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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0429**

State of Minnesota,
Respondent,

vs.

Daniel Edward Nixon,
Appellant.

**Filed April 5, 2021
Affirmed
Cochran, Judge**

Ramsey County District Court
File No. 62-CR-19-76

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

John J. Choi, Ramsey County Attorney, Alexandra Meyer, Assistant County Attorney, St. Paul, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Andrea Barts, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Larkin, Presiding Judge; Cochran, Judge; and
Gaïtas, Judge.

NONPRECEDENTIAL OPINION

COCHRAN, Judge

Appellant was convicted of second-degree burglary under Minn. Stat. § 609.582, subd. 2(a)(4) (2016), for breaking into a Zantigo restaurant. In this direct appeal, he argues that (1) the underlying charge was not brought to trial within the deadline for speedy

disposition under the Uniform Mandatory Disposition of Detainers Act (UMDDA), (2) the district court erred by denying his motion to suppress evidence against him, and (3) the district court abused its discretion by admitting evidence of another burglary that occurred on the same night in the same general area. We conclude that the district court did not abuse its discretion by finding good cause to extend the deadline under the UMDDA. We also conclude that the district court did not err by denying appellant's motion to suppress and did not abuse its discretion by admitting evidence of the other burglary. Therefore, we affirm.

FACTS

This case is one of several related appeals brought by appellant Daniel Edward Nixon. The related appeals all involve burglary convictions arising from charges filed on the same day. The procedural facts underlying this case and the related appeals are more fully set forth in *State v. Nixon*, No. A20-0414, 2021 WL 669069 (Minn. App. Feb. 22, 2021). The following summarizes the facts relevant to this case.

The Zantigo Burglary

In 2018, the St. Paul police department investigated a string of commercial burglaries in the city. One of the burglaries occurred in the early morning hours of May 9, 2018, at a Zantigo restaurant. A surveillance video showed that the burglar used a tool to break the drive-through window of the restaurant around 2:40 a.m. The burglar checked the cash registers, unsuccessfully attempted to open the restaurant's safe, and then exited through the restaurant's back door. The video showed that the burglar was a man wearing a black jacket, a black baseball cap with a circular white emblem, a white surgical mask,

and distinctive red and black gloves embossed with the word “Hardy.” He was also carrying a yellow-green bag with black handles.

The Ha Tien Market Burglary

Earlier that same night, a burglary occurred at Ha Tien Market. A video recording of that burglary revealed that the Ha Tien Market burglar wore the same clothing and carried the same bag. After the burglar left the building, he entered the passenger seat of a vehicle—a white Chevrolet Impala with a black rubber strip along its side, a trunk spoiler, and unique rust-like marks on the wheels.

The Information Alert and Resulting Seizure of the Vehicle

On May 22, 2018, St. Paul police distributed a department-wide information alert. The alert provided that a “suspect has burglarized the HA TIEN MARKET . . . and Augustines . . . and possibly other businesses. Suspect usually has another person with him waiting in the area of the burglary and then picks suspect up.” The alert also contained video stills of the suspect and the suspect’s vehicle, which were captured by surveillance cameras.¹ One of the video stills showed the burglar wearing a black jacket, a black baseball cap, a white surgical mask, and distinctive red and black gloves. The video stills of the vehicle showed an early-model, white Impala with a trunk spoiler, tinted windows, and a horizontal black strip running along the side of the vehicle.

¹ The video stills of the burglary suspect in the information alert were captured during an earlier burglary of the Ha Tien Market on April 10, 2018. The video stills of the suspect’s vehicle came from the second Ha Tien Market burglary and a burglary of Augustine’s Bar & Bakery a few days before. Given the similarities between the burglaries—including the suspect’s appearance, clothing, and method of entry—the St. Paul police believed that the same suspect committed all three burglaries.

On May 25, 2018, a St. Paul police officer stopped a white Chevrolet Impala that he believed matched the suspect's vehicle. Like the Impala depicted in the information alert, the car had a trunk spoiler, dark tinted windows, a black rubber strip running along its side, and "unique holes" in its wheels. The officer identified Nixon as the driver and saw a passenger in the front passenger seat. Because the car's windows were heavily tinted, the officer asked Nixon to roll down the rear driver's-side window so that he could ensure that there were no other passengers in the car. On the backseat, the officer saw a black baseball cap, multicolored gloves consistent with those pictured in the information alert, and a "yellow band-type thing which was later determined to be a slingshot." Based upon his observations, the officer believed that Nixon and his passenger were involved in the string of burglaries. He then identified Nixon's passenger as Nixon's brother, and, after another officer arrived, arrested both of the men.

