

*This opinion is nonprecedential except as provided by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
A24-1970**

State of Minnesota,
Respondent,

vs.

Jamil Shakur Bailey,
Appellant.

**Filed September 4, 2025
Affirmed
Reilly, Judge***

Ramsey County District Court
File No. 62-CR-23-7626

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

John Choi, Ramsey County Attorney, Peter R. Marker, Assistant County Attorney, St. Paul, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Laura G. Heinrich, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Worke, Presiding Judge; Reyes, Judge; and Reilly, Judge.

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

NONPRECEDENTIAL OPINION

REILLY, Judge

Appellant Jamil Shakur Bailey challenges the district court's order requiring him to register as a predatory offender, arguing that the complaint's charged predatory offense was dismissed pursuant to a plea agreement and did not "arise from the same set of circumstances" as the offense to which appellant pleaded guilty. Because we conclude that the district court did not err, we affirm.

FACTS

The facts stated here are derived from the allegations in the criminal complaint and the facts established at the plea hearing. On December 18, 2023, appellant was staying with his girlfriend, S.J., at a motel in Roseville. That morning, appellant and S.J. argued, during which appellant yelled at S.J. to take off her clothes and get in the shower. When S.J. refused, appellant struck her in the face repeatedly and choked her until she passed out. S.J. awoke to find appellant removing her clothes. Appellant threw her in the shower and took her cellphone away to prevent her from calling 911. When S.J. tried to get her cellphone back, appellant "threw her to the ground and kicked her in the head." S.J. fought to get her cellphone back and tried calling 911, but appellant "snatched the phone away from her and threw it at the wall." Appellant then ordered S.J. to get dressed and get in his car. Meanwhile, another motel guest called 911 and reported hearing a female scream for help. Police officers arrived soon after and saw appellant drive away from the motel at a high speed, with S.J. in the passenger seat.

Appellant drove S.J. around in his car for about two hours. During this time, appellant told S.J. that he was thinking of killing her and repeatedly threatened to beat her if she left the car. Appellant eventually dropped S.J. off at her grandmother's house, and from there S.J. was brought to the hospital. The state charged appellant with kidnapping, in violation of Minn. Stat. § 609.25, subd. 1(3) (2022), felony domestic assault, in violation of Minn. Stat. § 609.2242, subd. 4 (2022), and domestic assault by strangulation, in violation of Minn. Stat. § 609.2247, subd. 2 (2022).

Appellant pleaded guilty to one count of felony domestic assault. He admitted that he assaulted his girlfriend, S.J., on December 18, 2023, at a motel in Roseville when he “slapped her in the face.” The state dismissed the other charges in exchange for appellant's guilty plea. As part of the sentence the district court ordered appellant to register as a predatory offender. Defense counsel objected to the registration requirement. This appeal followed.

DECISION

Appellant challenges the district court's order requiring him to register as a predatory offender. This court reviews the district court's factual findings for clear error and its application of the predatory-offender registration statute to those facts *de novo*. *See State v. Berry*, 959 N.W.2d 184, 187 (Minn. 2021).

Minnesota law mandates that a person must register as a predatory offender if the person is charged with and convicted of certain enumerated felony offenses, “or another offense arising out of the same set of circumstances.” Minn. Stat. § 243.166, subd. 1b(a)(1) (2022). The offense of kidnapping—for which charges were filed but dismissed—is one

of the enumerated offenses requiring registration. *Id.*, subd. 1b(a)(1)(ii). The offense of felony domestic assault—to which appellant pleaded guilty—is not one of the enumerated offenses requiring registration. *See id.*, subd. 1b(a)(1)-(4).

The district court determined that predatory registration was appropriate because appellant’s domestic-assault conviction arose out of the same set of circumstances as his dismissed kidnapping charge. The district court reasoned that the time between the two offenses was “almost immediate or within minutes,” “it could be argued the kidnapping began as part of that assault,” and “the kidnapping began at the exact same location as [the assault] and it involved the same people and frankly, the same criminal objective.” Appellant contests the district court’s determination on appeal, arguing that the dismissed kidnapping charge did not arise “out of the same set of circumstances” as the domestic-assault charge to which he entered a guilty plea. *Id.*

Appellant relies on two supreme court cases, which we consider in turn. *See State v. Lopez*, 778 N.W.2d 700, 706-07 (Minn. 2010); *Berry*, 959 N.W.2d at 185-191. In *Lopez*, the supreme court determined that an offender’s controlled-substance conviction did not arise from the same set of circumstances as a later-dismissed kidnapping charge, precluding the predatory-offender-registration requirement. 778 N.W.2d at 706-07. *Lopez* explained the meaning of the “same set of circumstances” provision as follows:

The “same set of circumstances” provision in the statute requires registration where the same general group of facts gives rise to both the conviction offense and the charged predatory offense. In other words, the circumstances underlying both must overlap with regard to time, location, persons involved, and basic facts. Although the conviction offense need not be based on identical facts to the charged

predatory offense, the facts underlying the two must be sufficiently linked in time, location, people, and events to be considered the “same set of circumstances.”

