

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A22-1013**

State of Minnesota,
Respondent,

vs.

Michael Lasalle Jones,
Appellant.

**Filed July 31, 2023
Affirmed
Bjorkman, Judge**

Ramsey County District Court
File No. 62-CR-21-3697

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

John J. Choi, Ramsey County Attorney, Jeffrey A. Wald, Assistant County Attorney, St. Paul, Minnesota (for respondent)

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

Considered and decided by Bjorkman, Presiding Judge; Ross, Judge; and Reyes, Judge.

NONPRECEDENTIAL OPINION

BJORKMAN, Judge

Appellant challenges his conviction of third-degree criminal sexual conduct, arguing that he was denied his constitutional right to a speedy trial. We affirm.

FACTS

On June 28, 2021, the adult daughter of appellant Michael Lasalle Jones reported that he had forced sex on her that morning; she submitted to a sexual-assault examination. When Jones was arrested two days later, he told police the sex was consensual. He was charged with third-degree criminal sexual conduct (sexual penetration with force or coercion) and remained in custody because he was unable to post bail and because of a probation violation for an earlier offense. On August 20, Jones demanded a speedy trial. The trial was scheduled to begin the week of October 18.

On September 24, the prosecutor told the district court that she was uncertain whether the Minnesota Bureau of Criminal Apprehension (BCA) had tested the DNA collected from Jones's daughter and asked the court to postpone the trial until November. Jones reiterated his speedy-trial demand, and the district court denied the request.

At a trial-management conference on October 7, defense counsel explained that the scheduled trial was not feasible because (1) he had "availability issues" due to another trial, and (2) the state had just that day disclosed the DNA results. He requested that trial be postponed until early December and that Jones be released from custody. The district court declined to release Jones without bail but found that the DNA disclosure "is good cause to continue the trial" and rescheduled trial for mid-December.

On December 2, defense counsel requested another continuance, explaining that he was "still having [the DNA results] undergo analysis" and was having "an issue with trying to get one of our witnesses subpoenaed." He also noted the possibility of "additional litigation motions that need to get addressed as a result of the DNA process." The district

court continued the trial, setting a pretrial hearing for mid-January 2022. In the meantime, Jones filed a motion to suppress his statements to police.

At the January pretrial hearing, Jones withdrew the suppression motion, reiterated his speedy-trial demand, and requested “a trial block beginning February 7th,” which the district court granted. At the same time, the state withdrew the pending probation violation because Jones had served enough time to satisfy his underlying sentence. Jones remained in custody for this case.

On February 8, the district court found good cause for a one-week continuance because the prosecutor had COVID-19 symptoms. Jones again asked to be released from custody, emphasizing that he had withdrawn his suppression motion to expedite trial; the prosecutor opposed the request, noting that a trial the following week would still be within the scheduled two-week trial block. The district court denied the request.

Trial began on February 14. Jones testified in his own defense, acknowledging that he had sex with his daughter but stating that it was “consensual.” The jury found him guilty, and the district court sentenced him to the presumptive 88-month prison term.

Jones appeals.

DECISION

Both the United States and Minnesota Constitutions guarantee a criminal defendant the right to a speedy trial. U.S. Const. amend. VI; Minn. Const. art. I, § 6. The right protects against “undue and oppressive” pretrial incarceration, reduces the “anxiety and concern accompanying public accusation,” and avoids delay that may impair the accused’s ability to present a defense. *State v. Jones*, 977 N.W.2d 177, 190 (Minn. 2022) (quotation

omitted); *see also State v. Paige*, 977 N.W.2d 829, 837 (Minn. 2022) (noting additional benefits to “society as a whole”). Violation of the right requires dismissal. *Jones*, 977 N.W.2d at 190. But not all trial delays constitute a violation.

Whether a defendant has been denied a speedy trial is a constitutional question, which we review de novo. *Id.* In doing so, we consider the “nonexclusive” list of factors that the United States Supreme Court set out in *Barker v. Wingo*, 407 U.S. 514, 530 (1972): (1) the length of the delay, (2) the reason for the delay, (3) whether the defendant asserted the right, and (4) any prejudice to the defendant. *Id.* These factors are not “a check-the-box, prescriptive analysis,” and no single factor is necessary or independently sufficient to show deprivation of the right of a speedy trial. *State v. Mikell*, 960 N.W.2d 230, 245 (Minn. 2021). Rather, we carefully balance these factors, in the context of the particular case, to determine whether the delay “endanger[ed] the values that the right to a speedy trial protects.” *Paige*, 977 N.W.2d at 837 (quotation omitted).

Jones argues that consideration of these factors demonstrates his right to a speedy trial was violated. We analyze each factor in turn.

Length of Delay

The first *Barker* factor is a “triggering mechanism” because courts “do not even consider” whether the accused has been deprived of a speedy trial “until the delay becomes presumptively prejudicial.” *Mikell*, 960 N.W.2d at 245 (quotations omitted). A delay of more than six months from charging to trial, or more than 60 days from speedy-trial demand to trial, is presumptively prejudicial. *Id.* at 246; *see also* Minn. R. Crim. P. 11.09(b) (requiring trial within 60 days of not-guilty plea and speedy-trial demand,

unless district court finds “good cause” for delay). And the longer a delay extends beyond either of those marks, the more the presumption of prejudice “intensifies.” *Jones*, 977 N.W.2d at 190 (quotation omitted).

It is undisputed that the delay in this case is presumed to be prejudicial under either standard—229 days (nearly eight months) from charge to trial, and 178 days from demand to trial. Accordingly, we consider the other *Barker* factors. *Mikell*, 960 N.W.2d at 245.

