

*This opinion is nonprecedential except as provided by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
A22-1589**

State of Minnesota,
Appellant,

vs.

Kayli Anne Feekes-Benedict,
Respondent.

**Filed March 27, 2023
Affirmed
Cleary, Judge***

Clay County District Court
File No. 14-CR-21-3097

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

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Cathryn Middlebrook, Chief Appellate Public Defender, St. Paul, Minnesota; and

Melvin R. Welch, Welch Law Firm, LLC, Minneapolis, Minnesota (for respondent)

Considered and decided by Bjorkman, Presiding Judge; Frisch, Judge; and Cleary,
Judge.

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

NONPRECEDENTIAL OPINION

CLEARY, Judge

Appellant State of Minnesota challenges the district court's decision to not receive a police report as evidence at a suppression hearing because the state did not produce the officer who wrote the report to testify. The state argues that the district court's decision was error in the wake of *State v. Pauli*, 979 N.W.2d 39, 42 (Minn. 2022), a recent Minnesota Supreme Court decision, which held that the Minnesota Rules of Evidence do not apply in full force at suppression hearings. But because the district court has clear discretion to determine the reliability of evidence at suppression hearings and the state interprets *Pauli* too broadly, we affirm.

FACTS

In September 2021, the state charged respondent Kayli Anne Feekes-Benedict with two counts of misdemeanor driving while impaired.¹ In August 2022, Feekes-Benedict filed a motion to suppress all evidence obtained from her arrest claiming it was unlawful and lacked probable cause. In November 2022, the district court held a suppression hearing. At the suppression hearing, the state offered one exhibit, a police report written by the officer who stopped Feekes-Benedict's vehicle. The state did not intend to call any witnesses and did not have the officer who wrote the report available, relying on the holding in a recent Minnesota Supreme Court case, *id.* at 42, to assert that it did not have to abide by the Minnesota Rules of Evidence at suppression hearings.

¹ In violation of Minnesota Statutes section 169A.20, subdivisions 1(1)-(5) (2020).

The district court refused to receive the police report, reasoning that *Pauli* does not support the assertion that officers do not have to testify to their police reports at suppression hearings. The state then requested that, before the district court dismiss the case against Feekes-Benedict, the court stay the proceedings so it could wait for its related appeal to be heard.² The district court, in its subsequent order, granted Feekes-Benedict's motion to suppress and stayed dismissal of her case for five days for the state to perfect its appeal.

The state appeals.

DECISION

The state maintains that it did not need to have the arresting officer testify for the district court to receive the officer's police report, which outlined Feekes-Benedict's vehicle stop that led to her impaired-driving charges. The state relies upon a holding in *Pauli*, which states that "[t]he Minnesota Rules of Evidence do not apply with full force during suppression hearings" in arguing that there is a limited right to confrontation at pretrial hearings.³ 979 N.W.2d at 42. On the other hand, Feekes-Benedict asserts that since the state has the burden to show that the evidence obtained against her was obtained

² The state had the opportunity to request a continuance to locate the officer and have him testify, but instead chose to pursue an appeal. The record and oral argument revealed that the state (specifically Clay County) has attempted to admit evidence, such as police reports, body-camera footage, and squad-camera footage without officer testimony at suppression hearings in other cases since the *Pauli* decision was released.

³ The state further contends that presentation of evidence beyond the police report makes the proceeding "a discovery expedition." But the two main collateral functions of pretrial hearings, such as suppression hearings, are (1) for "the defendant to engage in a form of discovery," and (2) perpetuation of testimony on both sides—the defendant has an opportunity to confront the state's witnesses against them, and the prosecution gets to "assess the credibility of [its own] witnesses." *State v. Florence*, 239 N.W.2d 892, 896 (Minn. 1976). As a result, the state's argument is not persuasive.

lawfully and *Pauli* does not remove that burden, the district court properly granted her suppression motion after refusing to admit the state's evidence.

