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**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0280**

State of Minnesota,
Appellant,

vs.

Amanda Jo Hansen,
Respondent.

**Filed July 27, 2020
Reversed and remanded
Schellhas, Judge***

Aitkin County District Court
File No. 01-CR-19-210

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

James P. Ratz, Aitkin County Attorney, Lisa Roggenkamp Rakotz, Assistant County Attorney, Aitkin, Minnesota (for appellant)

Cathryn Middlebrook, Chief Appellate Public Defender, John C. Donovan, Assistant Public Defender, St. Paul, Minnesota (for respondent)

Considered and decided by Worke, Presiding Judge; Jesson, Judge; and Schellhas,
Judge.

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

SCHELLHAS, Judge

In this pretrial appeal, the State of Minnesota argues that the district court erred in staying the adjudication of respondent over its objection when no evidence showed that the state abused its prosecutorial charging function. We reverse and remand.

FACTS

Early in the morning on January 1, 2018, a victim contacted the Aitkin County Sheriff's Office and reported that his house has been "ransacked." The victim reported that while celebrating New Year's Eve, he returned to his residence and saw parked in his driveway a grey car belonging to appellant Amanda Jo Hansen, his ex-girlfriend. Not wishing to start a fight, the victim drove away. At 1:33 a.m., the victim received a text message from Hansen informing the victim that she was at his house. Shortly after, he received another text message from Hansen, informing the victim that she was waiting for him to return home.

The victim finally returned to his residence early in the morning on January 1st to find the front door wide open and several items missing, including: a flat screen television, a DVD player, his dog, a couch cushion, a photograph of his children, car keys, and a gun. When a police deputy entered the residence, he found broken chairs, broken dishes, and kitchen utensils scattered across the kitchen floor. The deputy also noted that the floor was covered in broken glass. Police contacted Hansen, who admitted sending the text messages, but denied being at the victim's home that night. Hansen claimed that the last time she was at the victim's house was several weeks earlier.

Later in the morning on January 1, 2018, the victim contacted the police and stated that, despite not smoking, he found a cigarette butt in his kitchen. The brand of cigarette was the same brand that Hansen smoked. The victim assured the police that he had cleaned his kitchen since the last time Hansen had been at his home and believed that the cigarette butt was from New Year's Eve. The deputy obtained a search warrant for her cellphone records and determined that Hansen's phone was used near the victim's residence on New Year's Eve.

Several months later, the victim informed the deputy that Hansen had returned all of the stolen property except for the gun. The deputy spoke with Hansen, who denied returning any property, but admitted to being in the area of the victim's home after the deputy confronted her with the cellphone data. A DNA test of the cigarette butt revealed that the DNA profile matched the DNA sample collected from Hansen.

The state charged Hansen with one count of felony theft of a firearm and one count of felony theft, both in violation of Minn. Stat. § 609.52, subd. 2(a)(1) (2016); one count of second-degree felony burglary in violation of Minn. Stat. § 609.582, subd. 2(a)(1) (2016); and one count of felony first-degree criminal damage to property in violation of Minn. Stat. § 609.595, subd. 1(4) (2016).

A plea hearing was held in December. At the plea hearing, in accordance with a plea agreement, Hansen pleaded guilty to felony theft in violation of Minn. Stat. § 609.582, subd. 2(a)(1). The remaining charges were dismissed. The terms of the plea agreement allowed Hansen to request a stay of adjudication, but noted that the state would argue for a stay of imposition.

A sentencing hearing was held in February. During this time, the state noted twice that it was “opposed to a stay of adjudication in this matter.” In response, Hansen argued for a stay of adjudication, and stated that “as part of [Hansen’s] plea deal, [the state] agreed that [it] would not appeal [the stay of adjudication] if the Court so ordered that.” The state subsequently asked for it to be clarified on the record that “the state did not agree that it would not appeal any decision by this Court for a stay of adjudication” and that the plea agreement only stated that Hansen could *argue* for a stay of adjudication to which “the state is opposed.” The district court responded to the state: “[t]hat’s understood.”

The district court acknowledged that Hansen would have trouble with her employment should the district court impose a stay of imposition and not adjudication. In light of Hansen’s relatively minor criminal history, the district court issued a stay of adjudication and not a stay of imposition.

The state appealed.

D E C I S I O N

I. The state properly objected to Hansen’s request for a stay of adjudication.

Hansen argues that the substantive question in this case is not properly before this court as the state never “formally objected” to Hansen’s request for a stay of adjudication as required by Minn. R. Crim. P. 28.04, subd. 1(4). Appellate jurisdiction is a question of law subject to de novo review. *State v. Lee*, 706 N.W.2d 491, 493 (Minn. 2005), Furthermore, “[t]he interpretation of the Minnesota Rules of Criminal Procedure is a question we review de novo.” *Reynolds v. State*, 888 N.W.2d 125, 129 (Minn. 2016).

