

*This opinion is nonprecedential except as provided by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
A25-0390**

State of Minnesota,
Respondent,

vs.

Amber Dae Shaw,
Appellant.

**Filed February 23, 2026
Reversed and remanded
Bentley, Judge**

Hennepin County District Court
File No. 27-CR-21-8854

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

Mary F. Moriarty, Hennepin County Attorney, Mark V. Griffin, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Richard Schmitz, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Bentley, Presiding Judge; Bratvold, Judge; and Jesson, Judge.*

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

NONPRECEDENTIAL OPINION

BENTLEY, Judge

In this direct appeal from a judgment of conviction for attempted first-degree aggravated robbery, appellant argues that her conviction must be reversed because the district court clearly erred in finding that she had been restored to competency to stand trial. We agree with appellant and, therefore, reverse and remand for a new trial.

FACTS

The state charged appellant Amber Dae Shaw with attempted first-degree aggravated robbery following an incident in May 2021. According to the complaint, Shaw approached a man who was sitting in his car outside of his workplace. She asked him for a ride, and he refused, so she reached through the passenger-side window, opened the door, and entered the car. Shaw told the man, “I’m gonna need your vehicle,” and then tased the man twice. The man punched Shaw while she tased him and bit him multiple times. He eventually gained control of Shaw and held her down until police arrived.

At a pretrial hearing, Shaw’s counsel requested a competency examination under Minnesota Rule of Criminal Procedure 20.01. Shaw personally disagreed with counsel’s request and told the district court that she would like to go to trial. The district court replied that Shaw could move ahead with trial if she was found to be competent. The district court then ordered a rule 20.01 evaluation.

The district court found Shaw incompetent in May 2022. It made this finding based on a ten-page report written by Dr. Sonia Reardon, in which she documented the results of Shaw’s rule 20.01 evaluation. In the report, Dr. Reardon concluded that Shaw “does not

have sufficient present ability to rationally consult with her counsel, understand the proceedings, or participate in her own defense.” (Emphasis omitted.)

Shaw participated in an updated rule 20.01 evaluation with Dr. Reardon in October 2022. In her report documenting this evaluation, which was also submitted to the district court, Dr. Reardon opined that “Shaw’s presentation in the current evaluation was similar to that observed in the initial evaluation” and concluded once again that Shaw “does not have sufficient present ability to rationally consult with her counsel, understand the proceedings, or participate in her own defense.”¹ (Emphasis omitted.)

Shaw participated in a third competency evaluation in March 2023 with forensic psychologist Dr. Jill Rogstad. Following that evaluation, Dr. Rogstad submitted to the district court a five-page report in which she concluded that “Shaw’s psychotic symptoms obstruct her capacity to understand the proceedings, participate in the defense, and consult rationally with counsel at the current time.” (Emphasis omitted.) Dr. Rogstad recommended “that further evaluation of her adjudicative competency not occur prior to the passage of one year.” Following Dr. Rogstad’s report, the district court once again entered a finding of incompetency.

In March 2024, Dr. Rogstad evaluated Shaw again. Dr. Rogstad identified that Shaw’s presentation was “consistent with that noted during her previous competency evaluations.” Specifically, Dr. Rogstad opined that Shaw

¹ Shaw notes in her brief that, “[a]ccording to the online docket sheet for this file from the MCRO website, on November 15, 2022, the district court made a second finding that Shaw was incompetent to stand trial,” but that “apparently this finding was never memorialized in an order or filed” because “[t]here is no corresponding DOC ID for this finding.”

demonstrated factual legal knowledge, [but] her capacity to use and apply this knowledge in a rational way was compromised by the presence of delusions (i.e., fixed, false beliefs that deviate markedly from objective reality and are held despite contradictory evidence) and disjointed thinking and speech patterns attributed to a diagnosis of schizoaffective disorder.^[2]

Dr. Rogstad once again concluded that “Shaw’s delusions presently compromise her capacity to understand the proceedings, participate in the defense, and consult rationally with counsel.” (Emphasis omitted.) This evaluation was also submitted to the district court.