Because this appeal concerns a district court's decision at the pretrial stage, we will reverse its decision only if the state can "clearly and unequivocally show both that the trial court's order [had] a critical impact on the state's ability to prosecute the defendant successfully and that the [district court's decision] constituted error." *State v. Zanter*, 535 N.W.2d 624, 630 (Minn. 1995) (quotation omitted); *see also State v. Osorio*, 891 N.W.2d 620, 627 (Minn. 2017) (explaining that an appellate court views critical impact as a threshold issue and will not review a pretrial order absent such a showing). Once the critical-impact threshold has been met, we review a district court's factual findings in a pretrial order on a motion to suppress evidence under a clearly erroneous standard and review its legal determinations de novo. *State v. Gauster*, 752 N.W.2d 496, 502 (Minn. 2008).

We first address whether the state met its burden of showing that the district court's decision had a critical impact on its case. "Critical impact has been shown not only in those cases where the lack of the suppressed evidence completely destroys the state's case, but also in those cases where the lack of the suppressed evidence significantly reduces the likelihood of a successful prosecution." *State v. Joon Kyu Kim*, 398 N.W.2d 544, 551 (Minn. 1987). The critical-impact inquiry is a fact-dependent determination. *State v. Sexter*, 935 N.W.2d 157, 161-62 (Minn. App. 2019), *rev. denied* (Minn. Dec. 17, 2019).

Although the state had the option to—but did not—request to continue the case until the time where it could produce the officer to testify at the suppression hearing and follow through with the prosecution of Feekes-Benedict, the district court’s order had a critical impact on the state’s case. The district court’s refusal to receive the state’s police report and granting of Feekes-Benedict’s suppression motion left the state with a complete lack of evidence to prosecute her impaired-driving charges. *See Joon Kyu Kim*, 398 N.W.2d at 551. And the district court, after giving the state a five-day stay, dismissed the charges against Feekes-Benedict, cementing the critical impact as it “destroy[ed] the state’s case.” *Id.*; *see also State v. Underdahl*, 767 N.W.2d 677, 684 (Minn. 2009) (explaining that the dismissal of charges has a critical impact on the prosecution’s case). As a result, we conclude that the state met its burden of establishing critical impact to its case, even though that critical impact was largely created by the state’s decision not to produce the officer to testify.

We next turn to whether the district court’s refusal to receive the police report without accompanying officer testimony and the ensuing suppression order were in error given the Minnesota Supreme Court’s ruling in *Pauli*. Since the district court’s interpretation of *Pauli* as applied to the state’s proffered evidence is a legal determination, we review this question de novo. *Gauster*, 752 N.W.2d at 502. But we review the district court’s ultimate determination of whether to admit the evidence for an abuse of discretion. *See Kroning v. State Farm Auto. Ins. Co.*, 567 N.W.2d 42, 45-46 (Minn. 1997) (“The admission of evidence rests within the broad discretion of the [district] court and its ruling

will not be disturbed unless it is based on an erroneous view of the law or constitutes an abuse of discretion.” (quotation omitted)).

When the district court makes determinations regarding preliminary questions on the admissibility of evidence, it is not bound by the rules of evidence, unless these questions concern privileges. Minn. R. Evid. 104(a). At a suppression hearing, the state carries the burden to establish that the evidence challenged by the defendant was obtained in accordance with the constitution. *State v. Edstrom*, 916 N.W.2d 512, 517 (Minn. 2018); *see also State v. Terrell*, 283 N.W.2d 529, 531 (Minn. 1979) (concluding that at an omnibus hearing where a defendant sought suppression of evidentiary items, prosecution should have called witnesses rather than relying on the grand-jury-testimony transcript).

Here, the district court did not abuse its discretion in refusing to receive the police report and granting the defendant’s motion to suppress because the district court has ample discretion in determining the reliability of evidence and the state too broadly interpreted the holding in *Pauli*. At the suppression hearing, the state had the burden to establish that the evidence obtained at Feekes-Benedict’s vehicle stop was obtained legally. *Edstrom*, 916 N.W.2d at 517. The state made no offers of proof at the suppression hearing. Instead, the state presented only the police report written by the arresting officer without that officer present to testify.⁴ In doing so, the state failed to meet its burden at the suppression hearing,

⁴ The state also argues that the defendant’s right to confrontation at a pretrial hearing is “significantly relaxed” compared to trial and, as a result, it did not need to produce a witness for its police report. Even taking the “significantly relaxed” standard as true, the rights of the defendant under the Confrontation Clause still exist such that witnesses may need to be called. Even *Pauli* recognized that in many instances, the admissibility of

and the district court properly granted Feekes-Benedict's suppression motion. The state relies on *Pauli* to assert that (1) the district court should have received the police report into evidence to go toward its burden and (2) it did not need a witness to show the validity of the stop and the legality of the evidence.⁵ We disagree.

