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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0061**

State of Minnesota,
Respondent,

vs.

Michael Drew Williams,
Appellant.

**Filed December 30, 2024
Affirmed; motion denied
Smith, Tracy M., Judge**

Mower County District Court
File No. 50-CR-21-1007

Keith Ellison, Attorney General, Lisa Lodin, Assistant Attorney General, St. Paul, Minnesota; and

Kristen Nelsen, Mower County Attorney, Austin, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Paul J. Maravigli, Special Assistant Public Defender, Minneapolis, Minnesota (for appellant)

Considered and decided by Smith, Tracy M., Presiding Judge; Frisch, Judge; and Schmidt, Judge.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

In this direct appeal from the judgment of conviction for second-degree assault and threats of violence, appellant Michael Drew Williams argues that (1) his conviction for second-degree assault must be reversed because respondent State of Minnesota failed to

prove beyond a reasonable doubt that he threatened the complaining party with a dangerous weapon and (2) his conviction for threats of violence must be reversed, and a new trial ordered, because the district court erred by admitting digital messages without proper authentication. In a pro se supplemental brief, Williams additionally argues that (3) his right to a speedy trial was violated, (4) he received ineffective assistance of counsel, and (5) his counsel had a conflict of interest. The state moved to strike factual statements asserted by Williams in his pro se supplemental brief that were unsupported by the record. We affirm Williams's convictions and deny the motion to strike as unnecessary.

FACTS

The following facts were proved at trial. On May 23, 2021, Williams's ex-girlfriend, M.W., received messages through Facebook from a profile that was named "Mike Williams" and contained a profile photograph. The Facebook messages stated that the sender "[had] no choice but to kill [M.W.] or [her] family or one of [her] friends"; that he was coming to find her "right now" and she would be "f-cking dead"; and that she could not "have sex with anyone" before having sex with him again "one last time," otherwise he would "cut[] [her] t-ts off." The messages made M.W. scared and nervous.

M.W. was at her friend N.A.'s house that night. After M.W. received the messages, Williams drove to N.A.'s house and parked across the street. M.W. received another Facebook message from "Mike Williams," stating that he was outside, telling her to come talk to him, and warning that she was "putting [her] friends in danger." M.W. also received text messages to her phone number, from the number under the contact name "Michael,"

stating, “[S]o you want to incite violence what the f-ck is your problem” and “I’m outside. Coming in.” M.W. did not see the messages at that time.

N.A.’s brother, T.A., was outside N.A.’s house when he saw a truck drive up and park across the street. T.A. walked over to investigate who it was. T.A. recognized Williams as the occupant and began talking to him. Williams was seated in the driver’s seat of the truck, facing N.A.’s house across the street. T.A. stood by the driver’s door of the truck while talking to Williams. According to T.A., Williams was upset about his relationship with M.W. At one point, Williams showed T.A. a knife that he had in the truck.

M.W., not having seen the most recent messages and unaware that Williams was outside, exited N.A.’s home and walked down the driveway toward her car. As she reached the end of the driveway, she realized that Williams was across the street and she stopped walking. Three things then happened virtually simultaneously: Williams jumped out of the truck and advanced toward M.W.; M.W. began walking backwards up N.A.’s driveway away from Williams; and T.A., worried for his safety, ran down the street about 20 feet before stopping and turning back to see what was happening.

As M.W. continued backing up the driveway, Williams rushed toward her and grabbed her by the neck with his left hand. As M.W. later testified, when Williams grabbed her neck with his left hand, he had a knife in his right hand and drew that hand back as if “he was gonna’ stab [her].” Neither N.A., who had come outside during the altercation, nor T.A. saw whether Williams had a knife in his hand. N.A.’s view was obstructed by her own car, which was parked in the driveway, and T.A. could not tell whether Williams had the knife in his hand when Williams got out of the vehicle. The force of Williams grabbing

M.W.'s neck pushed M.W. back, after which Williams went back to his truck and drove away.

M.W. then saw the Facebook message from "Mike Williams" that had said that he was outside. M.W. stayed with N.A. and called the police that night. When officers arrived, M.W. showed them the Facebook messages and an officer took photos of them on M.W.'s phone. N.A. showed the officers security footage from a camera that was installed on her house facing the driveway, which captured Williams's altercation with M.W. The video, which was taken at night and shows Williams's right hand only for a few seconds, does not conclusively show whether Williams had a knife in his hand when he confronted M.W.

