STATE OF MINNESOTA
IN COURT OF APPEALS
A10-372

State of Minnesota,
Appellant,

vs.

Charles Anthony Maddox, Jr.,
Respondent.

Filed October 12, 2010
Affirmed
Lansing, Judge

Scott County District Court
File No. 70-CR-08-26403

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

Patrick J. Ciliberto, Scott County Attorney, Todd P. Zettler, Assistant County Attorney, Shakopee, Minnesota (for appellant)

Julie Loftus Nelson, Bruno & Nelson, Minneapolis, Minnesota (for respondent)

Considered and decided by Lansing, Presiding Judge; Wright, Judge; and Connolly, Judge.

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

LANSING, Judge

In a prosecution for second-degree murder, the state appeals a pretrial ruling admitting expert testimony on acute stress disorder, excluding unredacted e-mails, and reserving ruling on the admissibility of out-of-court statements and a redacted or composite form of the e-mails until a record is established to provide a basis for an evidentiary ruling. Because the expert testimony is admissible for the limited purpose allowed by the ruling, the state has not established a critical impact caused by the exclusion of the e-mails, and the district court acted within its discretion by deferring a determination on the undeveloped evidentiary issues, we affirm.

F A C T S

Following an investigation that began with a November 11, 2008 request to check on a coworker's welfare, the state charged Charles Maddox (Maddox) with second-degree murder of his wife, Ruth Anne Maddox. Two coworkers reported that Ruth Anne Maddox was absent from work without explanation and that they were receiving unusual text messages from her. Prior Lake police went to the Maddoxes' house and, on their second attempt, spoke with Maddox. He told them that he had received a text from Ruth Anne Maddox saying she was going out of town. He refused to cooperate further with the search for her. After returning for a third time to the Maddoxes' house on November 11, the officers obtained a search warrant and executed the warrant early the next morning.

Once the officers entered the house, Maddox told them that Ruth Anne Maddox's body was in the garage. He said that they had argued on the evening of November 10, that Ruth Anne Maddox attacked him with a knife and screwdriver, and that he choked her to death. Police reports state that Ruth Anne Maddox died of blunt-force head and neck injuries.

During their investigation police learned that, on November 11, Maddox purchased a piece of luggage and a shaving kit; dressed as a woman and drove Ruth Anne Maddox's car to the airport; parked her car and left a note stating that she was leaving; entered an elevator with the luggage and looked into the surveillance camera; entered a family restroom inside the airport and changed into his own clothes; and then returned to the Maddoxes' house using public transportation. Forensic evidence also indicates that Maddox cleaned bloodstained areas of the house with bleach and other cleaning supplies.

A month before the scheduled jury trial, Maddox served notice that he might assert the affirmative defenses of accident, self-defense, and defense of dwelling. He also served notice at the same time that he intended to present expert psychological testimony on post-traumatic stress disorder (PTSD). Maddox asserted that this testimony would provide an alternative explanation for his conduct after Ruth Anne Maddox's death and would counter the state's argument that this conduct was evidence of his intent to kill her.

The district court ruled that it would admit this evidence but required Maddox to proffer a summary of the expert's testimony to allow the state to determine whether to pursue a pretrial appeal. The proffered summary stated that the expert would testify that acute stress disorder (ASD) is the first stage of PTSD and occurs immediately following a

traumatic, life-threatening event; that it can persist for two to thirty days; and that symptoms of ASD include "a decreased ability . . . to obtain necessary assistance and to obtain the resources necessary to deal appropriately with a traumatic experience," "bizarre behavior and symptoms similar to a panic disorder," "dissociation," "absence of emotional responses," and "marked avoidance." Following the receipt of this summary, the state decided to challenge the ruling in this pretrial appeal that raises two additional issues.

The first of the two additional issues grew out of Maddox's motion in limine that requested the court to review in camera and exclude from evidence e-mails attributed to him. The court granted the motion to review the e-mails in camera and sealed the evidence. The state requested a ruling on whether the e-mails would be admitted at trial. The district court ruled that the e-mails were unfairly prejudicial and, therefore, inadmissible in their current form. But the district court reserved ruling on the admissibility of the e-mails in a summarized or redacted form as part of the state's case-in-chief or as rebuttal evidence until the record at trial was sufficiently developed to determine what parts, if any, would be admissible. The state appeals the district court's ruling to exclude the unedited e-mails and its decision to postpone ruling on admitting the evidence in another form.

The remaining issue relates to Maddox's motion to exclude evidence of Ruth Anne Maddox's statements to her friends and coworkers. The record indicates that this evidence includes alleged statements about Ruth Anne Maddox's fear of her husband, his past abuse, her plan to use the e-mails as leverage in their dissolution proceeding, and her

specific fear of Maddox's response after she confronted him with the e-mails. The district court also reserved ruling on this issue until preliminary facts were established at trial that would provide a basis for the ruling. The state appeals these three issues.