Soon thereafter, the district court held a hearing at which Shaw was represented by new counsel. The district court acknowledged that “the examiner opined [Shaw was] incompetent here on a one-year review.” But, for the first time since the initial adjudication of incompetency, Shaw’s counsel “contest[ed] the continued finding of incompetency” and requested a contested competency hearing.

A contested competency hearing followed, at which Shaw’s counsel told the district court that he “strongly disagree[d]” with the evaluation finding Shaw incompetent. The state did not contest Shaw’s position that she was competent to proceed with the criminal proceedings. As a result, the district court noted that “the procedural posture is not really that it’s a contested competency issue, but there is an expert who has a different opinion.”

² Some documents in the record are not accessible to the public. See Minn. R. Pub. Access to Recs. of Jud. Branch 4, subd. 1(f)(1). But “[w]e are not precluded ‘from mentioning the contents’ of confidential or sealed documents when the information is ‘relevant to the particular issues or legal argument being addressed in the proceeding.’” *Cook v. Trimble*, 22 N.W.3d 196, 201 n.1 (Minn. App. 2025) (quoting Minn. R. Pub. Access to Recs. of Jud. Branch 4, subd. 4), *rev. granted* (Minn. Aug. 12, 2025). We also are not “constrained from disclosing information contained in the publicly filed briefs.” *Id.* Any reference to confidential documents herein is based on the parties’ publicly filed briefs, other public records, or is relevant to our determination of the issues on appeal.

The district court then asked Shaw's counsel to make an offer of proof regarding Shaw's competency.

Shaw's counsel stated:

I have had good discussions with [Shaw], really over the last year. She is not currently under any commitment; you know, receives some county services, but not heavily mental-health-focused. Essentially she is living independently and not dependent, really, on any placement, on any particular therapy to go about her daily life.

In addition, my conversations with her are very clear. She fully understands what's going on, as far as the court procedure. She's frustrated that we're stuck in this Rule 20 cycle and wants to move on to handling her case as a matter of—you know, in a trial course or normal criminal course.

But she does very much understand what's going on, and I believe is fully able to understand the proceedings and cooperate with me, participate in the proceedings fully.

The district court asked Shaw's counsel how many times he met with Shaw, and he replied it was "six to eight contacts in the last six months," all "over Zoom or over the phone, other than the one appearance [in court]." The district court reasoned: "[I]t's good to make a record that you've met with the client six or eight times. The forensic examiner only had the benefit of meeting with the client once. And so there is . . . some observation, I think, [that] should be given some weight." The state "agree[d] with entering a finding of competency" and argued that "there is a preponderance of the evidence that she is competent." The district court found Shaw competent to stand trial.

At a jury trial, the state called six witnesses, including victim J.L. Shaw was the only witness for the defense and testified on her own behalf. She testified that on the day of the incident, she had decided to walk from her home in New Brighton to South

Minneapolis to sign some paperwork for her son. She noticed a car following her, so she took pictures of the car and then she took a detour behind some warehouses. Shaw testified that she then approached that same car in a parking lot to confront the driver and ask for a ride. She testified that the driver opened the car door for her, but when she got in his car, the driver groped her. Then when she tried to get out, the driver attacked her. At the end of trial, the jury found Shaw guilty of attempted first-degree aggravated robbery.

Prior to the sentencing hearing, Shaw moved for a downward durational departure, citing her lack of “substantial capacity for judgment” at the time of the offense. The state deferred to the court’s discretion on the sentencing departure “in large part because of the history in this case with the mental health component.” The district court granted Shaw’s motion for downward durational departure from the presumptive 29 months and sentenced her to 20 1/2 months’ imprisonment.

Shaw appeals.

