STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0890

State of Minnesota,
Respondent,

vs.

Eric Clayton Nord,
Appellant.

Filed May 3, 2021
Affirmed in part, reversed in part, and remanded
Gaïtas, Judge

Becker County District Court
File No. 03-CR-19-401

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

Brian W. McDonald, Becker County Attorney, Braden F. Sczepanski, First Assistant County Attorney, Detroit Lakes, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jason R. Steffen, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Gaïtas, Presiding Judge; Larkin, Judge; and Cochran, Judge.

NONPRECEDENTIAL OPINION

GAÏTAS, Judge

Appellant Eric Clayton Nord challenges his convictions for possession of a firearm by an ineligible person and receiving stolen property, arguing that the district court plainly erred by failing to provide the jury with instructions on corroboration of accomplice

testimony and specific unanimity. He also argues that his sentence for receiving stolen property must be reversed because it was calculated using an incorrect criminal history score. In a pro se supplemental brief, Nord raises five additional challenges to his convictions. We affirm in part, reverse in part, and remand.

FACTS

The charges against Nord stemmed from two events occurring just days apart, a burglary and a "controlled buy" of stolen firearms arranged by law enforcement, both involving Nord and his accomplice, D.M. (accomplice). Both Nord and accomplice were charged for their suspected involvement in the two events.

The Burglary

On February 27, 2019, Nord and accomplice were working on a stalled car outside the home of B.G. B.G., who was familiar with Nord and accomplice, briefly spoke with them and invited them inside to warm up. Later in the day, B.G. left town while Nord and accomplice were still outside working on the car. Nord's friend C.E. eventually drove her van to that location to meet him. Nord loaded some "luggage" and bags into the van, and C.E. dropped Nord off at her home, where he was staying. C.E. then returned to pick up accomplice. She dropped accomplice off elsewhere.

B.G. returned that evening. The next morning, B.G. found footprints in the snow leading from his driveway to his neighbor L.K.'s home, although L.K. had been out of town for some time. L.K. returned on March 1 to find that his home had been burglarized and some of his belongings were missing. L.K. reported the burglary to the sheriff's office and identified his missing property, which included two firearms (one shotgun and one

semi-automatic rifle), toolkits (one bearing L.K.'s initials and containing a drill), other hardware and tools, hunting equipment, a laptop, two metal detectors, tax and insurance paperwork, approximately 14 grams of gold, and various gemstones. About one week later, L.K. received notice that most of the stolen property had been recovered; he met with officers and confirmed the items were his.

The Controlled Buy

In early February 2019, P.W. (informant) was facing criminal charges and a probation violation unrelated to this case. Hoping for leniency in his criminal cases, informant agreed to work as a police informant.

Informant met Nord for the first time several weeks later; he was stranded and paid Nord for a ride. A few days after their initial meeting, Nord went to a motel room where informant was staying and showed him some "merchandise" that he was selling. Nord told informant that he had "hit some licks."[1] He showed informant some gemstones, and then mentioned that he also had a couple of firearms available. Informant said that firearms were "more [his] style" and expressed interest in buying them. When Nord left, informant contacted law enforcement to report his meeting with Nord.

The day after the motel meeting, informant arranged another rendezvous with Nord at the instruction of law enforcement. Officers equipped informant with an audio recording device and gave him $400 in buy money.

[1] According to informant, to "hit some licks" means "to go out and . . . rob somebody."

