STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1465

State of Minnesota,
Respondent,

vs.

Daniel John Wyatt,
Appellant.

Filed July 20, 2020
Affirmed
Florey, Judge

Dakota County District Court
File No. 19AV-CR-18-17076

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

James Backstrom, Dakota County Attorney, Hastings, Minnesota; and

Christine J. Cassellius, Ryan J. Bies, Dougherty, Molenda, Solfest, Hills & Bauer, PA, Apple Valley, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Sara J. Euteneuer, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Reilly, Presiding Judge; Smith, Tracy M., Judge; and Florey, Judge.

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

FLOREY, Judge

Defendant appeals his conviction of domestic assault and disorderly conduct, raising several procedural challenges as well as a challenge to the sufficiency of the evidence against him. We affirm.

FACTS

On October 30, 2018, S.H. called the police from her parked vehicle to report what she perceived to be a hostile interaction between appellant Daniel Wyatt and M.S. She later reported that she initially heard shouting and saw that it was coming from Wyatt and M.S. She watched Wyatt and M.S. as they shouted and walked to a grassy area a short distance away. S.H. later testified that she stayed in the area in part because she has a sensitivity to domestic abuse, and she noticed that M.S. was "very small," appeared to be scared, and at one point seemed to be sobbing. S.H. further testified that, before police arrived, she saw Wyatt, still screaming at M.S., "pin [her] down" and strike her with his open hand, in response to which M.S. "cowered" and curled into the fetal position. By the time the responding police officer arrived on scene, there was no physical altercation ongoing between Wyatt and M.S. After talking to M.S. and Wyatt, the officer arrested Wyatt, and the state charged him with misdemeanor disorderly conduct and fifth-degree domestic assault—fear.

The next day, Wyatt appeared for a bail hearing and was released without bail. On November 29, 2018, Wyatt failed to appear for the pretrial hearing in his case, and a warrant was issued for his arrest. Wyatt was later arrested and appeared for a second bail

hearing on December 7. At the second bail hearing, the court was made aware that M.S. was present in the courtroom and sought to have an unrelated domestic abuse no-contact order (DANCO) against Wyatt lifted. The court stated that the DANCO matter would be addressed at the next court date because there were no prosecutors present. After again deciding to release Wyatt without bail and scheduling arraignment for January 2, 2019, the court spontaneously stated, "I still want this on a speedy even though he's being released, so the DANCO can be addressed and all these other issues."

Wyatt failed to appear for the January 2, 2019 arraignment, and the matter was continued until February 13. Again, Wyatt failed to appear for the February 13 arraignment, so the district court issued a warrant for his arrest and set the next court appearance for April 29. Wyatt did appear for the April 29 bail hearing, where he waived his right to a speedy trial. However, having appeared for another arraignment on May 8, Wyatt asserted his right to a speedy trial. The district court set a trial date of June 24.

On June 20, 2019, Wyatt's attorney learned that Wyatt was in custody in a different county jail on unrelated charges. Because he was incarcerated in another county, Wyatt did not appear for his June 24 trial, and his attorney (who was standing in for the attorney of record) indicated the defense's intent to seek a continuance. On July 15, Wyatt was brought from the county jail for another pretrial hearing. At the July 15 hearing, Wyatt requested that either his trial commence within that same week or his case be dismissed as having violated his right to a speedy trial. The district court denied Wyatt's requests and, Wyatt having earlier waived his right to a jury trial, set a new date for the bench trial—August 6, 2019.

The state's witnesses at trial were S.H. and the officer who responded to the incident. At the conclusion of the case, the court found Wyatt guilty of both charges. Wyatt appealed, challenging several aspects of his conviction.

D E C I S I O N

First, Wyatt argues that his right to a speedy trial was violated and that his conviction must therefore be reversed.

