STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0996

State of Minnesota,
Respondent,

vs.

Abraham Isaac Bell,
Appellant.

Filed March 24, 2025
Remanded
Slieter, Judge

Scott County District Court
File No. 70-CR-19-20254

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

Ronald Hocevar, Scott County Attorney, Elisabeth M. Johnson, Assistant County Attorney, Shakopee, Minnesota (for respondent)

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

Considered and decided by Cochran, Presiding Judge; Slieter, Judge; and Larson, Judge.

NONPRECEDENTIAL OPINION

SLIETER, Judge

On direct appeal from the final judgment of conviction of first-degree aggravated robbery, and upon a remand by the supreme court to the district court to make additional findings as to whether the courtroom closure was no broader than necessary, appellant

argues that the district court deprived him of his right to a public trial because closing the courtroom—by only providing a one-way video feed of the trial for public spectators in response to COVID-19-related courtroom restrictions—was broader than necessary. Because the district court's findings following remand are insufficient to permit appellate review, we remand.

FACTS

In December 2019, respondent State of Minnesota charged appellant Abraham Isaac Bell with first-degree aggravated robbery in violation of Minn. Stat. § 609.245, subd. 1 (2018). In March 2020, the governor declared a peacetime emergency due to the COVID-19 pandemic. Emerg. Exec. Order No. 20-01, *Declaring a Peacetime Emergency and Coordinating Minnesota's Strategy to Protect Minnesotans from COVID-19* (Mar. 13, 2020). Shortly thereafter, the Chief Justice of the Minnesota Supreme Court issued an order suspending the commencement of jury trials and restricting in-person courtroom proceedings. *Order Continuing Operations of the Courts of the State of Minnesota Under a Statewide Peacetime Declaration of Emergency*, No. ADM20-8001 (Minn. Mar. 13, 2020). The Minnesota Judicial Council later approved a pilot program which allowed for a gradual recommencement of jury trials under new health and safety guidelines. *See Order Governing the Continuing Operations of the Minnesota Judicial Branch Under Emergency Executive Order 20-48*, No. ADM20-8001 (Minn. May 1, 2020). Bell's case was selected for the program and the district court therefore designed a trial plan consistent with the guidelines.

Bell objected to the district court's trial plan which required that the public spectators attend in a separate courtroom and view the trial via one-way video technology, which meant that the trial-courtroom participants and jury would not be able to view the spectators. He claimed that this would deprive him of a public trial. The district court overruled Bell's objection. Bell's trial began on June 20, 2022, and the jury found him guilty as charged.

Bell appealed his conviction, and this court affirmed. *State v. Bell*, No. A20-1636, 2021 WL 6110117, at *1 (Minn. App. Dec. 27, 2021), *rev'd*, 993 N.W.2d 418 (Minn. 2023). The supreme court reversed, concluding that excluding the public from the courtroom in which Bell was being tried was a closure implicating his constitutional right to a public trial. *Bell*, 993 N.W.2d at 420. The supreme court also concluded that there were insufficient findings to determine whether the closure was justified under the circumstances, and it remanded to the district court to make findings as to whether the closure was broader than necessary.[1] *Id.*

On remand, the district court found that the closure was no broader than necessary because a two-way video feed was not feasible at the time of Bell's trial.

Bell appeals.

[1] The supreme court also remanded for findings related to whether the district court considered alternatives to closure. *Id.* On remand, the district court found that it considered alternatives to closure, which Bell does not challenge on appeal.

DECISION

The United States and Minnesota Constitutions provide criminal defendants with a right to a public trial. U.S. Const. amend. VI; Minn. Const. art. I, § 6. But this right is not absolute and may give way to other rights or interests in certain cases. *State v. Fageroos*, 531 N.W.2d 199, 201 (Minn. 1995). The Minnesota Supreme Court has adopted the factors articulated in *Waller v. Georgia*, 467 U.S. 39 (1984), for determining when a courtroom closure is justified, including, as relevant to this appeal, whether the closure is "no broader than necessary to protect that interest." *Fageroos*, 531 N.W.2d at 201 (quoting *Waller*, 467 U.S. at 48).

Bell argues that the closure was broader than necessary, challenging the district court's finding that a two-way video feed was not available at the time of trial.

The district court found that it had started using Zoom technology for remote hearings in April or May of 2020, which accommodates two-way communication. But the courtrooms themselves "did not accommodate video software like Zoom" at the time of trial. The district court explained that "[n]one of the courtrooms had video conferencing capabilities; in fact, there was no Wi-Fi signal in the courtrooms. The monitors in the courtroom were used to display projections of exhibits or videos from devices, not to connect to the internet or access remote video conference."

These findings however are insufficient to permit appellate review of whether the closure was broader than necessary. The district court found that courtrooms did not have Wi-Fi at the time of Bell's trial, but there are no findings regarding other means of connecting to the internet such as via an ethernet connection. The district court also found

that "the entire First Judicial District had access to only three (3) Microsoft surface laptops" at the time of Bell's trial, but there are no findings regarding whether, for instance, a desktop computer was available and could be utilized to receive the video transmission from the public spectator's courtroom to the trial courtroom. Also, there are no findings as to what efforts were made to determine whether another employee's computer would have been available for this purpose. Moreover, from the pictures that were attached to the district court's order, there appear to have been monitors or desktop computers in the trial courtroom, but there are no findings regarding whether the spectator's courtroom similarly had a desktop computer which could, if the technology allowed, receive and transmit video from that courtroom to the trial courtroom.

We are mindful of, and appreciate, the district court's challenge to resurrect what technological options may have been available at the time of trial, now nearly five years ago, to allow for a two-way video feed. And we appreciate the detailed findings that the district court made in explaining the difficulty in providing a two-way video feed. However, because there are insufficient findings to permit appellate review to determine whether the closure was broader than necessary, we remand to the district court to make additional findings.

Remanded.