Informant then went to C.E.'s residence, where Nord was staying. Officers were stationed nearby, conducting surveillance. Informant entered C.E.'s garage, where he met with Nord and accomplice. According to informant, Nord laid two firearms on a table—one shotgun and one semi-automatic rifle—before agreeing to sell the semi-automatic rifle to informant for $400. Informant gave Nord the buy money and then left the garage with the semi-automatic rifle. He turned the gun over to officers and provided a detailed account of the controlled buy. The entire encounter was also audio recorded but the recording is muffled and difficult to understand. However, isolated portions of the transaction are discernible and support informant's description of the events.[2]

A short time later, C.E., Nord, and accomplice left the residence in C.E.'s van. Officers stopped C.E.'s van and searched it, locating the $400 in buy money. Nord and accomplice were arrested. Officers went to C.E.'s residence and secured the scene until a search warrant was issued. When officers ultimately searched C.E.'s residence pursuant to the warrant, they found L.K.'s property in a corner of the garage, including his shotgun and documents bearing his signature. Documents belonging to Nord were also commingled with L.K.'s property in the garage.

Jury Trial

In a single complaint, the state charged Nord with counts relating to the burglary of L.K.'s residence on February 27, 2019, and counts relating to the controlled buy on March 4, 2019. For the burglary, Nord was charged with second-degree burglary, Minn.

[2] For example, informant can be heard offering $400 for one gun, and it is clear that two guns are available for sale.

Stat. § 609.582, subd. 2(a)(1) (2018), and one count of ineligible person in possession of a firearm, Minn. Stat. § 609.165, subd. 1b(a) (2018). And, in connection with the controlled buy and the stolen property found in the garage, he was charged with a second count of ineligible person in possession of a firearm and receiving stolen property, Minn. Stat. § 609.53, subd. 1 (2018). Nord pleaded not guilty and moved pretrial to suppress the fruits of the search warrant, claiming deficiencies with the warrant and Fourth Amendment violations. The district court denied the motion and Nord had a jury trial.

At trial, the state called 11 witnesses and offered over 20 exhibits into evidence. Informant testified about his meeting with Nord at the motel and about the controlled buy in C.E.'s garage. Accomplice also testified against Nord in exchange for a favorable plea deal on his own related charges. According to accomplice, Nord had been staying with C.E. and storing things in her garage. Consistent with informant's testimony, accomplice testified that Nord showed informant two firearms that were for sale and informant paid cash for one of them. Nord's counsel cross-examined accomplice about his motives for testifying against Nord and about the benefits of the plea deal he received from the state. Nord exercised his right to remain silent and called one witness.

Near the end of trial, the district court instructed the jury on the law of the case. Neither party requested an instruction on the requirement for corroboration of an accomplice's testimony or an instruction directing jurors that they must all agree on which of the two firearms Nord possessed, and the district court did not provide either of these instructions. The jury acquitted Nord of the two charges related to the burglary. But the

jury found him guilty of the two charges stemming from the controlled buy—ineligible person in possession of a firearm and receiving stolen property.

Sentencing

The district court sentenced Nord to 60 months in prison for the firearm conviction, which was a statutory mandatory minimum sentence. Additionally, the district court imposed a concurrent term of 24 months for the receiving-stolen-property offense. In calculating the 24-month sentence for receiving stolen property, the district court seemingly relied on the criminal history score set forth in the sentencing worksheet. The worksheet states that Nord's criminal history score is four, with three points resulting from past crimes and one custody-status point. The custody-status point was apparently added because Nord committed the offenses here within the term of probation originally set by the district court in another matter.

Nord appeals.

DECISION

I. Although the district court plainly erred by failing to give the jury an accomplice-corroboration instruction, the omission of the instruction did not affect Nord's substantial rights.

Nord first argues that he should receive a new trial because the district court failed to instruct the jury that an accomplice's testimony must be corroborated by independent evidence. Because Nord did not request the accomplice-corroboration instruction, we review his challenge for plain error. *See State v. Ezeka*, 946 N.W.2d 393, 407 (Minn. 2020), *cert. denied*, 141 S. Ct. 934 (2020).

A criminal defendant forfeits appellate review of jury instructions when no specific request or objection was presented to the district court. *Id.* But an appellate court may address the unpreserved issue if the defendant can establish (1) an error occurred, (2) that was plain, and (3) the error affected his substantial rights. *Id.*; *see* Minn. R. Crim. P. 31.02.

