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Minn. Stat. § 480A.08, subd. 3 (2008).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A08-1844**

State of Minnesota,  
Appellant,

vs.

Dean Carl Mertins,  
Respondent.

**Filed September 8, 2009  
Reversed and remanded  
Halbrooks, Judge**

Washington County District Court  
File No. 82-T9-07-000201

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Considered and decided by Halbrooks, Presiding Judge; Lansing, Judge; and  
Shumaker, Judge.

## **UNPUBLISHED OPINION**

**HALBROOKS**, Judge

The state challenges the district court's sua sponte entry of judgment of acquittal after a jury found respondent guilty of wanton waste of a usable part of a protected wild animal. Because we conclude that the district court did not have either express or implied authority to enter judgment of acquittal, we reverse and remand for sentencing.

### **FACTS**

In April or May 2006, respondent Dean Carl Mertins, a licensed commercial fisherman, placed approximately 17,000 pounds of buffalo fish in Keith Petersen's pond for storage. By the beginning of June, Petersen noticed an odor. Petersen went to the pond and saw a large number of fish carcasses floating on the surface. Petersen eventually called the Department of Natural Resources (DNR) to report the fish kill. Joel Heyn, a DNR conservation officer, received information about the fish kill on June 19, 2006. When Officer Heyn went to the pond, he observed hundreds of dead fish being consumed by maggots to the point that the fish "looked like mush." Officer Heyn spoke to respondent, who confirmed that he had placed the fish in the pond. Respondent later cleaned up the dead fish and sold the remains for fertilizer.

Respondent was charged with the wanton waste of a usable part of a protected wild animal, in violation of Minn. Stat. § 97A.031 (2004). A jury trial began on March 31, 2008. After the state rested, respondent moved for judgment of acquittal. The district court denied respondent's motion. On April 1, 2008, the jury found respondent guilty.

Respondent's sentencing hearing was scheduled for June 20, 2008. During a meeting in chambers that day, the district court stated that it was considering reversing the jury verdict and entering judgment of acquittal. On October 13, 2008, the district court, without a motion before it, vacated the jury verdict and entered judgment of acquittal. This appeal follows.

## D E C I S I O N

The state argues that the district court did not have authority to enter judgment of acquittal under Minn. R. Crim. P. 26.03, subd. 17(3), because there was no motion pending before it and the time to enter such judgment had expired. "The interpretation of the rules of criminal procedure is a question of law subject to de novo review." *Ford v. State*, 690 N.W.2d 706, 712 (Minn. 2005).

The procedural requirements for judgments of acquittal vary, depending on when judgment is entered:

(1) *Motions Before Submission to Jury*. Motions for directed verdict are abolished and motions for judgment of acquittal shall be used in their place. After the evidence on either side is closed, the court on motion of a defendant or on its initiative shall order the entry of a judgment of acquittal of one or more offenses charged in the tab charge, indictment or complaint if the evidence is insufficient to sustain a conviction of such offense or offenses. The court shall also, on motion of the defendant or on its initiative, order that any grounds for an aggravated sentence be withdrawn from consideration by the jury if the evidence is insufficient.

. . . .

(3) *Motion After Discharge of Jury*. If the jury returns a verdict of guilty or is discharged without having returned a verdict, a motion for judgment of acquittal or insufficiency of

evidence to support an aggravated sentence may be made or renewed within 15 days after the jury is discharged or within such further time as the court may fix during the 15-day period. If a verdict of guilty is returned the court may on such motion set aside the verdict and enter judgment of acquittal, in which case the court shall make written findings specifying its reasons for entering a judgment of acquittal. If no verdict is returned, the court may enter judgment of acquittal. Such a motion is not barred by defendant's failure to make a similar motion prior to the submission of the case to the jury.

Minn. R. Crim. P. 26.03, subd. 17. A district court has no power to extend the time period to enter judgment of acquittal after the jury has been discharged. *See* Minn. R. Crim. P. 34.02.

Because judgment of acquittal was entered here after the jury was discharged, we apply rule 26.03, subdivision 17(3). While subdivision 17(1) explicitly allows the district court to act “on its initiative” in entering judgment of acquittal before submission to the jury, subdivision 17(3) only provides that a motion may be made—it does not provide that the district court may act on its own initiative. Rule 26.03, subdivision 17(3), specifically limits to 15 days the time period for moving for judgment of acquittal after the jury has been discharged, and rule 34.02 explicitly prohibits the district court from extending the time period. Here, the time period to enter judgment of acquittal expired on April 16, 2008—months before the district court entered judgment of acquittal on October 13, 2008. Therefore, the district court's *sua sponte* entry of judgment of acquittal violated rule 26.03, subdivision 17(3), and rule 34.02.

Respondent contends that the district court had inherent authority to enter judgment of acquittal. Respondent is correct that a district court has inherent authority to

act in certain situations. See *In re Clerk of Lyon County Court's Compensation*, 308 Minn. 172, 180–81, 241 N.W.2d 781, 786 (1976). But this power is not limitless. In *Lyon County*, the supreme court set forth a test for the exercise of inherent judicial power:

The test to be applied in these cases is whether the relief requested by the court or aggrieved party is necessary to the performance of the judicial function as contemplated in our state constitution. The test is not relative needs or judicial wants, but practical necessity in performing the judicial function. The test must be applied with due consideration for equally important executive and legislative functions.

*Id.* at 181-82, 241 N.W.2d at 786 (footnote omitted). The supreme court concluded that the district court did not have the inherent authority to set the salary for the clerk of the district court when the constitution gave that authority to the legislature. *Id.* at 182, 241 N.W.2d at 787.

Here, the relief provided by the district court is not essential to the performance of the judicial function. Respondent had a trial, the jury reached a decision, and respondent had numerous avenues for challenging the jury's verdict. These avenues included moving the district court for a new trial, filing a direct appeal to this court, and petitioning the supreme court for further review. Because the district court's actions were not necessary to the judicial function, we conclude that the district court did not have inherent authority to act in this manner.

Our conclusion that the district court had neither express nor implied authority to enter judgment of acquittal is supported by *Carlisle v. United States*, 517 U.S. 416, 116 S. Ct. 1460 (1996). Respondent argues that *Carlisle* does not apply here because it analyzes a federal rule in a federal criminal case. But when Minnesota rules of practice

are modeled after federal rules, federal cases “are helpful and instructive” in interpreting the Minnesota rules. *Johnson v. Soo Line R.R.*, 463 N.W.2d 894, 899 n.7 (Minn. 1990). Minn. R. Crim. P. 26.03, subd. 17, is modeled after Fed. R. Crim. P. 29. Minn. R. Crim. P. 26 cmt. Thus, *Carlisle* is instructive as to this court’s application of Minn. R. Crim. P. 26.03, subd. 17.

In *Carlisle*, the Supreme Court held that Fed. R. Crim. P. 29 does not give the district court authority to enter judgment of acquittal after the submission of the case to the jury. 517 U.S. at 421–23, 116 S. Ct. at 1464–65. In addition, the Supreme Court held that the district court’s inherent power “does not include the power to develop rules that circumvent or conflict with the Federal Rules of Criminal Procedure.” *Id.* at 426, 116 S. Ct. at 1466. Given the express, unambiguous language of Minn. R. Crim. P. 26.03, subd. 17, and Minn. R. Crim. P. 34.02 and the district court’s lack of inherent authority to act in the manner it did, we conclude that the district court erred by vacating the jury’s verdict and entering judgment of acquittal.

**Reversed and remanded.**