent is an element of assault—great bodily harm and defined the word "intentional." This instruction adequately informed the jury that, to find Youngstedt guilty, it had to determine that Youngstedt intentionally stabbed K.M.

Youngstedt acknowledges that the district court specified that an assault is an "intentional infliction of bodily harm" and defined the word "intentionally." Nonetheless, he contends that the district court's assault instruction was "misleading and confusing" in terms of the requisite intent because assault—great bodily harm is a general-intent crime and the instruction referred to both the definition of general intent ("the actor . . . has a purpose to do the thing") as well as specific intent ("the actor . . . has a purpose to . . . cause the result specified, or believes that the act performed by the actor if successful will cause the result"). Youngstedt's reasoning is not persuasive. Assault—great bodily harm is, in fact, a general-intent crime. *See State v. Fleck*, 810 N.W.2d 303, 309 (Minn. 2012) (concluding that "assault-harm is a general-intent crime"). But the district court's instruction still sufficiently incorporated Youngstedt's requested instruction. To find either general intent or specific intent necessarily requires finding that the defendant's conduct

was not an accident. *Id.* at 309 ("[R]egardless of whether an offense is described as a specific- or general-intent crime, a defendant must voluntarily do an act or voluntarily fail to perform an act." (quotation omitted)). Accordingly, the intent instruction was sufficient to cause the jury to consider Youngstedt's theory that he did not commit assault because he did not intentionally stab K.M.

Second, both the prosecutor's and defense counsel's closing arguments explained to the jury that a finding of intent was a prerequisite to a finding of guilt. Youngstedt concedes that both the prosecutor and defense counsel focused their closing arguments on the issue of intent. Indeed, both attorneys argued at length about whether Youngstedt had the requisite intent, and the prosecutor specifically focused on Youngstedt's post-stabbing statements and conduct as circumstantial evidence of Youngstedt's intent to stab K.M. Under *Gustafson*, these arguments were sufficient to further explain to the jury that it must determine whether Youngstedt intentionally stabbed K.M. Accordingly, we conclude that the assault instruction met the *Gustafson* standard.

Youngstedt reads *Gustafson* as requiring more—namely, that both the prosecutor and defense counsel must acknowledge the validity of a defendant's accident defense. He argues that because the prosecutor in this case did not expressly mention Youngstedt's accident defense in his closing argument, the district court erred by not providing the requested instruction. This is a misinterpretation of *Gustafson* and its predecessor cases, which do not impose a requirement that the prosecutor mention the defendant's theory of the case. *See, e.g.*, *State v. Boitnott*, 443 N.W.2d 527, 533 (Minn. 1989) (holding that the district court did not err in refusing to give an accident instruction where the jury was

adequately instructed on the element of intent); *State v. Schluter*, 281 N.W.2d 174, 177 (Minn. 1979) (holding that the district court did not err in refusing to give an accident instruction where the court instructed the jury on intent, and noting in dicta that the prosecutor mentioned the defendant's accident defense).

Youngstedt further takes issue with the prosecutor's repetition during his closing argument of the phrase "you intend the natural consequences of your actions." Because assault—great bodily harm is a general-intent crime rather than a specific-intent crime, Youngstedt asserts that the prosecutor's use of the phrase misled the jury to believe it could infer that Youngstedt had the requisite intent for the crime "merely because the stabbing occurred," when in fact the state had the burden to prove beyond a reasonable doubt that Youngstedt intended to do the act of stabbing.

Youngstedt takes the prosecutor's use of the phrase out of context. The prosecutor used the phrase "you intend the natural consequences of your actions" in the course of arguing that Youngstedt's intent to stab K.M. could be inferred from his post-assault statements and flight from the scene of the offense. Placed in the proper context, the prosecutor's use of the phrase posed little risk of confusing the jury about its obligation to determine whether Youngstedt intentionally stabbed K.M. Moreover, any potential confusion as to the burden of proof was remedied by the district court's various instructions that the state had the burden to prove beyond a reasonable doubt each element of the charged offenses.

In sum, the district court's jury instructions informed the jury of its obligation to determine whether Youngstedt intentionally stabbed K.M., and the prosecutor and defense

counsel's closing arguments further explained that requirement to the jury. We therefore conclude that the district court did not abuse its discretion by refusing to give an instruction on Youngstedt's accident defense.

