This opinion is nonprecedential except as provided by Minn. R. Civ. App. P. 136.01, subd. 1(c).

STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0768

State of Minnesota,
Respondent,

vs.

Tristen Robert Holcomb,
Appellant.

Filed April 4, 2022
Reversed
Reyes, Judge

Polk County District Court
File Nos. 60-CR-18-1977; 60-CR-18-2316

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

Ronald I. Galstad, East Grand Forks City Attorney, East Grand Forks, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Chang Y. Lau, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Reyes, Presiding Judge; Johnson, Judge; and Cochran, Judge.

NONPRECEDENTIAL OPINION

REYES, Judge

In this direct appeal from appellant's convictions of criminal contempt-of-court in two separate cases, appellant challenges the district court's denial of his motions to dismiss, arguing that the state could not prosecute appellant for criminal contempt for violating a

condition of pretrial release because a pretrial condition is not a "mandate of a court" under Minn. Stat. § 588.20, subd. 2(4) (2018). We reverse.

FACTS

On September 14, 2018, respondent State of Minnesota charged appellant Tristen Robert Holcomb with two felony-level counts of aiding an offender. Appellant failed to appear in district court for his initial appearance on those charges, and the district court issued a warrant for appellant's arrest. Police apprehended appellant shortly thereafter. During appellant's September 28, 2018 court appearance, the district court notified appellant of the terms and conditions of his pretrial release, including to "Keep the peace, be of good behavior, and be law-abiding." The district court filed a written Order for Conditional Release containing those terms and conditions.

A few weeks later, the police encountered and searched appellant, finding two marijuana pipes in his pockets. The state then charged appellant with possession of drug paraphernalia. The state also charged him with criminal contempt-of-court for violating his conditions of pretrial release.

In December, police arrested appellant on an active warrant and found marijuana in appellant's pockets. The state subsequently charged appellant with possession of a small amount of marijuana. The state again charged appellant with criminal contempt-of-court for violating his conditions of pretrial release.

Appellant moved the district court to dismiss both criminal-contempt charges, arguing that a condition of pretrial release is not a "mandate" of the court under section 588.20, subd. 2(4). Relying, in part, upon nonprecedential authority and distinguishing the

Minnesota Supreme Court's decision in *State v. Jones*, 869 N.W.2d 24 (Minn. 2015), and this court's decision in *State v. Legarde*, 479 N.W.2d 434 (Minn. App. 1992)[1], the district court denied appellant's motions to dismiss. This appeal follows.

DECISION

A condition of pretrial release is not a mandate of the court subject to a criminal-contempt charge under Minn. Stat. § 588.20, subdivision 2(4).

Appellant argues that the state could not prosecute him for criminal contempt for violating a condition of pretrial release because it is not a mandate of the court under section 588.20, subdivision 2(4). We agree.

Because we must analyze the relationship between the rule governing a condition of pretrial release, Minn. R. Crim. P. 6.02, subd. 1, and Minnesota's criminal-contempt statute, section 588.20, subd. 2(4), we apply a de novo standard of review. *See Jones*, 869 N.W.2d at 26 (stating that questions of law are subject to de novo review). Under a de novo standard, we do not defer to the district court's analysis but instead exercise independent review. *See Wheeler v. State*, 909 N.W.2d 558, 563 (Minn. 2018).

Section 588.20, subdivision 2(4), makes it a crime for a person to willfully disobey any "lawful process or other mandate of a court." The Minnesota Supreme Court has already decided that the violation of a condition or term of *probation* does not constitute a violation of a "mandate of a court" under section 588.20, subd. 2(4). *See Jones*, 869 N.W.2d at 29-31.

[1] In *Legarde*, this court held that "violation of the [pretrial] release agreement did not give rise to contempt of court because the agreement was not a court order." 479 N.W.2d at 436.

Jones concluded that there are two reasonable interpretations of whether "term" of probation as used in the probation statute is a "mandate" as used in the criminal contempt statute. 869 N.W.2d at 29. But that the more reasonable interpretation is that a term of probation is not a mandate of the court, the violation of which subjects the probationer to a criminal contempt charge. *Id.* The court was persuaded by these considerations: (1) it avoided a separation of powers problem; (2) a broad interpretation of the statute could lead to contempt charges when a probation violation did not undermine the court's authority, which conflicts with the objective of the contempt statute; and (3) contempt would impinge on the district court's obligation and authority to sentence a defendant. *Id.*

The state argues that *Jones* does not apply here because the *Jones* court did not extend its analysis to pretrial-release conditions.[2] While true, the supreme court recently addressed that issue.

In *State v. Sargent*, the supreme court expressly found that the logic in *Jones* applies to violations of the terms and conditions of pretrial release for two reasons. 968 N.W.2d 32, 39 (Minn. 2021) ("Although *Jones* was decided in the context of probation violations, we find its reasoning applies with equal force to the violation of a condition of pretrial release."). First, the Minnesota Rules of Criminal Procedure do not provide or suggest

[2] We note that the state attempts to distinguish this case from *Jones* by arguing that here the district court issued a *written order* containing the pretrial-release conditions. The state appears to argue that we should therefore analyze whether the written order, which contains the release conditions, is a mandate of the court, and not whether the pretrial-release conditions themselves are a mandate of the court. We are not persuaded. Contrary to the state's distinction, a district court includes the terms and conditions of probation in a "Sentencing Order." Therefore, "[a] term of probation . . . is necessarily found within a court order." *Jones*, 869 N.W.2d at 28.

"that a willful violation of a pretrial release condition constitutes criminal contempt." *Id.* Second, a person who is on pretrial release is still presumed innocent and "should likewise not be subject to criminal contempt charges for violation of a condition of pretrial release." *Id.* at 40. As a result, a willful violation of a condition of pretrial release does not constitute criminal contempt under section 588.20, subd. 2(4). *Id.* at 39-40.

Because *Sargent* governs our decision here, *see State v. M.L.A.*, 785 N.W.2d 763, 767 (Minn. App. 2010) (stating that this court is bound by supreme court precedent), we conclude that appellant's violations of his conditions of pretrial release did not constitute violations of a mandate of the court subject to criminal-contempt charges under Minn. Stat. § 588.20, subdivision 2(4). We therefore reverse the district court's decision denying appellant's motion to dismiss.

Reversed.