

STATE OF MINNESOTA

IN SUPREME COURT

A20-1228

Court of Appeals

McKeig, J.

State of Minnesota,

Respondent,

vs.

Filed: July 20, 2022
Office of Appellate Courts

William Deshawn Paige,

Appellant.

Keith Ellison, Attorney General, Peter Magnuson, Assistant Attorney General, Saint Paul, Minnesota; and

Mark S. Rubin, Saint Louis County Attorney, for respondent.

Cathryn Middlebrook, Chief Appellate Public Defender, Jenna Yauch-Erickson, Assistant State Public Defender, Saint Paul, Minnesota, for appellant.

S Y L L A B U S

Trial delays caused by the statewide judicial orders issued in response to the COVID-19 pandemic do not weigh against the State because the orders were prompted by an external factor, and consequently, in balance with the other *Barker* factors, the appellant's right to a speedy trial was not violated.

Affirmed.

OPINION

McKEIG, Justice.

This case requires us to answer a question of first impression: Do trial delays caused by the judicial orders issued in response to the COVID-19 global pandemic weigh against the State in evaluating whether a defendant's constitutional right to a speedy trial has been violated? Appellant William Deshawn Paige demanded a speedy trial in February 2020. The district court found good cause to continue the trial, citing the statewide orders issued in response to the COVID-19 global pandemic. The trial was held in June of 2020, 105 days after Paige made his first speedy-trial demand. Paige was found guilty and received a presumptive sentence. On appeal, Paige claimed his constitutional right to a speedy trial had been violated, arguing in part that the trial delays caused by the statewide orders should weigh against the State. The court of appeals affirmed his conviction. Because the trial delays caused by the statewide orders do not weigh against the State and a careful balancing of the relevant factors shows that the State brought Paige to trial quickly enough so as not to endanger the values protected by the constitutional right to a speedy trial, we affirm.

FACTS

On January 21, 2020, respondent State of Minnesota charged William Deshawn Paige with one count of threats of violence in violation of Minnesota Statutes section 609.713, subd. 1 (2020). The complaint alleged that Paige verbally and physically threatened an apartment maintenance worker with a knife. At the time of the alleged offense, Paige was on intensive pretrial release. A pretrial release evaluation was

completed that assigned Paige an extremely high score of 129.¹ Based on these facts, the district court concluded that Paige was not a good candidate for pretrial release or intensive pretrial release, and set his bail at \$60,000.

On February 18, 2020, Paige waived his right to counsel and elected to proceed pro se, asked for release pending trial, and made a speedy-trial demand. The district court accepted Paige's waiver of his right to counsel, noted it would try to appoint advisory counsel, denied his request for release, and scheduled a jury trial for March 31 in response to the speedy-trial demand. On February 25, 2020, the State amended the complaint and added a charge of second-degree assault under Minn. Stat. § 609.222, subd. 1 (2020). On March 3, 2020, Paige moved to dismiss the charges against him for lack of probable cause.

At the same time the district court was addressing pretrial issues in Paige's case, a new virus was rapidly spreading across the globe. In January 2020, the same month that Paige was charged, the World Health Organization labelled the novel coronavirus, otherwise known as COVID-19, a "public health emergency of international concern." Tedros Adhanom Ghebreyesus, Director-General, World Health Org., WHO Director-General's Statement on IHR Emergency Committee on Novel Coronavirus (2019-nCov) (Jan. 30, 2020), [https://www.who.int/director-general/speeches/detail/who-director-general-s-statement-on-ihremergency-committee-on-novel-coronavirus-\(2019-ncov\)](https://www.who.int/director-general/speeches/detail/who-director-general-s-statement-on-ihremergency-committee-on-novel-coronavirus-(2019-ncov)) [opinion attachment]. On March 11, 2020, nearly a week after Paige filed his motion to dismiss, the World Health Organization declared COVID-19 a global pandemic, citing over

¹ For context, a score of 0–11 is considered low, 12–25 is considered moderate, and anything above 26 is considered high.

100,000 cases in over 110 countries and territories worldwide. Tedros Adhanom Ghebreyesus, Director-General, World Health Org., WHO Director-General's Opening Remarks at the Media Briefing on COVID-19 (March 11, 2020), <https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020> [opinion attachment]. Two days following the pandemic declaration by the World Health Organization, on March 13, 2020, Governor Tim Walz issued Emergency Executive Order No. 20-01, which declared a peacetime emergency due to the spread of COVID-19. Emerg. Exec. Order No. 20-01, *Declaring a Peacetime Emergency & Coordinating Minnesota's Strategy to Protect Minnesotans from COVID-19* (Mar. 13, 2020). That same day, the Chief Justice issued an Order which generally suspended trials but omitted cases subject to a speedy-trial demand from the general suspension. *See* Continuing Operations of the Courts of the State of Minnesota Under a Statewide Peacetime Declaration of Emergency, No. ADM20-8001, Order at 2 (Minn. filed Mar. 13, 2020).²

Exactly one week later, on March 20, 2020, when the district court denied Paige's motion to dismiss for lack of probable cause, the number of COVID-19 cases worldwide had risen to more than 200,000, with nearly 10,000 deaths, Tedros Adhanom Ghebreyesus, Director-General, World Health Org., WHO Director-General's Opening Remarks at the Media Briefing on COVID-19 (March 20, 2020), <https://www.who.int/director->

² Through the duration of the pandemic, the Minnesota Judicial Council held regular meetings to discuss its continuing response to the rapidly changing guidance related to the COVID-19 pandemic.

general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---20-march-2020 [opinion attachment], and the Chief Justice ordered that “[o]ther than for jury trials currently on-going, no new jury trials shall commence before April 22, 2020, or until further order of this court, whichever occurs first,” Continuing Operations of the Courts of the State of Minnesota Under a Statewide Peacetime Declaration of Emergency, No. ADM20-8001, Order at 3 (Minn. filed Mar. 20, 2020). The Chief Justice’s March 20 Order, unlike the March 13 Order, contained no exception for cases subject to speedy-trial demands.

