

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0132**

State of Minnesota,
Respondent,

vs.

Tolulope Martins Famuyiwa,
Appellant.

**Filed December 9, 2024
Affirmed
Frisch, Judge**

Washington County District Court
File No. 82-CR-22-2144

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

Kevin Magnuson, Washington County Attorney, Andrew T. Jackola, Assistant County Attorney, Stillwater, Minnesota (for respondent)

Andrew C. Wilson, Wilson & Clas, Minneapolis, Minnesota (for appellant)

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

SYLLABUS

A defect in a criminal complaint that otherwise charges a criminal offense under Minnesota law does not deprive a district court of subject-matter jurisdiction over the state's prosecution of the case.

OPINION

FRISCH, Judge

In this direct appeal of his conviction of third-degree criminal sexual conduct, appellant argues that an error in the criminal complaint deprived the district court of subject-matter jurisdiction and that the complaint otherwise did not adequately notify him of the charges that the state intended to prosecute. Because the defect in the complaint did not deprive the district court of subject-matter jurisdiction over the state’s criminal prosecution, and because the complaint provided appellant with adequate notice of the crimes the state intended to prosecute, we affirm.

FACTS

On July 1, 2022, respondent State of Minnesota submitted a complaint charging appellant Tolulope Martins Famuyiwa with one count of “Criminal Sexual Conduct – 3rd Degree – Penetration – Uses coercion,” in violation of Minn. Stat. § 609.344, subd. 1(a) (Supp. 2021). The allegations in the complaint provide in pertinent part that on April 22, 2022, Famuyiwa “engage[d] in sexual penetration with another person, to wit: F.L., . . . [and] used force or coercion to accomplish the penetration.”¹

¹ The “force or coercion” language reflected in the complaint appears to be drawn from an older version of the statute that was no longer in effect at the time of the alleged offense. Previous versions of the statute criminalized nonconsensual sexual penetration by using “force or coercion” to accomplish the penetration. *See, e.g.*, Minn. Stat. § 609.344, subd. 1(c) (2020). But in 2021, the legislature amended the statute to bifurcate the “force and coercion” subdivision into separate offenses. 2021 Minn. Laws 1st Spec. Sess. ch. 11, art. 4, § 18, at 2044. The amended statute became effective on September 15, 2021. *Id.* at 2046. Thus, at the time of the alleged offense, subdivision 1(a) prohibited the use of *coercion* to accomplish sexual penetration, while subdivision 1(c) prohibited the use of

On October 18, 2023, the district court held a pretrial hearing and asked the parties about the charges set forth in the complaint:

THE COURT: I wanna make sure that I have the correct charge. The complaint I looked at, there is just one complaint that was filed, that's the original complaint, right . . . ?

THE STATE: Correct.

THE COURT: And it's one count of criminal sexual conduct in the 3rd degree. Penetration, uses coercion, 609.344, subdivision 1, paren a. Is that the correct statute?

THE STATE: Correct. It's the forced coercion. I think, for some reason, the way it prints up it in the caption it only says coercion, but it is the . . . forced slash coercion.

THE COURT: Okay. So, it says engage in sexual penetration with another, . . . and said defendant used force or coercion to accomplish the penetration.

THE STATE: Yeah.

THE COURT: Alleged date of offense is April 22nd of 2022 in Oakdale, correct?

THE STATE: Correct.

THE COURT: Okay. Do you agree, Mr. Sea?

DEFENSE COUNSEL: Yes, I do, Your Honor.

This matter proceeded to a two-day bench trial, after which the district court issued a written order that included the following findings of fact. In 2020, Famuyiwa and F.L. began dating. In January 2021, their romantic relationship ended after an argument, but they stayed in touch. On April 22, 2022, Famuyiwa went to F.L.'s apartment to drop off some food and money because F.L. was facing "financial difficulties" and "health issues." While sitting on F.L.'s bed, Famuyiwa started rubbing parts of F.L.'s body, including her

force to accomplish sexual penetration. Minn. Stat. § 609.344, subds. 1(a), (c) (Supp. 2021).

legs and her breasts, and tried to persuade her to have sex. F.L. told Famuyiwa to stop and that she would call the police. Famuyiwa left the apartment but returned a few minutes later and forced F.L. into the bedroom. Famuyiwa pinned F.L. to the bed, removed his pants, “forcefully placed his penis inside of her vagina, and had intercourse with her until he ejaculated.” Famuyiwa then got dressed and left the apartment.

