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

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A18-2023**

State of Minnesota,  
Respondent,

vs.

Pierre Davonne Ramsey,  
Appellant.

**Filed November 25, 2019  
Affirmed  
Worke, Judge**

Ramsey County District Court  
File No. 62-CR-17-7398

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

John J. Choi, Ramsey County Attorney, Peter R. Marker, Assistant County Attorney,  
St. Paul, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jessica Merz Godes, Assistant  
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Worke, Presiding Judge; Connolly, Judge; and Stauber,  
Judge.\*

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\* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to  
Minn. Const. art. VI, § 10.

## **UNPUBLISHED OPINION**

**WORKE**, Judge

Appellant challenges his convictions of attempted second-degree murder and first-degree assault, arguing that the district court violated his right to a speedy trial. We affirm.

### **FACTS**

On October 2, 2017, appellant Pierre Davonne Ramsey repeatedly stabbed his sister with a knife. On October 3, 2017, the state charged Ramsey with attempted second-degree murder and first-degree assault.

At Ramsey's first appearance on October 4, 2017, his public defender requested that the district court order a rule 20 evaluation and that it be conducted in conjunction with Ramsey's pending rule 20 evaluation for an unrelated unlawful-possession-of-a-firearm charge. The district court ordered Ramsey to undergo an in-custody rule 20 evaluation, which was completed on December 6, 2017. The evaluator found him competent. Ramsey's attorney filed an objection to the rule 20 evaluator's opinion on December 8, 2017.

At a status hearing on December 11, 2017, Ramsey's attorney requested a contested rule 20 hearing. The district court scheduled a contested hearing and then allowed Ramsey to voice his concerns. Ramsey told the district court that he was "getting ineffective counsel" and that he had requested a speedy trial for his unrelated firearm-possession charge. The district court informed Ramsey that his case was being reassigned to a

different public defender who would decide whether to request a new mental-health evaluation.

At a contested hearing on March 13, 2018, Ramsey was represented by a different public defender who withdrew the motion challenging the competency opinion. The prosecutor requested that the district court schedule a pretrial hearing for Ramsey's attempted-murder and assault charges. The district court scheduled the pretrial hearing on May 14, 2018, and again allowed Ramsey to voice his concerns. Ramsey expressed his belief that he "put in a speedy trial" for his firearm-possession charge and that the district court was violating his right to a speedy trial because it kept pushing his court dates back. The prosecutor noted that Ramsey had not made a speedy-trial demand for his attempted-murder and assault charges. The district court clarified that Ramsey had requested a speedy trial for his unlawful firearm-possession charge, but that it had released him after 120 days.

Ramsey then claimed that he had made a speedy-trial request for his attempted-murder and assault charges at his first appearance on October 4 and again at the December 11 hearing. The district court noted that Ramsey's concern about a speedy-trial violation was correct with respect to his firearm-possession charge, but that because his attorney had moved to contest the findings of the rule 20 evaluation, all proceedings against him were suspended. Ramsey then stated that he had demanded a speedy trial for his firearm-possession charge in April. The district court informed Ramsey that while he was correct, it was not going to accept his speedy-trial demand because of the hold on his cases due to the rule 20 proceedings. After this discussion, the district court accepted the

competency findings of the rule 20 evaluator, found probable cause for attempted second-degree murder and first-degree assault, and entered pleas of not guilty on Ramsey's behalf.

At his pretrial hearing on May 14, 2018, the district court scheduled Ramsey's jury trial for June 25, 2018. The district court then allowed Ramsey to voice his concerns. Once again, Ramsey raised his concern that the district court was violating his right to a speedy trial. He asserted that he had requested a speedy trial on October 4, 2017, and again on December 11, 2017.

The district court explained to Ramsey that he had requested a speedy trial for his firearm-possession charge. Ramsey then told the district court that it had violated his right to a speedy trial because he had made his demand at the March 13 hearing. The district court informed Ramsey that his trial would occur on June 25, 2018. When Ramsey continued to express his belief that the district court was ignoring his speedy-trial demand, the district court noted that Ramsey had clearly made a speedy-trial demand on May 14, 2018.

Ramsey's jury trial began on June 25, 2018. The jury found him guilty of attempted second-degree murder and first-degree assault. The district court sentenced Ramsey to 240 months in prison. This appeal followed.

## **D E C I S I O N**

Ramsey contends that his constitutional right to a speedy trial was violated. *See* U.S. Const. amend. VI (guaranteeing criminal defendant right to speedy trial); Minn. Const. art. I, § 6 (same). This court reviews de novo whether a defendant has been denied

his constitutional right to a speedy trial. *State v. Osorio*, 891 N.W.2d 620, 627 (Minn. 2017).

To determine whether a delay deprived a defendant of his right to a speedy trial, Minnesota has adopted the four-factor test set forth by the United States Supreme Court in *Barker v. Wingo*. *Id.* at 627. These factors are: “(1) the length of the delay; (2) the reason for the delay; (3) whether the defendant asserted his or her right to a speedy trial; and (4) whether the delay prejudiced the defendant.” *State v. Windish*, 590 N.W.2d 311, 315 (Minn. 1999) (citing *Barker v. Wingo*, 407 U.S. 514, 530, 92 S. Ct. 2182, 2192 (1972)). None of these factors is either necessary or sufficient to find a constitutional speedy-trial violation; they are related, however, and must be considered with all of the relevant circumstances. *Id.* The remedy for the denial of the right to a speedy trial is dismissal of the case. *Osorio*, 891 N.W.2d at 627.

### ***Length of delay***

The first factor is the length of the delay. The length of the delay functions as both a factor and a triggering mechanism—a “presumptively prejudicial” delay is required before consideration of the remaining factors is necessary. *Windish*, 590 N.W.2d at 315. The right to a speedy trial attaches either when a defendant is formally charged or arrested. *Osorio*, 891 N.W.2d at 627. Delay is usually calculated from the point of attachment and a six-month delay is presumptively prejudicial. *Id.* at 628. However, if a defendant demands a speedy trial pursuant to Minn. R. Crim. P. 11.09, a delay of more than 60 days from the demand is presumed prejudicial. *Windish*, 590 N.W.2d at 315-16.

Here, our review of the record shows that Ramsey demanded a speedy trial no earlier than May 14, 2018. Ramsey's trial occurred on June 25, 2018. This was 42 days after his speedy-trial demand. Therefore, we conclude that the delay was not presumptively prejudicial and insufficient to trigger inquiry into the remaining *Barker* factors.

**Affirmed.**