

*This opinion is nonprecedential except as provided by  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  
A22-0154**

State of Minnesota,  
Respondent,

vs.

Aimee Jo Wood,  
Appellant.

**Filed January 9, 2023  
Affirmed  
Smith, Tracy M., Judge**

Goodhue County District Court  
File No. 25-CR-19-2252

Keith Ellison, Attorney General, Lydia Villalva Lijó, Assistant Attorney General, St. Paul, Minnesota; and

Stephen F. O’Keefe, Goodhue County Attorney, Red Wing, Minnesota (for respondent)

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

Considered and decided by Worke, Presiding Judge; Smith, Tracy M., Judge; and  
Florey, Judge.\*

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

## **NONPRECEDENTIAL OPINION**

**SMITH, TRACY M.**, Judge

In this direct appeal from a judgment of conviction for violating a harassment restraining order (HRO), appellant Aimee Jo Wood argues that her conviction must be reversed for two reasons. First, she contends that the district court erred by not dismissing the charge against her because the court that issued the HRO lacked subject-matter jurisdiction to include a geographic restriction. Second, she asserts that the district court violated her constitutional rights by preventing her from introducing evidence to challenge alleged false statements made by the petitioner in the HRO case. We affirm.

### **FACTS**

In February 2019, L.P. filed a petition for an HRO against Wood on behalf of herself and her minor child. L.P. alleged that Wood had threatened them and damaged property in the Sunrise Villa trailer park in Cannon Falls, where L.P. lived. The following month, Wood was served a trespass notice not to enter Sunrise Villa based on reports of theft and other disturbances. Shortly thereafter, following a hearing, the district court issued an HRO that prohibited Wood from having contact with L.P. or her child and from being within 300 feet of L.P.'s residence in Sunrise Villa. The HRO also prohibited Wood from going within 300 feet of property A—another property in Sunrise Villa where L.P. did not live. Wood did not appeal the HRO.

Wood was later charged with violating the HRO. She was convicted of that violation on September 4, 2019, and placed on probation to the court for one year. Wood did not appeal her conviction.

On September 9, 2019, in the matter now before us, the state filed a complaint charging Wood with felony violation of an HRO, in violation of Minnesota Statutes section 609.748, subdivision 6(d)(1) (2018).<sup>1</sup> The complaint alleged that Wood had been within 300 feet of property A two days earlier.

Wood moved to dismiss the charge, arguing that it lacked probable cause and should be dismissed in the interests in justice because property A had since become owned by L.P.'s brother (Wood's significant other), and L.P. had no legal interest in the property. Wood also argued that, because she was unaware of the process for modifying an HRO, the protected person should have an obligation to modify if the property changes ownership. The district court denied the motion.

In October 2021, the state filed a motion in limine to prevent Wood from offering evidence or testimony at trial "challenging the validity of" the underlying HRO. Wood responded with another motion to dismiss, arguing that procedural due process required that she be allowed to challenge the underlying HRO by cross-examining L.P. about her alleged material misrepresentations in the HRO action. Following a hearing on both motions on October 25, the district court denied Wood's motion to dismiss and granted the state's motion in limine.

On October 26, pursuant to Minnesota Rule of Criminal Procedure 26.01, subdivision 4, Wood waived her right to a jury trial and stipulated to the state's case to preserve her right to appeal dispositive pretrial rulings. At the hearing that day, the parties

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<sup>1</sup> The state also charged Wood with trespass but later dismissed that charge.

agreed that the dispositive issues for appeal were the validity of the HRO and Wood's procedural due process rights. *See* Minn. R. Crim. P. 26.01, subd. 4(c). The district court found Wood guilty of violating the HRO, ordered a stay of imposition of sentence, and placed Wood on probation for three years.

This appeal follows.

## **DECISION**

Wood argues that her criminal conviction must be reversed because (1) her conviction was premised on an invalid HRO that exceeded the HRO-issuing court's subject-matter jurisdiction and (2) the district court violated Wood's constitutional rights by ruling that she could not introduce evidence about L.P.'s alleged false statements in the HRO matter.

### **I. Challenge to the Validity of the HRO**

Wood argues that the district court should have dismissed the criminal charge against her because the HRO-issuing court lacked subject-matter jurisdiction to include the geographic restriction prohibiting Wood from coming near property A. She contends that the HRO statute authorizes only restrictions on harassing or contacting a person and does not authorize geographical or property-based restrictions. She further contends that the restriction in the HRO was improper because, at the time of issuance, L.P. did not own property A—rather, L.P.'s boyfriend did—and that L.P. committed a fraud on the HRO-issuing court by alleging that it was her property. For these two reasons, Wood contends, the HRO is subject to collateral attack and should be invalidated.