DECISION

Shaw maintains that the trial and resulting conviction violated her rights under the Due Process Clause of the Fourteenth Amendment to the United States Constitution, which prohibits the criminal prosecution of defendants found incompetent to stand trial. *State v. Curtis*, 921 N.W.2d 342, 346 (Minn. 2018) (citing *Drope v. Missouri*, 420 U.S. 162, 171-72 (1975)). Courts play an important role in safeguarding a defendant’s right not to be tried while incompetent, including sua sponte raising issues of competency throughout the proceedings. *See State v. Bauer*, 245 N.W.2d 848, 854 (Minn. 1976). Under the Minnesota Rules of Criminal Procedure, criminal proceedings must be suspended when the defendant

is not legally competent. Minn. R. Crim. P. 20.01, subd. 2.³ A defendant is not legally competent if, because of mental illness or cognitive impairment, they lack the ability to “(a) rationally consult with counsel; or (b) understand the proceedings or participate in the defense.” *Id.* Once a party is determined to be incompetent, they may not be tried until after they are restored to competency. *Dhaemers v. State*, 175 N.W.2d 457, 460 (Minn. 1970).

The party seeking the determination of competence in a contested competency proceeding bears the burden of proof by a preponderance of the evidence. *State v. Thompson*, 988 N.W.2d 149, 154, 157 (Minn. App. 2023), *rev. denied* (Minn. June 20, 2023). It is not enough that a defendant concedes competency or that the parties agree that the defendant is competent. In *Thompson*, we clarified that, even if a defendant is the party advocating competency, they still must prove their competency by a preponderance of the evidence. *Id.* at 158. “The preponderance of the evidence standard requires that to establish a fact, ‘it must be more probable that the fact exists than that the contrary exists.’” *In re Source Code Evidentiary Hearings in Implied Consent Matters*, 816 N.W.2d 525, 538-39 (Minn. 2012) (quoting *City of Lake Elmo v. Metro. Council*, 685 N.W.2d 1, 4 (Minn. 2004)). “If evidence of a fact or issue is equally balanced, then that fact or issue has not been established by a preponderance of the evidence.” *Id.* (quoting *City of Lake Elmo*, 685

³ The Minnesota legislature recently amended the process for competency proceedings and restoring competency. See Minn. Stat. §§ 611.40-59 (2024); Minn. R. Crim. P. Rule 20.01 (2024); *Order Promulgating Amendments to the Minnesota Rules of Criminal Procedure*, No. ADM10-8049 (Minn. Sept. 20, 2024). These proceedings preceded those amendments, so we apply the 2022 rule here.

N.W.2d at 4). “[F]or purposes of the competency determination . . . , the district court must specifically weigh all of the evidence presented[.]” *Thompson*, 988 N.W.2d at 158.

As an appellate court, we review a district court’s finding of competency, including whether the district court gave “proper weight” to evidence produced, for clear error. *State v. O’Neill*, 945 N.W.2d 71, 82 (Minn. App. 2020), *rev. denied* (Minn. Aug. 11, 2020). “[F]indings are clearly erroneous when they are manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole.” *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021) (quotation omitted). “In applying the clear-error standard, we view the evidence in a light favorable to the findings.” *Id.* “We will not conclude that a factfinder clearly erred unless, on the entire evidence, we are left with a definite and firm conviction that a mistake has been committed.” *Id.* (quotations omitted).

Because Shaw sought to be found competent, she had the burden of proof. *See Thompson*, 988 N.W.2d at 154. The evidence of her competency consisted solely of her trial counsel’s offer of proof, in which he reported that Shaw “is not currently under any commitment,” that she receives “some county services, but not heavily mental-health focused,” that “she is living independently and [is] not dependent . . . on any placement, on any particular therapy to go about her daily life,” and that “conversations with her are very clear.” He also reported that he spoke with Shaw “six to eight” times in the months leading up to the trial. Based on those interactions, Shaw’s counsel opined that Shaw “fully understands what’s going on, as far as the court procedure” and “is fully able to understand the proceedings and cooperate with [him], participate in the proceedings fully.”