That night, after the officers left, M.W. received additional messages. She received another text message to her phone from her contact "Michael," saying that he "need[ed] to hear from [her]." She also received messages through Facebook from "Mike Williams," stating: "[I]f the cops come looking for me, I'll have no choice but to end your life"; "I should've slashed your throat. But I love you."; "You're only going to get people hurt. I nearly stabbed [T.A.] to death and [N.A.] would've been next."; "I'll come and get you at the opportune time."; "I'm coming to kill you on my schedule. I never should've let you live."; and "[U]nless you get right with me soon, you and others will be in pieces." M.W. took screenshots of these additional Facebook messages and the text messages that she had received from "Michael" throughout the night and sent them to an officer.

The state charged Williams with second-degree assault with a dangerous weapon in violation of Minnesota Statutes section 609.222, subdivision 1 (2020), and threats of violence in violation of Minnesota Statutes section 609.713, subdivision 1 (2020). A jury

trial took place, and the jury found Williams guilty on both counts. The district court convicted Williams of both counts and sentenced him to a 54-month prison term for the assault conviction and a concurrent 21-month prison term for the threats-of-violence conviction.

Williams appeals.

DECISION

We address, in turn, the five challenges that Williams raises in his counseled and supplemental briefs and then address the state’s motion to strike.

I. The evidence is sufficient to convict Williams of second-degree assault.

To convict Williams of second-degree assault, the state needed to prove beyond a reasonable doubt that Williams “assault[ed] another with a dangerous weapon.” Minn. Stat. § 609.222, subd. 1; *State v. Pakhnyuk*, 926 N.W.2d 914, 919 (Minn. 2019) (describing the state’s burden in a criminal trial). Williams argues that the evidence is insufficient to sustain his conviction because it fails to prove beyond a reasonable doubt that he was holding a knife when he assaulted M.W.¹

Williams’s possession of the knife was established through direct evidence—specifically, M.W.’s testimony. When reviewing the sufficiency of direct evidence, appellate courts “conduct a painstaking review of the record to determine whether the evidence and reasonable inferences drawn therefrom, viewed in a light most favorable to the verdict, were sufficient to allow the jury to reach its verdict.” *Lapenotiere v. State*, 916

¹ Williams does not dispute that a knife is a dangerous weapon.

N.W.2d 351, 360 (Minn. 2018) (quotation omitted); *State v. Horst*, 880 N.W.2d 24, 40 (Minn. 2016). The reviewing court must “assume that the jury believed the state’s witnesses and disbelieved contrary evidence.” *State v. Brocks*, 587 N.W.2d 37, 42 (Minn. 1998). The reviewing court will affirm a guilty verdict “if the jury, acting with due regard for the [defendant’s] presumption of innocence and [the state’s burden of proof], could reasonably conclude that the defendant was proven guilty of the offense charged.” *State v. Flowers*, 788 N.W.2d 120, 133 (Minn. 2010) (quotation omitted).

A guilty verdict may be sufficiently supported by “the uncorroborated testimony of a single credible witness.” *State v. Foreman*, 680 N.W.2d 536, 539 (Minn. 2004) (quotation omitted). Appellate courts defer to the jury to assess witness credibility. *State v. Robinson*, 921 N.W.2d 755, 761 (Minn. 2019). Only in certain exceptional circumstances has a reviewing court, after a conviction, determined that a witness was not credible and that their testimony alone was insufficient, such as when the witness’s presence in the area where the offense occurred was questionable and unexplained, *State v. Langteau*, 268 N.W.2d 76, 77 (Minn. 1978), or when an expert testified that the sole child witness, who struggled to identify the defendant and recall his alleged acts, had been exposed to highly suggestive material that could have caused false statements, *State v. Huss*, 506 N.W.2d 290, 292-93 (Minn. 1993).

Williams argues that this is a case in which a witness’s testimony alone is insufficient to prove guilt and that corroboration was required. He advances two arguments, neither of which is persuasive.

First, Williams argues that M.W.’s testimony that Williams had a knife in his hand is insufficient because it was contradicted by the other evidence—specifically, T.A.’s and N.A.’s testimonies and the surveillance video. To contradict M.W.’s testimony that Williams had a knife, the evidence must show that Williams did *not* have a knife. N.A. testified that she could not see the altercation from her viewpoint, and T.A. testified that he could not tell whether Williams had the knife in his hand when he got out of the vehicle. The surveillance video is of poor quality and does not clearly show Williams’s right hand. In sum, all three pieces of evidence are inconclusive as to whether Williams had a knife, which is not the same as evidence showing that Williams did not have a knife. Thus, we disagree that the other witness testimony and the videotape contradict M.W.’s testimony and that corroboration of M.W.’s testimony is required on that basis.