The police impounded the Impala and obtained a warrant to search the car. In the car, the officers found red and black "Hardy" brand gloves, a slingshot, a set of walkie-talkies, and two black baseball caps, one of which had a circular white Converse emblem. In the trunk of the Impala, officers found a black jacket, a reciprocating saw, and a "yellow RYOBI" bag with "black handles that matche[d] consistently with the bag used during the burglaries." The bag contained various tools, including a sledgehammer, a screwdriver, and multiple reciprocating saw blades. A laboratory analysis identified Nixon's DNA on one of the gloves recovered from the car.

The state charged Nixon with second-degree burglary for the burglary of the Zantigo restaurant. The state also charged Nixon, by separate complaints, with seven other burglaries. The complaints were all filed on the same day.

On January 9, 2019, Nixon requested final disposition of the Zantigo burglary charge and his other burglary charges within the six-month timeline set forth in the UMDDA. *See* Minn. Stat. § 629.292, subds. 1, 3 (2020) (providing that upon receipt of a prisoner's request, the prisoner must be brought to trial within six months or within such additional time as the court may grant for good cause shown).² Due to Nixon's UMDDA request, the district court planned "to get all [eight burglary] cases tried in time before July." The district court also granted Nixon's petition to proceed pro se in all eight cases, allowing him to represent himself. Nixon thereafter moved to suppress the evidence that was seized from the Impala. Nixon's motion applied to all eight burglary cases.

At a contested omnibus hearing in May 2019, the district court denied Nixon's motion to suppress. The district court concluded that the police had reasonable, articulable suspicion to stop Nixon's vehicle and probable cause to seize and later search the vehicle pursuant to a search warrant. At that same hearing, the district court addressed the state's intention to introduce *Spriegl* evidence³ during each of Nixon's burglary trials. The *Spriegl* evidence that the state sought to introduce was evidence of similar burglaries that occurred close in time to each other. The district court granted the state's motion but, for purposes

² Nixon was in prison for an unrelated conviction at the time of the request.

³ *Spriegl* evidence refers to evidence of prior crimes or other bad acts. *State v. Kennedy*, 585 N.W.2d 385, 389 (Minn. 1998) (citing *State v. Spriegl*, 139 N.W.2d 167 (Minn. 1965)).

of the Zantigo-burglary trial, limited the *Spriegl* evidence to evidence of the Ha Tien Market burglary that occurred the same night as the Zantigo burglary.

After Nixon's first two trials resulted in convictions, Nixon became uncooperative. Soon thereafter, Nixon waived his right to a jury trial on the remaining burglary charges (including the Zantigo charge) and agreed to submit those charges to the district court for a trial on stipulated evidence. To facilitate the process, the parties agreed that the state would mail stipulation packets for each of the cases to Nixon in one-week intervals and Nixon would sign and return the information, which would then be submitted to the district court. Under the agreed-upon schedule, the district court still expected to be able to issue its decisions in the remaining six burglary cases within the UMDDA's six-month timeline.

The state sent the first two stipulation packets to Nixon at the Department of Corrections (DOC) prison where Nixon was incarcerated. Nixon had returned the first stipulation packet, but the state never received the second packet. The state then stopped sending stipulation packets to Nixon under the assumption that Nixon was again refusing to cooperate. And, on June 20, 2019, the state filed a motion requesting an extension of the six-month time limit imposed by the UMDDA for the remaining five cases (including the Zantigo case) on the basis of good cause. In its motion, the state argued that Nixon's "failure to communicate with the state has caused a delay in having the pending matters reach a final determination" and that a continuance was "necessary to give the parties an opportunity to fully develop the stipulations for the agreed upon court trials that are pending before the court."

On June 26, 2019, the district court held a hearing on the state's motion. At the hearing, Nixon explained that he had signed and attempted to return the second stipulation packet, but the DOC had confiscated it as contraband. After hearing from the parties, the district court granted the state's request for a continuance. The district court determined that "based on everything that we've discussed, and the reality of this timeline, in order to give this Court an appropriate length of time . . . to render a thoughtful decision in the five remaining matters, the Court does find there is good cause to extend all of these matters."