Because a defendant's right to a speedy trial is granted by both the Minnesota and United States Constitutions, this court reviews de novo whether that right was violated. *State v. Osorio*, 891 N.W.2d 620, 627 (Minn. 2017). To assess whether a defendant's constitutional right to a speedy trial was violated, we apply a four-factor analysis that balances "the conduct of both the prosecution and the defendant." *Barker v. Wingo*, 407 U.S. 514, 530 (1972); *Osorio*, 891 N.W.2d at 628 (referring to and applying the analysis set out by the United States Supreme Court in *Barker*). The factors to be considered—the "*Barker* factors"—are (1) the length of the delay; (2) the reason for the delay; (3) whether the defendant asserted his or her right to a speedy trial; and (4) whether the delay prejudiced the defendant. *Osorio*, 891 N.W.2d at 627. These factors are only related—none are inherently necessary or sufficient to determine the result—so we must engage in a "difficult and sensitive balancing process" with them—in tandem with any "other circumstances that may be relevant." *Id.* at 628.

The length of the delay

The parties agree that the first factor—the length of the delay—should be the initial inquiry, as it has a "triggering" effect which informs the remainder of the analysis.

Specifically, if the delay in any given case meets or exceeds a certain threshold, it raises "a presumption that a violation has occurred" and the court is required to apply the remaining factors and continue the analysis. Such further analysis is not required where the applicable threshold is not met. *State v. Windish*, 590 N.W.2d 311, 315 (Minn. 1999). The Minnesota Rules of Criminal Procedure set that threshold at 60 days. *Id.* at 315-16 (citing Minn. R. Crim. P. 11.10).

Here, the state does not dispute that the 60-day threshold was exceeded. Between Wyatt's May 8, 2019 demand for a speedy trial and the trial that actually took place on August 6, 90 days had elapsed. We therefore conclude that the 60-day threshold was exceeded and accordingly begin with the presumption that Wyatt's right to a speedy trial was violated.

The reason for the delay

The inquiry as to the reason for the delay asks whether the government or the defendant is more at fault for its occurrence. *Osorio*, 891 N.W.2d at 628. Different actions which caused the delay, as well as the motivations underlying those actions, will weigh differently, and malice on the part of the responsible party weighs heavily against their position. *See State v. Taylor*, 869 N.W.2d 1, 19-20 (Minn. 2015).

Wyatt's argument on this point is that fault cannot be attributed to him for the delay caused by his non-appearance at his first (June 24) trial because he was in custody elsewhere on separate charges. While he does not argue that either the state or the court was at fault for the delay, he argues that this factor weighs in his favor given that (1) he was not at fault and (2) neither the state nor the court noted any "exceptional

circumstances" for court congestion that would amount to good cause for the delay. He cites *State v. Griffin* for the "exceptional circumstances" language; however, *Griffin* did not hold that the state must demonstrate "exceptional circumstances" lest this factor be to the benefit of the defendant. 760 N.W.2d 336, 340 (Minn. App. 2009) (noting that calendar congestion does not constitute good cause for delays caused by the state or court absent "exceptional circumstances"). Likewise, Wyatt did not establish that the mere absence of fault on the part of the defendant benefits him in this analysis. Moreover, the state is not arguing that it or the court may have caused the delay but had good cause for doing so. There is no indication that the state or court is responsible for the delay.

It is true that "the right to a speedy trial is not suspended by confinement as punishment for a different offense." *State v. Borough*, 178 N.W.2d 897, 898 (Minn. 1970). However, the state argues that while Wyatt may not personally be responsible for missing the June 24 trial; he is to blame, by extension, given his attorney's failure to file a writ in a timely fashion and have Wyatt transported for trial. However, Wyatt's attorney learned of Wyatt's incarceration four days prior to trial, and even if defense counsel's conduct did fall below some standard, the state does not cite any authority for the necessary premise that an attorney's blameworthiness is attributable to his or her client for purposes of the second *Barker* factor. We need not answer the question as applied here, however, because we conclude that even if neither party is at fault for the delay, there was still no speedy-trial violation.