Second, Williams argues that M.W.’s testimony that she experiences auditory hallucinations, delusions, and paranoia makes her testimony not credible and thus demands corroboration. The record shows that, from the night of the incident through trial, M.W. presented a consistent and cohesive story about what happened. At trial, M.W. did not struggle to identify Williams and testified on direct examination that Williams came at her with a knife. Williams argues that the initial messages that he would “cut” M.W. were “highly suggestive material” and could have caused M.W. to hallucinate the knife in William’s hand. But M.W. testified that she had never experienced visual hallucinations. The jury heard M.W. testify about her mental-health diagnoses and implicitly found M.W. credible. We disagree that M.W.’s mental-health conditions are an exceptional

circumstance that requires corroboration in order to accept the jury's assessment of M.W.'s credibility.

Although we conclude that M.W.'s testimony alone is sufficient to sustain the conviction, we observe that other evidence corroborates M.W.'s testimony. T.A. testified that Williams had a knife in the vehicle before the altercation, and one of the Facebook messages from "Mike Williams" that M.W. received after the altercation stated, "I nearly stabbed [T.A.] to death and [N.A.] would have been next." The presence of a knife at the scene and a message from "Mike Williams" talking about nearly stabbing two people who were at the scene reasonably corroborate M.W.'s testimony that Williams was, in fact, holding a knife when he confronted her.

When the evidence is viewed in the light most favorable to the guilty verdict, the evidence is sufficient to prove beyond a reasonable doubt that Williams possessed a knife when he confronted M.W. Williams's challenge to his assault conviction therefore fails.

II. The messages were properly authenticated.

Williams argues that his threats-of-violence conviction must be reversed and the case remanded for a new trial on that count because the district court erred by admitting messages that were purportedly from him without proper foundation authenticating that Williams was the person who sent the messages.

Williams did not object to the messages being admitted during M.W.'s testimony. Appellate courts review unobjected-to challenges to the admission of evidence under the plain-error standard. *State v. Vasquez*, 912 N.W.2d 642, 650 (Minn. 2018). "[T]o meet the plain error standard, a criminal defendant must show that (1) there was an error, (2) the

error was plain, and (3) the error affected the defendant's substantial rights." *State v. Myhre*, 875 N.W.2d 799, 804 (Minn. 2016). If any prong is not met, the appellate court need not consider the others. *State v. Webster*, 894 N.W.2d 782, 786 (Minn. 2017). If all the prongs are met, the appellate court may grant relief to correct the error if "failure to do so will cause the public to seriously question the fairness and integrity of our judicial system." *Pulczynski v. State*, 972 N.W.2d 347, 359 (Minn. 2022).

Authentication is "a condition precedent to admissibility [and] is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims." Minn. R. Evid. 901(a). Authentication may occur through testimony by a witness with knowledge "that a matter is what it is claimed to be." Minn. R. Evid. 901(b)(1). A district court has "considerable discretion under Minn. R. Evid. 901(a) in deciding whether evidence has been adequately authenticated." *State v. Dulak*, 348 N.W.2d 342, 344 (Minn. 1984).

During M.W.'s testimony, the state presented nine exhibits that were either photographs that the police took of M.W.'s phone or screenshots that M.W. took of her phone and sent to the police. The photos and screenshots captured Facebook messages from the profile "Mike Williams" and text messages to M.W.'s phone that were associated with her contact "Michael." M.W. testified that the exhibits were true and accurate photographs that an officer took of the messages on her phone or true and correct copies of screenshots of additional messages that she provided to law enforcement. She testified that all the messages came from Williams.

Williams argues that all the messages were erroneously admitted because they were not properly authenticated as having come from him. He contends that more needed to be done to connect the messages with a phone number that was established as belonging to him.