II. The district court did not abuse its discretion by refusing to declare a mistrial.

Youngstedt argues that the district court erred by refusing to declare a mistrial on the grounds that the prosecutor elicited testimony from which the jury could infer that Youngstedt invoked his right to silence. We conclude that the district court did not abuse its discretion by refusing to declare a mistrial.

One critical dispute that arose during Youngstedt's trial concerned what Youngstedt said to police officers during his arrest. One of the arresting officers testified that he heard Youngstedt's statements, and on cross-examination, defense counsel inquired into whether the officer had recorded any of them. The following exchange resulted:

> Q. All right. Now, did you record any of this?
>
> A. No, sir.
>
> Q. Don't you have lapel recordings?
>
> A. They activate when my squad car camera is turned on.
>
> Q. Only then?
>
> A. It can be manually activated, but it was not.
>
> Q. While you were taking this person in and—but you didn't manually activate your recording device so that we could hear if he really said this?
>
> A. I did not.
>
> Q. Why not?

A. I just didn't think to activate it.

Q. You're not trained to activate it when you arrest somebody?

A. I don't usually activate my recorder, it activates by my camera.

Q. No. I asked you a question, are you not trained to activate it when you're arresting somebody?

A. I was not trained specifically in activating my recorder while arresting someone.

Q. When do they tell you to activate it?

A. My recorder activates when I start my camera.

Q. Why do you think they have the manual on there?

A. I assume in case we decide we want to start our camera or our recorder.

On redirect, the prosecutor asked several follow-up questions:

Q. You took custody of the defendant. Were you planning on taking a statement from him?

A. No, sir.

Q. Why wouldn't you as the arresting officer taking custody of—

Defense Attorney: Objection, Your Honor.

The Court: Overruled.

Q. Why wouldn't you, as an arresting officer taking custody of someone that you believe stabbed someone, take a statement?

A. I was advised there were detectives awaiting us our [sic] arrival at the jail to take a statement from the suspect.

Q. Were you planning on talking to the defendant at all?

A. No, sir.

Following the officer's testimony, Youngstedt moved for a mistrial. Defense counsel argued that the prosecutor's questions "went straight to the heart of whether or not Mr. Youngstedt had remained silent" and that, because no statement from Youngstedt would ultimately be introduced, "the jury is going to know he did not give a statement, which is his right." The district court denied Youngstedt's motion because it determined that defense counsel's questions implied that the officer "somehow violated protocol or engaged in some other wrongdoing by failing to record Mr. Youngstedt" and the purpose of the prosecutor's questions "was to outline the fact that [the police officer] was not the person that was charged with attempting to take a statement from Mr. Youngstedt."

This court reviews a denial of a motion for mistrial for an abuse of discretion. *State v. Griffin*, 887 N.W.2d 257, 262 (Minn. 2016). "A mistrial should be granted only if there is a reasonable probability, in light of the entirety of the trial . . . that the outcome of the trial would have been different had the incident resulting in the motion not occurred." *Id.*

Youngstedt argues the district court abused its discretion by not declaring a mistrial "because jurors would readily have inferred from [the officer's] testimony, and the fact that no statement from Youngstedt was introduced at trial, that Youngstedt had exercised his constitutional right not to talk to the police." Youngstedt further contends that the admission of the challenged testimony requires reversal because it could reasonably have influenced the jury's verdict. We are not persuaded that the district court abused its discretion by allowing the testimony.

It is well established that a defendant's choice to exercise his right to remain silent may not be used against him at trial. *State v. Litzau*, 650 N.W.2d 177, 185 (Minn. 2002). This rule is premised on the notion that "a jury would be likely to infer from the testimony that [the] defendant was concealing his guilt." *Id.* (quotation omitted). Here, there is no direct testimony that Youngstedt exercised his right to silence. Instead, to conclude that Youngstedt had chosen to remain silent, the jury would need to draw a rather indirect inference based solely on (1) the arresting officer's testimony that other officers were waiting at the jail to take Youngstedt's statement and (2) the fact that no statement was ultimately introduced. But the officer's testimony in this case does not lend itself to the inference that Youngstedt invoked his right to silence any more than the typical case in which a defendant was arrested and no statement is introduced at trial. Because the record does not support Youngstedt's contention that the jury was likely to infer that he had exercised his right to silence, we conclude that the district court did not abuse its discretion by denying a mistrial.

