

*This opinion is nonprecedential except as provided by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
A23-0795**

State of Minnesota,
Appellant,

vs.

Jacob Carl Smith,
Respondent.

**Filed October 30, 2023
Affirmed
Klaphake, Judge ***

Rice County District Court
File No. 66-CR-22-2099

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

Brian M. Mortenson, Rice County Attorney, Sean R. McCarthy, Assistant County Attorney, Faribault, Minnesota (for appellant)

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

Considered and decided by Connolly, Presiding Judge; Bjorkman, 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NONPRECEDENTIAL OPINION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 State of Minnesota challenges the district court's pretrial orders deferring a decision on the state's request for a continuance after an essential witness failed to appear and denying the state's motion to amend the complaint to include a three-year mandatory minimum sentence under Minn. Stat. § 609.11, subd. 4 (2022). Because the district court did not abuse its discretion in deferring a ruling on the state's continuance request, we affirm.

DECISION

In a pretrial appeal by the state, the state must "clearly and unequivocally show both that the trial court's order will have a critical impact on the state's ability to prosecute the defendant successfully and that the order constituted error." *State v. Zanter*, 535 N.W.2d 624, 630 (Minn. 1995) (quotation omitted). "We review critical impact as a threshold issue and will not review a pretrial order absent such a showing." *State v. Osorio*, 891 N.W.2d 620, 627 (Minn. 2017) (quotation omitted).

I. Critical Impact

We conclude that the state has shown critical impact regarding the district court's deferral of the state's request for a continuance. The state established that Y.R. was a crucial witness because she was the only one who could identify Smith as the individual at her home. The district court's decision to defer a ruling on the state's request for a continuance when Y.R. failed to appear would have resulted in jeopardy attaching when the jury was sworn in, and the state would have been left without a remedy if it was unable

to locate Y.R. in time to provide testimony. Since Y.R. failed to appear, the district court’s deferral of the state’s motion had a “critical impact on the state’s ability to prosecute the defendant successfully.” *Zanter*, 535 N.W.2d at 630.¹

II. Deferral on Request for Continuance

Having found critical impact, we turn to the substance of the state’s appeal. The state argues that the district court abused its discretion in deferring a ruling on the state’s request for a continuance when Y.R. failed to appear. A ruling on a request for a continuance is within the district court’s discretion and a denial of a motion for a continuance will not be reversed except when such denial is a clear abuse of discretion. *See State v. Rainer*, 411 N.W.2d 490, 495 (Minn. 1987). “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.” *State v. Guzman*, 892 N.W.2d 801, 810 (Minn. 2017). “The reviewing court must examine the circumstances before the [district] court at the time the motion [for a continuance] was made to determine whether the [district] court’s decision prejudiced [the party] by materially affecting the outcome of the trial.” *State v. Turnipseed*, 297 N.W.2d 308, 311 (Minn. 1980).

Here, the district court did not deny the state’s request for a continuance so it cannot be said that its decision “prejudice[d] the outcome of the trial.” *See State v. Stroud*,

¹ The state did not present any argument of critical impact as it relates to the district court’s decision to move forward without the mandatory three-year minimum sentence for a subsequent offense under Minn. Stat. § 609.11, subd. 4 (2022). Accordingly, the state has not met its threshold burden on that issue and this court will not review the district court’s order regarding the amended complaint.

459 N.W.2d 332, 335 (Minn. App. 1990). The deferral itself did not force the state to present its case without Y.R.'s testimony. The state simply had to proceed with its case up to the point that Y.R. was to be called as a witness, at which point the district court intended to address the issue if it was still necessary to do so. When ruling on the request for continuance from the bench, the court stated:

As far as the continuance goes, at this point in time I'm going to defer my ruling on the continuance. We have the jury here, sounds like you have some witnesses you want to call, sounds like you tracked down Y.R. fairly quickly after you were intending on looking for her. Looks like there's a place of work that you even found her at. So we'll go ahead with the trial at this point and deal with that issue when she becomes a witness.

These circumstances do not show prejudice or otherwise material impact on the outcome of the trial would be caused by the district court's deferral. We see no abuse of discretion.

Affirmed.