We disagree that the district court erred, much less plainly erred, in admitting the exhibits. In *State v. Stone*, the state introduced, through a police officer, photos that the officer had taken of text messages that a person associated with the appellant had received on his phone. 982 N.W.2d 500, 505-06, 511 (Minn. App. 2022), *aff'd*, 995 N.W.2d 617 (Minn. 2023). Those text messages appeared to be from the appellant because they were on the recipient's phone under a contact name that was a nickname used by the appellant. *Id.* at 505. The appellant argued that the photos were inadmissible because the state did not offer foundation to establish the identity of the contact name as the appellant or to link the contact with the appellant's phone. *Id.* at 511. We held that the district court acted within its discretion when it determined that photos of text messages were properly authenticated because the officer's testimony—that he recognized the photos as the ones he took of messages he saw on another individual's phone—was sufficient to establish that the photos were what the state claimed them to be. *Id.* We agreed with the district court that the appellant's objection “went to the weight of the evidence, and not its admissibility.” *Id.*

Here, the foundation for the exhibits is even stronger than in *Stone*. In this case, it was not merely a police officer who testified about photos that they took of messages on a person's phone. Rather, it was the actual owner of the phone that received the messages—a person who had a past relationship with Williams—who testified about what the exhibits

were. M.W. testified that she recognized the photos as the messages she received on her phone that night from Williams. Because Williams never objected, the district court never explained why it determined that the evidence was admissible. But, based on our holding in *Stone*, the district court had discretion to admit the messages based on M.W.’s testimony and without additional foundation establishing the identity of the sender. *See id.* As a result, Williams’s plain-error argument for reversal fails.

III. Williams’s right to a speedy trial was not violated.

In his pro se supplemental brief, Williams argues that his right to a speedy trial was violated by a 10-month delay between when the state filed the complaint-warrant and when they arrested Williams and a 16-month delay between when Williams was arrested and when the jury trial was held. Williams notes that he made a speedy-trial demand in May 2023—71 days before the trial began.²

The federal and state constitutions provide criminal defendants the right to a speedy trial. U.S. Const. amend. VI; Minn. Const. art. I, § 6. A defendant’s right to a speedy trial “acts as a ‘safeguard to prevent undue and oppressive incarceration prior to trial, to minimize anxiety and concern accompanying public accusation and to limit the possibilities that long delay will impair the ability of an accused to defend himself.’” *State v. Mikell*, 960 N.W.2d 230, 244 (Minn. 2021) (quoting *United States v. Ewell*, 383 U.S.

² We calculated all delays using the date that voir dire started, which was August 1, 2023, a day after the trial was scheduled to begin. *See State v. Randall*, No. A21-0191, 2021 WL 5764586, at *8 (Minn. App. Dec. 6, 2021) (reasoning that, for the purposes of speedy trial, a trial begins at the commencement of voir dire), *rev. denied* (Minn. Sept. 20, 2022); Minn. R. Civ. App. P. 136.01, subd. 1(c) (stating nonprecedential cases may be persuasive authority).

116, 120 (1966)). Whether there is a violation of a criminal defendant’s constitutional right to a speedy trial is subject to de novo review. *State v. Osorio*, 891 N.W.2d 620, 627 (Minn. 2017).

To determine whether a speedy-trial violation occurred, a reviewing court balances four factors known as the *Barker* factors: “(1) the length of the delay; (2) the reason for the delay; (3) whether the defendant asserted his or her right to a speedy trial; and (4) whether the delay prejudiced the defendant.” *Id.* (quotation omitted); see *Barker v. Wingo*, 407 U.S. 514, 530-33 (1972). No single factor is dispositive. *Mikell*, 960 N.W.2d at 245. The reviewing court must carefully balance these factors on a case-by-case basis to determine whether the trial proceeded “quickly enough to avoid endangering the values that the right to a speedy trial protects.” *Id.*

A. Length of Delay

“The length of the delay is a ‘triggering mechanism’ which determines whether further review is necessary.” *State v. Windish*, 590 N.W.2d 311, 315 (Minn. 1999) (quoting *Barker*, 407 U.S. at 530). There are two periods in which a delay may become presumptively prejudicial. *Mikell*, 960 N.W.2d at 246. The first is the time between when a defendant’s right to a speedy trial attaches—which is when the defendant is charged or arrested, whichever occurs first—and the beginning of trial. *Id.*; *Osorio*, 891 N.W.2d at 627. The second is a delay exceeding 60 days after the defendant makes a demand for a speedy trial after entering a plea other than guilty under Minnesota Rule of Criminal Procedure 11.09(b). *Mikell*, 960 N.W.2d at 246.

