

*This opinion is nonprecedential except as provided by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
A25-0239**

State of Minnesota,
Appellant,

vs.

Troy Lee Rorman,
Respondent.

**Filed August 4, 2025
Reversed and remanded
Harris, Judge**

Hennepin County District Court
File No. 27-CR-23-11479

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

Andrew J. Draper, Maple Grove City Attorney, Maple Grove, Minnesota (for appellant)

Anders J. Erickson, Johnson Erickson Criminal Defense, Minneapolis, Minnesota (for respondent)

Considered and decided by Bratvold, Presiding Judge; Bjorkman, Judge; and Harris, Judge.

NONPRECEDENTIAL OPINION

HARRIS, Judge

In this pretrial prosecution appeal, appellant challenges the district court’s order dismissing a complaint charging respondent with two misdemeanors—third-degree witness tampering and violating an order for protection (OFP). The state argues that the

district court erred in dismissing the complaint under Minnesota Statutes section 609.035 (2024) after appellant pleaded guilty to felony witness tampering in a separate case because the misdemeanor case and the felony case involved separate behavioral incidents. Because we agree that the two cases involve separate behavioral incidents and prosecution is not barred under section 609.035, we reverse and remand.

FACTS

This case arose from two separate, but factually similar complaints filed by Hennepin County and the city of Maple Grove. The appellant in this case, the State of Minnesota, is represented by the city of Maple Grove.

On June 1, 2023, respondent Troy Lee Rorman was charged by the Hennepin County Attorney with stalking, in violation of Minnesota Statutes section 609.749, subdivision 5(a) (2022); first-degree witness tampering, in violation of Minnesota Statutes section 609.498, subdivision 1(a) (2022); third-degree witness tampering, in violation of Minnesota Statutes section 609.498, subdivision 2a(a)(1) (2022); and violating an OFP, in violation of Minnesota Statutes section 518B.01, subdivision 14(b) (2022).

The complaint alleges that each count occurred “on or about [May 30, 2023].” But the statement of probable cause described the course of conduct occurring from May 20 through May 30, 2023. It alleged, in relevant part, that Rorman was arrested for threats of violence on May 17, 2023. The victim, R.B., obtained an OFP against Rorman on May 19, 2023. On May 20, Rorman called R.B. three times while he was in custody. Rorman told R.B. to “drop the charges” and said “tell them you’re going to refuse to testify.” On May 30, Rorman sent R.B. 60 threatening text messages. The complaint requested

“increased bail due to repeated violations of the OFP since it was issued on [May 19],” among other reasons.

On June 2, 2023, Rorman was charged by the city of Maple Grove with two misdemeanors for conduct similar to that alleged in the Hennepin County complaint, but that occurred ten days earlier, “on or about [May 20, 2023].” These charges included third-degree witness tampering, under Minnesota Statutes section 609.498, subdivision 2a(a)(2) (2022), and violating an OFP, under Minnesota Statutes section 518B.01, subdivision 14(b).

Unlike the Hennepin County complaint, the statement of probable cause in the Maple Grove complaint was limited to the three jail calls briefly referenced in the Hennepin County complaint filed the previous day. The complaint alleged the same details of the calls—that Rorman “pressure[d] R.B. to change her testimony and drop charges from an incident that occurred on May 17, 2023.” It also alleged an additional detail—that Rorman “threatened R.B. by telling her he would expose her and her employer’s alleged cigarette purchasing if she did not change her testimony or refuse to testify in the case against him.”

In May 2024, Rorman pleaded guilty to the stalking and first-degree witness tampering charges alleged in the Hennepin County complaint. The state agreed to dismiss the remaining two charges and a separate case charging threats of violence.¹ While

¹ As the state points out in its reply brief, the court file number for the Maple Grove complaint involving the two misdemeanor charges was mentioned when all three cases were called at the beginning of the plea hearing but was not part of the plea agreement.

providing the factual basis for the witness-tampering charge,² Rorman admitted to the following:

Q: You intentionally attempted to dissuade [R.B.] from attending or testifying at this trial. Is that correct?

A: Yes.

Q: You did this first, while you were in custody, calling her and telling her that you would hope she wouldn't participate in this case. Is that correct?

A: Yes.

