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Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-1814**

State of Minnesota,
Appellant,

vs.

William Thomas Chevre, Jr.,
Respondent.

**Filed June 10, 2019
Reversed and remanded
Florey, Judge**

Ramsey County District Court
File No. 62-CR-17-6370

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

John Choi, Ramsey County Attorney, Thomas R. Ragatz, Assistant County Attorney, St. Paul, Minnesota (for appellant)

Drake D. Metzger, Brice M. Norton, Metzger Law Firm, LLC, Minneapolis, Minnesota (for respondent)

Considered and decided by Bjorkman, Presiding Judge; Florey, Judge; and Cochran, Judge.

UNPUBLISHED OPINION

FLOREY, Judge

The state challenges the district court's dismissal of a complaint for lack of jurisdiction under the Uniform Mandatory Disposition of Detainers Act (UMDDA), Minn.

Stat. § 629.292 (2016), arguing respondent's motion to suppress evidence tolled the six-month statutory time period for bringing respondent to trial. Because respondent's conduct caused a delay in bringing the matter to trial, we reverse and remand.

FACTS

On August 25, 2017, appellant State of Minnesota charged respondent William Thomas Chevre, Jr., with two counts of ineligible possession of a firearm or ammunition under Minn. Stat. § 624.713, subd. 1(2) (2016), and two counts of second-degree assault with a dangerous weapon under Minn. Stat. § 609.222, subd. 1 (2016).

In early October 2017, while incarcerated on an unrelated offense, respondent requested final disposition of his untried complaint within six months under the UMDDA, Minn. Stat. § 629.292. The state received his demand on October 16, and the demand was filed with district court administration on October 19.

On October 18, respondent filed a motion to suppress. The district court held a *Rasmussen* hearing in March 2018, and at the hearing, defense counsel requested additional time to brief the issues. The parties submitted their briefs in April. On July 5, 2018, before the district court ruled on respondent's suppression motion, respondent moved to dismiss the complaint, arguing that the district court no longer had jurisdiction because the UMDDA's six-month period for prosecuting him had expired.

On July 24, the district court issued an order denying respondent's motion to suppress evidence. In November, the district court dismissed the complaint, finding that the UMDDA time period had expired on April 16, 2018. The district court found that respondent's motion to suppress did not toll the six-month UMDDA deadline and that the

state did not request to extend the deadline for good cause. Because respondent was not brought to trial by April 16, the district court determined that it no longer had jurisdiction. The state appeals.

DECISION

To proceed with a pretrial appeal, the state must first demonstrate that the district court's error "will have a critical impact on the outcome of the trial." Minn. R. Crim. P. 28.04, subd. 2(1). "Dismissal of a complaint satisfies the critical-impact requirement." *State v. Gerard*, 832 N.W.2d 314, 317 (Minn. App. 2013), *review denied* (Minn. Sept. 17, 2013). Because the district court dismissed the state's criminal complaint against respondent, the state has satisfied the critical-impact test.

The state asserts that the district court erred in determining that it lacked jurisdiction under the UMDDA, arguing that respondent's suppression motion caused delay in bringing the matter to trial and tolled the six-month UMDDA time period. Whether a district court retains jurisdiction is a legal issue, which we review de novo. *State v. Wilson*, 632 N.W.2d 225, 229 (Minn. 2001). The UMDDA allows "[a]ny person who is imprisoned in a penal or correctional institution . . . [to] request final disposition of any untried indictment or complaint pending against the person in this state." Minn. Stat. § 629.292, subd. 1(a). "Within six months after the receipt of the request . . . or within such additional time as the court for good cause shown in open court may grant," a trial must be held on such indictment. *Id.*, subd. 3. If a trial is not held within that period, "no court of this state shall any longer have jurisdiction . . . and the court shall dismiss [the indictment] with prejudice." *Id.*

The purpose of the UMDDA is to “establish a prisoner’s right to a speedy disposition of untried charges.” *State v. Miller*, 525 N.W.2d 576, 583 (Minn. App. 1994). “The UMDDA is designed to provide a speedy trial for prisoners who face additional criminal charges,” and in so doing, the UMDDA “addresses the concerns of prisoners who, because of pending charges, are unable to participate in work programs and other rehabilitative prison services.” *State v. Vonbehren*, 777 N.W.2d 48, 50-51 (Minn. App. 2010), *review denied* (Minn. Mar. 16, 2010). Additional time may be added to the six-month period when the district court finds good cause, when the parties stipulate to a continuance, or when a continuance is granted “on notice to the attorney of record and opportunity for the attorney to be heard.” Minn. Stat. § 629.292, subd. 3. None of these occurred in this case.

But the six-month statutory time period under the UMDDA may be tolled when the defendant causes or creates a delay in bringing the matter to trial. *Wilson*, 632 N.W.2d at 230; *see also State v. Kurz*, 685 N.W.2d 447, 450 (Minn. App. 2004), *review denied* (Minn. Oct. 27, 2004). In *Wilson*, the supreme court adopted the tolling exception for delay caused by a defendant and concluded that the defendant’s motion to dismiss his charges for a UMDDA violation tolled the six-month time limit. *Id.* at 230. Similarly, in *Kurz*, this court determined that a defendant’s motion to dismiss for lack of probable cause tolled the UMDDA time period. 685 N.W.2d at 450-51. There, this court explained that “[n]othing in *Wilson* suggests that its holding is limited to the narrow facts in that case and cannot be applied to other motions made by defendants.” *Id.* at 450. The court further recognized that a defendant cannot “create a UMDDA violation simply by filing motions.” *Id.* And

“[i]f the district court in such a defendant[-]created delay inadvertently neglects to find good cause and fails to extend the deadline prior to its running, the result of dismissal is absurd.” *Id.*

In this case, the district court determined that it no longer had jurisdiction because respondent was not brought to trial within the UMDDA’s six-month time period and the state did not request to extend the timeline for good cause. In making this determination, the district court rejected the state’s argument that respondent’s motion to suppress tolled the six-month UMDDA time limit, stating that “[t]here is no legal authority that supports the [s]tate’s position that *any* defense motion causes the 180-day timeframe to be tolled.” But the tolling exception, as stated in *Wilson*, is not limited to those factually similar situations where a defendant files a dispositive motion. *See* 632 N.W.2d at 230. And *Kurz* clarified that *Wilson* considered “a variety of actions by the defendant” that may cause delay and toll the UMDDA time period. 685 N.W.2d at 450.

Here, the totality of respondent’s actions created such a delay. On October 18, 2017, one day before he filed his UMDDA speedy-trial demand, respondent filed a motion to suppress. At a status hearing in November, with trial set to begin the following month, respondent requested a trial continuance to a future trial rotation. Additionally, at the *Rasmussen* hearing in March 2018, defense counsel requested an additional two weeks to brief the issues raised during the hearing, causing a one-month delay for both defense counsel and the state to file their respective briefs. And on July 5, respondent filed a motion to dismiss the complaint for a violation of his UMDDA speedy-trial request. *See Wilson*, 632 N.W.2d at 230 (holding that a defendant’s motion to dismiss for a UMDDA violation

caused a delay in bringing the matter to trial and tolled the six-month time limit). Moreover, throughout the proceedings, respondent made no affirmative assertion requesting to move the matter forward to either address his motion to suppress or proceed with trial under the six-month UMDDA time limit.

Because respondent's conduct caused delay in bringing the matter to trial, the six-month time period under the UMDDA was tolled, and the district court retained jurisdiction to adjudicate the state's charges against respondent. We therefore reverse and remand for proceedings consistent with this opinion.

Reversed and remanded.