

*This opinion is nonprecedential except as provided by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
A23-1560**

State of Minnesota,
Respondent,

vs.

Hannah Elayne Marie Weyhrauch,
Appellant.

**Filed July 15, 2024
Affirmed
Bjorkman, Judge**

Sherburne County District Court
File No. 71-VB-22-5969

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

Paul D. Baertschi, Anoka, Minnesota (for respondent)

Hannah Weyhrauch, Big Lake, Minnesota (pro se appellant)

Considered and decided by Smith, Tracy M., Presiding Judge; Bjorkman, Judge;
and Slieter, Judge.

NONPRECEDENTIAL OPINION

BJORKMAN, Judge

Appellant challenges the final disposition in this petty-misdemeanor speeding case, arguing that (1) she was denied her constitutional right to question a witness that the state elected not to call at trial, (2) the prosecutor committed misconduct by not permitting her

to view the evidence against her prior to trial, (3) the evidence was insufficient to prove her guilt beyond a reasonable doubt, (4) the district court erred by denying her motion to dismiss the speeding citation as invalid, and (5) the district court erred by not waiving the fine and surcharges. We affirm.

FACTS

In the early hours of September 15, 2022, Elk River Police Officer Brandon Martin was seated in his squad car on a frontage road by Highway 10 when he heard a vehicle “accelerating very quickly.” He looked toward the highway and saw a truck and a sedan, both of which appeared to be traveling “well over” the posted speed limit, which was 50 miles per hour (mph) where he saw them, reduced from 60 mph where the vehicles came from. Officer Martin activated his radar and obtained readings for both vehicles; the truck was going 94 mph and the sedan 90 mph. The officer reported the speeding vehicles to dispatch and pursued them.

Officer Martin stopped the truck and cited the driver, then joined his colleague, Officer Studniski, who had stopped the sedan. The officers identified the driver of the sedan as appellant Hannah Elayne Marie Weyhrauch. Officer Martin initially issued a citation to Weyhrauch’s sister, whose name auto-populated in the citation form because she is the registered owner of the vehicle, for going 90 mph in a 60-mph zone. He later noticed these errors, canceled the original citation, and issued a corrected citation to Weyhrauch for going 90 mph in an area with a posted 50-mph speed limit, in violation of Minn. Stat. § 169.14, subd. 5 (2022).

Weyhrauch contested the citation. At trial, the state called only one witness, Officer Martin, after the district court sustained Weyhrauch's objection to Officer Studniski testifying remotely. Officer Martin testified consistent with the facts set forth above. He also explained how his radar works and detailed the testing and calibration he performed before his shift to ensure it was working properly. The state submitted an August 2022 certificate of accuracy for the radar and the accompanying radar testing log, and Officer Martin's activity log recording the radar testing and calibration he performed at the beginning of his shift on the evening of September 14, 2022. In presenting her defense, Weyhrauch first asked "for a dismissal due to the fact of the validity of the ticket[s] itself," which the district court denied. She then testified about driving through the area in question and being stopped; she denied exceeding the speed limit. The district court found Officer Martin's testimony credible, detailed, and reliable, and found Weyhrauch guilty. It imposed a sentence that included a \$150 fine and a \$150 surcharge for excessive speeding.

Weyhrauch appeals.

DECISION

I. The exclusion of Officer Studniski's remote testimony did not violate Weyhrauch's Sixth Amendment right to confront witnesses.

Under the Sixth Amendment's Confrontation Clause, a criminal defendant has the right "to be confronted with the witnesses against [them]." U.S. Const. amend VI. The Confrontation Clause "generally guarantees the defendant a face-to-face meeting with witnesses appearing before the trier of fact." *State v. Tate*, 985 N.W.2d 291, 297 (Minn.

2023) (quotation omitted). We review Confrontation Clause challenges de novo. *Id.* at 298.

Weyhrauch contends the district court violated her right to confrontation because it “dismiss[ed]” Officer Studniski, which deprived her of an opportunity to question him. This argument is unavailing. The Confrontation Clause protects the defendant’s right to question witnesses who present evidence against them. Because Officer Studniski did not testify and the state presented no evidence of his out-of-court statements, he was not a witness against Weyhrauch. Accordingly, Weyhrauch had no Sixth Amendment right to confront him.

Moreover, the district court excluded Officer Studniski’s remote testimony at Weyhrauch’s request. The state sought permission for Officer Studniski, who had moved out of state, to testify remotely via video technology. Weyhrauch objected that “it is [her] constitutional right to question the officer face to face” and she “wish[es] to address the officer in person.” The district court agreed with Weyhrauch and disallowed the remote testimony; the state then opted to proceed without calling Officer Studniski as a witness. Weyhrauch then asked, “So do I not get to question the officer?” The court explained that she would not question Officer Studniski because the state was not allowed to present his remote testimony. Weyhrauch replied that she understood. She did not then or at any point ask to question Officer Studniski as part of her defense.

II. Weyhrauch has not demonstrated plain prosecutorial misconduct.

Weyhrauch argues that the prosecutor committed misconduct by failing to disclose evidence but acknowledges that she did not raise this issue to the district court. In the

absence of an objection, we apply a modified plain-error test under which the defendant must demonstrate that the prosecutorial misconduct constitutes (1) error (2) that was plain, and if they succeed, the state must then demonstrate that the error did not affect the defendant's substantial rights. *State v. Portillo*, 998 N.W.2d 242, 248 (Minn. 2023).