The original six-month deadline established by Nixon's UMDDA request expired on July 9, 2019. On August 9, 2019, Nixon signed the state's stipulation related to the burglary charge in this case, and returned the packet to the state. The district court subsequently filed its Order, Findings of Fact, and Conclusions of Law on September 3, 2019. The court found Nixon guilty of the charged offense and sentenced him to 90 months in prison. This appeal follows.

DECISION

Nixon makes three alternative arguments on appeal. First, he argues that his conviction for the Zantigo burglary must be reversed and the charge dismissed because the district court abused its discretion by extending the deadline for disposition under the UMDDA. Second, he argues that his conviction must be reversed because the district court erred by denying his motion to suppress the evidence found in his car. Third, he argues that he is entitled to a new trial because the district court abused its discretion by admitting *Spreigl* evidence of the Ha Tien Market burglary. We address each of Nixon's arguments in turn.

I. The district court did not abuse its discretion by granting the state’s motion to extend the six-month disposition deadline under the UMDDA.

The UMDDA allows an incarcerated person to “request final disposition of any untried indictment or complaint pending against the person in this state.” Minn. Stat. § 629.292, subd. 1(a). Once the request is received, the prisoner is entitled to a trial “[w]ithin 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.” *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.*

Here, the district court found that good cause existed to extend the UMDDA’s six-month deadline for disposition of the case. Nixon challenges that decision, arguing that good cause did not exist to extend the six-month deadline and that his conviction must therefore be reversed.

We have previously addressed Nixon’s argument concerning the UMDDA in *Nixon*, 2021 WL 669069, at *3-6. That case involved nearly identical facts to those in this case with respect to the UMDDA issue, with the only difference being the time between Nixon’s request for speedy disposition and his burglary conviction in each case. Nixon was convicted in that case one month after his conviction in this case. There, we concluded that the district court did not abuse its discretion by finding that good cause existed to extend the UMDDA deadline. *Nixon*, 2021 WL 669069, at *5. We reasoned that the parties’ agreed-upon process for disposing of all eight cases within the statutory period was frustrated by the DOC’s seizure of the second stipulation packet, and that the resulting

delay in disposing of the remaining five cases was the fault of neither the prosecution nor the defense. *Id.* at *4-5. We noted that the charges were interrelated and the state's proof was based on circumstantial and *Spreigl* evidence, making the necessary factual findings more complicated. *Id.* at *5. Therefore, we concluded that it was not unreasonable for the district court to allocate sufficient time to consider and make written findings in each of the remaining cases. *Id.*; see Minn. R. Crim. P. 26.01, subd. 3. Based on the unique circumstances presented, we concluded in *Nixon* that the district court did not abuse its discretion by finding good cause to extend the disposition deadline under the UMDDA. *Nixon*, 2021 WL 669069, at *5.

We further determined the district court did not violate Nixon's constitutional right to a speedy trial. *Id.* at *5-6 (applying the factors set forth in *Barker v. Wingo*, 407 U.S. 514, 92 S. Ct. 2182 (1972)). We highlighted that Nixon's defense was not prejudiced by the relatively short delay and noted that there was no indication that the state acted in bad faith. *Id.*

We discern no reason for reaching a different conclusion in this case, and we therefore rely on the analysis set forth in our prior opinion. The district court did not abuse its discretion by granting the state's motion to extend the six-month deadline under the UMDDA.

II. The district court did not err by denying Nixon's motion to suppress evidence against him.

Nixon next argues that the district court erred by denying his motion to suppress the evidence found in his car. He concedes that the police had reasonable suspicion to conduct

the traffic stop. But he argues that the police lacked probable cause to seize his car because the police did not have reason to believe that “the car Nixon was driving contained contraband or evidence of a crime when they seized it.”

As with the UMDDA issue, we also addressed Nixon’s argument regarding the evidence found in his car in our prior opinion in *Nixon*, 2021 WL 669069, at *6-7. There, we concluded that the police had probable cause to seize the Impala under the totality of the circumstances surrounding the traffic stop. *Id.* at *7. Specifically, we determined that the police had probable cause to seize the Impala based on the similarities between the car and the Impala depicted in the information alert, the similarities between Nixon’s appearance and that of the burglary suspect, the fact that Nixon was travelling with a passenger, and the police officer’s observation of items in Nixon’s backseat that resembled items used and worn by the suspect during the burglaries. *Id.* at *6-7. We again rely on our analysis in our prior opinion and conclude that the district court did not err by denying Nixon’s motion to suppress the evidence found in his car.