The district court analyzed “the elements of Criminal Sexual Conduct in the 3rd degree, force or coercion, in violation of Minn. Stat. § 609.344, subd. 1(a) and 1(c)” and found that the elements of penetration, venue, and lack of F.L.’s consent had all been proved beyond a reasonable doubt. The district court then considered whether Famuyiwa “used force or coercion to accomplish the penetration.” The district court found that F.L. “suffered three distinct injuries in the vaginal area, . . . which satisfies the element of force.” The district court also found that the element of coercion had been proved beyond a reasonable doubt because F.L. “was home alone and confined to her room by [Famuyiwa] while he penetrated her,” and because Famuyiwa “used his size and strength to accomplish the act.”

The district court found Famuyiwa guilty of “Criminal Sexual Conduct in the Third Degree in violation of Minnesota Statute §609.344 subd. 1(a) and 1(c).” The district court entered a conviction only for “Criminal Sexual Conduct – 3rd Degree – Penetration – Uses coercion,” pursuant to Minn. Stat. § 609.344, subd. 1(a). The district court stayed execution of a 57-month prison sentence, placed Famuyiwa on probation for five years, and ordered him to serve 365 days in jail.

Famuyiwa appeals.

ISSUES

- I. Did a defect in the criminal complaint deprive the district court of subject-matter jurisdiction over the state’s criminal prosecution of the case?
- II. Did the complaint adequately notify Famuyiwa of the charges against him?

ANALYSIS

I. The district court had subject-matter jurisdiction over the state’s criminal prosecution of Famuyiwa.

Famuyiwa challenges the district court’s subject-matter jurisdiction to adjudicate his criminal prosecution. “The existence of subject-matter jurisdiction is a question of law that we review de novo.” *Rued v. Comm’r of Hum. Servs.*, __ N.W.3d __, __, 2024 WL 4549459, at *4 (Minn. Oct. 23, 2024) (quotation omitted). “Subject-matter jurisdiction refers to a court’s authority to hear the type of dispute at issue and to grant the type of relief sought.” *State v. Thompson*, 995 N.W.2d 415, 418 (Minn. App. 2023). Stated differently, subject-matter jurisdiction refers to a court’s “statutory or constitutional *power* to adjudicate the case.” *Reed v. State*, 793 N.W.2d 725, 731 (Minn. 2010) (quoting *United States v. Cotton*, 535 U.S. 625, 630 (2002)).

A district court has original jurisdiction in all civil and criminal cases. Minn. Const. art. VI, § 3. “A district court has subject-matter jurisdiction to convict a defendant of all crimes cognizable under the laws of the State of Minnesota.” *Johnson v. State*, 916 N.W.2d 674, 680 (Minn. 2018); *see also* Minn. Stat. § 609.025 (2020) (“A person may be convicted and sentenced under the law of this state if the person . . . commits an offense in whole or in part within this state.”). The state prosecuted Famuyiwa for at least one criminal offense: using coercion to accomplish sexual penetration in violation of Minn. Stat. § 609.344,

subd. 1(a). Thus, the matter fell squarely within the district court's subject-matter jurisdiction.