Second, even if the jury inferred from the officer's testimony that Youngstedt invoked his right to silence, the prosecutor's questioning was permissible because defense counsel opened the door to the prosecutor's questions. Defense counsel repeatedly asked the officer about whether he had been trained to manually activate his recording device during an arrest. On redirect examination, the prosecution may elicit testimony that "explains, contradicts, or refutes" the witness's prior testimony. *State v. Gutierrez*, 667 N.W.2d 426, 435 (Minn. 2003). This questioning can involve otherwise inadmissible matters if necessary to prevent the defense from obtaining an "unfair advantage" or

"present[ing] a misleading or distorted representation of reality." *State v. Valtierra*, 718 N.W.2d 425, 436 (Minn. 2006) (quotation omitted). Here, defense counsel's questioning on cross-examination tended to imply that the testifying police officer was doing something wrong by not turning on his recorder during the arrest. Thus, on redirect, it was proper for the prosecutor to elicit testimony that further explained why the officer did not activate his recorder and refuted the implication that he somehow did not follow protocol. We therefore conclude that the district court did not abuse its discretion by denying Youngstedt's motion for a mistrial.

III. The prosecutor did not commit misconduct that entitles Youngstedt to a new trial.

Youngstedt asserts that the prosecutor twice improperly vouched for the victim's credibility during his closing argument. The prosecutor's first statement was:

> The other day in court, that's eight months after the event happened, sure there are small inconsistencies, but she was truthful. You saw her. You saw her demeanor. I'll get into that in a little bit, but I think it's pretty obvious for some reason she even cares for this guy still.

The prosecutor's second statement was:

> In determining the reasonableness and unreasonableness of a person's testimony, [K.M.], in the State's view, was extremely credible.

The district court immediately instructed the jury to disregard the second statement but made no comment as to the first. Although Youngstedt did not object at the time to either statement, he now argues that the prosecutor's statements amount to misconduct and warrant a new trial. We disagree.

When the defendant fails to object during trial, alleged prosecutorial misconduct is reviewed under a modified plain-error standard. *State v. Ramey*, 721 N.W.2d 294, 302 (Minn. 2006). The appellant-defendant bears the burden of establishing an error by the prosecutor that is plain. *Id.* If the appellant makes the required showing, the burden then shifts to the state to prove that the error did not affect the appellant's substantial rights. *Id.* "The court looks at the closing argument as a whole when considering claims of prosecutorial misconduct." *State v. Rucker*, 752 N.W.2d 538, 551 (Minn. App. 2008), *review denied* (Minn. Sept. 23, 2008).

Prosecutors are prohibited from "injecting [their] personal opinion[s] concerning the veracity of a witness during closing argument." *State v. Williams*, 210 N.W.2d 21, 26 (Minn. 1973). Statements in closing arguments that "impl[y] a guarantee of a witness's truthfulness" constitute impermissible vouching. *State v. Patterson*, 577 N.W.2d 494, 497 (Minn. 1998) (quotation omitted). However, "prosecutors are not prohibited from arguing that certain witnesses are believable." *Rucker*, 752 N.W.2d at 552. In *State v. Swanson*, the supreme court held that the prosecutor's statement that a witness was "very believable" was not impermissible vouching, but that the statement "[t]he state believes [the witness] is very believable" was impermissible vouching. 707 N.W.2d 645, 656 (Minn. 2006). The *Swanson* court further held that the state may discuss "factors affecting the credibility of the witnesses," but may not suggest that the state endorses a witness's credibility. *Id.*

Here, considered in context, the prosecutor's first statement that K.M. "was truthful" falls within the category of permissible statements set forth in *Swanson*. The prosecutor

made the statement in the course of a lengthy discussion about K.M.'s testimony, minor inconsistencies in her statements, her demeanor during her testimony, and the notion that she would have told the police the stabbing was an accident if that were true because she still cares for Youngstedt. Like the prosecutor's statement in *Swanson* that the witness was "very believable," the statement that K.M. "was truthful" was not a direct endorsement of K.M.'s credibility. This statement was therefore not impermissible vouching.