Whether the defendant asserted his or her right to a speedy trial

If the defendant has asserted his or her right to a speedy trial, the "circumstances surrounding the frequency and intensity" of those demands are relevant considerations for the third factor. *Windish*, 590 N.W.2d at 318. Wyatt argues that this factor weighs in his favor because he asserted the speedy-trial right "multiple times" and moved to dismiss when his right to a speedy trial was ostensibly denied.

The state responds that Wyatt did not in fact assert the right "multiple" times, and we agree. The state points out that when Wyatt describes his first supposed demand for a speedy trial, he uses the language, "[t]he district court first recorded the speedy trial demand on December 7" because Wyatt did not in fact assert the right there. Rather, without any prompting and for unclear reasons, the judge sitting for the second bail hearing said, "I still want this on a speedy even though he's being released. So, the DANCO can get addressed and all of these other issues."[1] Whatever the district court judge's reasons for this statement, the only reference in the record to a speedy trial before December 7 comes from the bail hearing on October 31, 2018. There, the district court judge asked for confirmation that Wyatt was not going to request a speedy trial.[2] Wyatt's argument that a district court's unprompted reference to "a speedy" has the same legal effect of a defendant's unequivocal demand for a speedy trial lacks support. The caselaw on this

[1] The court was referring to the news, provided by Wyatt and his attorney earlier in the hearing, that the alleged victim was present in the courtroom and wanted the DANCO lifted. The court responded that there were no prosecutors present to weigh in on the DANCO issue and that it therefore would be addressed at the next court date.

[2] Moreover, while it is not entirely clear, the court may have been referring to a different matter entirely.

factor consistently refers only the defendant's assertion of his or her own constitutional right, and we are unwilling to conflate that with a district court judge's offhand and ambiguous remark.[3]

Appellant also argues that his right to a speedy trial was violated on July 15, 2019, when, after "finally" making it to a hearing, he requested that the court either (1) hold the trial later that day or within the week or (2) dismiss the matter as having violated his speedy-trial rights. This argument also lacks authority. There is simply no support for the contention that a court's refusal to hold a trial on the same day or week that the defendant appears for the first time following a failure to appear at the original promptly scheduled trial violates the defendant's speedy-trial right.

In sum, Wyatt demanded a speedy trial once—on May 8—and this demand followed three separate failures to appear for which the defendant was undeniably at fault (which resulted in warrants for his arrest), and his waiver of his speedy-trial right. While a defendant does have the right to re-assert his right to a speedy trial after waiving it, in these circumstances, we cannot conclude that the "frequency and intensity" of a defendant's demands for a speedy trial weigh heavily in his favor.

Whether the delay prejudiced the defendant

On the fourth factor, Wyatt argues not that he was prejudiced by any delays, but that a showing of prejudice is not strictly necessary to establish a speedy-trial violation. We

[3] We note also that we are less inclined to interpret the district court's remark as a demand for a speedy trial where, as here, the defendant missed the following two court dates and only appeared after he was arrested on a warrant.

agree with Wyatt's explicit argument that such a showing is not required, as well as his implicit concession that, in this case, he was not prejudiced.

In considering the factors together, while we begin with the presumption that Wyatt's right to a speedy trial was violated, we conclude that a defendant's right to a speedy trial is not violated where, as here, (1) the trial only exceeded the speedy-trial window by 30 days; (2) the defendant's single demand for a speedy trial followed the defendant causing a total delay of more than 180 days between charging and the first-scheduled trial; (3) neither the state nor court were to blame for the delay; (4) the defendant had previously waived his right to a speedy trial; and (5) the defendant suffered no prejudice as a result.

Wyatt next argues that the state's evidence against him was insufficient to establish his guilt beyond a reasonable doubt.

