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**STATE OF MINNESOTA
IN COURT OF APPEALS
A10-2001**

State of Minnesota,
Appellant,

vs.

Wesley Sylvester Sweat, Jr.,
Respondent.

**Filed April 26, 2011
Reversed and remanded
Halbrooks, Judge**

Clay County District Court
File No. 14-VB-10-6656

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Brian J. Melton, Clay County Attorney, Pamela Harris, Assistant County Attorney,
Moorhead, Minnesota (for appellant)

Wesley Sylvester Sweat, Jr., Fargo, North Dakota (pro se respondent)

Considered and decided by Schellhas, Presiding Judge; Halbrooks, Judge; and
Stauber, Judge.

UNPUBLISHED OPINION

HALBROOKS, Judge

Appellant State of Minnesota challenges the district court's order staying
adjudication of respondent Wesley S. Sweat, Jr.'s conviction of disobeying a traffic

signal. Because we conclude that the district court abused its discretion, we reverse and remand for sentencing.

FACTS

On August 22, 2010, respondent ran a red light and was stopped by Officer Jordan Smart. When Officer Smart approached respondent's vehicle, respondent was on the telephone. Respondent informed Officer Smart that his wife was in labor, and he was on his way to the hospital. Respondent testified at trial that while he was driving, but before he was pulled over, his wife called and told him to come home and take her to the hospital. He admitted that he did not ask Officer Smart to call an ambulance.

The state charged respondent with the petty misdemeanor offense of disobeying a semaphore, pursuant to Minn. Stat. § 169.06, subd. 4(a) (2010). Following a bench trial, the district court found that the state proved beyond a reasonable doubt that respondent ran a red light. But the district court questioned whether "this case falls within an exception necessity defense," which had not been raised by respondent. The district court asked if the state would consider a stay of adjudication. The state objected on the grounds that respondent did not have a clean driving record and the testimony failed to demonstrate that his act of running a red light was a necessity. The district court concluded that the case "[might] fall within the definition of the necessity defense"; but since the defense had not been raised, the district court stayed adjudication for a period of six months over the state's objection. This appeal follows.

DECISION

Whether a district court's decision to stay adjudication violates the constitutional principle of separation of powers is a question of law, which this court reviews de novo. *State v. Strok*, 786 N.W.2d 297, 303 (Minn. App. 2010) (citing *State v. Lemmer*, 736 N.W.2d 650, 657 (Minn. 2007)).

“Generally, a prosecutor has broad discretion in the exercise of the charging function and ordinarily, under the separation-of-powers doctrine, a court should not interfere with the prosecutor's exercise of that discretion.” *State v. Foss*, 556 N.W.2d 540, 540 (Minn. 1996). A district court has limited authority to order a stay of adjudication, but that authority should be “relied upon *sparingly* and only for the purpose of avoiding an injustice resulting from the prosecutor's *clear abuse of discretion* in the exercise of the charging function.” *Id.* at 541. If the district court orders a stay of adjudication, it must explain its reasons for ordering the stay either in writing or on the record. *State v. Angotti*, 633 N.W.2d 554, 556 (Minn. App. 2001).

Here, the record reflects that the district court imposed a stay of adjudication based on respondent's explanation for his conduct. The district court noted that respondent did not raise the necessity defense but then stated that “taking [the possible defense] into account and all the circumstances . . . over the prosecutor's objection, I'm going to stay adjudication of guilt and entry of sentence for a period of six months.” The district court made no finding on the record or in any subsequent order that the prosecutor abused her discretion by charging respondent with the offense. Thus, the basis for the district court's order staying adjudication is based solely on respondent's explanation for his conduct.

The fact that a defendant might have a viable defense to a criminal charge is not indicative of an abuse of prosecutorial charging discretion, and therefore this is not a permissible use of a stay of adjudication. *See Foss*, 556 N.W.2d at 541 (“To the extent that the assault was less serious than the typical case of misdemeanor assault, the trial court was free to be lenient in sentencing the defendant, as by staying imposition of sentence with minimal conditions.”).

We conclude that the district court abused its discretion in ordering a stay of adjudication in this case. We reverse and remand for sentencing.

Reversed and remanded.