

*This opinion will be unpublished and  
may not be cited except as provided by  
Minn. Stat. § 480A.08, subd. 3 (2006).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A07-1520**

State of Minnesota,  
Appellant,

vs.

Jasmeen Shalaby,  
Respondent.

**Filed February 5, 2008  
Reversed and remanded  
Willis, Judge**

Anoka County District Court  
File No. 02-CR-07-5742

Lori Swanson, Attorney General, 1800 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101-2134; and

Robert M.A. Johnson, Anoka County Attorney, Kristin Larson, Assistant County Attorney, Anoka County Government Center, 2100 Third Avenue, Suite 720, Anoka, MN 55303-5025 (for appellant)

Jasmeen Shalaby, 2840 120th Lane Northwest, Coon Rapids, MN 55433 (pro se respondent)

Considered and decided by Willis, Presiding Judge; Wright, Judge; and Muehlberg, Judge.\*

---

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

## UNPUBLISHED OPINION

**WILLIS, Judge**

In this public-assistance-fraud case, appellant state challenges a pretrial order dismissing the complaint against respondent. We reverse and remand.

### FACTS

In June 2007, appellant state charged respondent Jasmeen Shalaby with one count of wrongfully obtaining assistance, in violation of Minn. Stat. § 256.98 (2006), alleging that she wrongfully obtained approximately \$90,000 in child-care assistance between June 2001 and March 2007. At a pretrial hearing, the district court dismissed the charge, concluding that the prosecution was barred by the statute of limitations because some of the wrongful acts alleged in the complaint occurred more than three years before the date on which the complaint was filed. The state appeals.

### DECISION

In reviewing prosecution appeals from pretrial rulings, this court will reverse the determination of the district court only if the state demonstrates clearly and unequivocally that the district court erred in its judgment and that the error had a critical impact on the outcome of the trial. *State v. Poupard*, 471 N.W.2d 686, 689 (Minn. App. 1991). “[T]he dismissal of a charge clearly has a critical impact . . . .” *Id.* Accordingly, our analysis focuses on whether the district court erred by concluding that the prosecution of Shalaby is barred by the statute of limitations. Whether a statute has been properly construed is a

question of law subject to de novo review. *State v. Murphy*, 545 N.W.2d 909, 914 (Minn. 1996).

Shalaby was charged with wrongfully obtaining assistance under Minn. Stat. § 256.98, which provides that anyone who obtains child-care assistance to which the person is not entitled “is guilty of theft.” Minn. Stat. § 256.98, subd. 1 (2006). The statute further provides that “[t]he continued receipt of assistance to which the person is not entitled . . . shall be deemed to be *continuing offenses* from the date that the first act or failure to act occurred.” *Id.* (emphasis added). The applicable statute of limitations for this offense provides that the complaint “shall be . . . filed in the proper court within three years after the commission of the crime.” Minn. Stat. § 628.26(k) (2006). But because the crime is a continuing offense, the limitations period does not begin to run until the wrongful conduct ceases and prosecution is not barred simply because part of the wrongful conduct occurred outside of the limitations period. *See State v. Lawrence*, 312 N.W.2d 251, 253 (Minn. 1981); *State v. Burns*, 524 N.W.2d 516, 519 (Minn. App. 1984), *review denied* (Minn. Jan. 13, 1995); *see also Black’s Law Dictionary* 1108 (7th ed. 1999) (defining a continuing offense as “[a] crime that is committed over a period of time . . . so that the last act of the crime controls for the commencement of the statute of limitations”).

Here, Shalaby is accused of wrongfully receiving assistance over a six-year period ending in March 2007. The state filed its complaint in June 2007, well within the three-year limitations period. Because the last wrongful act is alleged to have occurred within

three years before the date that the complaint was filed, the prosecution of Shalaby is not barred.

**Reversed and remanded.**