Famuyiwa argues that “a fatally defective error in the complaint” deprived the district court of subject-matter jurisdiction. According to Famuyiwa, “[t]he complaint identified only one charge,” coercion-based third-degree criminal sexual conduct, in violation of Minn. Stat. § 609.344, subd. 1(a). But because the complaint sets forth that Famuyiwa had committed the offense by using “force or coercion” without citing Minn. Stat. § 609.344, subd. 1(c), Famuyiwa contends that the complaint was “fatally defective,” thus depriving the district court of subject-matter jurisdiction. Famuyiwa relies primarily on *State ex rel. Webber v. Tahash*, where the supreme court held that “[a]n information alleging burglary which fails to set out the type of building involved, its ownership, or its location is fatally defective and will not confer jurisdiction on the district court.” 152 N.W.2d 497, 502 (Minn. 1967). Famuyiwa interprets *Webber* to stand for the proposition that “[a] defective complaint can deprive the district court of its jurisdiction to hear a case if the defect is fatal.” We disagree.

Since its decision in *Webber*, the supreme court has clarified that a defect in an initiating charging document does not implicate subject-matter jurisdiction. *Reed*, 793 N.W.2d at 731 (holding that while “an indictment that fails to state a claim on its face affects the merits of the case, the defective indictment ‘does not deprive a court of its power to adjudicate a case’” (quoting *Cotton*, 535 U.S. at 630)). In other words, while a defect in a charging document may affect the merits of the case, such a defect “does not affect the jurisdiction of the trial court” to adjudicate the case presented by the charging document.

Id. We therefore hold that a defect in a criminal complaint that otherwise charges a criminal offense under Minnesota law does not deprive a district court of subject-matter jurisdiction over the state’s prosecution of the case. Thus, even assuming as true that the complaint here was defective, such a defect does not implicate the district court’s subject-matter jurisdiction—its fundamental authority—to adjudicate the state’s prosecution against Famuyiwa for third-degree criminal sexual conduct. *See State v. Barsness*, 795 N.W.2d 877, 881, 883 (Minn. App. 2011) (rejecting appellant’s argument that the district court lacked subject-matter jurisdiction because—although the charged conduct described in the complaint did not ultimately constitute a violation of the statute—the complaint nonetheless “charged a criminal offense” under Minnesota law).

Webber, and subsequent cases interpreting *Webber*, fundamentally relate to due-process concerns, not subject-matter jurisdiction. In *Webber*, the supreme court stated that a valid indictment for burglary must “describe the building with sufficient certainty to apprise the defendant of the trend of the evidence to be offered against him” and “protect the defendant from a second prosecution for the same offense.” 152 N.W.2d at 501; *see also State v. Hall*, 176 N.W.2d 254, 261 (Minn. 1970) (distinguishing *Webber* and holding that information containing an “imperfect” description of a building was still sufficient to “adequately apprise[] the defendant” of the charges against him); *State v. Alexander*, 185 N.W.2d 887, 891 (Minn. 1971) (distinguishing *Webber* and holding that the information “fairly apprised [the defendant] of the charges against him”). Famuyiwa contends that the complaint initiating his prosecution was “fatally defective” (and not merely “imperfect”) because it did not adequately apprise him of the charges for which he would be tried. This

concern implicates due process, not the fundamental authority of the district court to consider and adjudicate the state's criminal prosecution against Famuyiwa. *See State v. Dunson*, 770 N.W.2d 546, 551-52 (Minn. App. 2009) (explaining that due process requires that a defendant be adequately apprised of the charges against him), *rev. denied* (Minn. Oct. 20, 2009). As explained below, we conclude that Famuyiwa's due-process rights were not violated because the complaint provided adequate notice of the charges against him.

II. The complaint adequately notified Famuyiwa of the charges against him.

Famuyiwa alternatively argues that his conviction must be reversed “because the complaint did not adequately notice that [he] was to be tried for having used ‘force’ in accomplishing the alleged sexual penetration of F.L.” We construe Famuyiwa's argument about deficient notice as implicating his due-process rights.

“A criminal complaint must satisfy constitutional requirements.” *Dunson*, 770 N.W.2d at 551. The Sixth Amendment of the U.S. Constitution and article I, section 6 of the Minnesota Constitution require defendants to be “informed of the nature and cause of the accusation.” This requirement “is satisfied if an indictment contains such descriptions of the offense charged as will enable a defendant to make his defense and to plead the judgment in bar of any further prosecution for the same crime.” *State v. Kendell*, 723 N.W.2d 597, 611 (Minn. 2006) (quotation omitted). “[D]ue process requires that an accused be adequately apprised of the charge made against him in order that he may prepare his defense.” *Dunson*, 770 N.W.2d at 551.

