STATE OF MINNESOTA
IN COURT OF APPEALS
A22-1600
A22-1601
A22-1602
A22-1603

State of Minnesota,
Appellant,

vs.

Aden Mohamed Aden,
Respondent.

Filed March 20, 2023
Affirmed
Cleary, Judge[*]

Hennepin County District Court
File No. 27-CR-21-18043

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

Mary F. Moriarty, Hennepin County Attorney, Adam E. Petras, Assistant County Attorney, Minneapolis, Minnesota (for appellant)

Cathryn Middlebrook, Chief Appellate Public Defender, Melvin R. Welch, Assistant Public Defender, St. Paul, Minnesota (for respondent)

Considered and decided by Smith, Tracy M., Presiding Judge; Larkin, 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NONPRECEDENTIAL OPINION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

In these consolidated pretrial appeals, appellant State of Minnesota argues that the district court clearly erred by finding that respondent Aden Mohamed Aden was under 18 years old when he allegedly committed the charged offenses, which deprived the district court of subject-matter jurisdiction. We affirm.

FACTS

The state charged Aden with felonies and gross misdemeanors in four district court files. The alleged offense dates ranged from September 2021 to February 2022. Aden moved to dismiss the complaints for lack of subject-matter jurisdiction, claiming that he was under 18 years old when he allegedly committed the charged offenses.

To prove Aden's age at an evidentiary hearing on the motion, the state relied on certified court records from Aden's prior juvenile and criminal cases, records from the Minnesota Department of Vehicle Services, and a letter from the United States Citizenship and Immigration Services. The documents all purported that Aden was born in July 2002.

Aden—who was internationally adopted—relied on the testimony of a medical doctor who treated and studied him from 2013 to 2021. Aden also relied on exhibits showing his growth compared to other boys of the same official age. After the doctor recounted what she learned while treating and studying Aden and other relevant knowledge, the doctor testified that she was "as close as . . . possibl[e] . . . to certain[] that [Aden] is at least two or three years younger than his official age," and "maybe even four years younger."

The district court credited the doctor's opinion "in full" and found by a preponderance of the evidence "that [Aden] is at least two years younger than his official age." Because the district court concluded that it lacked jurisdiction over Aden, it dismissed the complaints against him. The state now appeals these dismissals.

DECISION

I. Dismissing the charges for lack of subject-matter jurisdiction critically impacted the prosecutions.

In all criminal appeals by the state, the state must make a "threshold" showing that "unless the district court's ruling is reversed, the alleged error will have a critical impact on the outcome of the trial." *State v. Suspitsyn*, 941 N.W.2d 423, 426 (Minn. App. 2020) (quotation omitted), *rev. denied* (Minn. May 27, 2020); Minn. R. Crim. P. 28.04, subd. 2(2)(b). Dismissing the charges "clearly ha[s] a critical impact on the outcome of the case." *State v. Jones*, 857 N.W.2d 550, 554 (Minn. App. 2014), *aff'd*, 869 N.W.2d 24 (Minn. 2015). Aden claims that this rule does not apply, noting that the error must "significantly reduce[] the likelihood of a successful prosecution." *See State v. Stavish*, 868 N.W.2d 670, 674 (Minn. 2015) (quotation omitted). Aden argues that the state can petition him in juvenile court and has not shown a significantly reduced likelihood of successful prosecution.

Aden cites no authority for the claim that the state fails to show critical impact from dismissal for lack of jurisdiction when another court might have jurisdiction. And our precedent suggests otherwise. *See State v. Dunson*, 770 N.W.2d 546, 550 (Minn. App. 2009), *rev. denied* (Minn. Oct. 20, 2009). In *Dunson*, we held that dismissal resulted in

critical impact despite it being undisputed that "the state [could] reinstate the charges by amending the complaints." *Id.* Here, the state cannot reinstate the charges in district court because the district court lacks jurisdiction, much less successfully prosecute them in district court. We conclude that the state has shown critical impact and therefore proceed to the merits.

