

United States Court of Appeals
For the Eighth Circuit

No. 24-2946

United States of America,

Plaintiff - Appellee,

v.

Nicole Robyn Roy, also known as Nicole Robin Roy,

Defendant - Appellant.

No. 24-3011

United States of America,

Plaintiff - Appellee,

v.

Harrison Edwin Dudley, Sr.,

Defendant - Appellant.

Appeals from United States District Court
for the District of Minnesota

Submitted: February 12, 2026
Filed: August 21, 2026

Before COLLOTON, Chief Judge, BENTON and KELLY, Circuit Judges.

COLLOTON, Chief Judge.

A jury convicted Nicole Roy and Harrison Dudley, Sr., of felony child neglect and felony child endangerment in violation of the Major Crimes Act, 18 U.S.C. § 1153. The district court* imposed terms of imprisonment, special assessments, and terms of supervised release. On appeal, Dudley argues that the evidence is insufficient to support his convictions and that his sentence is contrary to law. Roy also appealed, but died while the appeal was pending, so her appeal is moot. We affirm the judgment as to Dudley.

I.

John and Jane, identified here by pseudonym, are the biological children of Roy and Dudley. Under an informal shared custody agreement, both children resided primarily with their maternal grandfather, Roy's father. Roy and Dudley were responsible for the medical care of both children.

At a check-up in 2022, doctors discovered that Jane, then two years old, was severely anemic. She needed an emergency blood transfusion, and a doctor prescribed an iron supplement. Noting that John, aged six, was still in diapers and

*The Honorable Nancy E. Brasel, United States District Judge for the District of Minnesota.

had developmental delays, the doctor recommended that he see a specialist. Both children also had severe head lice.

Roy and Dudley missed follow-up appointments for both children. They did not refill Jane's iron prescription or treat either child's lice. Within less than a year, Jane was hospitalized again for life-threatening anemia. She also developed a scalp infection that was resistant to antibiotics.

A grand jury charged Roy and Dudley with felony child neglect and felony child endangerment under the Major Crimes Act, 18 U.S.C. § 1153. The indictment alleged that the defendants were Indian adults who committed the offenses within the Red Lake Indian Reservation in Minnesota.

A jury convicted both defendants on all counts. The district court sentenced Roy to twelve months and one day of imprisonment and Dudley to four months' imprisonment. The court also imposed three years of supervised release and \$400 in special assessments on each defendant.

II.

Dudley first contends that there was insufficient evidence to support the convictions. We will uphold a jury verdict if a rational jury, viewing the evidence in the light most favorable to the prosecution, could find the defendant guilty beyond a reasonable doubt. *United States v. Thompson*, 285 F.3d 731, 733 (8th Cir. 2002).

A.

Felony child neglect under the Major Crimes Act is "defined and punished in accordance with the laws of the State in which such offense was committed." 18 U.S.C. § 1153(b). Minnesota defines "persons guilty of neglect" to include a

“caretaker who willfully deprives a child of necessary food, clothing, shelter, health care, or supervision.” Minn. Stat. § 609.378 subdiv. 1(a)(1). The statute prescribes a maximum prison term of five years when the deprivation or endangerment “results in substantial harm to the child’s physical, mental, or emotional health.” *Id.* subdiv. 1(a)(1), (b)(2).

Dudley argues that the government did not prove that he was a “caretaker” who “willfully deprive[d]” John and Jane of necessary care. Minnesota law defines “caretaker” as “an individual who has responsibility for the care of a child as a result of a family relationship or who has assumed responsibility for all or a portion of the care of a child.” Minn. Stat. § 609.376 subdiv. 3. Trial testimony established that Roy and Dudley assumed responsibility for the medical care of both children.

A reasonable jury could conclude beyond a reasonable doubt that Dudley willfully deprived both children of necessary health care. John’s doctor informed Roy and Dudley that speech therapy was essential to treating John’s developmental delays, but Roy and Dudley did not take John to the appointments. Roy and Dudley also missed follow-up appointments for Jane’s anemia. They neglected to refill Jane’s iron prescription even though there was no cost and the prescription provided for several refills. John’s doctor educated Roy and Dudley on treating lice, but they failed adequately to treat either child. Roy and Dudley refused to answer phone calls from Roy’s father demanding that they treat the lice.

Dudley acknowledges that Jane sustained substantial harm, but claims that John’s condition does not meet that standard. There was sufficient evidence for the jury to reject this argument.

A physician reported in February 2022 that John had “[n]o expressive intelligent verbal communication.” John’s doctor testified that it “was very shocking” the boy was nonverbal at age six. The doctor also observed that John “seemed to

have gross motor problems” and was still in diapers. A report from January 2023 documented head lice so extensive that John had “scabs covering [his] entire scalp.”

