STATE OF MINNESOTA

IN SUPREME COURT

A21-0221

Court of Appeals

Gildea, C.J.
Took no part, McKeig, J.

State of Minnesota,

Respondent,

vs.

Filed: July 13, 2022
Office of Appellate Courts

TanyaMarie Esthell Miller,

Appellant.

Keith Ellison, Attorney General, Saint Paul, Minnesota; and

Ronald Hocevar, Scott County Attorney, Todd P. Zettler, Assistant County Attorney, Shakopee, Minnesota, for respondent.

John Kaschins, Minneapolis, Minnesota, for appellant.

S Y L L A B U S

The district court did not err in sentencing appellant to 48 months in prison for violating Minn. Stat. § 609.495, subd. 3 (2020), aiding an offender as an accomplice after the fact, because that crime's statutory maximum sentence is more than 20 years when, as here, the principal crime is first-degree murder.

Affirmed.

O P I N I O N

GILDEA, Chief Justice.

Appellant TanyaMarie Esthell Miller appeals her sentence for aiding an offender as an accomplice after the fact in violation of Minn. Stat. § 609.495, subd. 3 (2020), for her role in concealing evidence of a murder that her husband committed.[1] The statutory maximum sentence for a conviction of being an accomplice after the fact is "not more than one-half of the statutory maximum sentence of imprisonment . . . that could be imposed on the principal offender." *Id.* After Miller pleaded guilty to being an accomplice after the fact and before sentencing, she argued that the statutory maximum is not a determinate sentence when the principal crime is subject to life imprisonment because "one-half of life imprisonment" is not calculable in terms of days or months. Miller argued that because the statutory maximum is indeterminate, the district court did not have authority to impose any sentence for her offense. The district court rejected Miller's argument and sentenced her to 48 months of imprisonment. On appeal, the court of appeals affirmed Miller's sentence. *State v. Miller*, 964 N.W.2d 459, 462 (Minn. App. 2021). Because Miller's sentence does not exceed the statutory maximum, we affirm.

FACTS

This appeal arises from a murder that Miller's husband committed. In February 2020, Miller's 16-year-old son arranged to sell marijuana to another juvenile, S.K. Miller's son had planned the sale through Snapchat. Miller's son drove to the meeting

[1] We will use the term "accomplice after the fact" to refer to the offense defined in Minn. Stat. § 609.495, subd. 3, because that is the term used in the statute.

place with Miller's husband, who was sitting in the rear passenger seat. When Miller's son parked the car, S.K. got into the front passenger seat but refused to close the door behind him. Thinking that S.K. intended to steal the marijuana and run, Miller's husband fatally shot S.K. in the head and then pushed him out of the car, at which point Miller's son drove away.

Miller's husband then called Miller and told her what he had done. When Miller's husband and son returned home, Miller told her son to delete his Snapchat account. Miller retrieved their neighbor's garage key and helped hide the car in the neighbor's garage. At some point not long after the shooting, Miller and her husband drove to Miller's sister's house, where Miller's sister stored the gun in a lockbox.

Four days after the shooting, law enforcement officers arrested Miller and her husband and son. Officers also recovered the gun from Miller's sister's house.

Miller was charged with aiding an offender to avoid arrest under Minn. Stat. § 609.495, subd. 1(a) (2020) and being an accomplice after the fact under Minn. Stat. § 609.495, subd. 3. She pleaded guilty to both charges, with no agreement as to sentencing. Because her husband and son had been indicted for first-degree murder in violation of Minn. Stat. § 609.185(a) (2020), an offense subject to life imprisonment, Miller signed a plea petition acknowledging that she could be sentenced to "imprisonment for one half of a life sentence."[2] The district court accepted her guilty pleas.