D E C I S I O N

With some exceptions, the Minnesota Rules of Criminal Procedure allow the state to appeal pretrial orders and also provide a process for the appeal. Minn. R. Crim. P. 28.04. To prevail in a pretrial appeal, the state must "clearly and unequivocally" demonstrate that the ruling was erroneous and "that the order will have a critical impact on its ability to prosecute the case." *State v. McLeod*, 705 N.W.2d 776, 784 (Minn. 2005). The requirement to establish a critical impact applies to orders suppressing the state's evidence or decisions to admit the defense's evidence over the state's objection. *See State v. Joon Kyu Kim*, 398 N.W.2d 544, 549-51 (Minn. 1987) (reviewing order suppressing state's evidence); *State v. Barsness*, 473 N.W.2d 828 (Minn. 1990) (mem.) (reviewing order admitting defense's evidence). It is sufficient for the state to show that the ruling "significantly reduces the likelihood of a successful prosecution." *Joon Kyu Kim*, 398 N.W.2d at 551. To assess the impact of a ruling, we consider the state's evidence as a whole. *State v. Zanter*, 535 N.W.2d 624, 630 (Minn. 1995).

I

We first address the district court's decision to admit the defense expert's testimony on ASD. The state argues that this evidentiary decision is erroneous and will critically impact the prosecution of Maddox because he intends to present the evidence as "an excuse for killing his wife." Maddox argues that this testimony is intended only to

apply to his conduct after Ruth Anne Maddox's death and to respond to the state's theory that his conduct after killing Ruth Anne Maddox reflects his "guilt for intentionally killing his wife." Maddox argues that the expert testimony is necessary to counter "the avalanche of evidence that [is] going to come in about flight, avoidance, cover-up, not reporting, etc."

Maddox pleaded "not guilty," but did not plead "not guilty by reason of mental illness or deficiency," a plea that would permit consideration of Maddox's mental state in a bifurcated trial. *See State v. Provost*, 490 N.W.2d 93, 101-02 (discussing when psychiatric opinion testimony is or is not admissible). Instead, only Maddox's guilt is at issue. Minnesota does not recognize the defense of diminished capacity. *State v. Mills*, 562 N.W.2d 276, 285 (Minn. 1997). And thus, psychiatric evidence is irrelevant to contesting the element of intent or premeditation. *State v. Bouwman*, 328 N.W.2d 703, 704-06 (Minn. 1982). Consequently, when only guilt is at issue, psychiatric opinion testimony on whether a defendant had the requisite mens rea or the capacity to form that mens rea is inadmissible. *Provost*, 490 N.W.2d at 104.

Maddox does not appear to contest that he killed his wife and denies that the ASD testimony would be used in an attempt to show diminished capacity to form intent. Nonetheless, the key issue at trial is likely to be whether Maddox intended to kill Ruth Anne Maddox because this intent is required to prove his guilt of second-degree murder. If Maddox pursues his indicated affirmative defense of self-defense, the jury might believe that the ASD testimony relates to Maddox's claim that his conduct that caused Ruth Anne Maddox's death was triggered by her attack of him. In this context the

evidence is potentially confusing. The district court, at this juncture, has not expressly limited the defense's use of this testimony. Consequently, our analysis of critical impact recognizes the risk that the expert testimony might be misunderstood to suggest that Maddox did not have the capacity to form the intent to kill his wife because he was suffering from ASD. Because Maddox's intent will likely be a central issue at trial and this evidence, without express limitation, could be misused to imply a diminished capacity, we conclude that the pretrial ruling has a critical impact on the state's prosecution.

Having concluded that the state has established the critical-impact prong for its pretrial challenge, we consider the remaining prong of whether the district court clearly and unequivocally erred in deciding to admit the opinion testimony that is summarized in Maddox's proffer. The decision to admit expert testimony is within the sound discretion of the district court and, absent abuse, the exercise of that discretion will be sustained. *State v. Koskela*, 536 N.W.2d 625, 629 (Minn. 1995). But the testimony cannot be offered to prove that Maddox lacked the mental capacity to intend to kill his wife. *See Provost*, 490 N.W.2d at 101 (holding that diminished capacity defense is impermissible in contesting guilt).

