

STATE OF MINNESOTA  
IN SUPREME COURT

A22-1609

McLeod County

Thissen, J.

Toby Earl Johnson,

Appellant,

vs.

Filed: June 28, 2023  
Office of Appellate Courts

State of Minnesota,

Respondent.

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Daniel P. Repka, Repka Law, LLC, Saint Paul, Minnesota, for appellant.

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

Ryan Hansch, McLeod County Attorney, Steven R. Ott, Assistant County Attorney,  
Glencoe, Minnesota, for respondent.

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S Y L L A B U S

The district court did not err in denying defendant's motion to correct his sentence under Minn. R. Crim. P. 27.03, subd. 9, because the sentence was authorized by law.

Affirmed.

Considered and decided by the court without oral argument.

## OPINION

THISSEN, Justice.

Appellant Toby Earl Johnson appeals from the district court's denial of his motion to correct his sentence under Minn. R. Crim. P. 27.03, subd. 9. Johnson argues that the failure to complete a sentencing worksheet for his first-degree premeditated murder conviction means that his sentence of life in prison is unlawful. Because Johnson's life sentence was mandated by Minn. Stat. § 609.185(1) (2000), we affirm.

### FACTS

In September 1999, a grand jury indicted Johnson for (1) first-degree intentional murder while committing a kidnapping in violation of Minn. Stat. § 609.185(3) (1998), (2) second-degree intentional murder in violation of Minn. Stat. § 609.19, subd. 1(1) (2014), and (3) kidnapping in violation of Minn. Stat. § 609.25, subd. 1(3) (2022),<sup>1</sup> for the kidnapping and murder of Randy Pool.<sup>2</sup> In April 2000, Johnson pleaded guilty to an amended count one<sup>3</sup> and count two, and the State agreed to dismiss count three.

About a month later, the district court held Johnson's sentencing hearing. The sentencing worksheet prepared in advance of the hearing analyzed the sentence for count

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<sup>1</sup> The different dates in the statutory citations are due to the court's convention of citing to the most recent version of the Minnesota Statutes in which the applicable language in effect at the time of the conduct in question appeared.

<sup>2</sup> For a more detailed recitation of the underlying facts of this case, see *Johnson v. State*, 641 N.W.2d 912, 913–15 (Minn. 2002).

<sup>3</sup> The amended count one changed first-degree intentional murder while committing a kidnapping to first-degree premeditated murder under an aiding and abetting theory of liability.

two (second-degree intentional murder), but it did not include a recommended sentence for count one (first-degree premeditated murder). In the sentencing worksheet, the probation officer calculated the presumptive sentence for second-degree murder under the Sentencing Guidelines as 306 months. The district court ultimately convicted Johnson of first-degree premeditated murder, dismissed the second-degree murder count, and sentenced Johnson to life in prison with the possibility of release after 30 years. Johnson has since filed multiple challenges to his conviction and sentence, each of which was denied.<sup>4</sup>

The current case arises from Johnson’s third motion to correct his sentence pursuant to Minn. R. Crim. P. 27.03, subd. 9. Johnson claims that the district court violated his right to due process by sentencing him to a longer sentence than the 306-month sentence recommended in the sentencing worksheet completed for the charge of second-degree murder.

The district court denied Johnson’s motion. The court concluded that “[a]lthough a Sentencing Worksheet is required to be filed for felony offenses and it was not for Count 1 of this Indictment, failing to do so for the charge of first-degree murder does not cause

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<sup>4</sup> *Johnson*, 641 N.W.2d at 916–18 (rejecting a claim that Johnson’s sentence was illegal for violating separation of powers principles); *Johnson v. State*, 801 N.W.2d 173, 175–77 (Minn. 2011) (affirming a denial of a motion to correct sentence that challenged the validity of Johnson’s guilty plea); *Johnson v. State*, 877 N.W.2d 776, 778–80 (Minn. 2016) (denying a claim that Johnson’s sentence was a violation of the Eighth Amendment to the U.S. Constitution). Johnson also filed a motion to withdraw his guilty plea in March 2019, alleging that he failed to provide a sufficient factual basis for the plea. The district court denied this motion. Johnson did not appeal this denial but filed a motion for reconsideration in December 2019. The district court denied the motion to reconsider, which Johnson appealed. We dismissed Johnson’s appeal of the motion to reconsider by order. *State v. Johnson*, No. A20-0867, Order at 2–4 (Minn. filed Dec. 16, 2020).

Defendant's sentence to be 'unauthorized.' ” The district court further concluded that the failure to file a worksheet did not violate Johnson's due process rights.

Johnson appealed.

### ANALYSIS

A district court's decision on a motion to correct an unauthorized sentence is evaluated under an abuse of discretion standard. *Evans v. State*, 880 N.W.2d 357, 359 (Minn. 2016). But when the question of whether a district court abused its discretion in sentencing turns on the legal meaning of a statute or rule, or whether the sentence violates the constitution, the underlying question of legal meaning or constitutionality is reviewed de novo. *See State v. Maurstad*, 733 N.W.2d 141, 148 (Minn. 2007); *Evans*, 880 N.W.2d at 359.