Conversely, as the state concedes, the prosecutor's second statement was impermissible vouching. This statement—that K.M., "in the State's view, was extremely credible"—is very similar to the statement addressed in *Swanson* in which the prosecutor said "[t]he state believes [the witness] is very believable." *Swanson*, 707 N.W.2d at 656. The *Swanson* court determined that the statement was impermissible vouching because it suggested that the state endorsed the witness's credibility. *Id.* The statement at issue here similarly implied that the state endorsed K.M.'s credibility. Accordingly, under *Swanson*, the prosecutor's second statement constituted plain error.

Having concluded that the second statement constitutes an error that is plain, we next consider whether the state has met its burden to show that the error did not affect Youngstedt's substantial rights. *Ramey*, 721 N.W.2d at 302. To meet its burden, the state must show that "there is no reasonable likelihood that the absence of the misconduct . . . would have had a significant effect on the verdict of the jury." *Id.* (quotation omitted). In evaluating the effect on substantial rights, this court "consider[s] various factors, including the pervasiveness of improper suggestions and the strength of evidence against the defendant." *State v. Parker*, 901 N.W.2d 917,

926 (Minn. 2017) (quotation omitted). We further consider a prosecutor's closing argument as a whole to ensure that no single word or phrase is "taken out of context and used as a basis for reversal." *State v. Schwartz*, 122 N.W.2d 769, 774 (Minn. 1963).

Here, the state has met its burden to show that the improper statement did not affect Youngstedt's substantial rights. The evidence presented against Youngstedt at trial was strong. Moreover, viewing the prosecutor's closing argument as a whole, the statement was just one sentence contained in a closing argument that spans over 13 pages of the trial transcript. The district court immediately instructed the jury to disregard this statement, and the prosecutor reinforced the court's corrective instruction by saying to the jury, "It's your determination of credibility. You saw her. You viewed her. You determine her credibility and whether she was credible or not." In addition, the district court's general jury instructions included directions "to disregard all evidence I have ordered stricken or have told you to disregard" and further instructed that the jurors "are the sole judges of whether a witness is to be believed." In light of the presumption that jurors abide by a district court's instructions, the district court's corrective instructions remedied any prejudice to Youngstedt that may have resulted from the prosecutor's improper statement. *See State v. Hall*, 764 N.W.2d 837, 845 (Minn. 2009) (presuming that jurors will follow instructions from the district court).

Accordingly, based on our application of the modified plain-error standard of review, we conclude that the prosecutor's closing argument does not warrant a new trial.

IV. The district court did not err by imposing separate sentences for the assault and motor-vehicle theft.

Youngstedt argues that the district court erred by sentencing him for both first-degree assault and the motor-vehicle theft because the two offenses were part of a single behavioral incident. We conclude that the district court did not err by imposing separate sentences for Youngstedt's two offenses.

Under Minn. Stat. § 609.035, subd. 1 (2018), "if a person's conduct constitutes more than one offense under the laws of this state, the person may be punished for only one of the offenses." This means that a court generally may not impose separate sentences for offenses that arose from a "single behavioral incident." *State v. Williams*, 608 N.W.2d 837, 841 (Minn. 2000). Because the question of "[w]hether the offenses were part of a single behavioral incident is a mixed question of law and fact," we review findings of fact for clear error and the district court's application of the law to the facts de novo. *State v. Bakken*, 883 N.W.2d 264, 270 (Minn. 2016).

Youngstedt contends that he should not have been sentenced for his theft of the EMT's car because "the state's own theory of the case is that he was using the car to escape." He cites to the general rule that courts cannot impose multiple sentences for two offenses if the second offense was committed contemporaneously and for the purpose of avoiding apprehension for the first offense. *See, e.g.*, *State v. Gibson*, 478 N.W.2d 496, 497-98 (Minn. 1991) (vacating sentence for leaving the scene of an accident where defendant immediately left the scene in order to avoid apprehension for criminal vehicular operation); *State v. Boley*, 299 N.W.2d 924, 926 (Minn. 1980) (holding that escape from

custody sentence should be vacated where defendant fled police officer to avoid apprehension for burglary and the offenses occurred within minutes of one another). According to Youngstedt, if the state's own theory was that Youngstedt stole the EMT's car in order to avoid apprehension for his assault of K.M., he cannot be sentenced separately for the two offenses.