[2] A conviction for being an accomplice after the fact under Minn. Stat. § 609.495, subd. 3, is subject to a statutory maximum sentence of "not more than one-half of the statutory maximum sentence of imprisonment . . . that could be imposed on the principal offender." A conviction for aiding an offender to avoid arrest, on the other hand, is subject

At the sentencing hearing, Miller argued that district courts lack authority to impose any sentence for being an accomplice after the fact when the principal crime is first-degree murder—an offense subject to life imprisonment—because one-half of life imprisonment is impossible to calculate. According to Miller, the general sentencing statute that defines maximum sentences when "no punishment is otherwise provided," Minn. Stat. § 609.03 (2020),[3] does not apply because the Legislature has provided a specific punishment in this case, even though the precise length of that sentence cannot be determined.

The district court rejected Miller's argument. According to the district court, a life sentence "has statutorily been defined many, many times" as 40 years, both in the context of the attempt statute, Minn. Stat. § 609.17, subd. 4 (2020), and the sentencing guidelines for conspiracy offenses, Minn. Sent. Guidelines 2.G.13.[4] Based on the court's conclusion that a life sentence is defined as 40 years, the district court held that the statutory maximum sentence for being an accomplice after the fact is 20 years when the principal crime is subject to life imprisonment.

"to imprisonment for not more than three years . . . if the crime committed or attempted by the other person is a felony." Minn. Stat. § 609.495, subd. 1(a).

[3] Under the general sentencing statute, when "no punishment is otherwise provided," the maximum sentence, "[i]f the crime is a felony," is "to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both." Minn. Stat. § 609.03(1).

[4] Neither Minn. Stat. § 609.17, subd. 4, nor Minn. Sent. Guidelines 2.G.13 defines a life sentence as 40 years. For example, section 609.17, subdivision 4, simply sets a 20-year maximum sentence for a person who attempts to commit a crime that provides for a maximum sentence of life imprisonment.

The district court did not, however, impose a 20-year sentence. Instead, using the analysis set forth in *State v. Kenard*, 606 N.W.2d 440, 443 (Minn. 2000), the court assigned Miller's offense of being an accomplice after the fact a severity level of 8 under the sentencing guidelines and then imposed a presumptive sentence of 48 months in prison.[5] *See* Minn. Sent. Guidelines 4.A. Miller appealed her 48-month sentence.

The court of appeals affirmed. *Miller*, 964 N.W.2d at 462. The court agreed with Miller that "there is no clear statutory maximum sentence of imprisonment" in this case because life imprisonment has "no ascertainable half." *Id.* at 461. The court then employed the *in pari materia* canon of construction (also called the "related-statutes canon") to interpret the accomplice-after-the-fact statute, Minn. Stat. § 609.495, subd. 3, in light of the attempt statute, Minn. Stat. § 609.17, subd. 4. *Miller*, 964 N.W.2d at 461. The attempt statute provides a punishment of "not more than 20 years" when "the maximum sentence provided for the [attempted] crime is life imprisonment." Minn. Stat. § 609.17, subd. 4(1). For all other offenses, the maximum sentence under the attempt statute is "one-half of the maximum imprisonment . . . provided for the crime attempted." *Id.*, subd. 4(2). The court held that the attempt statute "supports the inference that the maximum sentence for an accomplice after the fact to a crime for which the maximum sentence is life imprisonment is 20 years." *Miller*, 964 N.W.2d at 461. The court reasoned that not punishing a person who is an accomplice after the fact to a crime subject to life imprisonment but punishing a

[5] The district court also imposed a concurrent sentence of 1 year and 1 day for Miller's conviction of aiding an offender to avoid arrest. This sentence is not before us on appeal.

person who is an accomplice to other crimes "would run counter to the presumption against absurd results." *Id.* at 461–62.

We granted Miller's petition for review on the issue of whether the district court erred in imposing a sentence for her conviction of being an accomplice after the fact.

