

*This opinion is nonprecedential except as provided by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
A22-1659**

State of Minnesota,
Respondent,

vs.

Micheal Anthony Sparks,
Appellant.

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

Carver County District Court
File No. 10-CR-21-691

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

Mark Metz, Carver County Attorney, Jeffrey D. Albright, Assistant County Attorney,
Chaska, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Benjamin J. Butler, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Bryan, Presiding Judge; Smith, Tracy M., Judge; and
Klaphake, Judge.

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

NONPRECEDENTIAL OPINION

KLAPHAKE, Judge

Appellant Michael Anthony Sparks challenges his conviction for ineligible person in possession of ammunition, arguing that (1) the district court erred by denying his motion to suppress the evidence obtained from the search of his apartment, (2) the evidence of constructive possession of the ammunition was insufficient, and (3) a delay violated his speedy-trial rights. We affirm.

DECISION

I. Search of Apartment

The Fourth Amendment to the United States Constitution prohibits unreasonable searches and seizures by the government. U.S. Const. amend. IV; *see State v. Buswell*, 460 N.W.2d 614, 617 (Minn. 1990). Generally, the Fourth Amendment does not apply to private actors. *Buswell*, 460 N.W.2d at 617. However, government involvement may transform a private search into a governmental search subject to the constraints of the Fourth Amendment. *Id.* Courts consider “(1) whether the government knew of and acquiesced in the search and (2) whether the search was conducted to assist law enforcement efforts or to further the private party’s own ends.” *Id.* at 618. When reviewing a district court’s pretrial order on a motion to suppress evidence, we review the district court’s factual findings for clear error and legal determinations de novo. *See State v. Gauster*, 752 N.W.2d 496, 502 (Minn. 2008).

Sparks’s landlord conducted a routine inspection of his apartment and, when he saw ammunition on the entertainment center, he called law enforcement, who executed a search

warrant, and found the ammunition. The state charged Sparks with ineligible person in possession of ammunition. *See* Minn. Stat. § 624.713, subd. 1(2) (2020) (providing, in relevant part, that a person who has been convicted of a crime of violence shall not possess ammunition). Sparks moved to suppress the ammunition evidence seized in the warranted search of his apartment on the grounds that the warrant was supported by information obtained in the illegal search by his landlord and moved to dismiss the state's case for lack of probable cause. The district court denied both motions, determining that the landlord's search of the apartment was a private search and thus not subject to Fourth Amendment protection. Sparks argues that the district court erred by denying his motion to suppress his landlord's warrantless search of his home. He argues that the search was subject to Fourth Amendment protection because it was "a joint endeavor conducted for the dual purposes of assisting law enforcement and investigating concerns about the lease."

Here, we agree with the district court's determination that the landlord's search of Sparks's apartment was a routine, private inspection. The testimony at the contested omnibus hearing establishes that law enforcement communicated with the landlord about Sparks prior to their inspection of Sparks's apartment and that the landlord told law enforcement that he intended to inspect Spark's apartment. But beyond this limited contact between the landlord and law enforcement, there is no evidence in the record that law enforcement did or said anything else, actively or passively, to acquiesce to the search or knew that any contraband was located in the apartment. *See Buswell*, 460 N.W.2d at 619. As the state explains, law enforcement did not tell or ask the landlord to perform the inspection and they played no part in the landlord's inspection of Sparks's apartment. Such

antecedent contact between law enforcement and the landlord is inadequate to trigger the application of the exclusionary remedy under the Fourth Amendment. *See id.*

II. Sufficiency of the Evidence

Appellate courts conduct a heightened two-step analysis when evaluating the sufficiency of circumstantial evidence. *State v. Silvernail*, 831 N.W.2d 594, 598 (Minn. 2013). First, we identify the circumstances proved. *Id.* In doing so, we “consider only those circumstances that are consistent with the verdict,” meaning we assume the jury believed the state's witnesses and disbelieved the defense witnesses. *Id.* at 599.

Second, we review the circumstantial evidence as a whole and “determine whether the circumstances proved are consistent with guilt and inconsistent with any rational hypothesis except that of guilt.” *Id.* (quotations omitted). In doing so, we do not defer to the jury’s choice between reasonable inferences. *Id.*

Sparks was convicted of possessing ammunition as an ineligible person. *See* Minn. Stat. § 624.713, subd. 1(2). Because the ammunition was found in Sparks’s apartment, the state argued that he constructively possessed it. Constructive possession applies when the state “cannot prove actual or physical possession . . . but where the inference is strong that the defendant at one time physically possessed the [contraband]” and “continued to exercise dominion and control over [the contraband].” *State v. Florine*, 226 N.W.2d 609, 610 (Minn. 1975).

The circumstances proved are as follows. Sparks left his apartment one hour before the landlord’s inspection. The landlord found the ammunition in plain view on Sparks’s entertainment center in Sparks’s living room in a decorative arrangement surrounded by

Sparks's personal property. And other ammunition of the same type and color were found in Sparks's closet next to the entertainment center.

