

*This opinion is nonprecedential except as provided by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
A24-0623**

State of Minnesota,
Appellant,

vs.

Bobby James Jackson,
Respondent.

**Filed December 23, 2024
Affirmed
Slieter, Judge**

Ramsey County District Court
File No. 62-CR-22-6228

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

John J. Choi, Ramsey County Attorney, Anna R. Light, Assistant County Attorney, St. Paul, Minnesota (for appellant)

Shauna Kieffer, Kieffer Law, LLC, Minneapolis, Minnesota (for respondent)

Considered and decided by Slieter, Presiding Judge; Cochran, Judge; and Cleary,
Judge.*

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

NONPRECEDENTIAL OPINION

SLIETER, Judge

In this prosecution pretrial appeal, appellant argues that the district court erred by dismissing criminal-sexual-conduct charges based on its determination that respondent's right to a speedy trial was violated. Because respondent's right to a speedy trial was violated, we affirm.

FACTS

On September 27, 2022, S.M.O. reported that she had been sexually assaulted by respondent Bobby James Jackson. Three days later, Jackson was arrested and held for questioning. On October 2, 2022, law enforcement questioned Jackson regarding the allegation and released him from custody the following day.

On October 27, appellant State of Minnesota charged Jackson by complaint-warrant with first-degree criminal sexual conduct in violation of Minn. Stat. § 609.341, subd. 3(2) (2022).

On November 3, 2023, Jackson was arrested pursuant to the October 2022 complaint-warrant. On December 4, Jackson demanded a speedy trial.

On January 11, 2024, Jackson moved to dismiss the charge against him based on a violation of his speedy-trial right. On February 23, the district court held a hearing on Jackson's motion, set a briefing schedule, and took the motion under advisement. On April 10, the district court determined Jackson's right to a speedy trial was violated and granted his motion to dismiss.

The state appeals.

DECISION

This is a prosecutorial appeal of the district court's pretrial order granting Jackson's motion to dismiss for violating his right to a speedy trial. As a threshold matter, the state must show that the order has a critical impact on its ability to prosecute the case. *State v. Osorio*, 891 N.W.2d 620, 626-27 (Minn. 2017). We conclude, and Jackson concedes, that the order dismissing the charge critically impacts the state's ability to prosecute the case. *See State v. Varnado*, 582 N.W.2d 886, 889 n.1 (Minn. 1998) ("As the district court dismissed the complaint, the critical impact test is met in this case."). We, therefore, turn to the merits of this appeal.

The state argues that the district court erred by dismissing the charge against Jackson based on its determination that the 12-month delay between charging and arrest violated his right to a speedy trial.

Both the United States and Minnesota Constitutions guarantee criminal defendants the right to a speedy trial. U.S. Const. amend. VI; Minn. Const. art. I, § 6. The right protects against "undue and oppressive" pretrial incarceration, reduces the "anxiety and concern accompanying public accusation," and avoids delay that may impair the accused's ability to present a defense. *State v. Jones*, 977 N.W.2d 177, 190 (Minn. 2022) (quotation omitted). "Whether a defendant has been denied a speedy trial is a constitutional question subject to de novo review." *Osorio*, 891 N.W.2d at 627. If a defendant's speedy-trial right is violated, "'the only possible remedy' is dismissal of the case." *Id.* (quoting *Strunk v. United States*, 412 U.S. 434, 440 (1973)).

“Because the right to a speedy trial attaches after a defendant is formally charged or arrested, whichever comes first, defendants raise speedy-trial claims at different times.” *Id.* There are two relevant timeframes. The first type of speedy-trial claim involves a delay between the time of arrest and the time of trial. *Id.* The second, which is at issue in this case, concerns a delay between charging the defendant and the defendant’s arrest. *Id.*; see also *Doggett v. United States*, 505 U.S. 647, 648 (1992) (recognizing this type of speedy-trial violation).

To determine whether a delay violates a defendant’s right to a speedy trial, Minnesota courts apply the four-factor balancing test set forth in *Barker v. Wingo*, 407 U.S. 514 (1972). *Osorio*, 891 N.W.2d at 627. “The test provides that a court must consider: (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.” *State v. Windish*, 590 N.W.2d 311, 315 (Minn. 1999) (citing *Barker*, 407 U.S. at 530-33). “None of these factors is either a necessary or sufficient condition to the finding of a deprivation of the right of speedy trial. Rather, they are related factors and must be considered together with such other circumstances as may be relevant.” *State v. Taylor*, 869 N.W.2d 1, 19 (Minn. 2015) (quotation omitted). We consider each factor in turn.