A "plain" error is one that is "clear or obvious." *Ezeka*, 946 N.W.2d at 407 (quotations omitted). Plain error occurs when the district court fails to provide a required instruction. *See id.*; *State v. Vasquez*, 776 N.W.2d 452, 459 (Minn. App. 2009). When it is reasonably likely that a required instruction would have significantly affected the jury's verdict, the district court's failure to provide the instruction affects the defendant's substantial rights. *State v. Davenport*, 947 N.W.2d 251, 262 (Minn. 2020).

A. The failure to provide an accomplice-corroboration instruction was plain error.

Minnesota law recognizes that "the credibility of an accomplice is inherently untrustworthy." *State v. Lee*, 683 N.W.2d 309, 316 (Minn. 2004). Accordingly, "a criminal conviction cannot be based on the uncorroborated testimony of an accomplice." *State v. Smith*, 932 N.W.2d 257, 264 (Minn. 2019) (quotation omitted); *see* Minn. Stat. § 634.04 (2018). District courts have an obligation to instruct jurors that the testimony of a witness who may reasonably be considered an accomplice to the defendant must be corroborated by other evidence. *Smith*, 932 N.W.2d at 264. A district court's "duty to instruct remains regardless of whether counsel for the defendant requests the instruction." *Davenport*, 947 N.W.2d at 260 (quotation omitted). The omission of the accomplice-corroboration instruction is plain error. *Vasquez*, 776 N.W.2d at 459.

In relevant part, the pattern accomplice-corroboration jury instruction provides: "You cannot find the defendant guilty of a crime on the basis of the testimony of an accomplice unless that testimony is corroborated by other evidence that tends to convict the defendant of the crime." 10 *Minnesota Practice*, CRIMJIG 3.18 (2018). The instruction also provides:

> The evidence that can corroborate the testimony of an accomplice must do more than merely show that the crime was committed or show the circumstances of the crime, but the corroborating evidence need not convince you by itself that the defendant committed the crime. It is enough that the corroborating evidence tends to show that the defendant committed the crime, and that the corroborating evidence, when considered with the testimony of an accomplice, convinces you beyond a reasonable doubt that the defendant committed the crime.

Id. An "accomplice" is merely a witness who could have been, or was, "indicted and convicted for the crime with which the accused is charged." *Davenport*, 947 N.W.2d at 261 (quoting *Lee*, 683 N.W.2d at 314).

Nord contends, and the state concedes, that accomplice was, in fact, an accomplice as a matter of law. We agree—the record confirms that accomplice was similarly charged on the same facts as Nord. Although an accomplice-corroboration jury instruction was warranted, the district court did not give one. Thus, the district court plainly erred.

B. The error did not affect Nord's substantial rights.

Next, we must consider whether the omission of an accomplice-corroboration instruction affected Nord's substantial rights. *Davenport*, 947 N.W.2d at 260. An accomplice-corroboration instruction "ensure[s] that the jury did not reject the

corroborating evidence and base its verdict solely on the accomplice's testimony." *Id.* at 262. In assessing the impact of the district court's error, we therefore must determine "whether there is a reasonable likelihood that the jury relied solely on [the accomplice's] testimony." *Id.* Four factors help guide our analysis on this issue: (1) whether "significant evidence" corroborated the accomplice's story, (2) whether leniency or a plea deal was exchanged for the accomplice's testimony, (3) whether the prosecution emphasized the accomplice's testimony in closing argument, and (4) any instructions read to the jury about witness credibility. *Id.* at 262-63 (citing *State v. Horst*, 880 N.W.2d 24, 38 (Minn. 2016); *State v. Jackson*, 746 N.W.2d 894, 899 (Minn. 2008)).

Applying these factors here, we conclude that there is no reasonable likelihood that the jury verdicts rest solely on accomplice's testimony.

