

*This opinion is nonprecedential except as provided by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
A24-1396**

State of Minnesota,
Respondent,

vs.

Joseph Harrison Baynes,
Appellant.

**Filed May 5, 2025
Affirmed
Worke, Judge**

Dakota County District Court
File No. 19HA-CR-23-1240

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

Kathryn M. Keena, Dakota County Attorney, Evan Frazier, Assistant County Attorney,
Hastings, Minnesota (for respondent)

Joseph G. Vaccaro, The Law Office of Joseph G. Vaccaro, St. Paul, Minnesota (for
appellant)

Considered and decided by Connolly, Presiding Judge; Worke, Judge; and
Wheelock, Judge.

NONPRECEDENTIAL OPINION

WORKE, Judge

Appellant challenges the district court's declaration of a mistrial and argues that a retrial is barred by the Double Jeopardy Clauses of the United States and Minnesota Constitutions. Because we conclude that the mistrial was manifestly necessary, we affirm.

FACTS

In April 2023, a district court issued an order for protection (OFP) prohibiting appellant Joseph Harrison Baynes from contacting S.U. In June 2023, S.U. reported to police that Baynes had violated the OFP by contacting her and threatening her with violence.

Respondent State of Minnesota charged Baynes with harassment (felony stalking) in violation of Minn. Stat. § 609.749, subd. 5(a) (2022). The case proceeded to a jury trial. At the close of the state's case-in-chief, Baynes moved for a judgment of acquittal. The district court denied the motion and submitted the case to the jury. The jury was unable to reach a unanimous verdict. Over Baynes's objection, the district court declared a mistrial and set a new trial date.

Prior to the new trial, the state amended the complaint to include charges of violating an OFP in violation of Minn. Stat. § 518B.01, subd. 14(a) (2022), and threats of violence in violation of Minn. Stat. § 609.713, subd. 1 (2022). Baynes moved to dismiss the OFP-violation charges, arguing that the OFP was not properly served and had expired before he allegedly violated its provisions. The district court concluded that Baynes was correct and granted the motion. The district court denied Baynes's motion to reconsider its denial of his motion for a judgment of acquittal.

Baynes then filed a motion to prohibit retrial based on double jeopardy. He argued that, because the OFP expired before he allegedly contacted S.U., the state's case in the first trial was legally insufficient, the mistrial was therefore not manifestly necessary, and

so retrial was precluded by constitutional double-jeopardy protections. The district court denied the motion. This appeal followed.

DECISION

Baynes argues that the district court's mistrial declaration was not manifestly necessary and that his retrial violates double-jeopardy protections. The Double Jeopardy Clauses of the United States and Minnesota Constitutions "protect a criminal defendant from three distinct abuses: a second prosecution for the same offense after acquittal; a second prosecution for the same offense after conviction; and multiple punishments for the same offense." *State v. Humes*, 581 N.W.2d 317, 320 (Minn. 1998). "Jeopardy attaches in a jury trial when the jury is empaneled and sworn." *State v. Leroy*, 604 N.W.2d 75, 77 (Minn. 1999). When a district court declares a mistrial "because of manifest necessity, retrial is normally not barred because the original jeopardy has not terminated." *State v. Large*, 607 N.W.2d 774, 779 (Minn. 2000). A hung jury is the "classic basis of manifest necessity." *Id.* (quoting *Arizona v. Washington*, 434 U.S. 497, 509 (1978)). "[W]hen a mistrial is declared without the defendant's consent, the manifest necessity standard controls." *State v. Long*, 562 N.W.2d 292, 296 (Minn. 1997) (quotation omitted). We review double-jeopardy challenges de novo. *Large*, 607 N.W.2d at 778.

Baynes argues that a mistrial declaration was not manifestly necessary because the state's evidence at his first trial was legally insufficient. To support his argument, Baynes relies on the United States Supreme Court's decision in *Burks v. United States*, 437 U.S. 1 (1978). In *Burks*, an appellate court reversed the defendant's conviction after concluding that the evidence was insufficient to sustain it and remanded to the district court to

determine whether to order a new trial. 437 U.S. at 4. But the Supreme Court reversed the court of appeals, holding that “the Double Jeopardy Clause precludes a second trial once the *reviewing court* has found the evidence legally insufficient.” *Id.* at 18 (emphasis added). Baynes contends that, in his case, the district court functioned as the “reviewing court.” Baynes is unable to cite authority for his interpretation of *Burks* because none exists. As the Supreme Court explained in *Richardson v. United States*:

[W]ithout exception, the courts have held that the trial judge may discharge a genuinely deadlocked jury and require the defendant to submit to a second trial. This rule accords recognition to society’s interest in giving the prosecution one complete opportunity to convict those who have violated its laws.

We are entirely unwilling to uproot this settled line of cases by extending the reasoning of *Burks*, which arose out of an appellate finding of insufficiency of evidence to convict following a jury verdict of guilty, to a situation where the jury is unable to agree on a verdict.

468 U.S. 317, 324 (1984) (quoting *Washington*, 434 U.S. at 509). Here, the jury in Baynes’s trial was unable to agree on a verdict, a mistrial was declared, and no appellate court has found the evidence against him legally insufficient. Thus, as the district court concluded in its well-reasoned denial of Baynes’s motion, *Burks* does not apply.

Baynes’s remaining argument is that, in granting his motion to dismiss the OFP-violation charges, the district court “implicitly granted – as a matter of law – [Baynes]’s motion for judgment of acquittal.” To support this argument, Baynes relies on *State v. Sahr*, 812 N.W.2d 83 (Minn. 2012). In *Sahr*, the Minnesota Supreme Court stated that a district court’s order constitutes “an acquittal on the merits when the ruling of the judge, whatever its label, actually represents a resolution [in defendant’s favor] . . . of some

or all of the factual elements of the offenses charged.” 812 N.W.2d at 90 (quotations omitted).

But Baynes’s argument fails, fundamentally, because to convict Baynes at the first trial, the state was not required to prove that he violated the OFP. At the first trial, Baynes faced a harassment (by stalking) charge. A defendant is guilty of this offense if (1) he engaged in “stalking with respect to a single victim or one or more members of a single household,” (2) he knew or had reason to know that his conduct “would cause the victim under the circumstances to feel terrorized or to fear bodily harm,” and (3) his conduct caused “this reaction on the part of the victim.” Minn. Stat. § 609.749, subd. 5(a). The first *element*, therefore, is that the defendant engaged in “stalking.” Stalking is defined as “two or more acts within a five-year period that violate or attempt to violate the provisions” of 17 enumerated acts in the stalking statute. *Id.*, subd. 5(b)(1)-(17). Among the enumerated acts is threats of violence in violation of Minn. Stat. § 609.713. *Id.*, subd. 5(b)(3).

At trial, the state presented evidence that Baynes committed multiple violations of the threats-of-violence statute. The evidence of those acts alone was sufficient to establish the first element of the crime of harassment by stalking. Thus, the district court’s order did not resolve a factual element of the charged crime because the jury could have convicted Baynes even if it concluded that he did not violate the OFP.

Because the mistrial was manifestly necessary, retrial is not barred by double jeopardy and the district court did not err by denying Baynes’s motion.

Affirmed.