Sparks argues that the state failed to prove that he was exercising dominion and control over the ammunition because multiple people had accessed the apartment prior to the search. Thus, Sparks contends the state failed to prove beyond a reasonable doubt that Sparks was the person who possessed the ammunition. However, when viewing the evidence as a whole and in light of the substantial evidence tying Sparks directly to the ammunition, the inference that someone else arranged the ammunition alongside Sparks's personal possessions only because other people had access to Sparks's apartment is not reasonable. *See State v. Andersen*, 784 N.W2d 320, 330 (Minn. 2010) (explaining that appellate courts "will not overturn a conviction based on circumstantial evidence on the basis of mere conjecture"). Because the sole reasonable inference is that Sparks constructively possessed the ammunition, the circumstances proved do not offer a rational hypothesis other than guilt.

III. Speedy Trial

Sparks argues that the 370-day delay between his demand for speedy trial and when trial began violated his constitutional right to a speedy trial.

The United States Constitution guarantees criminal defendants the right to a speedy trial. U.S. Const. amend. VI. Because the right to a speedy trial is a constitutional right, this court reviews whether a defendant has been denied a speedy trial de novo. *State v. Osorio*, 891 N.W.2d 620, 627 (Minn. 2017).

To determine whether a violation of a speedy-trial right occurred, Minnesota courts analyze four nonexclusive factors established by the United States Supreme Court in *Barker v. Wingo*: (1) length of the delay; (2) reason for the delay; (3) whether the defendant asserted his or her speedy-trial right; and (4) whether the delay prejudiced the defendant. 407 U.S. 514, 530-33 (1972). “None of the *Barker* factors is either a necessary or sufficient condition to the finding of a deprivation of the right of a speedy trial . . . they are related factors and must be considered together with such other circumstances as may be relevant.” *Osorio*, 891 N.W.2d at 628 (quotation omitted). Analyzing the *Barker* factors therefore involves a “difficult and sensitive balancing process in which the conduct of both the [s]tate and the defendant are weighed.” *Id.* (quotations and citations omitted).

A. Length of Delay

“The delay is calculated from the point at which the Sixth Amendment right attaches, which is when a formal indictment is issued or when the person is arrested and held to answer a criminal charge. *State v. Jones*, 392 N.W.2d 224, 235 (Minn. 1986). Here, because Sparks was charged on August 30, 2021, and trial took place on September 13, 2022, the delay was approximately 379 days, which triggers review of the remaining three factors. *See id.* (explaining that “delay of seven months is long enough to trigger the consideration of the other *Barker* factors).

B. Cause of Delay

A “deliberate attempt to delay the trial in order to hamper the defense should be weighted heavily against the government,” but a “more neutral reason such as negligence

should be weighted less heavily but nevertheless should be considered since the ultimate responsibility . . . must rest with the government.” *Osorio*, 891 N.W.2d at 628.

This factor weighs against Sparks. First, Sparks requested continuances and agreed to process other pending charges against him prior to this one, prioritizing other interests over speed. The state did not request any continuances. Second, there is no record support of Sparks’s assertion that the delay was caused by overcrowding. Third and finally, there is no evidence or argument that the state attempted to hamper Sparks’s defense with the delay.

C. Assertion of the Right

This court considers not only whether a defendant demanded a speedy trial but also the “frequency and force” of the demand. *State v. Paige*, 977 N.W.2d 829, 840 (Minn. 2022). “[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.” *State v. Friberg*, 435 N.W.2d 509, 515 (Minn. 1989).

Sparks argues that he demanded a speedy trial at an omnibus hearing. However, as the state argues, the transcript clearly shows that Sparks was requesting a speedy omnibus proceeding. *See* Minn. R. Crim. P. 11.01(a) (stating that omnibus hearings must be held within 28 days of a combined Rule 5 and Rule 8 hearing). Moreover, the demand was infrequently voiced, even when speedy trial demands for other cases involving Sparks were being discussed, and, on January 14, 2022, defense counsel specifically said, “there is not a demand.” Thus, this factor weighs against Sparks.

D. Prejudice

This court considers three interests when determining whether a defendant suffered prejudice: “(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). The third interest, preventing impairment of the defense, is the “most serious.” *Id.*

We conclude that there is no evidence of prejudice to appellant from the delay at issue. Here, the first two interests are not implicated because Sparks was already in custody. *See id.* Because Sparks does not make any argument as to why the delay prevented him from presenting his defense—the third *Taylor* factor—it appears that this factor does not favor Sparks. *Id.*

E. Balancing

Sparks has demonstrated a basic element of a speedy-trial violation—that his trial was delayed. However, other factors balance against that consideration. Sparks sought continuances, prioritizing other considerations over speed, which caused delays. Most crucially, he suffered no impairment to his defense because of the delay. Thus, this delay does not implicate the values that the speedy trial right protects.

Affirmed.