III. The district court did not abuse its discretion by admitting *Spreigl* evidence of the Ha Tien Market burglary.

Lastly, Nixon argues that the district court erred by admitting evidence of the burglary of Ha Tien Market. This court reviews a district court’s decision to admit evidence of prior bad acts for an abuse of discretion. *State v. Rossberg*, 851 N.W.2d 609, 615 (Minn. 2014). The defendant bears the burden of showing that an abuse of discretion occurred and that the defendant was prejudiced as a result. *Id.*

Evidence of a defendant’s other bad acts, or *Spreigl* evidence, is “not admissible to

demonstrate that the defendant (a) has a propensity to commit crimes and (b) acted in accord with that propensity.” *State v. Smith*, 932 N.W.2d 257, 266 (Minn. 2019) (citing Minn. R. Evid. 404(b)). But such evidence may be admitted for “limited, specific purposes, including showing motive, intent, knowledge, identity, absence of mistake or accident, or a common scheme or plan.” *Id.* (quotation omitted). To admit *Spreigl* evidence, the following conditions must be satisfied:

- (1) the state must give notice of its intent to admit the evidence;
- (2) the state must clearly indicate what the evidence will be offered to prove; (3) there must be clear and convincing evidence that the defendant participated in the prior act; (4) the evidence must be relevant and material to the state’s case; and
- (5) the probative value of the evidence must not be outweighed by its potential prejudice to the defendant.

State v. Ness, 707 N.W.2d 676, 686 (Minn. 2006).

Here, Nixon focuses on the third factor of the analysis—the “clear and convincing evidence” factor. He challenges the district court’s determination that this factor was met, arguing that the state failed to show by clear and convincing evidence that he burglarized the Ha Tien Market. On that basis, he contends that the district court abused its discretion when it admitted the evidence of the Ha Tien Market burglary as *Spreigl* evidence.⁴ We are not persuaded.

⁴ The state does not directly counter Nixon’s argument regarding the clear and convincing standard. Instead, the state contends that Nixon’s involvement in the Ha Tien Market burglary was shown “beyond a reasonable doubt” because the district court found Nixon guilty of the Ha Tien Market burglary prior to its disposition of the Zantigo burglary case. But because Nixon’s conviction of the Ha Tien Market burglary occurred *after* the district court’s decision to admit the *Spreigl* evidence, we agree with Nixon that the conviction is not relevant to our analysis of whether Nixon’s involvement in the Ha Tien Market burglary was established by clear and convincing evidence. In any event, we need not

The record in this case supports the district court’s conclusion that clear and convincing evidence demonstrated that Nixon was involved in the Ha Tien Market burglary. Surveillance footage from the Ha Tien Market burglary identified the burglar as a male wearing a black baseball cap, a black jacket, and distinctive red gloves. The burglar was also carrying a yellow bag. The burglar fled on foot to a white Chevrolet Impala with a black rubber stripe along the side and a spoiler on the back. On May 25, 2018, Nixon was found driving a white Chevrolet Impala that shared distinctive characteristics with the car captured in the Ha Tien Market surveillance video; his physical appearance was consistent with the burglary suspect; and the police found in the car black baseball caps, a black jacket, a yellow-green bag with black straps; and distinctive black, red, and yellow gloves, all of which matched the items the burglar was seen with in the Ha Tien Market surveillance video. Based on this information in the record, we conclude that the district court did not abuse its discretion by determining that the state had shown by clear and convincing evidence that Nixon participated in the Ha Tien Market burglary.

Nixon argues that the district court erroneously relied on similarities between the two burglaries to establish clear and convincing evidence that Nixon participated in the Ha Tien Market burglary. He argues that similarity between the two incidents “does not prove by clear and convincing evidence that Nixon burglarized Ha Tien” and that, by focusing on the similarities between the burglaries, the court “conflated” two parts of the *Spreigl* analysis: the relevance requirement (the fourth factor) and the clear-and-convincing-

address the state’s argument because the record supports the district court’s conclusion that the clear and convincing standard was met.

evidence requirement (the third factor). We disagree. In deciding to admit the evidence of the Ha Tien Market burglary in this case, the district court applied the correct legal standard. The court expressly found both that the evidence was relevant and that Nixon's involvement in the Ha Tien Market burglary was established by clear and convincing evidence. The district court did not abuse its discretion by admitting the evidence of the Ha Tien Market burglary.

In sum, Nixon has not identified any basis for reversal of his conviction of the Zantigo-burglary charge.

Affirmed.