STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0201

State of Minnesota,
Appellant,

vs.

Derek Michael Chauvin,
Respondent.

Filed March 5, 2021
Reversed and remanded
Larkin, Judge

Hennepin County District Court
File No. 27-CR-20-12646

Keith Ellison, Attorney General, Matthew Frank, Assistant Attorney General, St. Paul, Minnesota; and

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

SYLLABUS

A precedential opinion of the Minnesota Court of Appeals is binding authority for this court and district courts immediately upon its filing.

OPINION

LARKIN, Judge

In this pretrial appeal, the State of Minnesota challenges the district court's order denying the state's motion to reinstate a charge of third-degree murder against respondent, which was previously dismissed for lack of probable cause. The state argues that this court's precedential opinion in *State v. Noor*, ___ N.W.2d ___, 2021 WL 317740 (Minn. App. Feb. 1, 2021), *review granted* (Minn. Mar. 1, 2021), is binding authority and that *Noor* supports reinstatement of the charge. The district court acknowledged that *Noor* supports the state's motion for reinstatement, but nonetheless denied the motion, reasoning that *Noor* was not yet a binding precedent because further appellate review was possible in that case. Because a precedential opinion of this court is binding authority upon its filing, the district court erred by not applying *Noor*. We therefore reverse the district court's order and remand for the district court to reconsider the state's motion to reinstate the third-degree murder charge in light of this court's precedential opinion in *Noor*.

FACTS

Appellant State of Minnesota charged respondent Derek Michael Chauvin with second-degree unintentional murder, third-degree murder, and second-degree manslaughter based on the death of George Floyd. Chauvin moved the district court to dismiss the charges against him for lack of probable cause. On October 21, 2020, the

district court denied the motion with respect to the second-degree murder and second-degree manslaughter charges, but the court granted the motion with respect to the third-degree murder charge. In doing so, the district court reasoned that "a third-degree murder charge can be sustained only in situations in which the defendant's actions were 'eminently dangerous to other persons' and were not specifically directed at the particular person whose death occurred." (Emphasis omitted.) The district court concluded that because Chauvin's alleged death-causing actions were not eminently dangerous to anyone other than George Floyd and were specifically directed at him, there was no basis to charge Chauvin with third-degree murder.

On February 1, 2021, this court issued a precedential opinion in *State v. Noor*, which involved a former police officer convicted of third-degree murder in a shooting death that occurred while the officer was responding to a 911 call. 2021 WL 317740, at *1. Noor challenged his third-degree-murder conviction arguing, in part, that the facts proved did not meet the statutory definition of third-degree murder because his death-causing act was directed at a specific person. *Id.* at *4. This court affirmed the third-degree murder conviction in a 2-1 decision and held that "a conviction for third-degree murder . . . may be sustained even if the death-causing act was directed at a single person."[1] *Id.* at *7.

On February 4, 2021, the state moved the district court to reinstate the third-degree murder charge against Chauvin, arguing that this court in *Noor* had expressly rejected the

[1] In the Minnesota Court of Appeals, "Each case shall be submitted to a panel of at least three judges. The decision of a majority of the judges to which it is submitted shall be the decision of the court." Minn. Stat. § 480A.08, subd. 1 (2020).

basis on which the district court had dismissed that charge. The district court denied the state's motion. The district court explained that if this court's "*Noor* opinion is precedential," the district court was duty-bound to follow it. However, the district court reasoned that even though the *Noor* opinion was "labeled as 'precedential,'" the opinion "does not become final and have precedential effect until the deadline for granting review by the Minnesota Supreme Court has expired." The district court then reasoned that the *Noor* opinion is unpersuasive, stating that the district court's "earlier decision . . . dismissing the charge of Murder in the Third Degree was correct and nothing in the majority opinion in *Noor* persuades the Court otherwise."

In sum, the district court agreed with the analysis in the *Noor* dissent and declined to follow the *Noor* holding because further appellate review was possible in Noor's case. In denying the state's motion, the district court did not address "any other objections [Chauvin] might make to reinstating" the third-degree murder charge.

On February 12, 2021, the state filed this pretrial appeal. On February 25, 2021, Noor filed a petition for further review to the Minnesota Supreme Court. On March 1, 2021, the Minnesota Supreme Court granted Noor's petition. This appeal by the state followed.

ISSUE

Did the district court err by declining to treat this court's opinion in *State v. Noor* as binding precedent?