At a pretrial hearing on March 26, 2020, Paige reiterated his speedy-trial demand, but offered to waive that demand if the district court would release him without monetary conditions pending trial. The district court stated that “given the unique circumstances today and by Order of the Minnesota Supreme Court, we’re not going to have a trial within that time. And I’ll find for good cause to extend those deadlines.” The court noted that no jury trials were permitted before April 22, 2020, and therefore rescheduled Paige’s trial for April 28, 2020. The district court also did not modify the conditions of Paige’s release.

By Paige’s next pretrial hearing on April 9, 2020, the number of COVID-19 cases worldwide had risen to more than 1.3 million, with almost 80,000 deaths. Tedros Adhanom Ghebreyesus, Director-General, World Health Org., WHO Director-General’s Opening Remarks at the Mission Briefing on COVID-19 (April 9, 2020), WHO Director-General’s opening remarks at the Mission briefing on COVID-19 - 9 April 2020 [opinion attachment]. During the hearing, Paige argued that his constitutional right to a speedy trial had been violated and again requested a reduction in his bail. On April 27, 2020, the court

issued an order denying Paige's request for a bail reduction. The court also denied Paige's speedy-trial argument, stating:

WHEREAS, the Judicial Council has adopted recommendations that no jury trials should commence prior to June 1, 2020. It is not believed that jury trials can be conducted using remote means. There are significant concerns regarding the ability of the court to follow the Center for Disease Control (CDC) and Minnesota Department of Health (MDH) recommendations for social distancing during a trial in the courtroom. *It would be difficult if not impossible to space individuals, including court staff, parties, witnesses and jurors, 6 feet apart during a trial.* Felony jury trials will always require groups in excess of 10 people to gather in one space. *Also we do not have Personal Protection Equipment (PPE) such as masks and gloves available for jurors, court staff or parties.* We anticipate it will be difficult to get a sufficient number of jurors willing and able to perform jury service given the recommendations that high risk people stay home, and in light of the ongoing public health risk from the pandemic, especially without the ability of the Court to guarantee that we can do it safely in accordance with CDC and MDH guidelines. The Court system is in the process of planning how to safely conduct jury trials in June. . . .

WHEREAS, whether the 60 days was up on April 19 or May 19, *the global COVID-19 pandemic and the Minnesota Statewide Declaration of a Peacetime Emergency is good cause to continue the trial outside of the 60 day period so the Court can ensure that the trial can be conducted safely under the guidelines as recommended by the CDC and MDH.* A trial setting in June is not far outside of the 60 day period.

WHEREAS, the continuation of the jury trial being necessary and unavoidable, the Court finds that the delay of the trial does not constitute a violation of Defendant's constitutional rights . . .

(Emphasis added.) Based on this analysis, the court continued petitioner's April 28, 2020, jury trial to June 2, 2020. The court also scheduled a pretrial hearing for May 14, 2020.

On June 2, 2020, the district court held a court trial.³ The apartment maintenance worker, a 911 Dispatcher, three officers, an investigator, and a forensic scientist testified at trial consistent with the facts alleged in the complaint. The State also submitted into evidence footage from body cameras worn by two of the officers. The testimony and evidence showed that Paige was bleeding from the hand when officers arrived. Paige told the officers that the knife belonged to the maintenance worker, he never possessed the knife, and that he injured his hand trying to open the door to get his phone from the maintenance worker. DNA testing of the knife revealed “a mixture of four or more individuals,” including a “major male DNA profile” matching Paige. The district court found Paige guilty of both charges and sentenced Paige to 57 months with the Commissioner of Corrections for the second-degree assault conviction.

Paige filed an appeal, arguing that his constitutional right to a speedy trial was violated. As part of his argument, Paige asserted that the trial delays caused by the statewide orders issued in response to the COVID-19 global pandemic should be weighed against the State. The court of appeals disagreed and held that the delays were justified because the State was not responsible for those delays. *State v. Paige*, No. A20-1228, 2021 WL 3716663, at *3 (Minn. App. Aug. 23, 2021). After considering all the relevant factors,

³ On May 15, 2020, a pilot program for jury trials was authorized. *See* Order Governing the Operations of the Minnesota Judicial Branch Under Emergency Executive Order Nos. 20-53, 20-56, ADM20-8001, Order at 2 (Minn. filed May 15, 2020). As part of the order, no criminal jury trial could be held prior to July 6, 2020, unless it fell within the scope of the pilot program. *Id.* at 2–3. Paige’s case did not. Paige subsequently decided to waive his right to a jury trial and proceed with a bench trial.

the court of appeals concluded that Paige’s right to a speedy trial was not violated. *Id.* at *4.

We granted Paige’s request for further review.

ANALYSIS

On appeal, Paige renews his argument that the trial delays caused by the statewide orders issued in response to the COVID-19 global pandemic should be weighed against the State. He also argues that when all the relevant factors are carefully balanced, they demonstrate that his constitutional right to a speedy trial was violated. We disagree.

The federal and Minnesota constitutions protect a criminal defendant’s right to a speedy trial. U.S. Const. amend. VI; Minn. Const. art. I, § 6; *see also Klopfer v. North Carolina*, 386 U.S. 213, 223 (1967) (stating that the right to a speedy trial is “fundamental”). The right to a speedy trial acts as a “safeguard to prevent undue and oppressive incarceration prior to trial, to minimize anxiety and concern accompanying public accusation and to limit the possibilities that long delay will impair the ability of an accused to defend himself.” *State v. Mikell*, 960 N.W.2d 230, 244 (Minn. 2021) (quoting *United States v. Ewell*, 383 U.S. 116, 120 (1966)). The right to a speedy trial also benefits society as a whole by preventing backlogs in the judicial system, maximizing the potential for rehabilitation, and minimizing systemic costs of pretrial imprisonment. *See Barker v. Wingo*, 407 U.S. 514, 519–520 (1972).