Maddox argues, by analogy, that in the context of battered woman syndrome, expert testimony may be admissible to support a defendant's self-defense claim and to explain counterintuitive behavior that might otherwise be interpreted as a lack of credibility, including delay in reporting abuse, making inconsistent statements about abuse, and remaining in an abusive relationship. *See State v. Grecinger*, 569 N.W.2d

189, 195 (Minn. 1997) (discussing admissibility of prosecution's expert testimony on syndrome); *State v. Hennum*, 441 N.W.2d 793, 798 (Minn. 1989) (discussing admissibility of defense expert's testimony on syndrome in support of self-defense claim).

Expert testimony can also be admissible to explain certain counterintuitive behavior by adolescents who experience sexual assault. *See State v. Hall*, 406 N.W.2d 503, 505 (Minn. 1987) (holding that expert testimony to explain typicality of delay in reporting and continued contact with known assailant was admissible). The expert testimony proposed by Maddox, similarly, is being offered to provide an alternative explanation for behavior that may be interpreted by the jury to reflect Maddox's guilt.

The Minnesota Supreme Court has placed limits on the extent of expert testimony that can be offered on battered woman syndrome. An expert cannot testify to whether a defendant or complainant actually suffers from battered woman syndrome or suggest that a complainant was battered, was truthful in reporting abuse, or fit the battered woman syndrome. *Grecinger*, 569 N.W.2d at 197; *Hennum*, 441 N.W.2d at 799. These determinations and the assessment of the witness's credibility must be left to the fact-finder. *Grecinger*, 569 N.W.2d at 197; *Hennum*, 441 N.W.2d at 799. In recognition of the limitations on expert testimony, Maddox told the court that his expert would not testify to whether Maddox suffered from ASD, and the district court ruled that the expert could not offer an opinion equating Maddox's behavior to the characteristics of ASD.

The district court highlighted two of our unpublished cases in determining whether to admit the expert testimony. Although these unpublished decisions are not

precedential, we discuss them briefly because the district court cited them as part of the reason for its ruling. In *State v. Gilbertson*, we reversed the district court's allowance of expert testimony on PTSD because it was offered to negate the knowledge requirement for the crime of leaving-the-scene vehicular homicide. A07-516, 2007 WL 3072100, *3-4 (Minn. App. Oct. 17, 2007). In *State v. Sanford*, a prosecution for methamphetamine possession, we reversed the district court's exclusion of expert testimony on PTSD because it was offered for the admissible purpose of providing a different explanation for the defendant's post-arrest conduct than the state's theory that the defendant was under the influence of methamphetamine. No. A07-1402, 2008 WL 4776713, *3 (Minn. App. Nov. 4, 2008). Although one case identifies reversible error in the inclusion and the other in the exclusion of similar evidence, the cases are consistent in holding that expert testimony is admissible to explain a defendant's behavior, but it is not admissible to show absence of guilt based on a diminished capacity to form the required mental state to commit the crime.

We conclude that expert testimony on ASD may be admitted for the limited purpose of offering an alternative explanation for Maddox's behavior after he killed Ruth Anne Maddox. This is consistent with the district court's ruling that the expert cannot offer an opinion on whether Maddox suffered from ASD or whether his behavior fits a diagnosis of ASD.

We are mindful, however, of the state's admonition that allowing expert evidence on ASD risks misuse of the evidence to attempt to show that Maddox was not capable of intending to kill Ruth Anne Maddox. The question of whether the probative value of

evidence is "substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury" is left to the discretion of the court. Minn. R. Evid. 403; *State v. Pearson*, 775 N.W.2d 155, 160 (Minn. 2009); *see also Grecinger*, 569 N.W.2d at 196 (subjecting expert testimony on battered woman syndrome to rule 403 balancing); *Hall*, 406 N.W.2d at 505 (subjecting expert testimony on characteristics of adolescents experiencing sexual abuse to rule 403 balancing).

The record demonstrates that the district court is well aware of the balance necessary to assure a fair trial to both Maddox and the state and of the importance of guarding against the jury's possible misuse of the evidence at trial. The on-record discussion of this issue and the district court's statement that the testimony will be "carefully circumscribed," demonstrate the district court's intention to monitor the limits of the permissible content and use of the expert testimony. This monitoring may result in a cautionary instruction to the jury that the expert evidence is admitted only on the issue of offering an alternative explanation for Maddox's behavior after he killed Ruth Anne Maddox and not on the issue of intent. We conclude that, based on the record presented in this appeal, the district court did not abuse its discretion in ruling that Maddox's expert testimony on ASD, properly circumscribed, is admissible at trial.

II

The second evidentiary issue is the admissibility of the e-mail evidence that the district court sealed following its in camera review. The district court concluded that the e-mails in their current form were unfairly prejudicial but stated that they may be admissible in a redacted or summarized form depending on the development of the case

at trial. The state argues that the e-mails are relevant to show that Maddox was motivated to kill his wife by his desire to prevent her from disclosing the e-mails to others. And the state asserts that the district court's decision not to admit the e-mails in their present form critically impacts its case because it prevents it from proving motive, which is relevant to showing intent.

