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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A26-0418**

State of Minnesota,
Appellant,

vs.

Joseph Archie Grenier,
Respondent.

**Filed August 24, 2026
Reversed and remanded
Harris, Judge**

Becker County District Court
File No. 03-CR-25-1364

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St. Paul, Minnesota; and

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Considered and decided by Harris, Presiding Judge; Frisch, Chief Judge; and
Larson, Judge.

NONPRECEDENTIAL OPINION

HARRIS, Judge

In this pretrial appeal in a criminal sexual conduct case, the state challenges the district court's pretrial order dismissing charges against respondent for first-degree and third-degree criminal sexual conduct using force or coercion, in violation of Minnesota

Statutes sections 609.342, subdivision 1(e)(i), and .344, subdivision 1(c) (2018). The district court dismissed both charges for lack of probable cause, concluding that there was no evidence that respondent used force to accomplish sexual penetration. We conclude that the district court erred as a matter of law by dismissing the charges because the infliction of pain while accomplishing sexual penetration satisfies the force element of first-degree and third-degree criminal sexual conduct, and the state presented sufficient evidence to establish probable cause. Therefore, we reverse and remand.

FACTS

Appellant State of Minnesota charged respondent Joseph Archie Grenier with first-degree and third-degree criminal sexual conduct by use of force or coercion (counts 1 and 3), and first-degree and third-degree criminal sexual conduct with a mentally impaired or physically helpless victim (counts 2 and 4) under Minnesota Statutes sections 609.342, subdivision 1(e)(i), (ii), and .344, subdivision 1(c), (d) (2018). The following summarizes the evidence received at the omnibus hearing and the district court's findings of fact in its order granting Grenier's motion to dismiss for lack of probable cause.

At the time of the alleged sexual assault, A.M. resided with her mother in an apartment they shared. A.M. has significant physical and intellectual disabilities. In October 2022, A.M.'s sister, S.L., was appointed as her legal guardian. As A.M.'s legal guardian, S.L., learned that A.M. had been treated for a sexually transmitted infection in April 2020. When S.L. asked what happened, A.M. disclosed a nonconsensual sexual encounter.

In January 2024, A.M. and her cousin met with a law-enforcement officer at the police station to report the nonconsensual sexual encounter. A.M. explained that in June 2019, while she was living with her mother in mother's apartment, mother met Grenier through a dating application. A.M. reported that in April 2020, Grenier came to mother's apartment, where he joined A.M. and mother on the couch watching television. After some time, Grenier, mother, and A.M. walked into the bedroom, and mother and A.M. removed their clothes. Grenier made A.M. and mother engage in sexual acts with each other and with him. Grenier sexually penetrated A.M., and mother recalled that A.M. cried and said "ow." A.M. stated that she was "crying like a baby" and "saying it hurts." A.M. also explained that mother tried to stop Grenier, but he did not listen. A.M. wrote in her journal that she also tried to stop Grenier by pushing him away, but he did not stop.

In March 2024, mother met with a law-enforcement officer. Mother informed the officer that she told Grenier that A.M. had Goldenhar syndrome. She also explained to the officer that she told Grenier that A.M. was a virgin, which triggered Grenier's interest in A.M. Grenier told mother that, because A.M. did not have "experience," he could teach A.M. things, such as kissing. Mother agreed to it because it "made sense at the time" since A.M. did not have any "experience." Mother indicated that on one occasion, in October 2019, mother digitally penetrated A.M. while Grenier watched. Mother explained that she performed these acts because she wanted to be with Grenier and have sex with him.

A different law-enforcement officer spoke with Grenier as part of the investigation. Grenier initially denied knowing mother but later in response to law enforcement questions about how many times he went "on dates or hook[ed] up" with mother he admitted "two

or three times maybe.” When asked if he recalled having sex with the mother and A.M., Grenier answered, “Yeah.”

In September 2025, Grenier filed a motion to dismiss counts 1 and 3 (the use-of-force-or-coercion counts) for lack of probable cause. He argued that there was no evidence to prove that he used “force” to “cause[] the alleged victim to submit to penetration.” He also argued that Minnesota Statutes sections 609.342, subdivision 1(e)(i) and .344, subdivision 1(c), are unconstitutionally vague both facially and as applied.

The state also filed a notice of intent to seek an aggravated sentence based on the invasion of A.M.’s zone of privacy, A.M.’s particular vulnerability, and Grenier’s prior felony sexual conduct.