Minnesota courts consider the nonexclusive list of factors articulated by the U.S. Supreme Court in *Barker v. Wingo*, 407 U.S. 514, 530 (1972), to determine “whether the State brought the accused to trial quickly enough to avoid endangering the values that the

right to a speedy trial protects.” *Mikell*, 960 N.W.2d at 245. The *Barker* factors are (1) length of delay; (2) reason for delay; (3) defendant’s assertion of his right; and (4) prejudice to defendant. *State v. Widell*, 258 N.W.2d 795, 796 (Minn. 1977) (citing *Barker*, 407 U.S. 514). Further, “[t]he right of a speedy trial is necessarily relative.” *Beavers v. Haubert*, 198 U.S. 77, 87 (1905). Accordingly, the analysis of the right must be considered within the context of each case. *See id.*

A.

The first *Barker* factor (length of delay) can be viewed as a triggering mechanism in the sense that, until a delay is presumptively prejudicial, there is no need to examine the other three *Barker* factors. *Barker v. Wingo*, 407 U.S. 514, 530 (1972); *see also State v. Jones*, 392 N.W.2d 224, 235 (Minn. 1986). Many states require that a trial occur within a specified period following a charge or indictment. *United States v. Marion*, 404 U.S. 307, 317–18 (1971). The Minnesota requirements are stated in the Rules of Criminal Procedure, which provide that:

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.

Unless exigent circumstances exist, if trial does not start within 120 days from the date the plea other than guilty is entered and the demand is made, the defendant must be released under any nonmonetary conditions the court orders under Rule 6.01, subd. 1.

Minn. R. Crim. P. 11.09(b).

But a violation of Rule 11.09 is not a per se violation of the constitutional right to a speedy trial; it only triggers further analysis as to whether a constitutional violation has

occurred. *State v. Friberg*, 435 N.W.2d 509, 512 (Minn. 1989) (“[D]elays greater than 60 days after a demand for speedy trial has been made are presumptively prejudicial and require further inquiry to determine whether there was good cause for the delay.”); *see also Mikell*, 960 N.W.2d at 244 (“[t]here is no fixed rule for all cases that defines how long is too long to wait for a trial.”). Put differently, in Minnesota a trial delayed more than 60 days past a defendant’s speedy-trial demand is “presumptively prejudicial,” meaning consideration of the other three *Barker* factors is required. *See Doggett v. United States*, 505 U.S. 647, 652 n.1 (1992) (explaining that the term “presumptive prejudice,” as used in the threshold context, “does not necessarily indicate a statistical probability of prejudice,” instead “it simply marks the point at which courts deem the delay unreasonable enough to trigger the *Barker* enquiry.”); *see also Friberg*, 435 N.W.2d at 512.

Here, Paige made his speedy-trial demand on February 18, 2020. His trial began 105 days later. Because the trial occurred 105 days after Paige made his speedy-trial demand on February 18, 2020, which exceeded the 60-day limit that applies in Minnesota, the delay is presumptively prejudicial, and we must consider the other three *Barker* factors. *See Minn. R. Crim. Pro. 11.09(b); Friberg*, 435 N.W.2d at 512.

B.

Under the second *Barker* factor (the reason for delay), we must determine which party is responsible for the delay and the relative weight that should be assigned to this factor based on the reason for the delay. *Barker*, 407 U.S. at 531. Here, the State and Paige agree that the delay is attributable to the State. The remaining question is what, if any, weight we should assign to the second *Barker* factor, the reason for delay. Deliberate

delays intended to hinder the defense weigh heavily against the prosecution. *Vermont v. Brillon*, 556 U.S. 81, 90 (2009). Delays for more neutral reasons, like negligence or overcrowded courts, weigh less heavily against the State, but are still considered because “the ultimate responsibility for such circumstances must rest with the government rather than with the defendant.” *Id.* (citation omitted) (internal quotation marks omitted). Finally, if a delay is justified, that delay will not be held against the State. *Mikell*, 960 N.W.2d at 251.

Neither party claims that the delays due to the Chief Justice’s COVID-19 pandemic orders were deliberate attempts to hamper the defense, but they dispute whether delays caused by the orders should weigh moderately against the State or not at all. Paige argues that the delays are most similar to systemic court-wide delays, which weigh moderately against the State. The State argues that delays due to the COVID-19 pandemic were outside of the government’s control and are therefore more similar to delays due to an unavailable witness, which do not weigh against the State. For the reasons that follow, we conclude that trial delays due to the statewide orders issued in response to the COVID-19 global pandemic do not weigh against the State.

Paige’s attempt to draw a line between case-specific delays, which he argues do not weigh against the State, and systemic delays, which he argues weigh moderately against the State, is not supported by case law. It is true that some of the reasons that continuances are not held against the State involve circumstances specific to the particular case. *See Mikell*, 960 N.W.2d at 251 (describing an unavailable witness as a delay that “will not be held against the State”); *see, e.g., State v. Taylor*, 869 N.W.2d 1, 20 (Minn. 2015) (holding

that there was good cause for a continuance because a State’s witness was unavailable and there was a conflict of interest between defendant’s counsel and his co-defendant’s counsel). It is also true that some of the reasons for a continuance that are held moderately against the State involve systemic delays, like court-created plans to reduce court congestion. See *McIntosh v. Davis*, 441 N.W.2d 115, 119–20 (Minn. 1989); see also *State v. Jones*, 392 N.W.2d 224, 235 (Minn. 1986) (“[t]he responsibility for an overburdened judicial system cannot, after all, rest with the defendant.”). But we have also said that “in the event of the death of the trial judge or if the courthouse burned and there was no immediate space available, a trial court [would have good cause to] delay commencement of a trial.” *McIntosh*, 441 N.W.2d at 120. Such delays apply to cases within a jurisdiction generally, regardless of the circumstances of a particular case. Consequently, our case law does not draw a line between case-specific and systemic reasons for delay. Instead, the line that emerges is between delays due to circumstances arising from *internal* factors (court congestion), which weigh moderately against the State, and those arising from *external* factors (the death of judge or a burned down courthouse), which are not weighed against that State.