Here, the delay between the time of charging and the beginning of trial was just over 26 months. A 26-month delay is presumptively prejudicial and sufficient to trigger further inquiry. *See Mikell*, 960 N.W.2d at 246 (citing *State v. Corarito*, 268 N.W.2d 79, 80 (Minn. 1978)) (determining that a six-month delay without any speedy-trial demand is sufficient to trigger the consideration of the other *Barker* factors). The 71-day delay between Williams's speedy trial demand and the start of his trial is also presumptively prejudicial. The state concedes, and we agree, that these delays require the consideration of the other *Barker* factors.

B. Reason for Delay

We look at whether the state or Williams was responsible for the delay. *See Mikell*, 960 N.W.2d at 250-51. The state is responsible for bringing the case to trial, and any deliberate delays by the state weigh heavily against it. *State v. Hahn*, 799 N.W.2d 25, 30 (Minn. App. 2011) (citing *Barker*, 407 U.S. at 529, 531), *rev. denied* (Minn. Aug. 24, 2011). Calendar congestion, while usually not considered a good cause for delay, is insufficient to violate a speedy-trial right if the state did not act in bad faith. *Id.* at 32; *State v. Cham*, 680 N.W.2d 121, 125 (Minn. App. 2004) (determining that, without bad faith by the state to delay the proceeding, a 23-month delay due to court congestion did not weigh against the state), *rev. denied* (Minn. July 20, 2004).

Williams argues, without support from the record, that the state acted negligently in causing the 10-month delay between when the state filed the complaint-warrant and when they arrested Williams and served him with the complaint-warrant. Because the record is silent about the reason for this delay and Williams's assertions for why the delay occurred

are unsupported by the appellate record, we decline to give Williams's assertion weight. *See State v. Taylor*, 910 N.W.2d 60, 71 (Minn. App. 2018) (declining to address arguments in appellant's pro se supplemental brief because appellant "[did] not cite any evidence in the record or relevant legal authority to support [his] claims"), *rev. denied* (Minn. June 19, 2018). Nevertheless, we acknowledge that the 10-month delay in serving Williams with the complaint-warrant is the state's responsibility because the state is responsible for bringing the defendant to trial. *See Hahn*, 799 N.W.2d at 30. But we note that there is no suggestion in the record that the state acted deliberately to delay service of the complaint-warrant or otherwise hamper the defense. *See Mikell*, 960 N.W.2d at 251.

After Williams was arrested and served with the complaint-warrant, Williams argues that there were six delays over the 16 months between his arrest and trial. Based on our review of the record, the trial date was delayed seven times over that period: (1) a 162-day delay between Williams's arrest in April 2022 and his original trial date in September 2022; (2) a 147-day delay after Williams discharged his public defender on the day his trial was scheduled to begin; (3) a 21-day delay after the public defender, whom Williams applied to have reappointed, requested additional time to prepare for the trial; (4) a 63-day delay after Williams's counsel raised concerns to the state that more time may be needed for trial than what the district court had scheduled and the state agreed and requested new dates for a longer trial; (5) a 21-day delay after the state requested a continuance due to witness availability; (6) a 112-day delay after Williams's counsel stated that new dates were needed, which was reduced to a 56-day delay after Williams filed a speedy-trial

demand later that same day; and (7) a 15-day delay due to the district court's scheduling concerns.

On our review of the record, the 162-day delay between Williams's arrest and his original trial date in September 2022 is the state's responsibility, but there is no evidence that the state acted deliberately to delay the trial date. From the time of the original trial date in September 2022 until the trial actually began in August 2023, the majority of the delays resulted from Williams's own actions or those of his counsel.³ *See State v. Chute*, 887 N.W.2d 834, 845 (Minn. App. 2016) (holding that the appellant is responsible for delays caused by changing counsel as well as his counsel's requests for continuances, unavailability, and decision to select later trial dates), *aff'd*, 908 N.W.2d 578 (Minn. 2018). Only one delay during that time was requested by the state without agreement from Williams's counsel, and the result was a 21-day delay due to the unavailability of a material witness, which is considered a delay for good cause. *See Mikell*, 960 N.W.2d at 251. The only other delay during that time was the 15-day delay in July 2023 resulting from court congestion—again, with no indication that the state acted deliberately to cause that delay or impede Williams's defense in any way.

