

*This opinion is nonprecedential except as provided by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
A24-1248**

State of Minnesota,
Respondent,

vs.

Daniel Robert Voeller,
Appellant.

**Filed August 4, 2025
Reversed
Slieter, Judge**

Dakota County District Court
File No. 19HA-CR-23-1676

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

Kathryn M. Keena, Dakota County Attorney, Todd P. Zettler, Assistant County Attorney,
Hastings, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Davi E. Axelson, Assistant Public
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Ede, Presiding Judge; Slieter, Judge; and Bond, Judge.

NONPRECEDENTIAL OPINION

SLIETER, Judge

In this appeal from the final judgment of conviction of third-degree assault, appellant argues that his conviction must be reversed because his right to a speedy trial was denied when the state dismissed and refiled the complaint. Because appellant's speedy-trial right was violated, we reverse.

FACTS

In May 2022, respondent State of Minnesota charged appellant Daniel Robert Voeller with third-degree assault, in violation of Minn. Stat. § 609.223, subd. 1 (2020). Voeller's trial was originally scheduled for February 13, 2023. On February 14, 2023, Voeller indicated his willingness to accept the state's offer and plead guilty. Although a plea petition was not submitted, nor was a plea offered on the record, the state informed the victim that the case had resolved. A few days later, Voeller, through new counsel, informed the state that he would be exercising his right to proceed to trial. The parties agreed to schedule trial for June 5, 2023.

On April 11, 2023, Voeller demanded a speedy trial. The state made several unsuccessful attempts to subpoena the victim, including on April 24, April 26, May 1, May 3, and May 12. When the parties appeared for trial on June 5, the state requested a one-to-two-month continuance to allow it additional time to serve the victim. The district court stated that it "d[id] not see good cause to extend the trial date beyond the speedy demand" and granted a one-week continuance.

On June 12, the parties appeared for trial. The state noted that "there has been no contact between [the county attorney's] office and the alleged victim within th[e] one-week period, nor has the alleged victim been served with the updated subpoena for a trial setting this week." Voeller requested that the district court "dismiss the matter with prejudice under [Minnesota Rule of Criminal Procedure] 30.02." The district court denied Voeller's request, and the state dismissed the complaint pursuant to rule 30.01.

On August 7, the state refiled the complaint. On August 11, Voeller demanded a speedy trial. The case was scheduled to go to trial on November 6.

On September 27, Voeller moved to dismiss the case as a remedy for a speedy-trial violation. On October 20, the district court held a hearing on Voeller's motion and later denied it.

The case proceeded to a jury trial in January 2024. The jury found Voeller guilty of the charged offense. The district court later stayed imposition of the sentence for three years and placed Voeller on probation.

Voeller appeals.

DECISION

The United States and Minnesota Constitutions guarantee a criminal defendant the right to a speedy trial. U.S. Const. amend. VI; Minn. Const. art. I, § 6. “The nature of the speedy trial right ‘places the primary burden on the’ State to bring the case to trial because the ‘defendant has no duty to bring himself to trial.’” *State v. Mikell*, 960 N.W.2d 230, 244 (Minn. 2021) (quoting *Barker v. Wingo*, 407 U.S. 514, 527, 529 (1972)).

In Minnesota, “trial is to commence within 60 days from the date of the demand unless good cause is shown . . . why the defendant should not be brought to trial within that period.” *State v. Hahn*, 799 N.W.2d 25, 29-30 (Minn. App. 2011) (quotation omitted), *rev. denied* (Minn. Aug. 24, 2011); *see also* Minn. R. Crim. P. 11.09(b) (requiring trial within 60 days of demand “unless the court finds good cause for a later trial date”). “There is no fixed rule for all cases that defines how long is too long to wait for a trial. Rather, we must ask a series of commonsense questions in a particular case to determine whether the values

embedded in the speedy trial right were protected” *Mikell*, 960 N.W.2d at 244-45. “When a defendant’s speedy trial right is violated, the only possible remedy is dismissal of the indictment.” *State v. Jones*, 977 N.W.2d 177, 190 (Minn. 2022) (quotation omitted). Whether a defendant’s “right to a speedy trial is violated is a constitutional question subject to de novo review.” *Id.* (quotation omitted).