In November 2025, a contested omnibus hearing was held where the court received 48 exhibits. The parties argued the matter in writing. In February 2026, the district court filed an order granting Grenier’s motion to dismiss counts 1 and 3, concluding there was no evidence that Grenier used force “as a means to compel or overcome resistance prior to or independent of the penetration.” It determined that, while the evidence may support lack of consent, the state did not present sufficient evidence to establish a reasonable probability that Grenier used force under sections 609.342, subdivision 1(e)(i) and .344, subdivision 1(c).

The district court determined that the state had met its burden of showing that the zone-of-privacy and prior-felony-sexual-conduct aggravating factors applied. For the particular-vulnerability aggravating factor, the district court noted that the state limited its reliance on that factor to counts 1 and 3, and because it dismissed those counts for lack of

probable cause, the district court determined that the state's argument was moot. Finally, the district court rejected Grenier's constitutional challenges to sections 609.342 and 609.344 because he failed to establish that either statute was unconstitutional, either facially or as applied.

The state appeals the probable-cause dismissal order.

DECISION

The state challenges the district court's order dismissing the first-degree and third-degree criminal sexual conduct charges. As a threshold matter, however, we must determine whether the state is entitled to appellate review because "[t]he State's ability to appeal in a criminal case is limited." *State v. Lugo*, 887 N.W.2d 476, 481 (Minn. 2016). "When the State appeals a pretrial order, it must show clearly and unequivocally (1) that the district court's ruling was erroneous and (2) that the ruling will have a critical impact on the State's ability to prosecute the case." *State v. Serbus*, 957 N.W.2d 84, 87 (Minn. 2021) (quotation omitted). "The State can show critical impact when complying with an order significantly reduces the likelihood of a successful prosecution." *State v. Underdahl*, 767 N.W.2d 677, 683 (Minn. 2009) (quotation omitted). An order has a critical impact on the prosecution's case when it dismisses criminal charges, even when other charges remain. *Serbus*, 957 N.W.2d. at 87. Here, "[b]ecause the district court dismissed the charge[s], critical impact is met." *Id.* The next question is whether the district court's dismissal was erroneous.¹ *See id.*

¹ Grenier argues that this appeal is not properly before us because the state's pretrial appeal presents an improper challenge to unreviewable factual findings. *See* Minn. R. Crim.

Turning to the merits of the state’s claim, the state argues that the district court erred by concluding it needed to show that Grenier used force as a separate act beyond the sexual penetration itself when it dismissed counts 1 and 3 for lack of probable cause. We apply de novo review to a district court’s dismissal for lack of probable cause. *State v. Letourneau*, 23 N.W.3d 386, 396 (Minn. 2025).

Both parties contest what is required to establish probable cause for Grenier’s first-degree and third-degree criminal-sexual-conduct charges. More specifically, the parties disagree over whether the same act may establish probable cause for the element of force and sexual penetration. Such a dispute requires us to discern the meaning of a statute, which we review de novo. *State v. Loveless*, 987 N.W.2d 224, 247 (Minn. 2023). After identifying what the statute requires, we then consider whether the record is sufficient to show probable cause for each offense.

A. Statutory Interpretation

Our objective when interpreting a statute is to ascertain and effectuate the intent of the legislature. Minn. Stat. § 645.16 (2024). “If the Legislature’s intent is clear from the statute’s plain and unambiguous language, then we interpret the statute according to its plain meaning without resorting to the canons of statutory construction.” *Serbus*, 957 N.W.2d at 87 (quotation omitted). “But if a statute is susceptible to more than one

P. 28.04, subd. 1(1) (“But a pretrial order cannot be appealed if the court dismissed a complaint for lack of probable cause premised solely on a factual determination.”). As discussed below, the district court’s dismissal of counts 1 and 3 was grounded in a misapplication of the law. Because this presents a question of law, the state’s pretrial appeal is properly before us.

reasonable interpretation, then the statute is ambiguous and we may consider the canons of statutory construction.” *Id.* (quotation omitted). We begin with the relevant statutory language. Here, Grenier was charged with first-degree and third-degree criminal sexual conduct using force or coercion. To find Grenier guilty of first-degree criminal sexual conduct, the state needed to prove that he (1) engaged in sexual penetration with A.M., (2) caused personal injury to A.M., and (3) used “force” to accomplish sexual penetration.” Minn. Stat. § 609.342, subd. 1(e)(i). To find Grenier guilty of third-degree criminal sexual conduct, the state needed to prove that he (1) engaged in sexual penetration with A.M., and (2) used “force . . . to accomplish the penetration.” Minn. Stat. § 609.344, subd. 1(c). “Force” is defined as:

the infliction, attempted infliction, *or* threatened infliction by the actor of bodily harm *or* commission or threat of any other crime by the actor against the complainant or another, which (a) causes the complainant to reasonably believe that the actor has the present ability to execute the threat and (b) if the actor does not have a significant relationship to the complainant, also causes the complainant to submit.