II. The district court did not clearly err by finding that Aden was under 18 years old when he allegedly committed the charged offenses.

The state argues that the district court clearly erred in its age finding. To avoid dismissal, the state needed to prove by a preponderance of the evidence that Aden was at least 18 years old when he allegedly committed the charged offenses. *See* Minn. Stat. § 260B.101, subd. 1 (2022) (granting juvenile court "original and exclusive jurisdiction" over "proceedings concerning any minor alleged to have been delinquent" before turning 18 years old); *State v. Ali*, 806 N.W.2d 45, 54 (Minn. 2011). As a factual finding, the district court's age finding must be given "great deference" and may not be set aside "unless clearly erroneous." *State v. Andersen*, 784 N.W.2d 320, 334 (Minn. 2010). Factual findings are not clearly erroneous if reasonable evidence supports them. *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 223 (Minn. 2021). Under clear-error review, appellate courts view the evidence in the light most favorable to the findings and do not weigh evidence, reconcile conflicting evidence, judge witness credibility, or find facts. *Id.* at 221-23.

Here, the credited testimony of Aden's doctor and the exhibits showing Aden's growth relative to other boys of his official age reasonably support the district court's age

finding. The doctor specialized in treating immigrants under circumstances similar to Aden's, including when a child patient's age is unclear. The doctor treated Aden two to four times per year for over eight years and was concerned about his biological age since his first visit, when Aden's guardian presented him as "two or three years younger than his official age." This treatment was for non-legal purposes.

The doctor explained that as Aden aged, his physical, psychological, behavioral, social, and motor-skills development were "consistent with him being younger than his official age." The doctor also noted that Aden started puberty around two or three years later than normal despite not having any "growth[-]hormone deficiency" that would cause such a delay. Accordingly, the doctor testified that Aden's growth charts showed that his height and weight had "never even been up to the third percentile . . . for his [official] age."

In addition, the doctor considered "three or four bone[-]age studies" of Aden conducted by endocrinologists from "the first month of [the doctor] seeing him" in 2013 to 2019. The doctor explained that "bone age" refers to the "pattern of how bone changes occur over time," with some bones "fus[ing] together." Aden's bone-age results were "consistently below three standard deviations from the mean . . . for . . . his official age." To put this "exceedingly rare event" in context, the doctor testified that out of "1,000 normal, healthy children" of the same official age, "less than 10 . . . would fall into" Aden's "category." The doctor also explained that the chance of error in the bone-age studies "was . . . close to zero" given their consistent results. The endocrinologists agreed that Aden is several years younger than his official age.

Furthermore, the doctor thoroughly considered and rejected alternative "medical explanation[s]" for Aden's seeming developmental delays. The doctor also found no evidence that Aden was ever malnourished. In any event, the doctor explained that "any malnourishment [would] have been corrected after [Aden] arrived in the United States," and that there is no reason to believe that malnutrition would affect a person's bone age.

Moreover, the doctor acknowledged that the disease with which Aden was diagnosed in 2008 according to medical records can stunt growth if left untreated. But treating children with this disease was the doctor's specialty. And during Aden's first visit with the doctor, Aden possessed medication for the disease from Kenya. "[L]ab test results" and medical records indicated that he began taking the medication in 2010. The doctor noted that infected children's growth will usually "normalize" within one or two years of beginning treatment, and Aden's growth did not do so according to his official age. And the doctor explained that, in any case, stunted growth due to the disease with which Aden was diagnosed does not impact bone age. Additionally, the doctor testified that "medically stressful[] situations can . . . speed up puberty" rather than apparently delay it like in Aden's case.

Considering these factors, the doctor was "as close as . . . possibl[e] . . . to certain[] that Aden is at least two or three years younger than his official age." Based on this conclusion and its foundation, the district court did not clearly err by finding that Aden is at least two years younger than his official age, making him under 18 years old when he allegedly committed the charged offenses.

Affirmed.