Minnesota courts use a four-factor balancing test to determine whether a delay in a case violates a defendant’s speedy-trial right. *State v. Windish*, 590 N.W.2d 311, 315 (Minn. 1999). We must evaluate “(1) the length of the delay; (2) the reason for the delay; (3) whether the defendant asserted his . . . right to a speedy trial; and (4) whether the delay prejudiced the defendant.” *Id.* (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) (quoting *Barker*, 407 U.S. at 533); *see also Mikell*, 960 N.W.2d at 244 (explaining that “the central question” is whether the state brought “the accused to trial quickly enough so as not to endanger the values that the right to a speedy trial protects”). That is, “we must ‘engage in a difficult and sensitive balancing process.’” *Taylor*, 869 N.W.2d at 19 (quoting *Barker*, 407 U.S. at 533).

A. Length of Delay

In Minnesota, delays beyond 60 days from the speedy-trial demand presumptively satisfy the first factor. *See Windish*, 590 N.W.2d at 315-16.

Voeller demanded a speedy trial on April 11, 2023. His trial was scheduled for November 6 but did not occur until January 2024.

The state concedes that Voeller’s trial began over 60 days from the date of the speedy-trial demand, triggering review of the remaining factors. *See State v. Johnson*, 811 N.W.2d 136, 144 (Minn. App. 2012) (“Under Minnesota law, a delay of more than 60 days from the date of the speedy-trial demand is presumptively prejudicial, triggering review of the remaining three factors.”), *rev. denied* (Minn. Mar. 28, 2012). We therefore turn to the remaining factors.

B. Reason for Delay

In assessing the reason-for-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; *State v. Osorio*, 891 N.W.2d 620, 629 (Minn. 2017). Next, we 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 deliberate delay to hamper the defense weighs heavily against the prosecution, while neutral reasons such as negligence or overcrowded courts weigh less heavily.” *Id.* (quotation omitted).

The district court found, and the state maintains on appeal, that Voeller is partially to blame for the delay because he had expressed a willingness to accept the state’s offer to plead guilty and later exercised his right to go to trial.

In the speedy-trial context, the delay period begins when a defendant demands a speedy trial. *See Windish*, 590 N.W.2d at 315-16 (“In Minnesota, delays beyond 60 days

from the date of demand raise a presumption that a violation has occurred.”). Voeller demanded a speedy trial in April 2023. In February 2023, two months before his demand, Voeller expressed willingness to plead guilty and, only a few days later, informed the state that he would be exercising his right to proceed to trial. Because this happened before Voeller demanded a speedy trial, it does not impact the reason-for-delay factor. Therefore, the district court erred in determining that Voeller is partially to blame for the delay.

The delay was instead caused entirely by the state’s inability to secure the victim’s presence for the June 2023 trial. On June 5, the state told the district court that, although it had attempted to subpoena the victim, “the alleged victim [had] told the sheriff’s office that he didn’t want to be served[] [and that] he didn’t want to participate because of his frustrations” after the state informed the victim that the case had resolved in February 2023. According to the state, the victim was “not avoiding service” and was “in contact,” but “he just [did not] want to come testify.” On the continued trial date of June 12, the state acknowledged that there had been no communication with the victim during the preceding week. The state therefore sought to continue Voeller’s trial because it needed additional time to persuade the victim to cooperate. Thus, the state is to blame for the delay.

The record shows that the state attempted to subpoena the victim several times before trial. *See id.* at 317 (“Normally, the unavailability of a witness constitutes good cause for delay. . . . However, a prosecutor must be diligent in attempting to make witnesses available and the unavailability must not prejudice the defendant.”). This factor therefore weighs against the state but less heavily than a deliberate attempt to hamper the defense. *Taylor*, 869 N.W.2d at 20

C. Assertion of the Right

Under this factor, a defendant's assertion of the speedy-trial right "is entitled to strong evidentiary weight in determining whether the defendant is being deprived of the right." *Barker*, 407 U.S. at 531-32. We consider "the frequency and intensity of a defendant's assertion" as evidence of the seriousness and potential prejudice at play. *Hahn*, 799 N.W.2d at 32 (quoting *Windish*, 590 N.W.2d at 318); *see also State v. Paige*, 977 N.W.2d 829, 840 (Minn. 2022) ("[T]he strength of the demand is likely to reflect the seriousness and extent of the prejudice which has resulted." (quotation omitted)).