Weyhrauch contends the prosecutor violated the obligation to, “on request and without a court order, permit the defendant or defense counsel to inspect the police investigatory reports” before trial. Minn. R. Crim. P. 9.04. We are not convinced because her vague reference to “the video, police report, and charging ticket,” are insufficient to demonstrate error by the prosecutor.

Weyhrauch refers to a “video” but provides no identifying information, and nothing in the record suggests there is video evidence. She notes that Officer Martin referenced a “camera” when testifying that he confirmed, before issuing a corrected citation, “exactly where [he] had [Weyhrauch] on camera and on radar.” But this comment, standing alone, does not point to the existence of video evidence. And Weyhrauch never questioned the officer about such evidence. Similarly, Weyhrauch refers to the police report, but we discern nothing in the record that suggests she was not afforded access to it. To the contrary, she cross-examined Officer Martin about information omitted from his report, suggesting that she was familiar with it. As for the “charging ticket,” it is part of the record in this case. If by “charging ticket” Weyhrauch means the initial citation that named her sister, the trial transcript suggests that she had that citation at the time and was able to cross-examine the officer about it. On this record, Weyhrauch's prosecutorial-misconduct claim fails.

III. Sufficient evidence supports the determination of guilt.

Where, as here, a guilty verdict is based solely on direct evidence, we review a claim of insufficient evidence by examining the record “to determine whether the evidence, viewed in the light most favorable to the conviction, was sufficient to permit the fact-finder to reach its verdict.” *State v. Olson*, 982 N.W.2d 491, 495 (Minn. App. 2022). In doing so, we assume the fact-finder believed the state’s witnesses and disbelieved any contrary evidence. *Id.*

To establish Weyhrauch’s guilt, the state was required to prove that she exceeded the posted speed limit. Minn. Stat. § 169.14, subd. 5.¹ And to justify the excessive-speeding surcharge, the state was required to prove that her speed was “20 miles per hour or more in excess of the applicable speed limit.” Minn. Stat. § 169.14, subd. 2(d) (2022) (permitting a “surcharge equal to the amount of the fine imposed for the speed violation, but not less than \$25,” for excessive speeding).

The state did so through the testimony of Officer Martin. He testified that he heard and saw a sedan in an area with a posted 50-mph speed limit; he believed, based on seeing and hearing the sedan, that it was going well above that speed limit; he confirmed with his radar that the sedan was traveling 90 mph; the radar had been calibrated and checked, and there was no indication that anything interfered with his reading; and he and his colleague stopped the sedan and identified Weyhrauch as the driver. Weyhrauch suggests various

¹ The statute under which Weyhrauch was charged permits “local authorities” to obtain permission from the transportation commissioner to set and post “reasonable and safe” speed limits, and provides that exceeding that posted limit is unlawful. Minn. Stat. § 169.14, subd. 5.

considerations that may have led the district court to doubt the officer's testimony, but on appeal we must assume that it believed him. *Olson*, 982 N.W.2d at 495. Because his testimony amply establishes the facts necessary to prove the speeding offense and support the excessive-speeding surcharge, Weyhrauch's insufficiency claim fails.

IV. The district court did not err by denying Weyhrauch's motion to dismiss the ticket as invalid.

Weyhrauch argues that the district court erred by denying her motion to dismiss the citation as invalid because the officer changed the information on the citation. She has forfeited this argument by failing to identify any supporting legal authority. *State v. Longo*, 909 N.W.2d 599, 613 (Minn. App. 2018). But the argument also fails on its merits. Weyhrauch identifies no flaw in the citation itself that justifies deeming it invalid. She merely reiterates that the citation that Officer Martin initially issued was—as he acknowledged—inaccurate. This fact has no bearing on the validity of the citation that was filed with and tried before the district court. And she had ample opportunity to question Officer Martin about the two citations he issued and the differences between them.

V. The district court did not err by imposing the fine and surcharge.

Weyhrauch argues that the district court should have waived the fine and surcharges under Minn. Stat. § 169.99, subd. 1d (2022). We are not persuaded. The statute Weyhrauch invokes merely requires that a traffic citation contain, on its reverse side, information about requesting a waiver “of the cost of th[e] summons” based on financial hardship. *Id.* It does not, itself, require such a waiver. More important, the statute plainly

refers to waiver of court costs; it does not address waiver of a fine or surcharge imposed for a speeding violation.

Moreover, Minnesota law provides little leeway for district courts to waive fines and precludes the total waiver that Weyhrauch appears to seek. The statutory maximum fine for a petty misdemeanor is \$300. Minn. Stat. § 609.0331 (2022). A district court “must” impose a minimum sentence of at least 30 percent of that maximum fine and “may not waive payment of th[at] minimum fine.” Minn. Stat. § 609.101, subds. 4, 5(a) (2022). And the excessive-speeding surcharge applies “[n]otwithstanding section . . . 609.101.” Minn. Stat. § 169.14, subd. 2(d). At most, the court “may” reduce the fine itself to “not less than \$50” upon a showing of financial hardship. Minn. Stat. § 609.101, subd. 5(b) (2022). On this record, we discern no error by the district court in declining to waive the fine and surcharge.

Affirmed.