Reason for Delay

Analysis of the second *Barker* factor focuses on which party is responsible for the delay and what weight to assign this factor based on the reason. *Paige*, 977 N.W.2d at 838. Deliberate attempts by the state to “hamper the defense” weigh heavily against the state, while more neutral reasons such as negligence and court congestion weigh less heavily, and good cause such as the unavoidable unavailability of a state’s witness do not weigh against the state. *Mikell*, 960 N.W.2d at 251. Delay that results from the defendant’s actions does not constitute a speedy-trial violation. *Jones*, 977 N.W.2d at 191.

The state acknowledges some responsibility for the delay because it was unable to obtain the DNA results from the BCA and disclose them to Jones until 11 days before the originally scheduled October trial date. Such a delay is attributable to the state because the BCA is “an arm of the [s]tate” and the state bears “the primary burden to bring cases to trial.” *Id.* (quotation omitted). Accordingly, the state is responsible for the 101 days it took to provide the DNA results to Jones.

Jones contends this delay should weigh heavily against the state because (1) the state offered no justification for not providing the results earlier, only statements of

uncertainty as to the status of the BCA’s analysis of the DNA evidence; and (2) the state “did not need the DNA evidence” because he admitted to police that he had sex with his daughter. This argument is unavailing in both respects. First, the record reflects nothing more than confusion and disorganization in obtaining the DNA results, not a deliberate attempt to delay Jones’s trial. This type of delay weighs less heavily against the state. *Mikell*, 960 N.W.2d at 251. Second, Jones identifies no authority for the proposition that the state acts improperly by pursuing forensic evidence to corroborate a defendant’s admission to an element of the charged offense, rather than simply relying on the admission. As such, he has not demonstrated that time spent pursuing corroborative evidence constitutes deliberate delay that weighs heavily against the state.

After the state disclosed the DNA results, the additional delays are almost entirely attributable to defense counsel and therefore to Jones. *See Jones*, 977 N.W.2d at 191 (“Delays caused by defense counsel . . . are attributable to the defendant.”). Defense counsel took 98 days, from the October 2021 disclosure to mid-January 2022, to review the DNA results. During that same period, defense counsel also requested trial continuances because of a scheduling conflict (October 2021) and difficulty securing a defense witness and needing time to prepare a motion (December 2021). While counsel later withdrew the motion, the number of days associated with the defense’s DNA analysis, scheduling conflicts, witness issues, and motion preparation—all of which are entirely attributable to Jones—nearly match the state’s 101-day delay in disclosing the DNA evidence. And the one-week continuance in early February related to the prosecutor’s illness was a faultless, good-cause delay that did not push Jones’s trial beyond the then-

scheduled trial block. *See Paige*, 977 N.W.2d at 839 (explaining that delays arising from external factors, such as a witness’s unavoidable unavailability or a judge’s death, do not weigh against the state). On balance, the record reflects that the parties bear roughly equal responsibility for the 229 days it took to bring this matter to trial.

Assertion of the Right

The third *Barker* factor requires us to consider whether the defendant demanded a speedy trial and the “frequency and force” of the demand. *Id.* at 840. And to assess whether the demand is “serious,” we also consider whether it is “accompanied by actions that undermine the ability for the trial to occur,” *id.* at 841, such as requesting or agreeing to continuances, *Jones*, 977 N.W.2d at 191-92.

Jones asserted his right to a speedy trial on August 20, 2021, and reiterated his request several times thereafter. But he also sought several continuances, prioritizing scheduling and evidentiary matters above a speedy trial. When he reevaluated those priorities in January 2022, withdrawing his suppression motion and reiterating his demand for a speedy trial, he received a trial within the next available trial block.

Prejudice

In assessing the prejudice factor, we focus on three interests the speedy-trial right advances: “(1) preventing oppressive pretrial incarceration; (2) minimizing the anxiety and concern of the accused; and (3) preventing the possibility that the defense will be impaired.” *State v. Taylor*, 869 N.W.2d 1, 20 (Minn. 2015) (quotation omitted). This third interest is the “most serious.” *Jones*, 977 N.W.2d at 192 (quotation omitted).

The first two interests are not implicated when the defendant is already in custody for another reason. *Taylor*, 869 N.W.2d at 20. That is the situation here. The record reflects that, for all but the last month before trial, Jones was also being held in connection with a probation violation. Jones does not dispute that, under *Taylor*, this means most of his pretrial incarceration is not attributable to delay in bringing this matter to trial. And he acknowledges that concerns about contracting COVID-19 while in detention do not flow from the trial delay itself or establish prejudice. *See Paige*, 977 N.W.2d at 842 (rejecting claim of “oppressive pretrial incarceration” based on pandemic restrictions and concerns).

Most importantly, Jones does not assert that the delay impaired his defense in any way. Nor does the record suggest a likely harm to his case. *See Jones*, 977 N.W.2d at 192 (stating that a defendant need not “prove prejudice,” rather it “may be suggested by likely harm to a defendant’s case”). In short, the most significant indicator of prejudice is absent here.

Balancing

In balancing the four *Barker* factors, we observe that some support the conclusion that Jones’s speedy-trial right was violated: He demanded but did not receive a trial for more than 100 days, partially because of early delay attributable to the state’s processing of DNA evidence, and he remained in custody the entire time. But other factors weigh against a determination that the delay “endanger[ed] the values that the right to a speedy trial protects.” *Paige*, 977 N.W.2d at 843. Jones himself sought multiple continuances, prioritizing other considerations over speed, and caused delays of roughly the same duration as those attributable to the state. During most of that time, he was subject to

confinement because of a probation violation. And he suffered no impairment of his defense because of the delay. On balance, the record persuades us that the trial delay did not violate Jones's right to a speedy trial and, therefore, does not warrant dismissal.

Affirmed.