Voeller did not demand a speedy trial until April 2023, which is after his case was originally scheduled to go to trial. However, on June 5, Voeller objected to the state's continuance request and he again reasserted his speedy-trial right on June 12, noting that he "continue[d] to assert his speedy trial rights . . . so the record [was] clear that he[] [had] been diligent in asserting those rights if the case were to ever be recharged." Voeller again demanded a speedy trial after the state refiled the charge following its dismissal of the case under rule 30.01. Therefore, this factor weighs in Voeller's favor.

D. Prejudice

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; *see also Windish*, 590 N.W.2d at 318-19. The third interest is the "most serious," as "the inability of a defendant adequately to prepare his case skews the fairness of the entire system," *id.*, but a defendant need not prove that the delay actually impaired their defense to show

prejudice, *see Mikell*, 960 N.W.2d at 254 (explaining that a court may consider speculative harm to a defendant because “excessive delay presumptively compromises the reliability of a trial in ways that neither party can prove or, for that matter, identify” (quotation omitted)).

Under this factor, “the prejudice a defendant suffers must be due to the delay,” *Osorio*, 891 N.W.2d at 631, and “must be more than minimal to weigh in favor of a defendant,” *Paige*, 977 N.W.2d at 841.

Regarding the first interest, Voeller was not held pending trial, nor does he claim that he suffered prejudice due to oppressive pretrial incarceration.

Turning to the second interest, Voeller claims that the delay increased his stress and anxiety because it impacted “significant life events for his family, including moving his son into college.” “Voeller originally demanded a speedy trial to get the matter resolved in anticipation of the last summer he would have with his 18-year-old son before he headed off to Iowa State for college.” Voeller noted that the charges were refiled on August 7, which coincided with when his son was moving. He claimed that he “checked the criminal complaint website daily, even hourly during June and July, to make sure that he would know immediately if the refiled charges came to fruition and so that he could try to avoid having a warrant issued for his arrest.” After charges were refiled, Voeller received a booking order that stated that his failure to comply may result in a warrant being issued for his arrest. Voeller asserted that he made an appointment for booking immediately after charges were filed but was twice turned away because the computer system did not indicate

that he needed to be booked. Voeller claims that the contradictory information and fear of a potential warrant being issued for his arrest increased his stress and anxiety.

Lastly, Voeller's motion to dismiss also claims that his defense was impaired by the delay because memories fade and witnesses' willingness to testify decreases over time. He does not, however, point to a witness with a diminished memory or one that is unwilling to testify due to the lapse of time.

Voeller suffered some stress and anxiety due to the delay. But, because the prejudice suffered "must be more than minimal to weigh in favor of a defendant," *Paige*, 977 N.W.2d at 841, we conclude that this factor is neutral.

E. Balancing the Factors

The length of delay requires additional inquiry into the remaining *Barker* factors. The state was solely to blame for the delay, but it attempted to subpoena the victim before trial, so the reason-for-delay factor weighs slightly against the state. Voeller asserted his right to a speedy trial in April 2023, objected to the state's June 5 continuance request, reasserted the right on June 12, and, in August, renewed his demand for a speedy trial within days of the state refiling charges. This factor therefore weighs in his favor. And the prejudice factor is neutral because Voeller suffered minimal increased stress and anxiety due to the delay. This is a close case, but the factors balance in Voeller's favor. And this is particularly so by these facts in which the state's reason to dismiss the original complaint, and later refile the complaint, was to secure its case for trial. This procedure is not permissible when it conflicts with a defendant's speedy-trial rights. *See Mikell*, 960

N.W.2d at 249 (suggesting that dismissal cannot be used as means of defeating a speedy-trial demand).

We therefore conclude Voeller was deprived of his right to a speedy trial.

Reversed.