Minn. Stat. § 609.341, subd. 3 (2018) (emphasis added).²

While both statutes criminalize engaging in sexual penetration with another if the actor uses force, only first-degree criminal sexual conduct requires the actor to cause “personal injury” to the victim. *See* Minn. Stat. § 609.342, subd. 1(e)(i). “‘Personal injury’

² In 2021, the Minnesota Legislature amended the definition of “force” to clarify that the infliction, attempted infliction, or threatened infliction of bodily harm constitutes “force” under the statute. 2021 Minn. Laws ch. 11, art. 4, § 6 at 2034 (“‘Force’ means either: (1) the infliction by the actor of bodily harm; or (2) the attempted infliction, or threatened infliction by the actor of bodily harm”) (codified at Minn. Stat. § 609.341, subd. 3).

means bodily harm as defined in section 609.02, subdivision 7.” Minn. Stat. § 609.341, subd. 8 (2018). “Bodily harm,” in turn, is defined as “physical pain or injury, illness, or any impairment of physical condition.” Minn. Stat. § 609.02, subd. 7 (2018). The definition of “force” and “personal injury” both contemplate bodily harm under section 609.02, subdivision 7. While there is some overlap between “force” and “personal injury,” the elements are distinct. For instance, third-degree criminal sexual conduct may result when the actor *attempts* or *threatens* bodily harm but does not inflict actual bodily harm. See Minn. Stat. §§ 609.344, subd. 1(c), .341, subd. 3.

Here, the district court dismissed counts 1 and 3 because it concluded that there was no evidence that Grenier used “physical overpowering, additional violence, or conduct separate from the act of penetration” or that “physical pain was inflicted as a separate means of compelling submission.” But there are occasions when “the same evidence may be used to prove both elements.” *Id.* Indeed, the Minnesota Supreme Court recently stated, “We have consistently held that our criminal sexual conduct statutes do not require the [s]tate to prove that a defendant used extrinsic force—that is, force beyond the force inherent in a nonconsensual sexual act.” *Letourneau*, 23 N.W.3d at 392 n.9 (citing *State v. Mattson*, 376 N.W.2d 413, 415 (Minn. 1985), *In re Welfare of D.L.K.*, 381 N.W.2d 435, 437-38 (Minn. 1986)). Accordingly, the state need not prove that the actor employed a separate means of force beyond the penetration itself.

Our reading of the meaning of force is consistent with Minnesota caselaw. In *D.L.K.*, D.L.K. tapped on a female classmate’s shoulder, which caused her to turn around, and he quickly reached under her jacket and “grabbed and pinched her breast for about two

seconds, causing her physical pain.” 381 N.W.2d at 436. D.L.K. was charged with fourth-degree criminal sexual conduct using force under Minnesota Statutes section 609.345(c) (1984).³ *Id.* at 436-37. He admitted to pinching the victim’s breasts but argued there was no evidence that he used force “to accomplish the admitted sexual contact.” *Id.* at 437. D.L.K. argued that the sexual contact “must be accomplished by, i.e. caused by, the use of force, and the force used must cause the complainant to submit in order to satisfy the statutory definition of force.” *Id.* (quotation omitted).

The Minnesota Supreme Court rejected his argument, concluding that the use-of-force requirement is satisfied “when the actor inflicts bodily harm or pain or the threat thereof on another *while accomplishing* sexual contact.” *Id.* at 438 (emphasis added). Because the use of force and infliction coincided, the supreme court affirmed the conviction. *Id.*

In *State v. Williams*, 3 N.W.3d 68, 77-78 (Minn. App. 2024), this court rejected a similar argument to Grenier. After a night of drinking, the victim awoke in her bed to find that Williams “pulled her shorts to the side and put his penis in her vagina,” the friction of which caused her pain. *Id.* at 72. The victim testified that she was in-and-out of consciousness and that Williams did not stop when she told him to. *Id.* Williams was charged with first-degree criminal sexual conduct under section 609.342, subdivision 1(e)(i). *Id.* at 77. He challenged his conviction, arguing there was insufficient

³ Minnesota Statutes section 609.345(c) provided that a person was guilty of fourth-degree criminal sexual conduct if “[t]he actor uses force or coercion to accomplish the sexual contact.” *D.L.K.*, 381 N.W.2d at 436-37.

evidence “to prove that he used force to accomplish sexual penetration” because the state presented no evidence that he “used the infliction or threatened infliction of bodily harm to cause [the victim] to submit to the sexual encounter.” *Id.* at 78.