ANALYSIS

A pretrial appeal by the state is authorized by rule 28.04, subdivision 1(1), of the Minnesota Rules of Criminal Procedure. With certain exceptions not pertinent here, subdivision 1(1) permits the state to appeal as of right from "any pretrial order, including probable cause dismissal orders based on questions of law." Minn. R. Crim. P. 28.04, subd. 1(1). The alleged error must "have a critical impact on the outcome of the trial." *Id.*, subd. 2(2)(b). This court previously determined that the state has met the critical-impact requirement and denied Chauvin's motion to dismiss this appeal. *State v. Chauvin*, No. A21-0201 (Minn. App. Feb. 23, 2021) (order).

Long ago, the supreme court stated that in a pretrial appeal by the state, it "will only reverse the determination of the [district] court if the state demonstrates clearly and unequivocally that the [district] court has erred in its judgment and that, unless reversed, the error will have a critical impact on the outcome of the trial." *State v. Webber*, 262 N.W.2d 157, 159 (Minn. 1977), *overruled by State v. Lugo*, 887 N.W.2d 476 (Minn. 2016). But in *State v. Lugo*, the supreme court clarified that "*Webber* was not intended to, nor did it, announce a rule of deference to district court pretrial *legal* conclusions that the State has appealed." 887 N.W.2d at 485 (emphasis added). The supreme court overruled *Webber* "[t]o the extent the 'erred prong' in *Webber* suggests the contrary." *Id.*

The state challenges the district court's denial of its motion to reinstate the charge of third-degree murder against Chauvin. Although the state's motion was a request to reinstate a previously dismissed charge, for the purposes of our analysis, the motion is

analogous to a motion to amend a criminal complaint because both seek permission to charge an additional offense.

A district court is "relatively free" to permit the state to amend a complaint prior to trial, "provided the [district] court allows continuances where needed." *State v. Bluhm*, 460 N.W.2d 22, 24 (Minn. 1990); *see also* Minn. R. Crim. P. 3.04, subd. 2. "The district court has broad discretion to grant or deny leave to amend a complaint, and its ruling will not be reversed absent a clear abuse of that discretion." *State v. Baxter*, 686 N.W.2d 846, 850 (Minn. App. 2004). A district court abuses its discretion when its "decision is based on an erroneous view of the law or is against logic and the facts in the record." *Riley v. State*, 819 N.W.2d 162, 167 (Minn. 2012) (quotation omitted).

The sole basis for the district court's denial of the state's motion to reinstate the third-degree murder charge against Chauvin was its conclusion that even though this court designated *Noor* as a precedential opinion, the *Noor* decision was not final and would not have "precedential effect" until the deadline for filing a petition for further review had passed without such a filing or the Minnesota Supreme Court denied further review. Because neither event had occurred, the district court concluded that it was not bound to follow this court's opinion in *Noor* and that it was free to reject this court's reasoning as unpersuasive.

The state assigns error to that conclusion, arguing that the *Noor* opinion is precedential and that the district court was obligated to follow it. Chauvin counters that the district court correctly refused to treat *Noor* as precedential authority because when the court ruled on the motion, there was a possibility of further appellate review in Noor's case.

Given the district court's limited reasoning, the sole issue in this appeal is whether the district court erred by refusing to treat *Noor* as binding precedent. That issue is one of law, which we review de novo, without deference to the district court. *See Lugo*, 887 N.W.2d at 483 (rejecting suggestion that in a state's pretrial appeal, "if an issue of law decided by the district court against the [s]tate is a close call, we should not make the call ourselves, but should defer to the district court's legal conclusion.").

A.

In the words of the United States Supreme Court: "[U]nless we wish anarchy to prevail within the federal judicial system, a precedent of this Court must be followed by the lower federal courts no matter how misguided the judges of those courts may think it to be." *Hutto v. Davis*, 454 U.S. 370, 375, 102 S. Ct. 703, 706 (1982). This court has similarly stated that its published opinions are binding on this court and on the district courts.[2] *See, e.g.*, *State v. Peter*, 825 N.W.2d 126, 129 (Minn. App. 2012), *review denied* (Minn. Feb. 27, 2013); *State v. M.L.A.*, 785 N.W.2d 763, 767 (Minn. App. 2010), *review denied* (Minn. Sept. 21, 2010).