At trial, a pediatric infectious disease specialist expressed concern that the boy’s scalp condition would reach the severity of Jane’s antibiotic-resistant infection if it were left untreated. In addition to this evidence of substantial physical harm, the jury could have inferred substantial mental and emotional harm from records and testimony that documented “psychosocial deprivation,” and “no history of school attendance.” The evidence was sufficient to support the convictions for child neglect resulting in substantial harm.

B.

Felony child endangerment under the Major Crimes Act is also defined and punished in accordance with state law. 18 U.S.C. § 1153(b). Minnesota defines child endangerment to include recklessly permitting a child to be placed in a situation likely to substantially harm the child’s physical, mental, or emotional health. Minn. Stat. § 609.378 subdiv. 1(b)(1). A person acts recklessly when he consciously disregards a substantial and unjustifiable risk of harm. *State v. Engle*, 743 N.W.2d 592, 594 (Minn. 2008).

The prosecution’s theory was that Roy and Dudley recklessly endangered the children by leaving them in the care of Roy’s father. Dudley argues that he was not aware that the behavior of Roy’s father placed both children at risk of substantial harm. We conclude that sufficient evidence supports the jury’s finding.

Dudley had access to the children at the home of Roy’s father. He and Roy could see the children at any time. Both children exhibited obvious signs of harm, including their scalp conditions, John’s developmental delays, and the large bags under Jane’s eyes due to anemia. At a follow-up appointment for Jane’s anemia, Dudley reported that Jane was not taking her iron supplement. Dudley claims that he

was unable to remove the children from the care of Roy's father, but a reasonable jury could have concluded otherwise given his parental rights and the absence of any legal custody order. The evidence was sufficient to support the conviction for child endangerment resulting in substantial harm.

III.

Dudley also argues that his sentence is unlawful under the Major Crimes Act because he was not "punished in accordance with the laws of the State in which such offense was committed." 18 U.S.C. § 1153(b). Minnesota law establishes a maximum term of five years' imprisonment for child neglect or child endangerment that "results in substantial harm to the child's physical, mental, or emotional health." Minn. Stat. § 609.378 subdiv. 1(a)(1), (b)(2). After acknowledging those maximum terms under state law, the district court imposed sentence within the state statutory range in accordance with the federal law, including the federal sentencing guidelines. Dudley has served his term of imprisonment, so his challenge to the length of the prison sentence is moot. *United States v. Hill*, 889 F.3d 953, 954 (8th Cir. 2018).

The court imposed three years of supervised release and \$400 in special assessments. Dudley contends that the term of supervised release is unlawful because it exceeds the term of supervised release that could have been imposed under the Minnesota state sentencing guidelines. He also challenges the special assessments on the ground that there is no analogous assessment under state law.

In *United States v. Rosebear*, 165 F.4th 1081 (8th Cir. 2026), this court held that in a prosecution under the Major Crimes Act, state sentencing statutes establish the maximum and minimum penalties for an offense, but state sentencing guidelines do not apply to dictate a particular sentence within the statutory range. *Id.* at 1085-86; see *United States v. Norquay*, 905 F.2d 1157, 1162-63 (8th Cir. 1990). In light of *Rosebear* and *Norquay*, the district court was not constrained to impose a term of

supervised release in accordance with the state sentencing guidelines. The total length of Dudley's custodial sentence plus his term of supervised release is less than the maximum term of imprisonment authorized by state law for the offenses of conviction. The term of supervised release is therefore not inconsistent with punishing the offenses "in accordance with the laws of the State" in which the offenses were committed. 18 U.S.C. § 1153(b). On this record, we need not address whether a combined term of imprisonment and supervised release may exceed the maximum term of incarceration allowed by state law for the offense. *Cf. United States v. Engelhorn*, 122 F.3d 508, 512 (8th Cir. 1997) (holding that requirement of Assimilative Crimes Act that offender shall be subject to "a like punishment" with respect to state offense did not forbid combined term of imprisonment and term of supervised release that exceeded maximum term of imprisonment under state law).

The district court imposed special assessments against Dudley under 18 U.S.C. § 3013(a)(2). That statute provides that the court "shall assess on any person convicted of an offense against the United States," "in the case of a felony," "the amount of \$100 if the defendant is an individual." Dudley was convicted of four felonies, so the court imposed assessments of \$400. Dudley argues that the assessments are unlawful, because his offenses must be "punished in accordance with the laws of the State," *id.* § 1153(b), and Minnesota law does not provide for special assessments.