Reading the same statutory definition of “force,” this court rejected the argument that an actor must inflict bodily harm to cause a victim to submit. *Id.* We reasoned that the Oxford comma preceding the first “or” indicates that “the infliction, attempted infliction, or threatened infliction of bodily harm is a list of three items.” *Id.* at 78 (citing *The Chicago Manual of Style*, § 6.19 (17th ed. 2017)). The second “or” then “divides the first part of the definition from the second part.” *Id.* Thus, “only the second part of the definition requires the state to prove that conditions (a) and (b) were satisfied.” *Id.* This court concluded that “force” could mean (1) the infliction, attempted infliction, or threatened infliction of bodily harm, or (2) “commission or threat of any other crime . . . which (a) causes the complainant to reasonably believe that the actor has the present ability to execute the threat and (b) if the actor does not have a significant relationship to the complainant, also causes the complainant to submit.” *Id.* We noted that this reading was consistent with *D.L.K.* *Id.* at 78 n.8. We determined there was sufficient evidence to sustain Williams’s conviction. *Id.* at 78-79.

D.L.K. and *Williams* are consistent with the rule that an actor’s use of force may occur concurrently with sexual conduct and that force need not be a separate act that precedes the sexual conduct. And while Grenier argues that *D.L.K.* is distinguishable because it did not involve first-degree criminal sexual conduct charges, Grenier offers no meaningful rebuttal to *Williams*, which involved first-degree criminal sexual conduct.

Despite these cases, Grenier insists that the district court's reading was correct. Grenier argues that accepting the state's reading of the statutes would "automatically convert consensual sexual penetration into first-degree criminal sexual conduct the moment someone experienced any pain or injury during intercourse."⁴ For the reasons articulated above, we are not persuaded.

In short, the district court erred as a matter of law in its interpretation of Minnesota Statutes sections 609.342, subdivision 1(e)(i), and .344, subdivision 1(c), because the infliction of pain while accomplishing sexual penetration satisfies the force elements of first-degree and third-degree criminal sexual conduct. Now that we have concluded that the district court erred in its interpretation of the statutory requirements, we turn to whether the record is sufficient to show probable cause for each offense.

B. Probable Cause

"Probable cause is required for every element of the crime charged." *State v. Supitsyn*, 941 N.W.2d 423, 427 (Minn. App. 2020), *rev. denied* (Minn. May 27, 2020). "Probable cause exists if the facts appearing in the record, including reliable hearsay, would preclude the granting of a motion for a directed verdict of acquittal if proved at trial." *Id.*

⁴ Grenier also argues that sections 609.342, subdivision 1(e)(i) and .344, subdivision 1(c), are unconstitutional both facially and as applied under the vagueness doctrine. This argument is not properly before us because Grenier did not timely file a notice of cross-appeal, and we denied as unauthorized his motion to file a late notice of cross-appeal. *See* Minn. R. Crim. P. 28.04, subd. 3 (requiring defendant to file notice of cross-appeal to obtain review of any adverse pretrial order "within ten days after the prosecutor serves the notice of appeal").

(quotation omitted). We review “the application of the probable-cause standard to the facts de novo” and review “factual findings for clear error.” *Id.*