The state, on the other hand, argues that Wood forfeited the argument that the HRO-issuing court lacked subject-matter jurisdiction to issue the order it did because she failed to preserve the argument as a dispositive pretrial issue in the rule 26.01, subdivision 4, proceeding and she failed to make the argument in the district court. The state further argues that, even if the issue were not forfeited, Wood's challenge to the validity of the underlying HRO is an impermissible collateral attack.

**A. Forfeiture**

We begin with the issue of forfeiture. We are not persuaded by the state's argument that the issue of an HRO-issuing court's subject-matter jurisdiction falls outside the scope of the dispositive issues preserved for appeal. Under the rules, a defendant may stipulate to the prosecution's case to obtain review of a pretrial ruling "[w]hen the parties agree that the court's ruling on a specified pretrial issue is dispositive of the case, or that the ruling makes a contested trial unnecessary." Minn. R. Crim. P. 26.01, subd. 4(a). Appellate review of a case appealed pursuant to this procedure "is limited to consideration of the dispositive pretrial ruling only." *State v. Galvan-Contreras*, 980 N.W.2d 578, 586 (Minn. 2022) (citing Minn. R. Crim. P. 26 cmt).

As part of the procedure here, the parties agreed that the issues raised in the October 25 hearing were the dispositive issues on appeal. Specifically, they agreed that the dispositive issues are (1) the validity of the HRO and (2) Wood's procedural due process rights. We conclude that a challenge to the subject-matter jurisdiction of an HRO-issuing court would fall within the scope of the dispositive issue of the validity of the HRO.

However, we agree with the state that Wood failed to raise in the district court the particular challenge to the HRO’s validity that she raises here. Generally, a reviewing court will not decide issues that were not raised before the district court. *Roby v. State*, 547 N.W.2d 354, 357 (Minn. 1996). When an issue has not been raised before the district court, we consider the issue forfeited. *See State v. Myhre*, 875 N.W.2d 799, 806-07 (Minn. 2016). Moreover, a party cannot “obtain review by raising the same general issue litigated below but under a different theory.” *State v. Bailey*, 732 N.W.2d 612, 623 (Minn. 2007) (quoting *Thiele v. Stitch*, 425 N.W.2d 580, 582 (Minn. 1996)).

For the first time on appeal, Wood argues that the district court lacked subject-matter jurisdiction to issue an HRO preventing her from being within 300 feet of property A.<sup>2</sup> She asserts that the HRO statute authorizes district courts to restrict contact with people and not to restrict a person’s presence at a place. *See* Minn. Stat. § 609.748, subd. 5 (2022). Wood asserts that she should be able to raise her subject-matter-jurisdiction argument on appeal because it is a “more specific rationale for why the HRO is invalid,” which was raised to the district court and preserved as a dispositive issue. We disagree. Wood’s argument about subject-matter jurisdiction is the exact sort of “different theory” on appeal that *Bailey* prohibits. *See Bailey*, 732 N.W.2d at 623.

Wood argues, though, that lack of subject-matter jurisdiction may be raised at any time, including on appeal, and therefore cannot be forfeited. But Wood is not challenging

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<sup>2</sup> The HRO contains two geographic restrictions—one preventing Wood from being within 300 feet of L.P.’s residence, and one from being within 300 feet of property A. Though both are location-based restrictions, Wood only challenges the latter—the restriction she was charged with violating.

the district court's subject-matter jurisdiction to hear the criminal case; rather, she is challenging the HRO-issuing court's subject-matter jurisdiction in a matter that is closed and that she did not appeal. None of the cases that she relies on for her argument addresses such a circumstance. See *Kingbird v. State*, 973 N.W.2d 633, 637 (Minn. 2022); *Dead Lake Ass'n, Inc. v. Otter Tail County*, 695 N.W.2d 129, 134 (Minn. 2005); *Marzitelli v. City of Little Canada*, 582 N.W.2d 904, 907 (Minn. 1998). And we are not persuaded that *Roby's* general rule does not apply and that Wood has not forfeited her argument by failing to raise it in the district court. See *Myhre*, 875 N.W.2d at 806-07.

### **B. Impermissible Collateral Attack**

Even if Wood had not forfeited the argument, we would still conclude that her collateral attack on the HRO fails. Generally, a civil order is final and enforceable unless a party takes a timely appeal. *State v. Nodes*, 538 N.W.2d 158, 160 (Minn. App. 1995). Once the civil order is final and enforceable, a party generally cannot collaterally challenge its validity in a subsequent proceeding. *Id.* Thus, when the state charges a defendant with violating an HRO, the defendant generally may not collaterally attack the HRO in the subsequent criminal proceeding. *State v. Harrington*, 504 N.W.2d 500, 503 (Minn. App. 1993), *rev. denied* (Minn. Sept. 30, 1993).

