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**STATE OF MINNESOTA
IN COURT OF APPEALS
A13-0084**

State of Minnesota,
Appellant,

vs.

Tyler Andrew Matzer,
Respondent.

**Filed August 26, 2013
Reversed and remanded
Kirk, Judge**

Isanti County District Court
File No. 30-CR-12-40

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

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Defender, St. Paul, Minnesota (for respondent)

Considered and decided by Connolly, Presiding Judge; Worke, Judge; and Kirk,
Judge.

UNPUBLISHED OPINION

KIRK, Judge

We are asked to decide whether a prosecutor can condition consent to a stay of adjudication on specific sanctions that control the disposition of the sentencing judge. We conclude that, under the facts of this case, the state properly conditioned its consent to the stay of adjudication. We reverse and remand for further proceedings.

FACTS

Appellant State of Minnesota charged respondent Tyler Andrew Matzer with one count of felony theft after he and two friends were discovered by Isanti police attempting to steal a snowmobile trailer and lawnmower. Respondent entered a guilty plea on May 24, 2012. The terms of a plea agreement contemplated a stay of adjudication and 20 days of executed jail time. The district court ordered a presentence investigation. The investigating agent recommended that the district court accept all the terms of the plea agreement, with the exception of the executed jail time. The agent asked the district court to consider granting credit for time served of four days, and imposing no additional jail time.

On July 12, the district court held a sentencing hearing where the state noted the variation between the terms of the plea agreement and the sentence recommended in the presentence investigation report. The state indicated that, if the court did not sentence according to the terms of the plea agreement, the state would no longer consent to the stay of adjudication. The district court then imposed a sentence consistent with the recommendation in the presentence investigation and the state moved to withdraw from

the plea agreement and formalized its objection to the stay of adjudication. The district court subsequently granted the state's motion to withdraw from the agreement.

On November 1, respondent entered a plea of guilty with no plea agreement between the parties. On January 9, 2013, the district court held another sentencing hearing. To maintain consistency with the treatment of respondent's accomplices, the state recommended that the district court impose a sentence with the terms of the original plea agreement. The state conditioned its consent to a stay of adjudication upon the district court agreeing to follow the terms of the original plea agreement:

What I'm going to ask the Court to do is I'm going to ask the Court to treat [respondent] exactly as the other two defendants were treated in this. . . .

If the Court sentences identically as [the other defendants] were sentenced, the State agrees to a stay of adjudication. I think that's proper.

If the State—or if the Court does not sentence the same way, I just want to make it very clear that the State does not consent to a stay of adjudication. The State objects.

The district court sentenced respondent to a stay of adjudication, four days in jail with credit for four days already served, 100 hours of community service, and payment of prosecution costs. In handing down the sentence, the district court commented that “by entering into the area of confinement, the State, in my view, has overstepped the separation of powers boundary in attempting to limit the discretion of the Court in what has historically been almost exclusively to the courts, and that's the terms of conditional confinement.” The state now appeals from the stay of adjudication.

DECISION

The state's sole contention is that the district court erred because it stayed adjudication over the prosecutor's objection. The state asserts that it validly objected to the stay of adjudication at the district court, and that the court's grant of the stay directly violates the rule set out in *State v. Lee*, 706 N.W.2d 491, 496 (Minn. 2005), prohibiting stays of adjudication over the objections of the prosecutor. Respondent argues that the state did not object to the stay of adjudication, but instead used the veto authority granted it by the rule in *Lee* to object to the sentence. This, says respondent, violates the constitutionally defined province of the district court to impose a sentence.