ANALYSIS

The statute at issue here, Minn. Stat. § 609.495, subd. 3, punishes as "an accomplice after the fact" anyone who "intentionally aids another person whom the actor knows or has reason to know has committed a criminal act, by destroying or concealing evidence of that crime, providing false or misleading information about that crime, . . . or otherwise obstructing the investigation or prosecution of that crime." A person convicted of being an accomplice after the fact "may be sentenced to not more than one-half of the statutory maximum sentence of imprisonment . . . that could be imposed on the principal offender." *Id.* The "criminal act" in the statute refers to the crimes listed in Minn. Stat. § 609.11, subd. 9 (2020), which includes first-degree murder. First-degree murder is subject to a maximum sentence of life imprisonment. Minn. Stat. § 609.185(a). Accordingly, a person convicted of being an accomplice after the fact when the principal offender committed first-degree murder faces a maximum sentence of one-half of life imprisonment. *See* Minn. Stat. §§ 609.495, subd. 3, 609.185(a).

Miller argues that the district court did not have authority to sentence her to any term of incarceration for being an accomplice after the fact under Minn. Stat. § 609.495, subd. 3, because the statutory maximum penalty—one-half of the statutory maximum penalty for the principal offense—cannot be determined when the principal crime is first-

degree murder. She argues that there is no way to calculate one-half of life imprisonment in days or years, and therefore the court lacks authority to impose any sentence because there is no way to determine whether the sentence exceeds the statutory maximum. According to Miller, this does not render the statute ambiguous; the statute instead suffers from a "failure of expression" because the Legislature did not include a definition of "life imprisonment" or "one-half of life imprisonment." She contends that the court of appeals erred in construing the accomplice-after-the-fact statute in light of the attempt statute using the *in pari materia* canon because the two statutes have different purposes, do not reference each other, and do not contain "any common language."[6]

The State argues that the penalty provision in the accomplice-after-the-fact statute is ambiguous and urges us to adopt the analysis of the court of appeals. Specifically, the State argues that we should construe the accomplice-after-the-fact statute and the attempt statute together because they are *in pari materia*. The State contends that under the attempt statute, one-half of life imprisonment is equivalent to 20 years, and so the statutory maximum for being an accomplice after the fact should also be 20 years.

We review issues of statutory interpretation de novo. *State v. Thonesavanh*, 904 N.W.2d 432, 435 (Minn. 2017). The primary goal of statutory interpretation "is to

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[6] The canon of *in pari materia* "allows two statutes with common purposes and subject matter to be construed together to determine the meaning of ambiguous statutory language." *State v. Lucas*, 589 N.W.2d 91, 94 (Minn. 1999). We have observed that "[t]he rationale for the canon is that related statutes, although separate, should be considered as 'one systematic body [of] law.' " *State v. Thonesavanh*, 904 N.W.2d 432, 437–38 (Minn. 2017) (alteration in original) (quoting *State v. Bolsinger*, 21 N.W.2d 480, 486 (Minn. 1946)).

ascertain and effectuate the intention of the legislature." Minn. Stat. § 645.16 (2020). The first step in the process is to determine whether "the words of a statute in their application to an existing situation are clear and free from all ambiguity." *State v. Bakken*, 883 N.W.2d 264, 267–68 (Minn. 2016). If the statute is ambiguous, that is, "subject to more than one reasonable interpretation," we apply canons of construction to resolve the ambiguity. *Thonesavanh*, 904 N.W.2d at 435 (quoting *500, LLC v. City of Minneapolis*, 837 N.W.2d 287, 290 (Minn. 2013)). But when the language represents a "failure of expression rather than ambiguity of expression . . . , courts are not free to substitute amendment for construction and thereby supply the omissions of the legislature." *State v. Lucas*, 589 N.W.2d 91, 94 (Minn. 1999) (quoting *State v. Moseng*, 95 N.W.2d 6, 11–12 (Minn. 1959)).