Wood asserts an exception to that general rule against collateral attack for situations when “the absence of jurisdiction is clear on the face of the record.” *Nodes*, 538 N.W.2d at 160. Wood argues that subject-matter jurisdiction was absent here because the HRO statute authorizes district courts to place restrictions around people and not places. She cites to subdivision 5 of Minnesota Statutes section 609.748, which authorizes courts to “order[]

the respondent to cease or avoid the harassment of another person” and to “order[] the respondent to have no contact with another person.” Minn. Stat. § 609.748, subd. 5(a). She contends that these provisions do not include a geographic restriction and that the HRO-issuing court therefore lacked subject-matter jurisdiction to prohibit her from going near property A.

We review the existence of subject-matter jurisdiction de novo. *See Zweber v. Credit River Township*, 882 N.W.2d 605, 608 (Minn. 2016). Subject-matter jurisdiction “refers to a court’s authority to hear and determine a particular class of actions and the particular questions presented to the court for its decision.” *Giersdorf v. A & M Constr., Inc.*, 820 N.W.2d 16, 20 (Minn. 2012) (quotation omitted). Whether a court has subject-matter jurisdiction “depends on the scope of the constitutional and statutory grant of authority to the court.” *McCullough & Sons, Inc. v. City of Vadnais Heights*, 883 N.W.2d 580, 585 (Minn. 2016) (quotation omitted).

The Minnesota Constitution states that “[t]he district court has original jurisdiction in all civil and criminal cases.” Minn. Const. art. VI, § 3. The HRO statute provides that a person “may seek a restraining order from the district court in the manner provided” in the statute. Minn. Stat. § 609.748, subd. 2 (2022). The statute then outlines the requirements for the service, filing, and contents of a petition for an HRO. *Id.*, at subds. 2, 3 (2022). Together, these constitutional and statutory provisions make clear that the HRO-issuing court had subject-matter jurisdiction to hear and determine the HRO petition.

Wood’s challenge actually goes not to the HRO-issuing court’s subject-matter jurisdiction but rather to its statutory authority to order certain restrictions in an HRO. This



conclusion is only bolstered by our decision in *State v. Anderson*, 946 N.W.2d 627 (Minn. App. 2020)—a case relied on by Wood. *Anderson*, too, was an appeal from a criminal conviction for violating an HRO. *Id.* at 628, 630. In a footnote, we noted that the HRO statute does not expressly authorize a district court to prohibit the restrained party from being near the petitioner’s residence. But, because the appeal “ar[ose] from Anderson’s criminal conviction, not from the issuance of the HRO,” we declined to address whether the restriction was statutorily authorized. *Id.* at 631 n.1. Here, too, Wood is challenging the statutory authority of the HRO-issuing court to order a particular restriction, and, as in *Anderson*, we decline to consider such a collateral attack on the HRO.<sup>3</sup>

## II. Evidentiary Ruling

Wood also argues that the district court violated her rights under the Fifth, Sixth, and Fourteenth Amendments to the U.S. Constitution to present a defense and to cross-examine witnesses by precluding her from introducing evidence that L.P. made false

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<sup>3</sup> Wood also asserts that the HRO may be collaterally attacked because L.P. obtained it through a fraud on the court. She cites the principle described in *Halloran v. Blue & White Liberty Cab Co.*—that “[a] judgment may be set aside at any time for after-discovered fraud on the court.” 92 N.W.2d 794, 798 (Minn. 1958).

Even if fraud on the HRO-issuing court could be raised now to collaterally attack the HRO and challenge Wood’s conviction, the argument is unavailing. Wood argues that L.P. falsely claimed in her HRO petition that she “owned” property A when the property was in fact owned by L.P.’s boyfriend. Wood asserts that the HRO-issuing court apparently relied on this allegedly false statement when it ordered Wood to stay away from L.P.’s property A. But Wood does not explain how this alleged fraud is “after-discovered.” Wood’s argument that an alleged fraud on the court provides grounds to collaterally attack the HRO fails.

statements in her HRO petition. Wood argues that she was prohibited from using that evidence to impeach L.P. and demonstrate her bias at trial.

Wood's argument fails. Even if the evidentiary ruling she complains of presented a dispositive issue, it is not properly before us because it differs from the issue that was preserved as a dispositive issue for appeal. *See* Minn. R. Civ. P. 26.01, subd. 4. In a pretrial ruling, the district court granted the state's motion "to prohibit the defense from offering any evidence or testimony challenging the validity of the underlying [HRO]." The district court did not rule on the admissibility of evidence for the purpose of impeaching L.P.'s trial testimony. Because the issue preserved for appeal addressed Wood's ability to introduce evidence to collaterally attack the HRO—not her ability to introduce evidence to cross-examine a witness at trial—her argument is outside the scope of our review pursuant to rule 26.01, subdivision 4. *See Galvan-Contreras*, 980 N.W.2d at 586.

In sum, because Wood's collateral attack on the HRO underlying her conviction fails and because her evidentiary challenge was not preserved as a dispositive issue on appeal, her conviction stands.

**Affirmed.**