When the sufficiency of a complaint is raised for the first time on appeal, “a conviction . . . will not be invalidated unless the defect or imperfection in the [charging

document] is of such a nature that it misled the defendant as to the nature of the offense charged to the prejudice of his substantial rights.” *State v. Pratt*, 152 N.W.2d 510, 513 (Minn. 1967); *see also* Minn. R. Crim. P. 17.06, subd. 1 (“No charging document will be dismissed nor will the trial, judgment, or other proceedings be affected by reason of a defect or imperfection in matters of form that does not prejudice the defendant’s substantial rights.”). We conduct “a review of the record as a whole” to determine if an allegedly defective complaint “misled [Famuyiwa] to his prejudice.” *Pratt*, 152 N.W.2d at 513. A charging document must “be interpreted so as to uphold its validity whenever this is reasonably possible.” *Id.* at 512-13.

Famuyiwa argues that, because the complaint failed to cite Minn. Stat. § 609.344, subd. 1(c), the charging document did not adequately give notice of the state’s intent to prosecute Famuyiwa for force-based third-degree criminal sexual conduct. Assuming this omission constitutes a defect in the charging document, we consider whether that defect “misled [Famuyiwa] as to the nature of the offense charged to the prejudice of his substantial rights.” *See id.* at 513. We conclude that the complaint provided Famuyiwa with adequate notice and did not prejudice his substantial rights because the record contains ample evidence establishing that Famuyiwa was fully informed as to the nature of the charges and the scope of the state’s prosecution.

First, the substance of the complaint notified Famuyiwa that the basis of the criminal charges originated from his use of “force or coercion to accomplish the [sexual] penetration” of F.L. Although the complaint did not explicitly list the “force” subdivision of the statute, the charging description in the complaint nevertheless apprised Famuyiwa

that the basis of the charges related to allegations of conduct involving force. *See Alexander*, 185 N.W.2d at 890 (holding that a charging document provided the defendant with adequate notice even though “the specific statute of criminal liability . . . was not cited in the [charging document]”); *State v. Owens*, 129 N.W.2d 284, 287 (Minn. 1964) (“The offense charged in an indictment is determined by the facts alleged and not necessarily by the name by which it is designated.”).

Second, at the hearing a week before trial, both the district court and the state highlighted the “force” language in the complaint. In response to the district court’s question about the charges in the complaint, the prosecutor clarified that the state was charging “force slash coercion.” The district court then read into the record the language from the complaint alleging that Famuyiwa “used force or coercion to accomplish the penetration,” and Famuyiwa’s attorney agreed with that description of the allegations. The substance of the exchange effectively notified Famuyiwa before trial began that the scope of the prosecution included both coercion and the use of force to accomplish sexual penetration. And defense counsel affirmed—on the record—his understanding that the state’s prosecution encompassed Famuyiwa’s use of force or coercion to accomplish penetration, undermining Famuyiwa’s claim that he lacked notice of the force charge. *See State v. Byman*, 410 N.W.2d 921, 924 (Minn. App. 1987) (rejecting challenge that complaint did not provide sufficient notice where “[i]t is clear from a reading of the transcript, that appellant was completely aware of what he was defending against”).

We therefore do not discern a violation of Famuyiwa’s right to due process.

DECISION

We hold that a defect in a complaint that otherwise charges a criminal offense under Minnesota law does not deprive a district court of subject-matter jurisdiction over the state's criminal prosecution of the case. The defect in the complaint initiating Famuyiwa's criminal prosecution therefore did not implicate the district court's subject-matter jurisdiction over the case. Because the district court had subject-matter jurisdiction over Famuyiwa's criminal prosecution, and because the complaint adequately notified him of the charges the state intended to prosecute and did not otherwise mislead Famuyiwa in violation of his due-process rights, we affirm.

Affirmed.