First, the district court has wide discretion in receiving evidence at the pretrial stages. In fact, *Pauli* reinforces the role of the district courts as gatekeepers of evidence, and it permits—but does not require—district courts to disregard the rules of evidence at pretrial hearings. 979 N.W.2d at 50. *Pauli* does not, however, preclude the court from enforcing limitations on evidence proffered by the state. The Minnesota Supreme Court stated:

District court judges still serve a vital gatekeeping function that Rule 104(a) does not eliminate. But Rule 104(a) by its plain text—and supported by principles of judicial economy and rulings from other jurisdictions—does not require rigid adherence to the Rules of Evidence at suppression hearings.

Id.; see also Minn. R. Evid. 104(a) (stating that preliminary questions concerning the admissibility of evidence shall be determined by the district court, subject to relevancy standards, and in making its determination, it is not bound by the rules of evidence).

Further, *Pauli* explains that although “not bound to follow the Rules of Evidence, district court judges *can and should still exclude evidence they deem unreliable.*”

certain evidence is dispositive of a case and in such instances, the rules of evidence may be necessary to protect the interests of litigants. 979 N.W.2d at 50.

⁵ The state argued at oral argument before this court that Feekes-Benedict could have called the officer as a witness at the suppression hearing. This argument fails. The state—not the defendant—has the burden of proof at a suppression hearing. *Edstrom*, 916 N.W.2d at 517.

979 N.W.2d at 50 (emphasis added) (explaining that “a district court’s ability to reject unreliable evidence is not eliminated by allowing the court to consider evidence beyond what is admissible under the rules”). The district court utilized this discretion when it refused to receive the police report here. As a result, the district court did not err in its interpretation of *Pauli*, which permitted its exercise of discretion to refuse to receive the report as unreliable evidence.

Still, the state asserts that because the district court’s order did not mention reliability as the basis for its refusal to receive the evidence, it did not properly use its discretion. Again, we disagree. The district court is not required to state with specificity that it is refusing evidence for being unreliable in its order. It is enough that the district court reasoned in its decision to refuse the police report and grant Feekes-Benedict’s suppression motion based on a concern with the Confrontation Clause, which involves testimonial evidence, because this consideration goes directly to the reliability of the evidence the state presented. *See* Minn. R. Evid. 104(a) (stating that the preliminary questions on the admissibility of evidence shall be determined by the court); *see also State v. Tate*, 969 N.W.2d 378, 384 n.7 (Minn. App. 2022) (holding that the Confrontation Clause commands that testimonial-evidence reliability be assessed in a particular manner by testing in the crucible of cross-examination), *aff’d*, 985 N.W.2d 291 (Minn. 2023).

Second, the state extrapolated a broader rule from *Pauli* than is permissible when it tried to submit the police report without officer testimony. Contrary to the state’s interpretation, *Pauli* does not permit the state to skirt by the rules of evidence pertaining to its burden at a suppression hearing. And it does not require the district court to receive any

of the state's presented evidence even if it deems that evidence unreliable. Instead, *Pauli* merely allows the district court to receive evidence at suppression hearings that may not strictly abide by the rules of evidence to aid in its pretrial determinations—at its discretion and as it considers fit for the case at issue. As such, we do not discern an abuse of discretion by the district court in determining that this evidence was unreliable.

In sum, because the state's reliance on *Pauli* was misplaced and the district court has wide discretion in determining the reliability of evidence at the pretrial stage, as outlined in Rule 104(a) of the Minnesota Rules of Evidence and *Pauli*, we affirm.

Affirmed.