A. Length of Delay

“The length of delay is a ‘triggering mechanism’ which determines whether further review is necessary.” *Windish*, 590 N.W.2d at 315 (quoting *Barker*, 407 U.S. at 530). The length of the delay “is calculated from the point at which the [S]ixth [A]mendment right attaches: when a formal indictment or information is issued against a person or when a

person is arrested and held to answer a criminal charge.” *State v. Jones*, 392 N.W.2d 224, 235 (Minn. 1986). When “the length of the delay is ‘presumptively prejudicial,’ there is a necessity for inquiry into the remaining factors of the test.” *Windish*, 590 N.W.2d at 315 (quoting *Barker*, 407 U.S. at 530-31). “[A] 6-month delay is presumptively prejudicial, triggering an inquiry into the remaining *Barker* factors.” *Osorio*, 891 N.W.2d at 628.

Jackson was charged in October 2022 and arrested in November 2023. The one-year delay triggers further inquiry into the *Barker* factors.

B. Reason for the Delay

Under the reason-for-the-delay factor, “the key question is whether the government or the criminal defendant is more to blame for the delay.” *Taylor*, 869 N.W.2d at 19 (quotation omitted). We first consider which party caused the delay. *See id.* at 19-20; *Osorio*, 891 N.W.2d at 629. We then evaluate the reason for that delay, assigning “different weights . . . to different reasons.” *Taylor*, 869 N.W.2d at 20 (quoting *Barker*, 407 U.S. at 531). “For instance, a [d]eliberate delay to hamper the defense weighs heavily against the prosecution, while neutral reason[s] such as negligence or overcrowded courts weigh less heavily.” *Id.* (quotation omitted).

As the district court observed, law enforcement apprehended and questioned Jackson regarding the incident in October 2022, and there is nothing in the record suggesting that Jackson took any action to delay his apprehension or otherwise hamper law enforcement thereafter. In fact, the record indicates that, when Jackson was arrested in 2023 pursuant to the warrant, he was living at the same address he had previously provided to law enforcement. The government is, therefore, to blame for the delay. *See Osorio*, 891

N.W.2d at 629 (noting that the state has “a responsibility to diligently pursue and prosecute the defendant”).

The record is silent regarding why the state failed to execute the complaint-warrant for one year, but there is no evidence that the state’s failure to act on the warrant was aimed at hampering Jackson’s defense. We, therefore, agree with the district court that the delay was likely due to the state’s negligence. *Id.* Thus, this factor weighs against the state but “less heavily than if the delay were intentional.” *Id.*

C. Assertion of Speedy-Trial Right

The third *Barker* factor—whether and how the defendant asserted the right to a speedy trial—“is closely related to the other factors.” *Barker*, 407 U.S. at 531. In the context of a delay between the time of charging and arrest, “when a defendant knows of the charges against him long before his arrest but fails to assert his right to a speedy trial until after his arrest, *Barker*’s third factor weighs heavily against the defendant.” *Osorio*, 891 N.W.2d at 629 (citing *Doggett*, 505 U.S. at 653). But “a defendant ‘is not to be taxed for invoking his speedy trial right only after his arrest’ if he did not have knowledge of the charges against him prior to arrest.” *Id.* (quoting *Doggett*, 505 U.S. at 654).

Here, the record shows that Jackson was interviewed by law enforcement regarding the September 27, 2022 incident, which suggests that he knew he was under investigation. There is nothing in the record, however, demonstrating that Jackson knew that he had been charged in relation to that incident.

The district court determined that this factor weighed strongly in Jackson’s favor because he asserted his right to a speedy trial soon after being arrested. However, caselaw

does not suggest that, in the charging-to-arrest delay context, this factor weighs strongly in a defendant's favor simply because the right was asserted soon after arrest. Thus, the district court's finding that this factor weighs strongly in Jackson's favor is clearly erroneous.