³ Williams argues that the delay resulting from discharging his public defender and seeking new counsel should only be minimally weighed against him because the delay resulted from his desire to seek conflict-free counsel. Because Williams fails to cite legal authority supporting this argument, we decline to give it weight. *See State v. Bartylla*, 755 N.W.2d 8, 22-23 (Minn. 2008).

C. Assertion of Right

A defendant need not continuously reassert a speedy-trial demand, but this court will consider “the frequency and force of a demand” 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) (citing *Barker*, 407 U.S. at 529, 531). Repeated requests demonstrate prejudice, but actions that delay the trial undermine the weight of the request. *Mikell*, 960 N.W.2d at 252.

Because there is no evidence in the record that shows whether Williams knew, or had reason to know, about the charges against him until his arrest in April 2022, we focus our analysis on the demands made, or lack thereof, after that time. *See Osorio*, 891 N.W.2d at 629 (citing *Doggett v. United States*, 505 U.S. 647, 653-54 (1992)) (noting that a defendant who is “not aware of the charges against him prior to his arrest . . . [can] not be blamed for failing to assert his right to a speedy trial prior to his arrest”).

Williams contends that his right to a speedy trial was asserted when the state made a demand for a speedy trial 187 days before the trial began, when Williams filed a speedy-trial demand 71 days before the trial began, and when Williams objected on record to the district court’s decision in July 2023 to continue the trial for two weeks due to scheduling concerns.

The state made a speedy trial demand in January 2023 and then waived its demand in May 2023. Williams argues that the state’s demand for a speedy trial should be considered as his own because Williams was the one on trial. But Williams’s argument is

unsupported by the record or law, so we decline to give it weight.⁴ *See Taylor*, 910 N.W.2d at 71.

Williams first made a speedy-trial demand in May 2023, over a year after being served the complaint-warrant. The demand involved filing a one-sentence notice stating that he asserted his right to a speedy trial. After Williams made his demand, the district court rescheduled his trial dates to fit within the 60-day timeframe mandated by the Minnesota Rule of Criminal Procedure 11.09. The only delay that occurred after Williams’s demand was a 15-day delay due to the district court’s scheduling concerns. The district court made its decision to continue the trial on the record at a July 2023 hearing, during which Williams orally objected to the continuance as “unacceptable” but did not affirmatively demand a speedy trial. Williams’s delay in bringing a speedy-trial demand as well as the minimal effort put into his demand suggests that Williams did not suffer serious prejudice from the delay. *See Friberg*, 435 N.W.2d at 515.

D. Prejudice

Appellate courts consider three interests when assessing 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.” *Mikell*, 960 N.W.2d

⁴ The record indicates that the state made its demand on behalf of the victim because the prosecutor, when waiving the state’s demand, stated, “I’ll be meeting with the victim as soon as I can, and we’ll discuss whether we re-assert.” *See* Minn. Stat. § 611A.033(a) (Supp. 2023) (“A victim has the right to request that the prosecutor make a demand under rule 11.09 of the Rules of Criminal Procedure that the trial be commenced within 60 days of the demand.”).

at 253 (quotation omitted). “Prejudice due to the impairment of the defense is the most serious.” *State v. Jones*, 977 N.W.2d 177, 192 (Minn. 2022) (quotation omitted).

Williams concedes that he was not incarcerated while awaiting trial and claims the other two types of prejudice. First, he asserts that he experienced anxiety because of the uncertainty of awaiting trial and the restrictions placed on him as part of his pretrial release after his arrest in April 2022, which he claims included probation check-ins, drug tests, a prohibition on alcohol use, and a requirement to check-in before leaving the state. He also contends that he was inconvenienced by attending multiple hearings in relation to this matter, which occurred at a courthouse far from his home. Second, Williams argues that the delay impaired his defense. Williams claims that, due to the delay between charging and arrest, he lost access to an exculpatory video that would have shown him 50 miles away at the time of the crime in addition to other “unknown quantities of evidence lost.” He also argues that, due to the delay between his arrest and trial, a witness who did not testify at trial developed issues remembering the day of the offense.