When viewed in light of this internal and external distinction, Paige’s argument that the statewide orders issued in response to the COVID-19 global pandemic are similar to the “blitz plan” at issue in *McIntosh* is unsound. 441 N.W.2d at 117. In *McIntosh*, the Fourth Judicial District implemented a “blitz plan” to reduce its backlog of criminal cases.

*Id.*⁴ The appellants in *McIntosh* requested a speedy trial, but the request was denied because of the blitz plan. *Id.* at 117–18. We concluded that “the record is virtually devoid of specific information about why the demands for speedy trial could not be met.” *Id.* at 120. The record specifically lacked any discussion of how accommodating the request for a speedy trial would have upset the blitz plan. *Id.* As a result, we held that the record did not support a finding of good cause. *Id.*

According to Paige, there is no material distinction between the blitz plan and the statewide orders at issue here because they both involved “blanket polic[ies], not an individualized assessment.” Paige’s analogy is unpersuasive. First, in *McIntosh* we did not hold that the blitz plan could not qualify as good cause—only that the record on appeal did not support a finding of good cause. 441 N.W.2d at 120. Here, the district court made specific findings about the inability of the courthouse to accommodate jury trials while adhering to COVID-19 safety protocols.⁵ Second, the blitz plan in *McIntosh* reflected a

⁴ The “blitz plan” involved suspending most civil trials during January and February 1989 to maximize the number of judges available to handle criminal matters. *McIntosh*, 441 N.W.2d at 117. Criminal cases were scheduled for trial during this 2-month period based on a variety of factors, and rescheduling trial dates was discouraged. *Id.* *McIntosh*’s trial was scheduled in late January, which was beyond the 60-day speedy-trial demand, but the court refused to reschedule on the basis of adhering to the blitz plan. *Id.*

⁵ The State cites to an April 27, 2020, Order that details the reasons for continuing Paige’s trial. Paige argues that it is improper to consider this order because the trial at that point had already been continued. The district court, in its first decision to continue Paige’s trial, stated that “given the unique circumstances today and by Order of the Minnesota Supreme Court, we’re not going to have a trial within that time. And I’ll find for good cause to extend those deadlines.” While the April 27, 2020, Order continuing Paige’s trial was significantly more detailed, the district court’s first order for a continuance is still clear that the reason for the delay was compliance with the orders of the Chief Justice.

policy decision prompted by an *internal* backlog. In contrast, the statewide orders issued in response to the COVID-19 global pandemic reflected a policy decision prompted by an *external* public health crisis. Because the statewide orders were prompted by an external factor, we conclude that the trial delays caused by the orders do not weigh against the State.

Our conclusion is consistent with the decisions of other courts that have considered court delays due to large-scale public emergencies. For example, in *Furlow v. United States*, 644 F.2d 764, 768–69 (9th Cir. 1981), the Ninth Circuit held that delays resulting from the eruption of Mount St. Helens were justified. And in *United States v. Correa*, 182 F. Supp. 2d 326, 329 (S.D.N.Y. 2001), the New York court held that following the September 11, 2001 terrorist attacks, the “larger interests of justice in the District—not to mention supervening necessity—surely required suspending proceedings in this case.” The COVID-19 pandemic was an external global health emergency and is similar to the large-scale public emergencies in *Furlow* and *Correa*.⁶ Cf. *United States v. Olsen*, 21 F.4th 1036, 1047 (9th Cir. 2022) *cert. denied*, 142 S. Ct. 2716 (2022) (holding that the COVID-19 pandemic “falls within such unique circumstances to permit a court to temporarily

⁶ Citing *Carson v. Simon*, 978 F.3d 1051, 1060 (8th Cir. 2020), Paige argues that “[t]here is no pandemic exception to the Constitution.” This statement overlooks the drastic differences between the questions regarding the rules governing the counting of absentee ballots at issue in *Carson* and Sixth Amendment speedy-trial analyses, the latter of which specifically contemplates exceptions for good cause.

suspend jury trials in the interest of public health” without violating a defendant’s right to a speedy trial).

In sum, the orders of the Chief Justice were not addressing systemic issues within the court system itself; the orders were responding to a deadly and virulent illness over which the court had no control. The “practical administration of justice” required the courts to ensure the health and safety of its employees and clients. *See Mikell*, 960 N.W.2d at 244 (citation omitted) (internal quotation marks omitted). As the emergency prompting the COVID-19 orders was an external factor outside of the court’s control, we conclude that the second *Barker* factor does not weigh against the State.

C.

Turning to the third *Barker* factor (the defendant’s assertion of his right), we must assess the forcefulness of Paige’s speedy-trial demand. *See Barker*, 407 U.S. at 531. “[T]he frequency and force of a demand must be considered when weighing this factor [because] the strength of the demand is likely to reflect the seriousness and extent of the prejudice which has resulted.” *Friberg*, 435 N.W.2d at 515; *see also Mikell*, 960 N.W.2d at 252 (explaining that the defendant’s assertion of a speedy trial right is entitled to strong evidentiary weight when it evidences the defendant’s belief that he will be harmed if the trial is delayed). Although we can “consider other signals in the case to assess whether a demand for a speedy trial is serious,” such an assessment focuses on whether the speedy-trial demands are accompanied by actions that undermine the ability for the trial to occur. *Mikell*, 960 N.W.2d at 252; *see also United States v. Loud Hawk*, 474 U.S. 302, 314–15

(1986) (stating that a defendant who repeatedly filed frivolous petitions and motions delaying his trial undermined the seriousness of his speedy-trial right demands).

Here, Paige asserted his constitutional right to a speedy trial on February 18, 2020, and he continued to demand a speedy trial and oppose delays throughout the proceedings. The State argues that these demands do not reflect a desire to “vindicat[e] his speedy trial rights,” because when viewed in context, they reflect a desire to “hold on to the benefit of the bargain he had struck in his other cases.” To be clear, the State is not alleging that Paige engaged in actions that undermined the ability for the trial to occur. Instead, the State is simply speculating as to the reasons why Paige wanted a speedy trial. The State’s argument is unsound.