Although Youngstedt correctly notes the general rule in avoidance-of-apprehension cases, he neglects to mention an important judicially-created exception under which courts may impose multiple sentences for "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." *See State v. Ferguson*, 808 N.W.2d 586, 590 (Minn. 2012) (quoting *State v. Skipintheday*, 717 N.W.2d 423, 426 (Minn. 2006)).

We conclude that the multiple-victim exception applies in this case. First, there is no dispute that two victims were involved. Youngstedt committed the assault against K.M., who was stabbed, and the car theft against the EMT, who came to assist K.M. Second, imposing multiple sentences for the two offenses does not unfairly exaggerate the criminality of Youngstedt's conduct because the concurrent sentence for the car theft acknowledges Youngstedt's distinct culpability for the offense he committed against the EMT. Thus, even if Youngstedt took the EMT's car to avoid apprehension for the assault, as is the state's theory, the multiple-victim exception permits the imposition of multiple sentences for the two offenses. Accordingly, we conclude that the district court did not

abuse its discretion by sentencing Youngstedt for both the assault and the motor-vehicle theft.

V. The district court abused its discretion by ordering Youngstedt to pay restitution for the damage to K.M.'s car.

Youngstedt argues that the district court abused its discretion by ordering him to pay $5,500 in restitution to K.M. for the damage that he caused to her car. Based on binding supreme court precedent, we agree.

This court reviews the decision to award restitution for an abuse of discretion. *State v. Anderson*, 871 N.W.2d 910, 913 (Minn. 2015). A district court generally has broad discretion to order restitution. *Id.* But a district court "may order restitution *only* for losses that are directly caused by, or follow naturally as a consequence of, the defendant's crime." *State v. Boettcher*, 931 N.W.2d 376, 381 (Minn. 2019) (emphasis added).

Here, the district court ordered Youngstedt to pay $5,500 to K.M. in restitution to compensate her for the damage that Youngstedt caused to her car. After Youngstedt stabbed K.M., he took K.M.'s car and crashed it into a skid loader parked at the end of his driveway. Youngstedt's testimony implied that he took K.M.'s car with the intent to drive to the EMT's house to get help. Youngstedt contends that the district court abused its discretion by ordering him to pay restitution because the damage to the car was not a "direct result" of the assault.

We conclude that under the direct-result standard, the damage to K.M.'s car was not "directly caused by" and did not "follow naturally as a consequence of" Youngstedt's assault of K.M. Assault—great bodily harm is defined as "the intentional infliction of or

attempt to inflict bodily harm upon another." Minn. Stat. § 609.02, subd. 10(2) (2018). The types of losses that follow naturally as a consequence of this offense include economic losses such as medical expenses, lost wages, or therapy costs. In contrast, the economic loss to K.M. caused by Youngstedt crashing her car is too attenuated from the assault because it did not directly result from Youngstedt's criminal act of stabbing K.M. This conclusion holds whether Youngstedt took K.M.'s car to get help or to flee the scene of the crime.

The state argues that the restitution order was appropriate because the stabbing was a "substantial factor" in causing the damage to K.M.'s car. But Minnesota courts apply the direct-result standard, not the substantial factor standard, to determine whether losses result from a crime. *Boettcher*, 931 N.W.2d at 380-81. The state's attempt to distinguish this case is unpersuasive.

We recognize that the district court concluded that K.M. should receive restitution because Youngstedt caused damage to K.M.'s car. But, based on *Boettcher*, we are compelled to conclude that the district court abused its discretion by ordering Youngstedt to pay restitution for the damage to K.M.'s car because the damage was not directly caused by Youngstedt's assault of K.M. *See State v. Curtis*, 921 N.W.2d 342, 346 (Minn. 2018) (stating that the court of appeals is required to follow supreme court precedent). Accordingly, we reverse and remand with instructions for the district court to vacate the restitution order in its entirety.

Affirmed in part, reversed in part, and remanded.