An inspection of the record does not sustain Williams’s claim of prejudice. Williams’s assertion that he suffered anxiety and was inconvenienced by the delay is insufficient to establish prejudice because he failed to allege stress, anxiety, or inconvenience different from any other defendant awaiting trial. *See Hahn*, 799 N.W.2d at 33 (citing *Friberg*, 435 N.W.2d at 515). Williams’s contention that he was prejudiced by the loss of a video that would have shown him miles away at the time of the crime is unconvincing in light of the security footage shown at trial, which three witnesses watched and, while doing so, identified Williams as the individual in the footage. *See Mikell*, 960

N.W.2d at 254 & n.16 (considering the strength of the state’s evidence when evaluating whether the delay hampered the defendant’s ability to present a defense). Finally, Williams’s assertion that he was prejudiced by a witness losing memory of the day of the offense is unpersuasive because he fails to explain how this person—who did not testify—might have helped his defense. *See id.*

E. Balancing

Balancing all the *Barker* factors, we conclude that Williams was not deprived of his right to a speedy trial. While a 26-month delay between charging and trial is considerable, it is not dispositive. *See, e.g., Osorio*, 891 N.W.2d at 632-33 (determining that a 21-month delay between charging and arrest did not violate the defendant’s right to a speedy trial); *Chute*, 887 N.W.2d at 846 (determining that a 33-month delay between filing the complaint and trial was not a violation of the defendant’s right to a speedy trial). Breaking the 26-month delay into two periods, the initial 10-month delay between charging and Williams’s arrest was considerable, but the reason for the delay is unknown and Williams has made no compelling claim of prejudice arising from that delay. And, though the subsequent 16-month delay between arrest and trial was also considerable, Williams either was responsible for or acquiesced in the majority of the delays, no delay was a result of bad faith by the state, Williams made only one affirmative demand for a speedy trial over a year after his arrest, and there is no compelling argument that Williams experienced prejudice because of that delay. Weighing all the *Barker* factors, we conclude that Williams’s right to a speedy trial was not violated.

IV. Williams’s ineffective-assistance-of-counsel claims fail.

In his pro se supplemental brief, Williams also asserts that he received ineffective assistance of counsel. “Generally, an ineffective assistance of counsel claim should be raised in a postconviction petition for relief, rather than on direct appeal.” *State v. Gustafson*, 610 N.W.2d 314, 321 (Minn. 2000). However, an ineffective-assistance-of-counsel claim must be brought on direct appeal if the district court record is sufficient for this court to decide the issue. *Sanchez-Diaz v. State*, 758 N.W.2d 843, 847 (Minn. 2008). We conclude that we can fully address each instance in which Williams claims ineffective assistance of counsel based on the trial record and, as a result, dispose of his claims on their merits.

Appellate courts apply a two-prong test referred to as the *Strickland* test to determine whether a criminal defendant received ineffective assistance of counsel. *State v. King*, 990 N.W.2d 406, 417 (Minn. 2023); *see Strickland v. Washington*, 466 U.S. 668, 687-88, 694 (1984). To satisfy the first prong, the appellant must show “that his attorney’s representation fell below an objective standard of reasonableness.” *King*, 990 N.W.2d at 417 (quotation omitted). The objective standard is met when counsel acts with the skill and diligence customary of a reasonably competent attorney in similar circumstances. *Leake v. State*, 767 N.W.2d 5, 10 (Minn. 2009). “There is a strong presumption that counsel’s performance was reasonable.” *King*, 990 N.W.2d at 417 (quotation omitted).

To satisfy the second prong of the *Strickland* test, the appellant must show that “a reasonable probability exists that the outcome would be different, but for counsel’s errors.” *State v. Mosley*, 895 N.W.2d 585, 591 (Minn. 2017) (quotation omitted). To determine

whether there was a reasonable probability of a different result, appellate courts consider the totality of the evidence presented. *State v. Rhodes*, 657 N.W.2d 823, 842 (Minn. 2003). “A court may address the two prongs of the test in any order and may dispose of the claim on one prong without analyzing the other.” *King*, 990 N.W.2d at 417.

Williams argues that his attorney’s assistance was ineffective for three reasons. We address each in turn.

A. Failure to Raise Speedy-Trial Argument

Williams argues that his trial counsel should have argued that his speedy-trial rights were violated when there was a 10-month delay between when the state charged Williams and when it arrested him. But, as explained above, Williams has failed to show prejudice resulting from the delay between his charging and his arrest. That failure undermines any argument under the first *Strickland* prong that not raising the speedy-trial issue in the district court was objectively unreasonable. It also undermines any argument under the second prong that the result of the proceeding would have been different if a speedy-trial argument had been made.