The special assessment statute, however, expressly defines a penalty that is applicable to any offense against the United States. By providing in the Major Crimes Act that an offense shall be "punished" according to state law, Congress directed the courts "to look to state sentencing provisions to determine penalties for offenses which are not otherwise defined by federal law, *unless those penalties are expressly defined by federal law.*" *United States v. Pluff*, 253 F.3d 490, 493 (9th Cir. 2001) (emphasis added). The special assessment is a penalty expressly defined by federal law.

Litigation over special assessments for offenses under the Assimilative Crimes Act, 18 U.S.C. § 13, is informative. When some courts before 1987 concluded that a special assessment could not be imposed for a violation of § 13, because there was no “like punishment” under state law, Congress responded by providing expressly that a violation of § 13 is an offense against the United States that triggers the special assessment statute. *See* 18 U.S.C. § 3013(d); *United States v. Heard*, 700 F. Supp. 12, 12-13 (D.S.C. 1988).

A violation of the Major Crimes Act is an offense against the United States. While the Act “adopts state law for certain purposes, the offense remains a federal offense.” *United States v. Long Elk*, 565 F.2d 1032, 1040 (8th Cir. 1977). Because federal law expressly directs a sentencing court to impose a special assessment on any person convicted of an offense against the United States, there is no gap to be filled by state law. The general reference in 18 U.S.C. § 1153(b) to punishment in accordance with state law does not override the specific congressional directive in 18 U.S.C. § 3013 to impose a special assessment. We therefore conclude that the special assessments imposed on Dudley are authorized by § 3013 and are not contrary to law.

Dudley last argues that applying federal sentencing law violates his right to equal protection under the Due Process Clause, because a person other than a Native American who committed the same offense would be punished exclusively under state law. This argument is foreclosed by precedent. *Norquay*, 905 F.2d at 1162 (citing *United States v. Antelope*, 430 U.S. 641, 647-50 (1977)).

The judgment of the district court as to Dudley is affirmed. We vacate the judgment in Roy’s case, and remand to the district court with instructions to dismiss the indictment as to Roy. *See United States v. Littlefield*, 594 F.2d 682, 683 (8th Cir. 1979).

KELLY, Circuit Judge, concurring in part and dissenting in part.

The Major Crimes Act provides that Dudley’s offenses must be “punished in accordance with the laws of [Minnesota].” 18 U.S.C. § 1153(b). It is undisputed that Minnesota law does not provide for special assessments. I would therefore conclude that it was improper for the district court to impose special assessments under 18 U.S.C. § 3013(a)(2).

Similar to the Major Crimes Act, the Assimilative Crimes Act, 18 U.S.C. § 13, “assimilates the entire substantive criminal law of the state, including laws relating to the definition and scope of an offense and laws governing the manner in which an offense is to be punished.” United States v. King, 824 F.2d 313, 315 (4th Cir. 1987), superseded by statute, Criminal Fine Improvements Act of 1987, Pub. L. No. 100–185, § 3, 101 Stat. 1279. In King, the Fourth Circuit concluded that defendants convicted under the Assimilative Crimes Act could not be ordered to pay a federal special assessment unless they would have been subject to a similar assessment if convicted of the same offense in a state court. See id. The Fourth Circuit reasoned that the state law at issue did not provide a “like punishment” to a federal special assessment, and so the special assessment provided by § 3013 could not be imposed. See id. at 316 (quoting 18 U.S.C. § 13(a)).

After King, however, Congress amended 18 U.S.C. § 3013 to clarify that “an offense under section 13 of this title [the Assimilative Crimes Act] is an offense against the United States,” thereby authorizing the imposition of special assessments for violations of the Assimilative Crimes Act regardless of whether state law provides for a “like punishment.” 18 U.S.C. § 3013(d); Heard, 700 F. Supp. at 13. But here, unlike its decision to amend § 3013 to encompass the Assimilative Crimes Act, Congress has not amended § 3013 to establish that a violation of the Major Crimes Act is “an offense against the United States” for purposes of imposing a special assessment. See Heard, 700 F. Supp. at 12–13 (“But for the December 11, 1987

amendment to 18 U.S.C. § 3013, the King precedent would control the decision in this case.”). The two statutes are “analogous in many respects,” Pluff, 253 F.3d at 493, yet Congress has included only one of them in § 3013(d). And there is no other statutory provision, and thus no congressional directive, that makes § 3013 applicable to crimes charged under the Major Crimes Act.

I respectfully dissent as to that portion of section III of the court’s opinion upholding the imposition of the special assessments. I otherwise concur in full.