Rorman also admitted to conduct that occurred on May 30. Rorman admitted sending R.B. a series of text messages threatening bodily injury for the purpose of attempting to get R.B. not to participate and testify at trial. The district court ordered a presentence investigation (PSI) and set the matter for sentencing. Rorman later received a stay of adjudication under the Veterans Restorative Justice Act, Minnesota Statute section 609.1065, subdivision 2 (2022).³

In January 2025, Rorman filed a motion to dismiss the two misdemeanor charges in the Maple Grove complaint under Minnesota Statutes section 609.035 because Maple Grove was attempting to prosecute Rorman for conduct that he already pleaded guilty to. The state did not file a response to the motion.

² The factual basis for the stalking charge did not mention the May 20 jail calls.

³ In March 2025, Rorman filed a motion requesting this court either direct the state to order the transcript from the sentencing hearing or stay this appeal to permit Rorman to order the transcript. We denied the motion because the sentencing hearing was not related to the matter currently on appeal, and the district court did not consider the transcript from the sentencing hearing when it made its decision. Rorman argues that the transcript from the sentencing hearing would be helpful because "it is unknown whether a record was made related to the misdemeanor Maple Grove charges" at sentencing.

In February 2025, the parties appeared for a motion hearing. Rorman argued that the Hennepin County and Maple Grove complaints involved the same jail calls, and thus the Maple Grove complaint should be dismissed because Rorman already admitted to the jail calls when he pleaded guilty to felony witness tampering. The state requested a briefing schedule and argued that the two complaints involved separate behavioral incidents. The district court dismissed the Maple Grove complaint, noting, “I’m not really sure what Maple Grove is trying to accomplish by not dismissing this case. The statement of probable cause for the tampering with the witness . . . indicates that he sent messages on May 20th and on May 29th.” The district court further noted that, “it seems clear to [the district court] that . . . the felony count included th[e] text messages that were sent on or around May 30th includes this May 20th. Plus[,] I just read the transcript, and the plea agreement mentioned all three cases.”

The state appeals.

DECISION

The state argues that: (1) the pretrial ruling had a critical impact on its ability to prosecute the case; and (2) the district court erred by granting Rorman’s motion to dismiss because the Hennepin County and Maple Grove complaints involved separate behavioral incidents, and thus the Maple Grove prosecution was not barred under Minnesota Statutes section 609.035. We address each argument in turn.

I. The state demonstrated that the district court’s order dismissing the complaint has a critical impact on its ability to successfully prosecute Rorman.

As a threshold matter, Rorman argues that we should dismiss the state’s appeal because the state already successfully prosecuted Rorman for a felony count of witness tampering for his conduct that occurred on May 20, 2023, and “the State cannot establish that the dismissal of misdemeanor charges based on the same conduct will have a critical impact on the State’s ability to prosecute its case.” “To *obtain review* of a pretrial order, the State must satisfy the threshold requirement of demonstrating that the pretrial ruling had a critical impact on its ability to prosecute the case.” *State v. Bee*, 17 N.W.3d 150, 152 n.1 (Minn. 2025); *see* Minn. R. Crim. P. 28.04, subd. 2(2). Because the district court’s order resulted in dismissal of all charges, the state undoubtedly demonstrated critical impact on its ability to prosecute. *State v. Lugo*, 887 N.W.2d 476, 482 (Minn. 2016).

Rorman’s argument conflates what the state must demonstrate to obtain review and what the state must demonstrate for us to reverse. We will only reverse a district court’s pretrial order “if the state demonstrates clearly and unequivocally that the [district] court has erred in its judgment.” *Id.* at 481-82 (quotation omitted). “[T]his required showing of error does not require deference to the district court’s legal conclusions.” *Bee*, 17 N.W.3d at 152 n.1. Thus, although the state demonstrated that the district court’s order has a critical impact on its ability to prosecute, we will only reverse the district court’s order if the state “demonstrates clearly and unequivocally” that the district court incorrectly applied section 609.035 and erred by dismissing the complaint.

II. The district court erred by dismissing the complaint under section 609.035 because the offenses did not arise from the same course of conduct.

Section 609.035 “broaden[s] the protection afforded by our constitutional provisions against double jeopardy.” *State v. Johnson*, 141 N.W.2d 517, 522 (Minn. 1966). Under section 609.035, “if a person’s conduct constitutes more than one offense under the laws of this state, the person may be punished for only one of the offenses and a conviction or acquittal of any one of them is a bar to prosecution for any other of them.” Minn. Stat. § 609.035, subd. 1. A person’s conduct constitutes more than one offense if “a single behavioral incident results in violations of more than one criminal statute.” *Johnson*, 141 N.W.2d at 519. “Whether multiple offenses arose out of a single behavior[al] incident depends on the facts and circumstances of the particular case.” *State v. Bookwalter*, 541 N.W.2d 290, 294 (Minn. 1995). “The state bears the burden of proving, by a preponderance of the evidence, that a defendant’s offenses were not part of a single behavioral incident.” *State v. Bakken*, 883 N.W.2d 264, 270 (Minn. 2016).