Id. at 706. The *Lopez* court determined that while the two offenses “might be related,” they did not arise from one “same set of circumstances.” The supreme court noted that “[t]he drug sale was complete upon transfer of the drugs,” and “the stipulated facts underlying the drug conviction did not mention the alleged kidnapping.” *Id.* The “same set of circumstances” test was not satisfied because different circumstances gave rise to the two offenses, and because the offenses were based on events that occurred ten days apart, in different locations, and involved slightly different groups of people. *Id.*

Berry reinforced that the test identified in *Lopez*—“time, location, persons involved, and basic facts”—is the correct framework and that “these factors should be read narrowly” and “cannot be applied so broadly as to include merely ‘related’ circumstances.” 959 N.W.2d at 188. The supreme court clarified that “[t]he circumstances need not be identical in all respects, but there must be sufficient overlap with regard to time, location, persons involved, *and* basic facts.” *Id.* (quotation omitted). In *Berry*, a woman’s husband forced employees of a laundry into a breakroom at gunpoint. *Id.* at 185. One minute later, the woman entered the laundry and told her husband it was “time to leave.” *Id.* at 186. The couple left the building together and drove away in an SUV. *Id.* The woman later pleaded guilty to the offense of aiding an offender to avoid arrest, which is not a predatory offense, and the state dismissed the other charges against her of aiding and abetting kidnapping and false imprisonment, which are predatory offenses. *Id.* at 186-88. The supreme court determined that the “same set of circumstances” test was not satisfied

because the factual basis underlying the woman’s conviction offense did not sufficiently overlap with the facts underlying the charged predatory offenses, her conviction offense necessarily occurred after the charged predatory offenses, the offenses occurred in different locations, and the offenses involved different victims. *Id.* at 188-191.

Here, appellant challenges three of the four *Lopez-Berry* factors—time, location, and basic facts. Because the facts are undisputed, this court reviews both the allegations in the complaint and the facts established at the plea hearing when considering the *Lopez-Berry* factors. *See Lopez*, 778 N.W.2d at 705 (stating that de novo review is appropriate because “the charging documents and briefs consistently describe the set of allegations used by the State to support the charges”).

A. Time

Appellant first contends that there is an insufficient temporal overlap between his conviction offense of domestic assault and the charged predatory offense of kidnapping because, like in *Berry*, “the assault was completed before the kidnapping.” In *Berry*, the supreme court determined that the conviction offense—aiding an offender to avoid an arrest—did not overlap in time with the dismissed charges, as the conviction offense was “unique because it necessarily occurs *after* the aided offender has committed the underlying crime.” 959 N.W.2d at 188. In contrast, appellant’s conviction offense—domestic-assault—does not “necessarily occur after” other crimes. *Id.* It is undisputed that the assault and the kidnapping both occurred the morning of December 18, 2023. Furthermore, the complaint establishes that appellant’s assault and kidnapping of S.J. were temporally coextensive. The complaint alleges that appellant took S.J.’s phone to prevent

her from calling 911, threw S.J. to the ground, kicked her, and ordered her to get into his car. The complaint also alleges that S.J. remained confined in appellant's car because he continued to threaten her with physical harm and death. Accordingly, the record reveals sufficient overlap in the timing of appellant's domestic-assault offense and the charged kidnapping offense to satisfy the first factor.

B. Location

Appellant again relies on *Berry* to argue that there is an insufficient overlap with respect to the location of the two offenses. Appellant contends that the assault happened entirely within the motel while the kidnapping happened outside the motel in the community. In *Berry*, the supreme court held that there was an insufficient overlap in location because the predatory offenses “occurred entirely within the laundry building” while the conviction offense “occurred almost entirely outside the laundry building in a car traveling over hundreds of miles of interstate highway.” *Id.* at 190. Although appellant later removed S.J. from the motel to his car, this case is distinguishable from *Berry* because a significant portion of both offenses occurred in the same location—at the motel. *See id.* (“Any overlap of location that occurred as Berry and her husband left the laundry was such a small sliver of the two events that it fails to satisfy the location factor of the *Lopez* test.”). Appellant assaulted S.J. at the motel and, according to the complaint, appellant kidnapped S.J. at the same motel when he took her phone away, kicked her, and then “ordered her to get dressed and to get in the car.” While the kidnapping continued in the community, the record indicates that there is sufficient overlap with respect to the location factor.

C. Basic Facts

Lastly, appellant contends that the basic facts that undergird his domestic-assault conviction and dismissed kidnapping charge do not overlap because the record does not suggest that he physically assaulted S.J. in the parking lot or “threw” her into the car. In making this argument, appellant adopts an extremely narrow view of the “same set of circumstances” test, which would require that the circumstances of his domestic-assault conviction be identical to those of his kidnapping charge. But the supreme court clarified in *Berry* that “the same set of circumstances” test does not require the circumstances to be identical. *Id.* at 188.

The state charged appellant with kidnapping “to commit great bodily harm or terrorize the victim or another.” Minn. Stat. § 609.25, subd. 1(3). The facts alleged in support of the kidnapping offense are that appellant took away S.J.’s phone at the motel and ordered her to get in his car to evade arrest; he drove S.J. around for two hours; and S.J. stayed in the car because she was afraid appellant would hurt her based on his continued threats to beat and kill her. In turn, the facts alleged in support of the domestic-assault charge are that appellant and S.J. argued, during which appellant struck S.J. in the face, took away her phone, and kicked her when she tried to retrieve it. While the basic facts underlying these two offenses are not identical, they share several marked similarities. Appellant isolated S.J. by taking away her phone, physically assaulted S.J. and threatened her with continued physical assault, and these threats combined with S.J.’s recent assault made her too afraid to leave appellant’s car. Based on these similarities, the record

establishes that there is sufficient overlap with respect to the basic facts of appellant's domestic-assault offense and the charged kidnaping offense to satisfy the third factor.

Because there is sufficient overlap with respect to all of the *Lopez-Berry* factors—time, location, people, and basic facts—the “same set of circumstances” test is satisfied here. Thus, the district court did not err by requiring Bailey to register as a predatory offender.

Affirmed.