Upon challenges to probable cause, a district court must evaluate the complaint or factual record and determine whether it is fair and reasonable to require the defendant to stand trial. *State v. Florence*, 239 N.W.2d 892, 902 (Minn. 1976); *see also* Minn. R. Crim. P. 11.04, subd. 1(c) (stating the district court may base a probable-cause decision “on the complaint or the entire record, including reliable hearsay”). “Probable cause for a charge exists where facts submitted to the district court show a reasonable probability that the person committed the crime.” *Letourneau*, 23 N.W.3d at 396. Put differently, a district court should deny a defendant’s motion to dismiss for lack of probable cause “if the facts before the district court ‘present a fact question for the jury’s determination’ on each element of the crime charged.” *State v. Lopez*, 778 N.W.2d 700, 704 (Minn. 2010) (quoting *State v. Slaughter*, 691 N.W.2d 70, 74-75 (Minn. 2005) (stating that the test for granting a motion for a directed verdict is whether there is sufficient evidence “to present a fact question for the jury’s determination, after viewing the evidence and all resulting inferences in favor of the state”)). Probable cause imposes a low threshold. “Unlike proof beyond a reasonable doubt or preponderance of the evidence, probable cause requires only a probability or substantial chance of criminal activity, not an actual showing of such activity.” *State v. Harris*, 589 N.W.2d 782, 790-91 (Minn. 1999) (quotation omitted). Accordingly, “the threshold factual showing of probable cause necessary to support a charge is low.” *Lopez*, 778 N.W.2d at 705.

In deciding a motion to dismiss for lack of probable cause, the district court must view the evidence in the light most favorable to the state and may not weigh conflicting evidence or assess witness credibility. *State v. Barker*, 888 N.W.2d 348, 353 (Minn. App. 2016). Those determinations are, “with rare exception,” reserved for the jury. *State v. Elmourabit*, 373 N.W.2d 290, 294 (Minn. 1985).

The district court dismissed counts 1 and 3 because it found no evidence that Grenier used force to accomplish the sexual penetration. As to count 1, it explained that “[t]he continuation of penetration for a brief period after expressions of discomfort, without evidence of additional violence, restraint, or threatened harm, does not establish that force was used to accomplish the act as contemplated by the statute.” For count 3, it found no evidence that “physical pain was inflicted as a separate means of compelling submission” because there was no indication that Grenier “used threats, physical restraint, violence, or other coercive conduct to accomplish the penetration beyond the penetration itself.”

But because we conclude that the state does not need to prove that Grenier employed an additional act separate from the sexual penetration to satisfy the statutory element of “force,” we turn to whether the evidentiary record establishes a factual question for the jury. *See State v. O’Day*, 25 N.W.3d 893, 900 (Minn. 2025), *rev. granted* (Minn. Sept. 24, 2025).

Viewing the evidence in the light most favorable to the state, the complaint alleges, and the facts in the record show a reasonable probability, that Grenier inflicted pain on A.M. when he penetrated her. A.M. told the officer that she was lying on the bed, “crying

like a baby” and “saying it hurts.” Mother recalled that when Grenier penetrated A.M., A.M. cried and said “ow.”

We conclude that this evidence is sufficient to establish probable cause for counts 1 and 3. Contrary to the district court’s conclusion that there was “no evidence that [Grenier] employed force as a means to compel or overcome resistance,” A.M.’s journal entries show that she tried resisting Grenier by “pushing him away,” but he overcame that resistance because he did not stop. A.M.’s mother tried to stop Grenier but “he wouldn’t listen.” This evidence is sufficient to create a fact question that is reserved for the jury.

In sum, there is sufficient evidence to establish a reasonable probability that Grenier used force and inflicted bodily harm on A.M. during sexual penetration. *See* Minn. Stat. § 609.341, subd. 3. Accordingly, the district court erred in its determination that the state failed to present sufficient evidence of force to create a factual determination for the jury. *See State v. Dixon*, 981 N.W.2d 387, 392 (Minn. 2022).

The district court erred in concluding that the state was required to present evidence that Grenier caused bodily harm beyond the force inherent in the sexual penetration at issue and, on that basis, in granting Grenier’s motion to dismiss for lack of probable cause, because the state presented sufficient evidence to submit the issue to the jury. Because the

district court erred in granting Grenier's motion to dismiss, we reverse and remand for proceedings consistent with this opinion.⁵

Reversed and remanded.

⁵ At the time Grenier moved to dismiss, the state had filed notice of its intent to seek an aggravated sentence, including an upward durational departure based, in part, on A.M.'s particular vulnerability with respect to counts 1 and 3. After dismissing those counts for lack of probable cause, the district court concluded that the state's argument regarding the particular-vulnerability aggravating factor was moot. Because we reverse the district court's determination that the state failed to establish probable cause as to the force element of counts 1 and 3, the issue is no longer moot. On remand, the district court should consider the state's argument regarding the particular-vulnerability aggravating factor on its merits. We express no opinion on whether the state has established the particular-vulnerability aggravating factor.