When the facts are not in dispute, as here, we review de novo whether multiple offense are part of a single behavioral incident. *State v. Ferguson*, 808 N.W.2d 586, 590 (Minn. 2012). We analyze “the time and place of the offenses and whether the defendant ‘was motivated by an effort to obtain a single criminal objective.’” *State v. Mullen*, 577 N.W.2d 505, 511 (Minn. 1998) (quoting *Johnson*, 141 N.W.2d at 525.). In other words, “acts that lack a unity of time and place or are motivated by different criminal objectives do not constitute a single behavioral incident, and therefore, are not conduct for purposes of section 609.035.” *Munt v. State*, 920 N.W.2d 410, 416-17 (Minn. 2018).

The state argues that prosecution of the Maple Grove complaint is not barred under section 609.035 because the complaints involved two separate behavioral incidents—the May 20 jail calls and the May 30 text messages. We agree.

The two offenses occurred on distinct dates and from different places. The jail calls occurred while Rorman was in custody, but the text messages occurred ten days later, when Rorman was out of custody. And while both offenses broadly involve similar criminal objectives—contacting R.B. and preventing R.B. from testifying—“[b]road statements of criminal purpose do not unify separate acts into a single course of conduct.” *State v. Jones*, 848 N.W.2d 528, 533 (Minn. 2014); *see also State v. Boswell*, 20 N.W.3d 640, 661 (Minn. App. Apr. 7, 2025) (concluding that “a general ‘stalking’ objective or a desire to abuse or control [victim] are too broad and nonspecific to demonstrate a single criminal objective for all of [appellant’s] relevant acts under section 609.035”). The May 30 text messages involved threats of bodily injury and were sent while Rorman was intoxicated. This is a distinct criminal objective from Rorman’s conduct on May 20, where he called R.B. from jail and “pressure[d] R.B. to change her testimony and drop charges from an incident that occurred on May 17, 2023.”

Rorman argues that the district court properly dismissed the Maple Grove complaint because Rorman already admitted to the May 20 jail calls when he pleaded guilty to the felony witness tampering charge. While the jail calls were mentioned during Rorman’s guilty plea, we disagree that this alone necessitates dismissing the Maple Grove complaint.

When determining whether two offenses arose out of the same behavioral incident, the district court may examine the entire record to determine whether two offenses are

“separate and distinct.” *State v. Bishop*, 545 N.W.2d 689, 692 (Minn. App. 1996). Here, the probable cause statement in the Hennepin County complaint mentions the May 20 jail calls, but the entire record suggests that these calls were not the basis for any of the Hennepin County charges. The complaint specifically mentions “on or about [May 30, 2023],” in the offense date and charge description for each count. The state also “ask[ed] for increased bail due to repeated violations of the OFP since it was issued on [May 19],” which supports the state’s argument that the state only included the jail call in the Hennepin County complaint as an example of prior domestic conduct for purposes of the bail argument.

While Rorman admitted during his guilty plea in the Hennepin County case that he intentionally attempted to dissuade R.B. from attending or testifying by “calling her and telling her that [he] would [hope] she wouldn’t participate in this case,” the record shows that admitting to these calls alone would not have been enough to establish a sufficient factual basis to support the first-degree witness-tampering charge. First-degree witness tampering requires the state to prove that the defendant “intentionally prevent[ed] or dissuade[d] or intentionally attempt[ed] to prevent or dissuade *by means of force or threats of injury*.” Minn. Stat. § 609.498, subd. 1(a) (emphasis added). When providing the factual basis for his guilty plea to felony witness tampering, Rorman admitted that the May 30 *text messages* threatened bodily injury. But neither complaint alleged that Rorman acted with force or threatened bodily injury when he *called* R.B. on May 20.

In sum, even though the May 20 jail calls were mentioned in the complaint and during the plea colloquy when Rorman pleaded guilty to felony witness tampering, the

charges in the Hennepin County complaint were supported solely by separate conduct that occurred on May 30, 2023. The state met its burden to demonstrate that Rorman's offenses were not part of a single behavioral incident. Therefore, the district court erred by dismissing the Maple Grove complaint under section 609.035.

Reversed and remanded.