[2] The Minnesota Supreme Court promulgates the Minnesota Rules of Civil Appellate Procedure. On July 22, 2020, the Minnesota Supreme Court promulgated an amendment to the rules of civil appellate procedure that provided that written decisions in appeals filed on or after August 1, 2020, would be designated as either "precedential" or "nonprecedential" rather than "published" and "unpublished" as they had previously been identified. *Order Promulgating Amendments to the Rules of Civil Appellate Procedure*, No. ADM09-8006 (Minn. July 22, 2020); *see* Minn. R. Civ. App. P. 136.01, subd. 1. Accordingly, we identify opinions according to the version of rule 136.01 that was in effect when the opinions were issued.

This court's statements regarding the binding force of its published opinions are based on the fundamental principle of *stare decisis*,[3] or "*stare decisis et non quieta movere*," which means, "[t]o stand by things decided, and not to disturb settled points." *Black's Law Dictionary* 1626-27 (10th ed. 2014). *Stare decisis* is "a foundation stone of the rule of law" that instructs appellate courts to "stand by yesterday's decisions." *Kimble v. Marvel Entm't, LLC*, 135 S. Ct. 2401, 2409 (2015) (quotation omitted).

"*Stare decisis* is the preferred course because it promotes the evenhanded, predictable, and consistent development of legal principles, fosters reliance on judicial decisions, and contributes to the actual and perceived integrity of the judicial process." *Payne v. Tennessee*, 501 U.S. 808, 827, 111 S. Ct. 2597, 2609 (1991). Our supreme court has stated, "The doctrine of *stare decisis* directs us to adhere to our former decisions in order to promote the stability of the law and the integrity of the judicial process." *Schuette v. City of Hutchinson*, 843 N.W.2d 233, 238 (Minn. 2014). Adherence to the principle of *stare decisis* promotes the important values of "stability, order, and predictability." *Fleeger v. Wyeth*, 771 N.W.2d 524, 529 (Minn. 2009).

[3] There are two forms of *stare decisis*: horizontal and vertical. *Ramos v. Louisiana*, 140 S. Ct. 1390, 1416 n.5 (2020) (Kavanaugh, J., concurring). Horizontal *stare decisis* is the respect that an appellate court owes to its own precedents and the circumstances under which that court may appropriately overrule a precedent. *See id*. By contrast, vertical *stare decisis* is absolute and is the respect that a district court owes to appellate decisions. *See id*. ("In other words, the state courts and the other federal courts have a constitutional obligation to follow a precedent of [the United States Supreme] Court unless and until it is overruled by [the United States Supreme] Court."). The *stare decisis* issue in this case is one of vertical *stare decisis*.

Consistent with the principle of *stare decisis*, the Minnesota Rules of Civil Appellate Procedure indicate that district courts must "stand by things decided" by this court until a different decision is made by the supreme court. For example, rule 136.01 provides that a panel of this court "deciding the merits of an appeal also determines the form of the written opinion, which may be a precedential opinion, nonprecedential opinion, or order opinion."[4] Minn. R. Civ. App. P. 136.01, subd. 1(a). Rule 136.01 specifically provides that "[n]onprecedential opinions and order opinions are not binding authority." *Id.*, subd. 1(c). But rule 136.01 does not impose any limitations or restrictions on the immediate authoritative force of a precedential opinion. Specifically, the rule does not provide that a precedential opinion is not immediately authoritative upon its filing or that the occurrence of any subsequent event or expiration of any subsequent deadline is necessary to trigger the opinion's precedential effect. If the supreme court had intended for precedential opinions of this court to have limited or no precedential effect until a particular time or event, the supreme court presumably would have expressly said so in rule 136.01.

It is true that a rule regarding entry of judgment after a decision by this court provides for a stay if further review is sought. The rule provides:

> Unless the parties stipulate to an immediate entry of judgment, the clerk of the appellate courts shall enter judgment pursuant to the decision or order not less than 30 days after the filing of the decision or order. The service and filing of a petition for review to, or rehearing in, the Supreme Court shall

[4] *See also* Minn. R. Crim. P. 28.01, subd. 2 ("To the extent applicable, the Minnesota Rules of Civil Appellate Procedure govern appellate procedure unless these rules direct otherwise.").

> stay the entry of the judgment. Judgment shall be entered upon the denial of a petition for review or rehearing.

Minn. R. Civ. App. P. 136.02. Rule 136.02 does not say that such a stay limits the precedential effect of the underlying opinion of this court. Once again, the supreme court could have easily promulgated a rule stating that the precedential effect of a precedential opinion of this court is stayed pending further review. But the supreme court has not done so.