The right to a speedy trial is fundamental. *Klopfer v. North Carolina*, 386 U.S. 213, 223 (1967). Requiring a defendant to justify *why* they exercised a fundamental right subverts the idea of a fundamental right. *Cf. Mikell*, 960 N.W.2d at 244 (recognizing that the primary burden to vindicate a speedy trial right is on the State). The State has provided no justification as to why Paige’s reasons for wanting a speedy trial matter, nor has it delineated which reasons would be legitimate and which would not—if such a line can even be drawn. We therefore reject the State’s invitation to speculate as to Paige’s motives for repeatedly demanding a speedy trial. Based on the frequency and force of Paige’s speedy-trial demands, we conclude that the third *Barker* factor weighs in Paige’s favor.

D.

Under the fourth and final *Barker* factor (prejudice to defendant), we consider the prejudice suffered by Paige because of the pretrial delay. *See Barker*, 407 U.S. at 532. We

recognize three interests protected by a defendant's speedy trial right: (1) preventing oppressive pretrial incarceration; (2) minimizing a defendant's anxiety and concern; and (3) preventing possible impairment of the defense. *State v. Windish*, 590 N.W.2d 311, 318 (Minn. 1999). We evaluate each of these interests when determining the extent of prejudice suffered by a criminal defendant. *Id.* Evaluating prejudice suffered by a defendant does not present a binary question—did the defendant suffer prejudice or did he suffer no prejudice—but rather presents a question of degrees. *See State v. Helenbolt*, 334 N.W.2d 400, 405 (Minn. 1983). Prejudice must be more than minimal to weigh in favor of a defendant. *See Friberg*, 435 N.W.2d at 515 (stating that the final *Barker* factor did not favor defendants when the record supported a conclusion that the defendants had not suffered “any serious prejudice” from the delay of trial); *Barker*, 407 U.S. at 534 (balancing the final *Barker* factor against the defendant where the “prejudice was minimal”). Furthermore, “the prejudice a defendant suffers must be due to the delay.” *State v. Osorio*, 891 N.W.2d 620, 631 (Minn. 2017) (citation omitted) (internal quotation marks omitted).

Before considering the specific arguments advanced by Paige, we reiterate that affirmative proof of particularized prejudice is not essential to every speedy trial claim. *Doggett*, 505 U.S. at 655 (“consideration of prejudice is not limited to the specifically demonstrable, and . . . affirmative proof of particularized prejudice is not essential to every speedy trial claim.”); *see also Mikell*, 960 N.W.2d at 254. Although the importance of presumptive prejudice “increases with the length of delay,” it “cannot alone carry a Sixth Amendment claim without regard to the other *Barker* criteria.” *Doggett*, 505 U.S. at 655–56. Here, Paige experienced a 45-day delay. We have previously held that unfair prejudice

did not result from delays that were significantly longer than 45 days. *See State v. Corarito*, 268 N.W.2d 79, 80 (Minn. 1978) (stating a delay of 6 months did not result in “any unfair prejudice”); *State v. Jones*, 392 N.W.2d 224, 235–36 (Minn. 1986) (holding that unfair prejudice was not evident from a 7-month delay); *see also Barker*, 407 U.S. at 533–34 (determining that prejudice resulting from a 4-year delay was “minimal”). Having carefully reviewed the record, we conclude that the 45-day delay in this case did not result in any unfair prejudice.

In connection with the fourth *Barker* factor, Paige affirmatively alleges prejudice under each of the three recognized types of prejudice listed above. Paige first argues that he suffered oppressive pretrial incarceration due to his incarceration during the COVID-19 pandemic. He points out that he repeatedly requested release on nonmonetary conditions or reduction of bail. But the hardships cited by Paige—restrictions on visits, restraints on movement, and potential risk of infection—fall outside the scope of the fourth *Barker* factor because they were not hardships suffered due to the trial delay. *See Osorio*, 891 N.W.2d at 631. Instead, the alleged hardships were caused by restrictions put in place to mitigate the effects of a global pandemic.⁷ On this record, to the extent that Paige is challenging the bail decisions of the district court, the minimal additional incarceration occurring here did not constitute a serious allegation of prejudice.⁸ *See Helenbolt*, 334

⁷ These hardships were not limited to prisons; individuals in long-term care facilities and hospitals were also subject to increased restrictions.

⁸ We note that Paige’s pretrial release evaluation score of 129 is exceedingly high and that the crime alleged in this case was committed while he was out of custody on intensive

N.W.2d at 404–06 (stating that while “any pretrial incarceration is unfortunate,” 14 months of pretrial incarceration does not constitute a “serious allegation of prejudice”).

Paige’s second argument alleging prejudice is that he suffered anxiety and concern while awaiting trial. But “stress, anxiety and inconvenience experienced by anyone who is involved in a trial” is insufficient to demonstrate prejudice. *Friberg*, 435 N.W.2d at 515. While Paige may have experienced anxiety and concern while waiting for his trial, and although that stress may have even been exacerbated by the pandemic, the anxiety and concern must be specifically related to the delay. *See Osorio*, 891 N.W.2d at 631. Paige’s arguments would theoretically apply to anyone who is involved in a trial during the COVID-19 pandemic, and therefore his anxiety-and-concern argument is unpersuasive. *See id.*

Paige’s third argument alleging prejudice is that his defense was impaired by alleged discovery violations and his status as an incarcerated pro se litigant. We acknowledge that in connection with the fourth *Barker* factor, the most serious form of prejudice is impairment of defense. *Windish*, 590 N.W.2d at 318; *Doggett*, 505 U.S. at 654. Impairment of defense typically involves “memory loss by witnesses or witness unavailability.” *Taylor*, 869 N.W.2d at 20. Because impairment of defense can be difficult to prove, it “may be suggested by likely harm to a defendant’s case.” *Windish*, 590 N.W.2d at 318–19 (Minn. 1999). But the alleged prejudice and impairment of defense must still be attributable to the delay. *See Osorio*, 891 N.W.2d at 631. Here, the alleged discovery

pretrial release for a separate criminal offense. We also note that Paige is not challenging his bail determination on appeal.

violations and his pro se status are not directly related to the delay at issue in the speedy-trial analysis. Because Paige offers no other explanation for why the trial delay itself hampered his defense, his impaired-defense argument lacks merit.