In this case, Johnson argues that the district court denied him due process of law by sentencing him without the benefit of a sentencing worksheet in violation of Minn. Stat. § 609.115, subd. 2a (2022), and Minn. Sent. Guidelines 1.B.16. We review the denial of his motion to correct his sentence for an abuse of discretion, but his statutory/rules interpretation and constitutional claims de novo.

Under the Minnesota Rules of Criminal Procedure, “[t]he court may at any time correct a sentence not authorized by law.” Minn. R. Crim. P. 27.03, subd. 9. A sentence is not authorized by law when it is “contrary to law or applicable statutes.” *State v. Schnagl*,

859 N.W.2d 297, 301 (Minn. 2015). Importantly, Johnson does not challenge the validity of his conviction for first-degree murder and limits his argument to the proper sentence.<sup>5</sup>

The mandatory sentence for a first-degree murder conviction was and remains life in prison. Minn. Stat. § 609.185(1). Because the murder did not qualify as a heinous crime under Minn. Stat. § 609.106, subd. 2 (2000), the minimum sentence for the conviction was life with the possibility of release after 30 years. Minn. Stat. § 244.05, subd. 4 (2000). This was the sentence pronounced by the district court in this case. The sentence was therefore not “contrary to law or applicable statutes.” *Schnagl*, 859 N.W.2d at 301. In fact, the sentence is the minimum statutorily mandated sentence for Johnson’s conviction of first-degree murder.<sup>6</sup> In short, the life sentence imposed on Johnson for his first-degree murder conviction was not only authorized but *required* by law.

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<sup>5</sup> Had Johnson challenged the validity of his conviction for first-degree murder, the procedural limitations set forth in Minnesota’s post-conviction statute, Minn. Stat. § 590.01 (2022), and *State v. Knaffla*, 243 N.W.2d 737, 741 (Minn. 1976), would apply. *See State v. Coles*, 862 N.W.2d 477, 482 (Minn. 2015) (construing a Rule 27.03 motion to correct a sentence as a petition for postconviction relief where the defendant’s “challenge to his sentence implicate[d] more than simply his sentence”).

<sup>6</sup> The decisions Johnson relies on to support his argument are factually distinct because they both involve unjustified departures by the district court. *See State v. Foreman*, 680 N.W.2d 536, 539–41 (Minn. 2004) (reducing a sentence where the district court mistakenly imposed a sentence higher than the presumptive sentence); *State v. Amundson*, 828 N.W.2d 747, 753–54 (Minn. App. 2013) (correcting a sentence where the district court imposed consecutive sentences instead of the presumptive concurrent sentences without offering justification). In contrast, in this case, there is no presumptive sentence—the sentence for first-degree murder is a mandatory sentence of life in prison. The district court did not depart. *See generally State v. Jackson*, 714 N.W.2d 681, 697 (Minn. 2006) (“The sentence for first-degree premeditated murder is not determined using the sentencing guidelines.”).

The fact that the sole recommendation in Johnson’s sentencing worksheet was 306 months for second-degree murder does not change this conclusion. It is true that Minn. Stat. § 609.115, subd. 2a, and Minn. Sent. Guidelines 1.B.16 currently direct that a sentencing worksheet be prepared for crimes carrying a mandatory life sentence. And it is undisputed that no sentencing worksheet was prepared for the first-degree murder charge in this case.

But Minn. Stat. § 609.115, subd. 2a, and Minn. Sent. Guidelines 1.B.16 did not exist in 2000 when Johnson was sentenced. *See Reynolds v. State*, 888 N.W.2d 125, 133 (Minn. 2016) (stating that “for a sentence to be eligible for correction under Rule 27.03, subdivision 9, the sentence must have been illegal at the time it was imposed”).<sup>7</sup> Section 609.115, subdivision 2a, was added in 2005, years after Johnson’s conviction became final. Act of June 2, 2005, ch. 136, art. 14, § 14, 2005 Minn. Laws 901, 1098. And the definition of “Sentencing Worksheet” upon which Johnson relies was not added to the Sentencing Guidelines until 2012. *Compare* Minn. Sent. Guidelines (2012),<sup>8</sup> *with* Minn. Sent. Guidelines (2000). Consequently, Johnson’s argument that his 2000 sentence is unauthorized fails because it is based on a statute and guidelines provision that did not exist

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<sup>7</sup> Our opinion should not be read to suggest that imposition of a mandatory life sentence for first-degree murder in accordance with Minn. Stat. § 609.185(a) (2022) is unlawful if a sentencing worksheet was not prepared on the first-degree murder conviction before imposition of the sentence. We have no need to reach that issue here.

<sup>8</sup> The definition is currently found in Sentencing Guidelines 1.B.16, but was found in Sentencing Guidelines 1.B.15 in 2012. Minn. Sent Guidelines (2012). *See generally* Minnesota Sentencing Guidelines Commission, *Guidelines Revision Project: Adopted Modifications* (April 2012) (explaining changes to guidelines including the addition of the definition of “sentencing worksheet”).

until well after his sentence was finalized. In addition, his due process arguments premised on the failure to comply with those unenacted provisions also fail.

### **CONCLUSION**

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

Affirmed.