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**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-1094**

State of Minnesota,
Respondent,

vs.

Kyle Richard Greene,
Appellant.

**Filed May 7, 2018
Affirmed
Florey, Judge**

Kandiyohi County District Court
File No. 34-VB-17-410

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

Shane D. Baker, Kandiyohi County Attorney, Aaron P. Welch, Assistant County Attorney,
Willmar, Minnesota (for respondent)

Kyle Greene, Grove City, Minnesota (pro se appellant)

Considered and decided by Florey, Presiding Judge; Larkin, Judge; and Bratvold,
Judge.

UNPUBLISHED OPINION

FLOREY, Judge

Appellant was convicted of driving after suspension of his license. On appeal, he
argues that the district court abused its discretion by denying admission of a driver's-

license-application receipt into evidence and that his trial was held in violation of his right to a speedy trial. We affirm.

FACTS

On the night of February 16, 2017, a Kandiyohi County sheriff's deputy spotted a car driving with a burned-out headlight. The deputy initiated a traffic stop and encountered the driver, appellant Kyle Richard Greene. Greene was driving with a suspended license, and the deputy issued Greene a citation for driving after suspension.

Greene appeared in court pro se and entered a not-guilty plea on March 15, 2017. On April 12, Greene again appeared pro se for an evidentiary hearing where he requested that his case be dismissed for lack of probable cause. The district court denied that request. On May 15, Greene filed a motion to dismiss his case for a violation of his right to a speedy trial. The state responded that neither party had made a demand for a speedy trial but it would interpret Greene's current motion as a speedy-trial demand.

Greene's trial was held on June 15. Greene testified in his own defense and admitted to driving the car, but argued that he was unaware his license was suspended. Greene attempted to introduce what he claimed was his driver's license but was actually a receipt for a driver's-license application he had completed in January 2017. The district court denied this evidence because it was "irrelevant to the issue of whether or not Mr. Greene's privileges to drive were suspended or not." The jury ultimately found Greene guilty. Greene appealed pro se to this court.

DECISION

I. The district court did not abuse its discretion by refusing to admit into evidence Greene’s application receipt for a driver’s license.

Greene argues that the district court abused its discretion when it refused to admit into evidence his application receipt for a driver’s license. “Evidentiary rulings rest within the sound discretion of the [district] court and will not be reversed absent a clear abuse of discretion.” *State v. Amos*, 658 N.W.2d 201, 203 (Minn. 2003). A district court abuses its discretion when it misapplies the law. *Johnson v. State*, 733 N.W.2d 834, 836 (Minn. App. 2007), *review denied* (Minn. Sept. 18, 2007). But even an erroneous evidentiary ruling will not be reversed on appeal unless the appellant demonstrates “a reasonable possibility that the verdict might have been different if the evidence had been admitted.” *State v. Post*, 512 N.W.2d 99, 102 (Minn. 1994). It is the appellant’s burden to demonstrate that the district court abused its discretion and that appellant was prejudiced. *Amos*, 658 N.W.2d at 203.

Greene attempted to introduce what he described as “a duplicate of [his] driver’s license that [he] had” when he was pulled over. The district court refused to admit the evidence because—contrary to Greene’s claim—the document was an application *receipt* for a driver’s license, not a duplicate of his license. In making its decision, the court said, “The application for renewal at the local DMV would be irrelevant to the issue of whether or not Mr. Greene’s privileges to drive were suspended or not.” Evidence is relevant if it has “any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the

evidence.” Minn. R. Evid. 401. The question at Greene’s trial was whether his driving privileges were suspended on February 16, 2017. The existence of a receipt for a driver’s-license application—completed before Greene was cited for driving after suspension—did not make any fact central to this main question more or less probable.

Further, admitting the application receipt would have been confusing for the jury because Greene insisted it was a “duplicate” of his license—which it was not. Requiring the state to produce evidence explaining why this receipt was not a valid substitute for a license would have needlessly muddied the waters—especially where the receipt did not speak to whether Greene’s driving privileges were suspended. Even relevant evidence may be excluded if it could be misleading or confusing for the jury. Minn. R. Evid. 403. For these reasons, we conclude that the application receipt was not relevant, and any possible probative value was outweighed by its confusing or misleading nature.

Even if we were to agree with Greene that his application receipt had some relevancy, it would still be inappropriate to overturn the district court’s decision. On appeal, Greene shoulders the burden of demonstrating that there is a reasonable probability that his verdict would be different if the evidence had been admitted. *Post*, 512 N.W.2d at 102. He has not met his burden. The evidence shows that the department of public safety sent Greene a notice in September 2016 informing him that, effective in October, his license would be suspended. A certified driving record from April 2017 shows that the last activity in Greene’s driving history was the October suspension. Faced with this evidence, we believe that Greene fails to demonstrate a reasonable probability that his verdict would be different if his application receipt had been admitted.

For all the reasons discussed, we conclude that the district court did not abuse its discretion in refusing to admit Greene's application receipt at trial.

II. Greene's speedy trial right was not violated.

Greene argues that his right to a speedy trial was violated because his trial was held 92 days after he entered his not-guilty plea. "A speedy-trial challenge presents a constitutional question subject to de novo review." *State v. Griffin*, 760 N.W.2d 336, 339 (Minn. App. 2009). "A defendant must be tried as soon as possible after entry of a plea other than guilty. On demand of any party after entry of such plea, the trial must start within 60 days unless the court finds good cause for a later trial date." Minn. R. Crim. P. 11.09(b). Any delay is a "triggering mechanism" in which the length of that delay determines if further review is necessary. *State v. Windish*, 590 N.W.2d 311, 315 (Minn. 1999). Where the length of the delay is presumptively prejudicial, courts must make further inquiry into the reasons for the delay, whether the defendant asserted his right to a speedy trial, and whether the delay prejudiced the defendant. *Id.* In Minnesota, any delays above 60 days from the *date of the demand* for a speedy trial raise a presumption that a speedy-trial violation has occurred. *Id.* at 315-16. Still, the 60-day limit only means that any delay beyond then raises a presumption that a violation occurred. *Id.* at 316.

Greene entered his not-guilty plea on March 15, 2017, and his trial was held 92 days later, on June 15. However, Greene never demanded a speedy trial. At best, Greene's motion on May 15 requesting that his case be dismissed for a speedy-trial violation could be construed as a speedy-trial demand. Even then, his trial was held 31 days later, on June 15. Greene's argument incorrectly assumes that his 60-day speedy-trial clock started

ticking after he entered his not-guilty plea, but the speedy-trial requirement is triggered from the date of demand. *Id.* at 315-16. Given that Greene’s trial was held within 60 days of his possible demand for a speedy trial, we determine that Greene’s speedy-trial right was not violated.¹

Affirmed.

¹ Greene makes additional arguments in his brief, including that the state failed to disclose exculpatory evidence, that the district court abused its discretion by not using more context around a case quotation in a written order, and what appears to be a civil tort-law claim for conversion. Greene failed to raise these claims in the district court, and we decline to consider them for the first time on appeal. *State v. Hughes*, 758 N.W.2d 577, 582 (Minn. 2008) (explaining that appellate courts generally will not consider issues raised for the first time on appeal).