We conclude that the state has failed to show that the ruling significantly reduces the likelihood of its successful prosecution of the second-degree-murder charge. Importantly, the state has not shown that it needs the detail contained in the e-mails to show that Maddox would have acted to prevent their disclosure and to present fully its theory that the e-mails provided Maddox a motive to kill his wife. Redaction or summarizing does not prevent the jury from understanding the nature of the e-mails' content and their possible effect on Maddox. The district court's ruling on the evidence, as it was presented, does not foreclose the state from presenting this evidence, in an edited or redacted form, to argue motive. Because the prosecution failed to meet the threshold requirement of satisfying the critical-impact prong, we do not address the district court's exercise of discretion in determining that the prejudicial effect of the unedited and unredacted e-mails outweighed their probative value.

III

The state raises a third evidentiary issue—that the district court abused its discretion by deferring a ruling on the admissibility of a redacted or summarized form of the e-mails as part of the state's case-in-chief or as rebuttal evidence and also by

deferring a ruling on the admissibility of out-of-court statements that Ruth Anne Maddox allegedly made to friends and coworkers.

In an attempt to obtain a final ruling, the prosecutor made an offer of proof on how the e-mail evidence was tied to Maddox and, in turn, the relevance of the e-mail evidence to the state's case. Referring to several of the statements by Ruth Anne Maddox, the prosecutor stated:

> Basically we're talking about some e-mails that Ruth Anne Maddox found on the defendant's computer that she confronted him about probably back in 2007 that she told other people about . . . . [S]he kept those, told other people that she would have those e-mails or that material at work because she didn't want the defendant to find it around their home. The day before she disappeared . . . she told other people that she had told the defendant she [would show] those e-mails, to the defendant's family. Because of the nature of the e-mails, he would not want them disclosed. She told other people that she would have them or use them as leverage in her divorce . . . . The day before she disappeared, she told the defendant that she was going to disclose [the e-mails].

In ruling on this issue, the district court noted the number of times that the phrase "she told other people" appeared in the offer of proof and the equivalent amount of hearsay evidence that was involved in tying the e-mails to Maddox. In light of these significant evidentiary problems, the district court concluded that it could not make a definitive ruling on admissibility until it could reasonably determine whether some of the statements were within an exception to the hearsay rule and whether the state could establish a foundation for the e-mail evidence.

District courts "have discretion in managing the trials before them." *State v. Erickson*, 610 N.W.2d 335, 341 (Minn. 2000). No caselaw, rule, or standard of conduct

prevents a district court from deferring judgment until the record for an evidentiary ruling is complete. *See State v. Reed*, 737 N.W.2d 572, 589 (Minn. 2007) (holding that district court did not err in waiting to rule on admissibility of prior conviction). And the supreme court has declined to require district courts to make rulings before the record necessary to provide a basis for the ruling is established. *Id.* Similarly, we have declined to answer a certified question when it "deals imprecisely with details the defendant proposes to prove [and] calls for a declaration of the discretion of the [district] court." *State v. Kvale*, 352 N.W.2d 137, 140 (Minn. App. 1984). Also, we have previously dismissed a pretrial appeal when the state's argument for critical impact was premised on its speculation of the district court's deferred evidentiary rulings. *State v. Jones*, 518 N.W.2d 67, 69 (Minn. App. 1994) (stating that prosecution cannot "premise critical impact on a series of evidentiary rulings that may or may not follow [the ruling from which appeal was taken]"), *review denied* (July 27, 1994).

The prosecution is essentially arguing that its inability to know if and how much "motive" evidence will be admitted substantially decreases the likelihood of successful prosecution. But the state did not move for a ruling in limine on this evidence until Maddox sought to exclude it. And it is the nature of a trial and the rules of evidence that neither the prosecution nor the defense can know in advance and with certainty all of the evidence that will be admitted. If the district court's deferral of an evidentiary ruling equated to critical impact, the district court would be forced to make these evidentiary determinations before the impact of unforeseen testimony could be known. *See State v. DeWald*, 464 N.W.2d 500, 504-05 (Minn. 1991) (holding that district court should defer

final *Spreigl* ruling until trial to ensure that decision is based on record as developed at trial). On this record we are disinclined to interfere with the district court's management of the trial or its reasonable conclusion that it cannot make a definitive determination on an inadequate record. And we conclude that the prosecution cannot show that the district court's decision to defer rulings on the admissibility of the e-mails in a redacted or summary form and the statements that Ruth Anne Maddox allegedly "told" to "other people" has a critical impact on its case.

Affirmed.