Here, the delay was between the time of charging and the time Jackson was arrested. Jackson asserted his right to a speedy trial after arrest. However, and in contrast to the facts in *Osorio* in which Osorio was aware of the charge against him yet he failed to demand a speedy trial for nearly two years, 891 N.W.2d at 629-31, there is nothing in the record to suggest that Jackson knew that he had been charged. Thus, he should not be penalized for asserting the right after arrest, *Doggett*, 505 U.S. at 654, and we determine that this factor is neutral.

D. Prejudice

The final *Barker* factor is whether Jackson suffered prejudice due to the delay. *Windish*, 590 N.W.2d at 318 (citing *Barker*, 407 U.S. at 532). We consider three interests when assessing prejudice: “(i) to prevent oppressive pretrial incarceration; (ii) to minimize anxiety and concern of the accused; and (iii) to limit the possibility that the defense will be impaired.” *Barker*, 407 U.S. at 532. The third interest is the “most serious” because “the inability of a defendant adequately to prepare his case skews the fairness of the entire system.” *Id.* But “[p]rejudice must be more than minimal to weigh in favor of a defendant.” *State v. Paige*, 977 N.W.2d 829, 841 (Minn. 2022). And “the prejudice a defendant suffers must be due to the delay.” *Osorio*, 891 N.W.2d at 631 (quotation omitted).

A defendant may demonstrate actual prejudice or presumptive prejudice as a result of a delay. *Doggett*, 505 U.S. at 655-56. Actual prejudice is an “affirmative showing that the delay weakened his ability to raise specific defenses, elicit specific testimony, or produce specific items of evidence.” *Id.* at 655. Prejudice may be presumed if there has been an excessive delay. *Id.*

The district court rejected Jackson’s actual-prejudice claim. Jackson does not challenge the district court’s actual-prejudice determination on appeal. The district court, instead, determined that prejudice could be presumed based on the excessive delay of one year between charging and arrest. The state argues that the district court’s presumptive-prejudice finding is clearly erroneous. We are not persuaded.

The *Osorio* court adopted the United States Supreme Court’s reasoning for considering whether a defendant has been prejudiced based upon an excessive delay:

[E]xcessive delay presumptively compromises the reliability of the trial in ways that neither party can prove or, for that matter, identify. While such presumptive prejudice cannot alone carry a Sixth Amendment claim without regard to the other *Barker* criteria . . . it is part of the mix of relevant facts, and its importance increases with the length of delay.

891 N.W.2d at 632 (quoting *Doggett*, 505 U.S. at 655-56).

This reasoning applies to these facts. It is impossible to determine how Jackson was prejudiced by the one-year delay. The state notes, in claiming this delay was not excessive, that it is not uncommon for criminal cases to take a few years to resolve. But that misses the point when considering a prearrest speedy-trial situation. When a defendant is promptly charged and arrested, the defendant learns of the charges against him and he,

through appointed counsel if he is indigent, begins investigating and developing a defense. In contrast, the delay between charging and arrest prevented Jackson from being able to investigate the charge against him and develop a defense for over a year.

The state notes that the one-year delay for Jackson falls short of the 21-month delay found in *Osorio* in which the supreme court said Osorio's right to speedy trial was not violated. 891 N.W.2d at 631-32. However, Osorio was found to have acquiesced to the delay because he had received a summons and complaint, which ameliorated the presumed prejudice he suffered due to the delay. *Id.* at 632. Here, there is nothing in the record demonstrating that Jackson knew that he had been charged to have acquiesced to the delay. We therefore agree with the district court that the one-year delay was excessive and presumptively prejudiced Jackson.

E. Balancing of Factors

The length of delay—one year between charging and Jackson's arrest—requires additional inquiry into the remaining *Barker* factors. *Osorio*, 891 N.W.2d at 628. The reason-for-delay factor weighs against the state because the delay was due to its negligence. *Taylor*, 869 N.W.2d at 20. Jackson asserted his right to a speedy trial soon after being arrested, so this factor is neutral. *Osorio*, 891 N.W.2d at 629. Jackson has presumptively suffered prejudice and this factor weighs against the state. In sum, three of the four factors weigh against the state and one factor is neutral. We therefore agree with the district court that the one-year delay between charging and arrest violated Jackson's right to a speedy trial.

Affirmed.