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**STATE OF MINNESOTA
IN COURT OF APPEALS
A13-0681**

David Eric Collins, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed April 7, 2014
Affirmed
Peterson, Judge**

Traverse County District Court
File No. 78-CR-09-203

Cathryn Middlebrook, Chief Appellate Public Defender, Melissa Victoria Sheridan, Assistant Public Defender, Eagan, Minnesota (for appellant)

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Matthew P. Franzese, Traverse County Attorney, Alexandria, Minnesota (for respondent)

Considered and decided by Hudson, Presiding Judge; Peterson, Judge; and Stauber, Judge.

UNPUBLISHED OPINION

PETERSON, Judge

Appellant challenges his sentences for second-degree murder and second-degree assault, arguing that the district court miscalculated his criminal-history scores. We affirm.

FACTS

In 2010, appellant David Eric Collins was convicted of one count of second-degree murder and one count of second-degree assault. The district court imposed a 45-month sentence for the assault offense and a 240-month sentence for the murder offense. Both sentences were within the presumptive ranges set forth in the sentencing guidelines.

Appellant moved pro se to correct his sentences under Minn. R. Crim. P. 27.03, subd. 9, arguing that the district court miscalculated the criminal-history scores used to determine the sentences. For the assault conviction, appellant was assigned one point for a prior felony conviction, one-half point for each of four prior felony convictions, and one point for committing the assault while on probation for a prior offense. The sum of these points produced a criminal-history score of four. For the murder conviction, appellant was assigned the same four points used for the assault conviction, plus one and one-half points for the assault conviction, which was sentenced before the murder conviction. The sum of these points, without counting the partial point, produced a criminal-history score of five.

Appellant argues that the district court erred by failing to mathematically round down the one-half points he was assigned for the four prior felony convictions before adding all points together to determine his criminal-history scores.

DECISION

“An offender’s criminal history score is calculated by assigning points for prior convictions according to the severity level of the offense.” *State v. Halvorson*, 506 N.W.2d 331, 337 (Minn. App. 1993). Under the sentencing guidelines, “the offender is

assigned a particular weight . . . for every felony conviction for which a felony sentence was stayed or imposed before the current sentencing.” Minn. Sent. Guidelines II.B.1 (2009). “The felony point total is the sum of these weights; no partial points are given.” *Id.* The comment to this provision states that “a person with less than a full point is not given that point. For example, an offender with a total weight of 2½ would have 2 felony points.” *Id.* at cmt. II.B.101.

Appellant argues that the partial points he received for four prior felony convictions should each be mathematically rounded down before adding the partial points to other assigned points to determine his criminal-history score. The district court rejected this method, noting that it would result in assigning no weight for four of appellant’s prior felony convictions, which is inconsistent with the guidelines requirement that “the offender is assigned a particular weight for *every* felony conviction.” *Id.* at II.B.1 (emphasis added).

Applying a de novo standard of review, we find no error in the district court’s interpretation of the sentencing guidelines. *See State v. Campbell*, 814 N.W.2d 1, 6 (Minn. 2012) (stating that interpretation of the sentencing guidelines is subject to de novo review). The sentencing guidelines must be interpreted in accordance with their “plain and unambiguous language . . . and accompanying commentary.” *State v. Mondry*, 682 N.W.2d 183, 184 (Minn. App. 2004). The language of section II.B.1 and its commentary plainly require that the weights assigned for “every” prior felony conviction be added together to determine an offender’s felony point total but that only full points in the sum are included in a criminal-history score. The district court properly calculated appellant’s

criminal-history scores, and appellant's sentences were not "unauthorized by law" within the meaning of Minn. R. Crim. P. 27.03, subd. 9. We therefore affirm the district court's sentencing order.

Affirmed.