The parties agree that fifth-degree domestic assault—fear, is a specific-intent crime and that the state presented only circumstantial evidence. However, "[i]ntent may be inferred from events occurring before and after the crime and may be proved by circumstantial evidence." *State v. Rhodes*, 657 N.W.2d 823, 840 (Minn. 2003). When we review the sufficiency of circumstantial evidence, we perform a two-step analysis. *State v. Andersen*, 784 N.W.2d 320, 329 (Minn. 2010). First, we consider the circumstances proved; second, we analyze the reasonableness of inferences which could be drawn from the proven circumstances. *Id.* We defer to the fact finder's conclusions as to the first inquiry, but "we give no deference to the fact finder's choice between reasonable inferences." *Id.* at 329-30 (quotation omitted).

Wyatt was convicted of domestic assault—fear, which is where one "commits an act with intent to cause fear in another of immediate bodily harm or death." Minn. Stat. § 609.2242, subd. 1(1) (2018). Because this was a specific-intent crime, the state bore the burden of proving beyond a reasonable doubt that Wyatt acted in such a way as to intend to cause M.S. to fear immediate bodily harm or death. *See State v. Fleck*, 810 N.W.2d 303, 308 (Minn. 2012).

In this case, the relevant circumstances proved were those recounted by S.H.: that Wyatt (1) yelled and screamed at; (2) behaved loudly, aggressively, and threatening towards; and (3) "pinned down," "lunged at," and struck M.S. S.H. also testified that M.S. appeared scared at this time and to "cower" away from Wyatt, sob, and assume the fetal position. The district court specifically found S.H.'s testimony credible and provided a thorough explanation of its rationale for that finding, to which we defer. Wyatt argues that the state was required to provide corroborating evidence and cites *State v. Foreman*. 680 N.W.2d 536, 539 (Minn. 2004). However, *Foreman* explicitly states that the need for corroborating evidence arises where (1) there are additional reasons to question the witness's credibility and (2) the witness is the victim—neither of which are true here. *Id.* at 539.

As for the second inquiry, we conclude that the only reasonable inference is that Wyatt acted in such a way as to cause M.S. to be in fear of bodily injury. Wyatt does not argue that this inference is unreasonable, only that it is technically possible to draw other inferences with respect to his specific intent. However, "[t]he State does not have the burden of removing all doubt, but of removing all reasonable doubt," and we will affirm a

conviction where the circumstances proved are "consistent with guilt and inconsistent with any rational hypothesis except that of guilt." *Andersen*, 784 N.W.2d at 330. Moreover, while Wyatt argues that the circumstances proved could be consistent with an innocence hypothesis, he does not explain how one could rationalize those circumstances as not evidencing his intent to cause M.S. fear. Rather, he simply asserts that it would be possible for all of those circumstances to be true while he lacked the requisite mental state. Wyatt's injection of metaphysical doubt does not present a rational hypothesis with which these proven circumstances could be consistent, which leaves the only rational hypothesis to be that of guilt.

Finally, Wyatt argues that the court applied the wrong burden of proof. His argument refers to the court's statement that "[t]he court . . . must determine whether the elements of the offense have been proved beyond a reasonable doubt. If the elements of the offense have not been proved, a judgement of acquittal must be entered," and the court's citation to Minn. R. Crim. P. 20.02, subd. 7(c). Wyatt points out that subdivision 7(c) of rule 20 concerns cases in which a defense of mental impairment is raised and that no such defense was raised here. He argues that the rule's reference to disproving the "elements" of the crime for acquittal is more stringent than the defendant's normal burden of creating a reasonable doubt as to a single element of the crime alleged.

The district court clearly made only a citation error. There is no substantive indication that the district court applied anything other than the normal criminal burden of proof beyond a reasonable doubt. It explicitly concluded that the state proved beyond a

reasonable doubt every element of the crimes with which Wyatt was charged. We therefore conclude that the district court did not apply an improper burden of proof.

Affirmed.