Finally, the rules permitting a party to petition the supreme court for review of a decision of the court of appeals do not state that the filing of such a petition or the opportunity to do so in any way impacts the precedential effect of this court's decision. Minn. R. Civ. App. P. 117; Minn. R. Crim. P. 29.04. Moreover, the Minnesota Supreme Court routinely grants petitions for review of this court's precedential opinions without vacating or otherwise altering the precedential effect of those opinions. For example, in granting the petition for further review in *State v. Noor*, the supreme court did not vacate this court's opinion or make any other statement affecting the precedential value of that opinion. The relevant text of the supreme court's order is as follows:

> IT IS HEREBY ORDERED that the petition of Mohamed Mohamed Noor for further review of the decision of the Court of Appeals be, and the same is, granted. The petitioner shall proceed as the appellant, and briefs shall be served and filed in the quantity, form, and within the time limitations contained in Minn. R. Crim. P. 29.04, subd. 8, and Minn. R. Civ. App. P. 131 and 132. Oral argument will be held on a date in June 2021, on one of the days scheduled for argument before this court. Counsel must file notices of any conflicts with the scheduled dates in June for oral arguments on or before April 19, 2021.

State v. Noor, No. A19-1089 (Minn. Mar. 1, 2021) (order). If the supreme court does not intend for precedential opinions of this court to have precedential effect once a petition for further review is filed or granted, the supreme court could clearly say so.

In sum, deciding whether an opinion of this court is precedential is a fundamental judicial function. The plain language of the relevant rules and the supreme court's practice of not vacating this court's precedential decisions pending further review support the state's argument that a precedential opinion of this court has immediate authoritative effect. Moreover, by applying this court's precedential opinions in similar cases even though further appellate review is possible or pending, we promote consistency, predictability, and stability in the law, consistent with the principle of *stare decisis*.

B.

The district court cited *State v. Collins*, 580 N.W.2d 36 (Minn. App. 1998), *review denied* (Minn. July 16, 1998), for the proposition that *Noor* was not binding precedent because there was a possibility of further appellate review in Noor's case. Chauvin also relies on *Collins*.

In *Collins*, this court considered the applicability of this court's opinion in *State v. Loewen*, 565 N.W.2d 714 (Minn. App. 1997), *review granted* (Minn. Aug. 26, 1997), *remanded* (Minn. Jan. 22, 1998). 580 N.W.2d at 43. In *Loewen*, the supreme court granted further review and requested briefing. *See State v. Loewen*, No. CX-96-2062 (Minn. Aug. 26, 1997) (order). After briefing, the supreme court struck the case from its oral argument calendar and "remanded to the Court of Appeals for further consideration in light of *State v. Machholz*," 574 N.W.2d 415 (Minn. 1998), *superseded by statute*, 1998 Minn.

Laws ch. 367, art. 2, § 23, at 696. *State v. Loewen*, No. CX-96-2062 (Minn. Jan. 22, 1998) (order); *see also Collins*, 580 N.W.2d at 43. On remand, this court determined that, in light of *Machholz*, the statute under which Loewen was convicted was "unconstitutionally overbroad" and that Loewen's "conviction . . . must be reversed." *State v. Loewen*, No. CX-96-2062 (Minn. App. Apr. 20, 1998) (order op.).

One month later, the *Collins* court determined that this court's initial, published *Loewen* opinion was not precedential because of its subsequent history, reasoning as follows:

> This court's decisions do not have precedential effect until the deadline for granting review has expired. *See Hoyt Inv. Co. v. Bloomington Commerce & Trade Ctr. Assocs.*, 418 N.W.2d 173, 176 (Minn. 1988) (discussing court of appeals decision that became final when supreme court denied review). Because review was granted and the decision was not affirmed, *Loewen* is not binding precedent.

Collins, 580 N.W.2d at 43. The district court and Chauvin rely on the first sentence in the above-quoted excerpt from this court's *Collins* opinion. That reliance is unavailing because the sentence was dictum.

"Statements and comments in an opinion concerning some rule of law or legal proposition not necessarily involved nor essential to determination of the case in hand are obiter dicta, and lack the force of an adjudication." *Wandersee v. Brellenthin Chevrolet Co.*, 102 N.W.2d 514, 520 (Minn. 1960) (quotation omitted). Generally, "in expressing dicta, a court has not had the benefit of adversarial briefing and argument focusing on the issue." *Pecinovsky v. AMCO Ins. Co.*, 613 N.W.2d 804, 808 (Minn. App. 2000), *review denied* (Minn. Sept. 26, 2000).