We agree with Miller that "[t]he legislature has the exclusive authority to define crimes and offenses and the range of the sentences or punishments for their violation" and that "[n]o other or different sentence or punishment shall be imposed for the commission of a crime than is authorized by [chapter 609] or other applicable law." Minn. Stat. § 609.095(a) (2020). And we have recognized that courts have no authority to impose sentences without statutory authorization. *See State v. Noggle*, 881 N.W.2d 545, 550–51 (Minn. 2016) (holding that the district court was not authorized to impose a term of conditional release for an attempted crime because the conditional-release statute did not include attempted violations of the enumerated statutes that were subject to such a sentence); *State v. Pflepsen*, 590 N.W.2d 759, 764 (Minn. 1999) ("[T]he power to prescribe

punishment for criminal acts is vested with the legislature and the judiciary may only impose sentences within the statutory limits prescribed by the legislature.").

Statutory authorization exists here, however. The language of the statute clearly shows that the Legislature intended to punish in some way an accomplice after the fact when the principal offender has committed first-degree murder.[7] To determine the sentence, we look to the maximum sentence that the principal offender could receive and calculate one-half of that sentence. Minn. Stat. § 609.495, subd. 3. For the principal crime here, the maximum sentence is life. *See* Minn. Stat. § 609.185(a). Miller is correct that a life sentence is not subject to expression in days or years—the exact length varies with each person serving it. But we know from Minnesota's homicide sentencing scheme that a life sentence must be more than 40 years.

There are five types of homicide listed among the "criminal acts" in Minn. Stat. § 609.11, subd. 9, which Minn. Stat. § 609.495, subd. 3, expressly cross-references: first-, second-, and third-degree murder and first- and second-degree manslaughter. Minn. Stat. §§ 609.185–.205 (2020). As the severity of the offense increases, the statutory maximum punishment increases. For example, second-degree manslaughter has a statutory maximum of 10 years of imprisonment. Minn. Stat. § 609.205. A person convicted of first-degree

[7] Although neither party addressed this issue in their briefs to us, when a statute does not include a punishment, a general statutory maximum sentence applies based on whether the offense is a felony, gross misdemeanor, misdemeanor, or fine-only offense. *See* Minn. Stat. § 609.03. When "no punishment is otherwise provided" for a felony offense, that maximum is five years of imprisonment. *Id.* We do not find it necessary to apply this general statutory maximum provision here. But even if we did, we would still affirm Miller's sentence because it is less than the 5-year maximum authorized for felonies.

manslaughter is subject to up to 15 years of imprisonment. Minn. Stat. § 609.20. Third-degree murder carries a maximum of 25 years. Minn. Stat. § 609.195. Second-degree murder has a statutory maximum sentence of 40 years. Minn. Stat. § 609.19. And first-degree murder—the most severe form of murder—is subject to mandatory life imprisonment. Minn. Stat. § 609.185(a). A life sentence, then, must be something more than 40 years, the maximum sentence for the lesser crime of second-degree murder.

Applying the one-half provision to the homicide scheme, the statutory maximum for being an accomplice after the fact to second-degree manslaughter is 5 years, first-degree manslaughter is 7.5 years, third-degree murder is 12.5 years, and second-degree murder is 20 years. One-half of a life sentence in the context of the accomplice-after-the-fact statute, therefore, must be more than 20 years.[8] Importantly, we do not have to identify the precise statutory maximum for being an accomplice after the fact when the principal offender is subject to life imprisonment because Miller does not argue that her 48-month