E.

Having considered all four *Barker* factors, we now balance the factors to determine whether the State brought Paige to trial quickly enough so as not to endanger the values that the right to a speedy trial protects. *See Mikell*, 960 N.W.2d at 245. Here, the trial was held after the expiration of the 60-day period required by Minnesota Rule of Criminal Procedure 11.09(b), and the delay was therefore presumptively prejudicial. Paige suffered some prejudice because he was held for an additional 45 days before his trial. But he did not suffer any additional prejudice as a result of the trial delay. Paige repeatedly demanded a speedy trial and opposed delays throughout the proceedings. On the other hand, the delay was caused by the unprecedented risks posed by the COVID-19 pandemic. We do not weigh against the State the fact that the Minnesota judicial system responded to the then-unclear and largely unprecedented risks posed by COVID-19 by postponing jury trials. COVID-19 was an external factor clearly beyond the court's control. Having carefully balanced these factors, we conclude that the State brought Paige to trial quickly enough so as not to endanger the values that the right to a speedy trial protects.

CONCLUSION

For the foregoing reasons, we affirm the decision of the court of appeals.

Affirmed

WHO Director-General's statement on IHR Emergency Committee on Novel Coronavirus (2019-nCoV)

30 January 2020



Good evening to everyone in the room, and to everyone online.

Over the past few weeks, we have witnessed the emergence of a previously unknown pathogen, which has escalated into an unprecedented outbreak, and which has been met by an unprecedented response.

As I have said repeatedly since my return from Beijing, the Chinese government is to be congratulated for the extraordinary measures it has taken to contain the outbreak, despite the severe social and economic impact those measures are having on the Chinese people.

We would have seen many more cases outside China by now – and probably deaths – if it were not for the government's efforts, and the progress they have made to protect their own people and the people of the world.

The speed with which China detected the outbreak, isolated the virus, sequenced the genome and shared it with WHO and the world are very impressive, and beyond words. So is China's commitment to transparency and to supporting other countries.

In many ways, China is actually setting a new standard for outbreak response. It's not an exaggeration.

I also offer my profound respect and thanks to the thousands of brave health professionals and all frontline responders, who in the midst of the Spring Festival, are working 24/7 to treat the sick, save lives and bring this outbreak under control.

Thanks to their efforts, the number of cases in the rest of the world so far has remained relatively small.

There are now 98 cases in 18 countries outside China, including 8 cases of human-to-human transmission in four countries: Germany, Japan, Viet Nam and the United States of America.

So far we have not seen any deaths outside China, for which we must all be grateful. Although these numbers are still relatively small compared to the number of cases in China, we must all act together now to limit further spread.

The vast majority of cases outside China have a travel history to Wuhan, or contact with someone with a travel history to Wuhan.

We don't know what sort of damage this virus could do if it were to spread in a country with a weaker health system.

We must act now to help countries prepare for that possibility.

For all of these reasons, I am declaring a public health emergency of international concern over the global outbreak of novel coronavirus.

The main reason for this declaration is not because of what is happening in China, but because of what is happening in other countries.

Our greatest concern is the potential for the virus to spread to countries with weaker health systems, and which are ill-prepared to deal with it.

Let me be clear: this declaration is not a vote of no confidence in China. On the contrary, WHO continues to have confidence in China's capacity to control the outbreak.

As you know, I was in China just a few days ago, where I met with President Xi Jinping. I left in absolutely no doubt about China's commitment to transparency, and to protecting the world's people.

To the people of China and to all of those around the world who have been affected by this outbreak, we want you to know that the world stands with you. We are working diligently with national and international public health partners to bring this outbreak under control as fast as possible.

In total, there are now 7834 confirmed cases, including 7736 in China, representing almost 99% of all reported cases worldwide. 170 people have lost their lives to this outbreak, all of them in China.

We must remember that these are people, not numbers.

More important than the declaration of a public health emergency are the committee's recommendations for preventing the spread of the virus and ensuring a measured and evidence-based response.

I would like to summarize those recommendations in seven key areas.

First, there is no reason for measures that unnecessarily interfere with international travel and trade. WHO doesn't recommend limiting trade and movement.

We call on all countries to implement decisions that are evidence-based and consistent. WHO stands ready to provide advice to any country that is considering which measures to take.

Second, we must support countries with weaker health systems.

Third, accelerate the development of vaccines, therapeutics and diagnostics.

Fourth, combat the spread of rumours and misinformation.

Fifth, review preparedness plans, identify gaps and evaluate the resources needed to identify, isolate and care for cases, and prevent transmission.

Sixth, share data, knowledge and experience with WHO and the world.

And seventh, the only way we will defeat this outbreak is for all countries to work together in a spirit of solidarity and cooperation. We are all in this together, and we can only stop it together.

This is the time for facts, not fear.

This is the time for science, not rumours.

This is the time for solidarity, not stigma.

Thank you.

WHO Director-General's opening remarks at the media briefing on COVID-19 - 11 March 2020

11 March 2020



Good afternoon.

In the past two weeks, the number of cases of COVID-19 outside China has increased 13-fold, and the number of affected countries has tripled.

There are now more than 118,000 cases in 114 countries, and 4,291 people have lost their lives.

Thousands more are fighting for their lives in hospitals.

In the days and weeks ahead, we expect to see the number of cases, the number of deaths, and the number of affected countries climb even higher.

WHO has been assessing this outbreak around the clock and we are deeply concerned both by the alarming levels of spread and severity, and by the alarming levels of inaction.

We have therefore made the assessment that COVID-19 can be characterized as a pandemic.