"Dictum can be either judicial dictum or obiter dictum, depending on how involved the parties' arguments and the court's analysis are." *State v. Atwood*, 914 N.W.2d 422, 425 (Minn. App. 2018), *aff'd*, 925 N.W.2d 626 (Minn. 2019). Obiter dictum is a comment made in passing in a judicial opinion that is unnecessary to the decision; such a comment may be disregarded and not given precedential status. *Id*. Judicial dictum, however, is "an expression of opinion on a question directly involved and argued by counsel though not entirely necessary to the decision." *State v. Rainer*, 103 N.W.2d 389, 396 (Minn. 1960). Unlike obiter dictum, judicial dictum "is entitled to much greater weight . . . and should not be lightly disregarded." *Id*.

As stated above, when this court decided *Collins*, the supreme court had already accepted review and disposed of the *Loewen* case by remanding it to this court for further consideration in light of an intervening supreme court opinion. *See Collins*, 580 N.W.2d at 43. This court therefore concluded that *Loewen* was not binding precedent. *Id.* Consequently, there was no need for this court to comment on a situation in which the "deadline for granting review" of one of this court's opinions had yet to expire. *Id.* Moreover, the *Collins* opinion does not suggest that such a situation was the subject of adversarial briefing and argument by counsel on appeal.[5] Thus, the first sentence quoted

[5] The issues presented in *Collins* were: (1) whether the district court erred by implicitly determining that two acts could constitute acting "repeatedly" within the meaning of Minn. Stat. § 609.749, subd. 2(6) (1996); (2) whether the district court erred by allowing reference to Collins's stipulation to his earlier conviction; (3) whether the district court erred by failing to instruct the jury on specific intent with regard to the harassment charges; (4) whether the evidence was sufficient to support the conviction of tampering with a witness; and (5) whether the district court erred in sentencing Collins. *Collins*, 580 N.W.2d at 40. Whether this court's decisions have precedential effect prior to expiration of the

above is an "expression[] in a court's opinion which go[es] beyond the facts before the court and therefore [is] . . . not binding in subsequent cases." *See State ex rel. Foster v. Naftalin*, 74 N.W.2d 249, 266 (Minn. 1956). To be clear, the statement in *Collins* that "[t]his court's decisions do not have precedential effect until the deadline for granting review has expired" is obiter dictum and is therefore *not* binding precedent.

The district court and Chauvin also rely on the supreme court's opinion in *Hoyt*, which was cited in the *Collins* opinion. In *Hoyt*, the supreme court held that "[o]nce a decision of the court of appeals becomes final following denial of a petition for further review, the [district] court is required to direct the entry of judgment in accordance with that decision." 418 N.W.2d at 173. The relevant portion of the *Hoyt* opinion states, "It is our view that once the original court of appeals' decision . . . became final by virtue of the denial of the petition for further review, the [district] court was required to cause the entry of judgment in accordance with that decision . . . ." *Id.* at 176. Thus, the *Hoyt* opinion concerned the timing of the entry of judgment in one case. It did not address the issue presented in this case, that is, whether a precedential opinion of this court is binding on the district court in another case even though the opinion may be subject to further review.

In sum, neither *Collins* nor *Hoyt* provides valid support for the proposition that a precedential opinion of this court is not binding authority immediately upon its filing.

"deadline for granting review," *Collins*, 580 N.W.2d at 43, was not "a question directly involved." *Rainer*, 103 N.W.2d at 396.

C.

The district court and Chauvin also rely on the concept of "finality." Chauvin explains that finality means entry of final judgment and argues that a precedential opinion of this court does not have precedential effect until final judgment in the underlying case is entered.

Chauvin's assertion fails to appreciate the difference between a "precedent" and a "judgment." Precedent is defined as "[s]omething of the same type that has occurred or existed before" and as "[a]n action or official decision that can be used as support for later actions or decisions; esp., a decided case that furnishes a basis for determining later cases involving similar facts or issues." *Black's Law Dictionary* 1424 (11th ed. 2019). By comparison, a judgment is "[a] court's final determination of the rights and obligations of the parties in a case." *Id.* at 1007. The concept of "finality" with regard to a judgment simply "means that it ends or terminates the matter or proceeding in which it is rendered." *In re Enger's Will*, 30 N.W.2d 694, 700 (Minn. 1948).