[8] We do not reach this result based on the *in pari materia* canon of construction, which only applies when a statute is ambiguous. *See Thonesavanh*, 904 N.W.2d at 437. Instead, when the plain language of a statute explicitly cross-references another statute, the cross-referenced statute may be considered in ascertaining plain meaning. Here, Minn. Stat. § 609.495, subd. 3, provides a maximum sentence of "one-half of the statutory maximum sentence of imprisonment . . . that could be imposed on the principal offender" and expressly cross-references the crimes "listed in section 609.11, subdivision 9," which in turn includes "murder in the first, second, or third degree," as well as "manslaughter in the first or second degree." Thus, it is appropriate to consider the maximum sentences of imprisonment for murder and manslaughter listed in Minn. Stat. §§ 609.185–.205 in considering the plain meaning of Minn. Stat. § 609.495, subd. 3. *See State v. Boecker*, 893 N.W.2d 348, 351 (Minn. 2017) ("We may read multiple parts of a statute together to determine whether a statute is ambiguous.").

sentence exceeds the statutory maximum.[9] Her only argument is that the district court lacked authority to impose *any* sentence because one-half of a life sentence is not translatable into a specific term of months or years. But because Miller's sentence does not exceed the statutory maximum, which is unascertainable but plainly more than 20 years, her sentence is authorized by law.

Miller's interpretation of the statute—that the court may not impose any sentence because one-half of life imprisonment is not subject to precise determination—is unreasonable. The Legislature clearly did not intend to exempt from punishment those who are accomplices after the fact to offenders who commit first-degree murder. The accomplice-after-the-fact statute says exactly the opposite. The statute applies to accomplices after the fact when the aided person has committed a "criminal act" as defined in Minn. Stat. § 609.11, subd. 9. *See* Minn. Stat. § 609.495, subd. 3. And first-degree murder is expressly included in the list of crimes in Minn. Stat. § 609.11, subd. 9 (listing "murder in the first . . . degree"). We are obligated to give effect to all parts of the statute,

[9] Even though we need not precisely define the statutory maximum in this case, it may be prudent for the Legislature to specifically address the maximum sentence for being an accomplice after the fact when the principal crime is subject to life imprisonment, similar to how the attempt statute, Minn. Stat. § 609.17, subd. 4, specifically addresses the maximum sentence that may be imposed when the attempted crime is subject to life imprisonment. And the accomplice-after-the-fact statute is not the only law that is susceptible to this problem. Multiple criminal statutes define the maximum sentence as one-half of the maximum for the underlying offense. *See* Minn. Stat. § 609.175, subd. 2 (2020) (conspiracy when the underlying offense is something other than first-degree murder or treason); Minn. Stat. § 609.49, subd. 1(a) (2020) (failure to appear); Minn. Stat. § 609.493, subd. 2(b) (2020) (solicitation of mentally impaired persons); Minn. Stat. § 609.494, subd. 2(b) (2020) (solicitation of juveniles); Minn. Stat. § 609.495, subd. 4 (2020) (aiding—taking responsibility for criminal acts).

and we cannot rewrite the statute to exempt accomplices after the fact to first-degree murder when the Legislature did not provide such an exemption. *See State v. Riggs*, 865 N.W.2d 679, 683 (Minn. 2015). Because Miller's interpretation requires us to rewrite the statute, it is unreasonable.[10]

Based on our analysis, we hold that the district court did not err in sentencing Miller to 48 months in prison for being an accomplice after the fact.[11]

CONCLUSION

For the foregoing reasons, we affirm the decision of the court of appeals.

Affirmed.

MCKEIG, J., took no part in the consideration or decision of this case.

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[10] Miller argues that the accomplice-after-the-fact statute is an example of legislative silence because there is no statute "defining one-half of a life sentence in days or years." But she frames the issue too narrowly. The Legislature was not silent about its intent to punish those who are accomplices after the fact for someone who committed an offense subject to life imprisonment.

[11] The court of appeals reached the same conclusion after applying the canon of *in pari materia* and construing the accomplice-after-the-fact statute in light of the attempt statute. *Miller*, 964 N.W.2d at 461. It is not necessary for us to engage with that argument here because we only apply *in pari materia* to ambiguous statutes, *Thonesavanh*, 904 N.W.2d at 437, and the accomplice-after-the-fact statute is not ambiguous as applied here.