Pandemic is not a word to use lightly or carelessly. It is a word that, if misused, can cause unreasonable fear, or unjustified acceptance that the fight is over, leading to unnecessary suffering and death.

Describing the situation as a pandemic does not change WHO's assessment of the threat posed by this virus. It doesn't change what WHO is doing, and it doesn't change what countries should do.

We have never before seen a pandemic sparked by a coronavirus. This is the first pandemic caused by a coronavirus.

And we have never before seen a pandemic that can be controlled, at the same time.

WHO has been in full response mode since we were notified of the first cases.

And we have called every day for countries to take urgent and aggressive action.

We have rung the alarm bell loud and clear.

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As I said on Monday, just looking at the number of cases and the number of countries affected does not tell the full story.

Of the 118,000 cases reported globally in 114 countries, more than 90 percent of cases are in just four countries, and two of those – China and the Republic of Korea - have significantly declining epidemics.

81 countries have not reported any cases, and 57 countries have reported 10 cases or less.

We cannot say this loudly enough, or clearly enough, or often enough: all countries can still change the course of this pandemic.

If countries detect, test, treat, isolate, trace, and mobilize their people in the response, those with a handful of cases can prevent those cases becoming clusters, and those clusters becoming community transmission.

Even those countries with community transmission or large clusters can turn the tide on this virus.

Several countries have demonstrated that this virus can be suppressed and controlled.

The challenge for many countries who are now dealing with large clusters or community transmission is not whether they can do the same – it's whether they will.

Some countries are struggling with a lack of capacity.

Some countries are struggling with a lack of resources.

Some countries are struggling with a lack of resolve.

We are grateful for the measures being taken in Iran, Italy and the Republic of Korea to slow the virus and control their epidemics.

We know that these measures are taking a heavy toll on societies and economies, just as they did in China.

All countries must strike a fine balance between protecting health, minimizing economic and social disruption, and respecting human rights.

WHO's mandate is public health. But we're working with many partners across all sectors to mitigate the social and economic consequences of this pandemic.

This is not just a public health crisis, it is a crisis that will touch every sector – so every sector and every individual must be involved in the fight.

I have said from the beginning that countries must take a whole-of-government, whole-of-society approach, built around a comprehensive strategy to prevent infections, save lives and minimize impact.

Let me summarize it in four key areas.

First, prepare and be ready.

Second, detect, protect and treat.

Third, reduce transmission.

Fourth, innovate and learn.

I remind all countries that we are calling on you to activate and scale up your emergency response mechanisms;

Communicate with your people about the risks and how they can protect themselves – this is everybody's business;

Find, isolate, test and treat every case and trace every contact;

Ready your hospitals;

Protect and train your health workers.

And let's all look out for each other, because we need each other.

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There's been so much attention on one word.

Let me give you some other words that matter much more, and that are much more actionable.

Prevention.

Preparedness.

Public health.

Political leadership.

And most of all, people.

We're in this together, to do the right things with calm and protect the citizens of the world. It's doable.

I thank you.

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WHO Director-General's opening remarks at the media briefing on COVID-19 - 20 March 2020

20 March 2020



Good morning, good afternoon and good evening, wherever you are.

Every day, COVID-19 seems to reach a new and tragic milestone.

More than 210,000 cases have now been reported to WHO, and more than 9,000 people have lost their lives.

Every loss of life is a tragedy. It's also motivation to double down and do everything we can to stop transmission and save lives.

We also need to celebrate our successes. Yesterday, Wuhan reported no new cases for the first time since the outbreak started.

Wuhan provides hope for the rest of the world, that even the most severe situation can be turned around.

Of course, we must exercise caution – the situation can reverse. But the experience of cities and countries that have pushed back this virus give hope and courage to the rest of the world.

Every day, we are learning more about this virus and the disease it causes.

One of the things we are learning is that although older people are the hardest hit, younger people are not spared.

Data from many countries clearly show that people under 50 make up a significant proportion of patients requiring hospitalization.

Today, I have a message for young people: you are not invincible. This virus could put you in hospital for weeks, or even kill you.

Even if you don't get sick, the choices you make about where you go could be the difference between life and death for someone else.

I'm grateful that so many young people are spreading the word and not the virus.

As I keep saying, solidarity is the key to defeating COVID-19 - solidarity between countries, but also between age groups.

Thank you for heeding our call for solidarity, solidarity, solidarity.

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We've said from the beginning that our greatest concern is the impact this virus could have if it gains a foothold in countries with weaker health systems, or with vulnerable populations.

That concern has now become very real and urgent.

We know that if this disease takes hold in these countries, there could be significant sickness and loss of life.

But that is not inevitable. Unlike any pandemic in history, we have the power to change the way this goes.

WHO is working actively to support all countries, and especially those that need our support the most.

As you know, the collapse of the market for personal protective equipment has created extreme difficulties in ensuring health workers have access to the equipment they need to do their jobs safely and effectively.

This is an area of key concern for us.

We have now identified some producers in China who have agreed to supply WHO.

We're currently finalizing the arrangements and coordinating shipments so we can refill our warehouse to ship PPE to whoever needs it most.

Our aim is to build a pipeline to ensure continuity of supply, with support from our partners, governments and the private sector. I am grateful to Jack Ma and his foundation as well as Aliko Dangote for their willingness to help provide essential supplies to countries in need.

To support our call to test every suspected case, we are also working hard to increase the global supply of diagnostic tests.

There are many companies globally that produce diagnostic kits, but WHO can only buy or recommend kits that have been evaluated independently, to ensure their quality.

So we have worked with FIND – the Foundation for Innovative New Diagnostics – to contract additional labs to evaluate new diagnostics.

In parallel, we're working with companies to secure the supply and equitable distribution of these tests.

And we're also working with companies to increase production of the other products needed to perform the tests, from the swabs used to take samples to the large machines needed to process them.

We're very grateful for the way the private sector has stepped up to lend its support to the global response.