One commentator has described the difference between a precedent and a judgment as follows:

> A precedent . . . is a judicial decision which contains in itself a principle. The underlying principle which thus forms its authoritative element is often termed the *ratio decidendi*. The concrete decision is binding between the parties to it, but it is the abstract *ratio decidendi* which alone has the force of law as regards the world at large.

John Salmond, *Jurisprudence* § 60, at 201 (7th ed. 1924); *see also In re Mem'l Hosp. of Iowa County, Inc.*, 862 F.2d 1299, 1302 (7th Cir. 1988) (stating that "litigation is conducted to resolve the parties' controversies; precedent is a byproduct of resolving disputes").

Chauvin fails to persuade us that a precedent should not apply in other cases simply because the rights and obligations of the parties in the underlying case have not been reduced to judgment. Adopting that approach would yield results entirely inconsistent with the important values served by the principle of *stare decisis* such as the evenhanded, predictable, and consistent application of law, which contribute to the actual and perceived integrity of the judicial process. For example, if this court's precedential opinion in *Noor* is not authoritative unless the supreme court affirms the opinion on further review, district courts will be free to disregard the legal principles set forth in *Noor* and similarly situated defendants could be treated differently simply because district court judges could choose whether or not to follow *Noor*.

Chauvin seems to acknowledge that such an approach would result in uneven, unpredictable, and inconsistent application of law. He also acknowledges that when the supreme court grants further review in a criminal case, the ensuing appellate process may take months. Chauvin recognizes that under his approach to appellate precedent, the law regarding the circumstances necessary to support a charge of third-degree murder would be uncertain as Noor's case undergoes final review. Chauvin suggests that during that period of uncertainty, the state should exercise its prosecutorial discretion and either decline to charge potential third-degree murder offenses or delay charging decisions while

the *Noor* case makes its way through the appellate process. The state describes Chauvin's position as "radical."

Given the choice between a system in which this court's precedential opinions are binding authority immediately upon filing, which must be applied consistently in factually similar cases, and a system in which this court's precedential opinions are of no effect until further review is denied or completed, it is obvious that the former—and only the former—results in the evenhanded, predictable application of law that is necessary to promote confidence in the judicial system. That is likely why Chauvin is unable to identify *any* jurisdiction that does not treat a precedential decision of an intermediate appellate court as binding authority while further review is possible or pending.

In sum, because a precedent and a judgment serve different purposes and because enforcing a precedent while awaiting entry of judgment promotes the important values of *stare decisis*, we reject Chauvin's argument that the authoritative force of a precedent is dependent on entry of appellate judgment.

D.

In conclusion, we discern no valid authority supporting Chauvin's argument that a precedential opinion of this court is not binding authority so long as further review is possible or pending. The plain language of the relevant rules of procedure indicates that a precedential opinion of this court has immediate precedential effect, which is not limited by the availability or grant of further appellate review. Nor is it dependent on entry of judgment. Although parties, attorneys, district court judges, and the public may disagree with this court's precedential decisions, district courts are bound to follow them. If it were

otherwise, there would be uncertainty in the law and the integrity of our judicial system would be undermined. We therefore hold that a precedential opinion of this court is binding authority for this court and district courts immediately upon its filing. Thus, the district court erred by refusing to follow this court's precedential opinion in *Noor*.

Because the district court denied the state's motion to reinstate the third-degree murder charge based solely on the ground that this court's opinion in *Noor* was not precedential without addressing any other objections to reinstatement of the charge, we do not consider Chauvin's other appellate arguments against reinstatement. Such arguments must be considered and determined in the first instance in district court. *See State v. Sorenson*, 441 N.W.2d 455, 457 (Minn. 1989) (stating that an appellate court usually "will not decide issues which are not first addressed by the [district] court").

DECISION

This court's precedential opinion in *Noor* became binding authority on the date it was filed. The district court therefore erred by concluding that it was not bound by the principles of law set forth in *Noor* and by denying the state's motion to reinstate the charge of third-degree murder on that basis. We reverse the order of the district court and remand for reconsideration of the state's motion. On remand, the district court has discretion to consider any additional arguments Chauvin might raise in opposition to the state's motion. But the district court's decision must be consistent with this opinion.

Reversed and remanded.