To evaluate whether that offer of proof established that Shaw was competent by a preponderance of the evidence, the district court was obligated to weigh it against other evidence in the record. *Id.* at 158 (noting that “the district court must specifically weigh all of the evidence presented”); *O’Neill*, 945 N.W.2d at 82 (considering “whether the district court gave ‘proper weight’ to the evidence”). It is at that step that we conclude the district court clearly erred. The district court does not appear to have weighed the information and reasoning underlying the expert’s opinion against the information and reasoning underlying counsel’s opinion. More specifically, our review of the record convinces us that counsel’s impressions in the offer of proof were *consistent with* the most recent expert report in material respects, and the offer of proof did not otherwise address the expert’s findings that supported a conclusion that Shaw was incompetent.

Shaw was evaluated by Dr. Rogstad just three months before the contested competency hearing. At the time of the evaluation, Dr. Rogstad concluded that Shaw “demonstrated factual legal knowledge” but “her capacity to use and apply this knowledge in a rational way was compromised by the presence of delusions . . . and disjointed thinking.” Dr. Rogstad’s opinion that Shaw “demonstrated factual legal knowledge” is consistent with Shaw’s counsel’s assertion that Shaw “fully understands what’s going on, as far as the court procedure.” But counsel’s offer of proof did not address Shaw’s delusions or her “disjointed thinking.” Without any acknowledgement of Shaw’s delusions or disjointed thinking, the offer of proof did not present the district court with evidence upon which it could set aside the expert’s view that, despite Shaw’s factual understanding of the

legal proceedings, “Shaw’s delusions presently compromise her capacity to understand the proceedings, participate in the defense, and consult rationally with counsel.”

The district court gave “some weight” to the fact that counsel had met with Shaw six to eight times in the last six months, whereas Dr. Rogstad “only had the benefit of meeting with [Shaw] once” in the last year. But that assignment of weight does not appear to account for the difference in the purpose of those interactions. Shaw participated in four psychological evaluations over the course of these proceedings, at least two of which were two or more hours in length.⁴ Those meetings, including the most recent evaluation with Dr. Rogstad, had the express purpose of determining Shaw’s competency to stand trial. In contrast, the offer of proof did not include information about the quality of the interactions with counsel, and the district court did not explain how its finding that counsel’s observations were entitled to “some weight” supported its ultimate conclusion that counsel’s opinion as to competency was entitled to greater weight overall than the expert’s opinion.

The state maintains that, if we reverse the finding of competency here, we will be creating a rule that “the trial court must follow the psychologists’ opinion regardless of any other factors which contradict that finding.” We do not adopt such a broad rule. As we have explained, our review of this particular record convinces us that the district court here did not consider the findings underlying Dr. Rogstad’s opinion and weigh them against the

⁴ Dr. Rogstad did not document how long her evaluations lasted, but Dr. Reardon’s first evaluation with Shaw lasted two hours and forty-five minutes and her second evaluation lasted two hours.

evidence underlying Shaw's counsel's opinion. Under different circumstances, a district court might "weigh all of the evidence presented," as it is required to do under *Thompson*, 988 N.W.2d at 158, and reach a decision that is different from an expert's recommendation. That is not what happened here.

In sum, we are compelled to conclude that the district court clearly erred because its competency finding is "manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole." *Kenney*, 963 N.W.2d at 221 (quotation omitted). We reverse and remand the matter to the district court to set aside the judgment of conviction and grant a new trial upon a determination, supported by the record, that Shaw is competent to proceed. *See Bauer*, 245 N.W.2d at 860-61 (reversing and remanding for a new trial when the record on appeal showed that appellant had been incompetent to stand trial).

Reversed and remanded.