Minn. R. Crim. P. 28.04, subd. 1(4), states “[a]n order for a stay of adjudication to which the prosecutor did not object is not appealable.” In the context of a legal proceeding, “to object” means “to state in opposition; to put forward an objection.” *Black’s Law Dictionary* 1290 (11th ed. 2019) (defining “to object”).

Hansen is correct that the state never used the word “object” to declare its opposition to Hansen’s request for the stay of adjudication. But, on multiple occasions, the state made clear to the district court its opposition to the requested stay of adjudication. Under the terms of Hansen’s plea agreement, the parties contemplated that Hansen would argue for a stay of adjudication and the state would oppose a stay of adjudication and argue for a stay of imposition. The district court was aware of this arrangement and asked for arguments from each party. The state led by asserting: “The state is opposed to a stay of adjudication in this matter, and we would be requesting the Court to do a stay of imposition with 5 years of supervised probation.” The state went on to confirm: “But, again, Your Honor, the state is opposed to a stay of adjudication.”¹ In light of the definition of “to object,” it is clear that the state’s statements sufficiently communicated its objection to the stay of adjudication.

We conclude that the state’s assertion of opposition to the requested stay of adjudication satisfied the requirement described in Minn. R. Crim. P. 28.04, subd. 1(4), therefore, the district court’s order for a stay of adjudication is appealable.

¹ The sentencing departure report prepared by the district court originally did not note that the state objected to the downward departure. But, the state wrote to the district court, stating “[as] you are well aware, the State objected, not once but twice, to this . . . stay of adjudication.” The court subsequently amended the sentencing departure report to reflect that the state objected to the departure.

II. The district court erred when it issued a stay of adjudication over the objection of the state.

The state argues that the district court erred when it issued a stay of adjudication over the state's objection because no evidence reflected that the state abused the prosecutorial charging function. Hansen contends that special circumstances exist to show that the prosecutor abused the charging function. We review a district court's imposition of a stay of adjudication de novo. *Lee*, 706 N.W.2d at 495.

In general, a prosecutor has broad discretion when it exercises its charging function and a district court should not interfere with the prosecutor's exercise of that discretion. *State v. Foss*, 556 N.W.2d 540, 540 (Minn. 1996). But, a district court may stay an adjudication of guilt over the prosecutor's objection without violating the separation-of-powers doctrine when special circumstances are present. *Id.* Special circumstances exist when necessary to avoid injustice "from the prosecutor's clear abuse of discretion in the exercise of the charging function." *Id.* at 541 (emphasis omitted). The collateral consequences of an adjudication, such as the loss of employment or educational opportunities, or a previous lack of a criminal record, do not constitute special circumstances. *State v. Leming*, 617, N.W.2d 587, 589-90 (Minn. App. 2000); *State v. Colby*, 657 N.W.2d 897, 899 (Minn. App. 2003); *State v. Ohrt*, 619 N.W.2d 790, 792 (Minn. App. 2000).

At the sentencing hearing, Hansen took responsibility for her actions, and also listed reasons why she felt she was entitled to a stay of adjudication, including the following: (1) the turbulent history of the relationship between Hansen and the victim; (2) the ongoing

“physical and mental abuse” she endured; (3) the fact that she was attending therapy; (4) her lack of a record; (5) her children; and (6) the impact of a conviction on her current work and her desire to go to nursing school. The record does not contain any evidence of “physical and mental abuse.”

The court acknowledged that a conviction would severely impact Hansen’s life and would pose significant challenges for her future employment goals. The court also stated that it reviewed Hansen’s pre-plea investigation report, which detailed a generally supportive family environment, no problems with substance abuse, and Hansen’s criminal history, which indicated only “a couple of misdemeanor convictions from some time ago” and some driving offenses. The court concluded that this was a “one time incident” and imposed a stay of adjudication. In its order, the court did not describe any reasons for its grant of a stay of adjudication.

We conclude that the district court did not identify any special circumstances that would suggest a stay of adjudication was necessary to avoid injustice “from the prosecutor’s clear abuse of discretion in the exercise of the charging function.” *Foss*, 556 N.W.2d at 541 (emphasis omitted). From our review of the record, we conclude that no special circumstances exist. Merely pleading guilty, and thus taking responsibility for one’s actions, is not a special circumstance indicating the abuse of the prosecutorial function. *See id.* (finding that no special circumstance existed when a defendant pleaded guilty to a “typical case of misdemeanor assault”). Furthermore, a lack of a criminal history and the collateral employment and educational consequences of a conviction do not qualify as special circumstances. *See Leming*, 617 N.W.2d at 589-90 (noting that the possibility that

a defendant may lose her job is not a special circumstance); *Colby*, 657 N.W.2d at 899 (noting that the possibility that a defendant may not be able to attend nursing school is not a special circumstance); *Ohrt*, 619 N.W.2d at 792 (noting that a defendant's lack of a criminal record is not a special circumstance).

We therefore conclude that the district court erred when it issued a stay of adjudication when no evidence showed that the state abused its prosecutorial charging function.

Reversed and remanded.