The authority of a district court to stay adjudication arises from its inherent judicial power. *State v. Krotzer*, 548 N.W.2d 252, 254-55 (Minn. 1996). "A clear-abuse-of-discretion standard applies to appellate review of stays of adjudication." *State v. Wright*, 699 N.W.2d 782, 786 (Minn. App. 2005). The district court's authority to stay an adjudication is a power that is circumscribed and judges are instructed to rely on stays of adjudication "*sparingly* and only for the purpose of avoiding an injustice resulting from the prosecutor's *clear abuse of discretion* in the exercise of the charging function." *State v. Foss*, 556 N.W.2d 540, 541 (Minn. 1996). To that end, a district court must find a "clear abuse of the prosecutorial charging function . . . before it may order a stay of adjudication over the prosecutor's objection." *Lee*, 706 N.W.2d at 496.

Here, it is undisputed that the prosecutor did not abuse his discretion in charging respondent. This point was made on the record by the district court. Thus, these circumstances fall squarely within the rule set out in *Lee*, where our supreme court

warned that any stay of adjudication granted over the objection of the prosecutor amounts to an “unusual judicial measure.” *Id.* at 495.

At the January 9 sentencing hearing, the state unambiguously objected to a stay of adjudication unless the respondent received the same sentence that his codefendants received. The prosecutor said, “I just want to make it very clear that the State does not consent to a stay of adjudication. The State objects.”

By the time of this sentencing hearing, respondent was proceeding without a plea agreement. At this point, the state could have elected to advocate for a harsher outcome—a stay of execution or a stay of imposition. Instead, the state properly argued for the same sentence for respondent that his codefendants received. *See* Am. Bar Ass’n, ABA Standards for Criminal Justice: Prosecution Function and Defense Function, Standard 3-6.1 (3d ed. 1993) (“[A prosecutor] should seek to assure that a fair and informed judgment is made on the sentence and to avoid unfair sentence disparities.”). The state conditioned consent to a stay of adjudication on a sentence consistent in all its punitive sanctions with the sentences imposed on respondent’s codefendants as part of their plea agreements. We are not persuaded that this approach amounts to an incursion into powers reserved to the judiciary for “[t]he final disposition of a criminal case,” *Krotzer*, 548 N.W.2d at 254, especially in light of our supreme court’s instruction that district courts must only exercise their authority to stay adjudication sparingly. *Foss*, 556 N.W.2d at 541.

To the extent that the district court’s separation-of-powers concern was based on a belief that it had authority to set conditions of probation (including local confinement),

that authority is limited to cases where the court stays imposition or execution of sentence. *See* Minn. Stat. § 609.135, subd. 1 (2012). For nonstatutory stays of adjudication, we must apply the caselaw-driven approach laid out in *Krotzer* and its progeny. This leads to our conclusion that, under the facts of this case, the state may condition its consent or agreement to a stay of adjudication.

To hold otherwise would place the state between a rock and a hard place, either ignore an ethical duty to be fair and consistent with all codefendants by seeking a harsher sentence or ask for the same sentence without an enforceable plea agreement, thereby risking future credibility with counsel for the two codefendants if their clients end up with a harsher outcome because they accepted the plea agreement. Plea negotiation is important to the smooth and efficient disposition of cases in our criminal justice system, and the process relies upon a substantial level of trust between the participants.

Had the state merely objected to the stay of adjudication, the parties agree that the decision of the district court to proceed with a stay of adjudication would be a violation of the rule in *Lee*. Under the approach advocated by respondent, prosecutors would have unencumbered authority to object to a stay of adjudication, but could not present a rationale for conditionally agreeing to a stay of adjudication in the absence of a plea agreement.

As a result, there could be a decline in the use of stays of adjudication, especially in cases where the defendant pleads guilty without a plea agreement, or is found guilty at trial. Prosecutors, reluctant to wade into the morass of consenting to outcomes involving a stay of adjudication, might simply turn to other sentencing alternatives—ones that exact

the heavy, lifelong price to defendants of an outright conviction. The plain application of *Lee* militates against such an outcome. We decline to adopt respondent's interpretation of the prosecutor's objection at the sentencing hearing and reverse and remand this matter to the district court for further proceedings consistent with this decision.

Reversed and remanded.