B. Failure to Object to Authentication of Messages

Williams argues that his trial counsel should have objected to the admission into evidence of the messages M.W. received for lack of proper authentication. Appellate courts “generally do not review an ineffective-assistance-of-counsel claim that is based on trial strategy.” *Andersen v. State*, 830 N.W.2d 1, 10 (Minn. 2013). “Trial strategy” includes determining what evidence to present, which witnesses to call, and what objections to make. *State v. Bobo*, 770 N.W.2d 129, 138 (Minn. 2009). Moreover, as discussed above,

the district court did not err in admitting the messages during M.W.’s testimony. *See Stone*, 982 N.W.2d at 511. As a result, Williams’s counsel did not act unreasonably when she did not object to the authentication of the messages. Because the decision to object is one of trial strategy, and Williams has not demonstrated that his counsel’s failure to object to the messages was unreasonable, Williams’s argument fails to satisfy the first prong of the *Strickland* test.

C. Failure to Object to the Absence of a Witness

Williams argues that his trial counsel failed to object to the trial proceeding when a witness was not present to testify. Which witnesses to call is an issue of trial strategy. *Bobo*, 770 N.W.2d at 138. Williams does not address what information this witness would have provided if he testified. The only other mention of this witness in Williams’s brief is in connection with his speedy-trial claim, in which Williams states that this witness had trouble remembering the date of the offense. Because Williams has not shown he was prejudiced by not having this witness appear at trial, Williams’s argument fails to satisfy the second prong of the *Strickland* test.

V. Williams’s conflict-of-interest claim fails.

Williams argues that his trial public defender had a conflict of interest because she was married to a prosecutor. Conflict of interest is a form of ineffective assistance of counsel. *See State v. Westrom*, 6 N.W.3d 145, 160 (Minn. 2024) (analyzing an allegation of a conflict of interest as an ineffective-assistance-of-counsel claim). The claim is thus analyzed under the *Strickland* test. *See id.* “A conflict of interest exists if ‘there is a significant risk that the representation of one or more clients will be materially limited by

the lawyer's responsibilities to another client, a former client or a third person, or by a personal interest of the lawyer.'" *State v. Paige*, 765 N.W.2d 134, 140 (Minn. App. 2009) (quoting Minn. R. Prof. Conduct 1.7(a)(2)). "But until a defendant shows that his counsel actively represented conflicting interests, he has not established the constitutional predicate for his claim of ineffective assistance." *Westrom*, 6 N.W.3d at 160 (quotation omitted).

Williams argues that there was a conflict of interest because his trial defense counsel was married to a prosecutor. Williams raised his concerns about a conflict of interest to the district court on the record in September 2022. The district court, who was familiar with both Williams's counsel and the prosecutor, told Williams on the record, "[I]t's not technically a conflict of interest. They have proper procedures in place" The district court also explained that, while Williams had a right to counsel, he did not have the right to choose who was appointed to his case. Williams decided to discharge his public defender, stating that he would find his own counsel. Four months later, Williams applied for a public defender, and the same public defender that Williams discharged was reappointed to Williams's case and represented him throughout the remainder of the trial proceedings.

Williams asserts that the prosecutor married to his trial counsel represented the state at one of Williams's hearings. Our review of the records before us shows that the prosecutor does appear on the record in one transcript but he does so only to inform the judge that the prosecutor assigned to Williams's case is on his way to the court. There is no indication in the record that the prosecutor was ever assigned to Williams's matter. There is no evidence that any relationship between Williams's counsel and the prosecutor created a preclusive

conflict of interest or that the relationship impaired his counsel's ability to represent Williams in any way. As a result, Williams has failed to show that his trial public defender was actively representing conflicting interests, much less that the alleged conflict was sufficiently unreasonable or prejudicial so as to meet either prong of the *Strickland* test.

VI. The state's motion to strike is unnecessary.

The state moved to strike factual assertions in Williams's pro se supplemental brief that were unsupported by the record. Appellate courts do not consider pro se claims that lack citations to the record or legal authority. *Taylor*, 910 N.W.2d at 71 (citing *Bartylla*, 755 N.W.2d at 22) (other citation omitted).

We agree with the state that Williams's pro se supplemental brief includes statements that are unsupported by the record. But we deny the state's motion to strike as unnecessary because, to the extent that we have referenced Williams's unsupported assertions above, we have declined to consider them in our analysis. *See, e.g., State v. Munt*, 831 N.W.2d 569, 588 (Minn. 2013) (noting which of the pro se appellant's claims lacked support and declining to address them further).

Affirmed; motion denied.