Just in the past few days I've spoken with the International Chamber of Commerce, with many CEOs through the World Economic Forum, and with the "B20" group of business leaders from the G20 countries.

We understand the heavy financial toll this pandemic is taking on businesses and the global economy.

We're encouraged by the solidarity and generosity of business leaders to use their resources, experience and networks to improve the availability of supplies, communicate reliable information and protect their staff and customers.

And we're also encouraged that countries around the world continue to support the global response. We thank Kuwait for its contribution of 40 million U.S. dollars.

In addition to increasing access to masks, gloves, gowns and tests, we're also increasing access to the evidence-based technical guidance countries and health workers need to save lives.

WHO has published guidelines for health ministers, health system administrators, and other decision-makers, to help them provide life-saving treatment as health systems are challenged, without compromising the safety of health workers.

The guidelines detail actions all countries can take to provide care for patients, regardless of how many cases they have. They also outline specific actions to prepare health systems, according to each of the "4 Cs" – no cases, sporadic cases, clusters of cases, and community transmission.

These guidelines provide a wealth of practical information on screening and triage, referral, staff, supplies, standard of care, community engagement and more.

We encourage all countries to use these and the many other guidelines, which are all available on the WHO website.

But we're not only advising countries. We also have advice for individuals around the world, especially those who are now adjusting to a new reality.

We know that for many people, life is changing dramatically.

My family is no different – my daughter is now taking her classes online from home because her school is closed.

During this difficult time, it's important to continue looking after your physical and mental health. This will not only help you in the long-term, it will also help you fight COVID-19 if you get it.

First, eat a health and nutritious diet, which helps your immune system to function properly.

Second, limit your alcohol consumption, and avoid sugary drinks.

Third, don't smoke. Smoking can increase your risk of developing severe disease if you become infected with COVID-19.

Fourth, exercise. WHO recommends 30 minutes of physical activity a day for adults, and one hour a day for children.

If your local or national guidelines allow it, go outside for a walk, a run or a ride, and keep a safe distance from others. If you can't leave the house, find an exercise video online, dance to music, do some yoga, or walk up and down the stairs.

If you're working at home, make sure you don't sit in the same position for long periods. Get up and take a 3-minute break every 30 minutes.

We will be providing more advice on how to stay healthy at home in the coming days and weeks.

Fifth, look after your mental health. It's normal to feel stressed, confused and scared during a crisis. Talking to people you know and trust can help.

Supporting other people in your community can help you as much as it does them. Check in on neighbours, family and friends. Compassion is a medicine.

Listen to music, read a book or play a game.

And try not to read or watch too much news if it makes you anxious. Get your information from reliable sources once or twice a day.

To increase access to reliable information, WHO has worked with WhatsApp and Facebook to launch a new WHO Health Alert messaging service.

This service will provide the latest news and information on COVID-19, including details on symptoms and how to protect yourself.

The Health Alert service is now available in English and will be introduced in other languages next week.

To access it, send the word "hi" to the following number on WhatsApp: +41 798 931 892. We will make this information available on our website later today.

COVID-19 is taking so much from us. But it's also giving us something special – the opportunity to come together as one humanity – to work together, to learn together, to grow together.

I thank you.

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WHO Director-General's opening remarks at the Mission briefing on COVID-19 - 9 April 2020

9 April 2020



Excellencies, dear colleagues and friends,

Today marks 100 days since WHO was notified of the first cases of what we now call COVID-19.

Much has changed since we launched the first Strategic Preparedness and Response Plan two months ago.

The global spread of the virus has overwhelmed health systems, disrupted the global economy, and lead to widespread social disruption.

The fatality rate is estimated to be 10 times higher than influenza.

More than 1.3 million people have been infected, and almost 80,000 people have lost their lives.

This pandemic is much more than a health crisis. It requires a whole-of government and whole-of-society response.

In the last 100 days, COVID-19 has shown us the damage it can mete out in wealthy nations.

We are yet to see the devastation it could wreak in poorer and more vulnerable countries. We're committed to doing everything we can to prevent that from happening.

A major reason that we declared a public health emergency of international concern in January was so countries and communities - especially those with weak health systems - would have time to prepare.

Without help and action now, poor countries and vulnerable communities could suffer massive devastation.

The window for containing the virus at the subnational and national level is closing in many countries. The infection numbers in Africa are relatively small now, but they are growing fast.

Today we are publishing our technical strategy update for the next phase of the response.

This strategy update will form the basis of our second Strategic Preparedness and Response Plan, which we will release in the coming days.

We have learned much about this new virus since we first encountered it at the start of the year. These hard-won lessons are reflected in the new strategy.

This update addresses the circumstances in lower- and middle-income countries and communities with weaker health systems and infrastructure, and especially in countries affected by conflict and for displaced people.

It is built on five strategic objectives:

To mobilize all sectors and communities;

To control sporadic cases and clusters and prevent community transmission;

To suppress community transmission where it is occurring;

To reduce mortality through appropriate care;

And to develop safe and effective vaccines and therapeutics.

These strategic objectives must be supported by tailored national strategies to find, test, isolate and care for every case, and trace every contact.

In turn, national strategies must be supported at the international level in five key areas. These are the five areas WHO is focused on:

First, to support countries to build their capacities to prepare and respond;

Second, to provide epidemiological analysis and risk communication;

Third, to coordinate the global supply chain;

Fourth, to provide technical expertise and mobilize the health workforce;

And fifth, to accelerate research, innovation and knowledge sharing.

Our second Strategic Preparedness and Response Plan will estimate the resources needed to implement national and international strategies during the next phase of the response.

I want to thank all Member States and partners who have responded to our first Strategic Preparedness and Response Plan. More than US\$800 million has been pledged or received.

We're all in this together, and we still have a long way to go.

As I said in the press conference yesterday, we must quarantine politicizing this virus at national and global levels. We have to work together, and we have no time to waste.

Our singular focus is on working to serve all people to save lives and stop the pandemic – stop this dangerous enemy.

I wish you Happy Easter, Happy Passover and Happy Ramadan.

I thank you.

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