First, significant independent evidence corroborated accomplice's testimony. Corroborative evidence "must affirm the truth of the accomplice's testimony and point to the guilt of the defendant in some substantial degree"; but such evidence "need not, standing alone, be sufficient to support a conviction." *Reed v. State*, 925 N.W.2d 11, 21 (Minn. 2019). An accomplice's testimony can be corroborated by "the defendant's opportunity and motive to commit the crime and his proximity to the place where the crime was committed." *See Staunton v. State*, 784 N.W.2d 289, 299 (Minn. 2010) (quotation omitted). Moreover, "[c]ircumstantial evidence may be sufficient to corroborate the testimony of an accomplice." *State v. Clark*, 755 N.W.2d 241, 254 (Minn. 2008) (quotation omitted). Here, accomplice's testimony was corroborated by informant's testimony, some portions of the audio recording of the controlled buy, C.E.'s testimony that Nord was

staying at her home and used her garage to store his belongings, Nord's presence at the scene of the crime, the stolen property found in the garage, and the commingling of Nord's personal property and the stolen items.

Nord argues that informant's testimony was unreliable and therefore insufficient to corroborate accomplice's claims, citing *Vasquez*, 776 N.W.2d 452. But *Vasquez*—where the informant was a "jailhouse informant"—is readily distinguishable from Nord's case. 776 N.W.2d at 456. In *Vasquez*, the informant testified that the defendant had confessed to selling drugs to a person who died from an overdose. *Id.* at 456, 461. But informant had no firsthand knowledge about the defendant's culpability for the overdose death at issue in the case. Moreover, the informant testified that the defendant denied any involvement in the specific sale that led to the overdose. *Id.* at 461.

Here, by contrast, informant was directly involved in a controlled buy with Nord. He wore a wire, he used recorded buy money, he was under police surveillance, and he produced a semi-automatic rifle for officers after the controlled buy. Informant's participation in the controlled buy was, in itself, independent corroboration of his claims. And unlike *Vasquez*, where there was scant evidence implicating the defendant beyond the testimony of the informant and the accomplice, here there was strong independent evidence of Nord's guilt. The recovery of the second stolen firearm among Nord's personal property in the garage was particularly damaging evidence against Nord. Thus, this case presents a very different set of circumstances than *Vasquez*. We also note that the jury had the opportunity to evaluate informant's credibility—defense counsel fully cross-examined

informant about the leniency he received in his own criminal matters in exchange for his testimony against Nord.

Second, although accomplice, like informant, received leniency in exchange for his testimony against Nord, the jury was fully aware of this as well. Defense counsel emphasized that accomplice received leniency for testifying against Nord, covering the specific terms of accomplice's plea bargain. And in closing argument, defense counsel reminded the jury that accomplice had "a huge stake" in testifying and that he was not "a credible, reliable guy."

Third, the prosecutor discussed, but did not emphasize, accomplice's testimony in closing argument. The prosecutor touched on all of the evidence implicating Nord's guilt.

And fourth, we observe that the jury received appropriate instruction on how to evaluate the credibility of witnesses. *See* 10 *Minnesota Practice*, CRIMJIG 3.12 (2018). Jurors were told to consider, among other things, each witness's "interest or lack of interest in the outcome of the case," "frankness and sincerity," "reasonableness or unreasonableness of their testimony in light of all the other evidence," and any impeachment of the witness's testimony." *See id.* Appellate courts presume that jurors followed the district court's instructions. *State v. Whitson*, 876 N.W.2d 297, 305 (Minn. 2016).

Given all of these circumstances, we are satisfied that the jury's guilty verdicts do not rest on accomplice's testimony alone. Thus, we conclude that the district court's error in failing to provide an accomplice-corroboration instruction did not affect Nord's substantial rights.

II. The district court did not plainly err by not instructing the jury that all jurors had to agree about which firearm Nord possessed.

Nord next argues that the district court plainly erred by failing to provide the jury with a specific unanimity instruction. He contends that the district court was required to instruct jurors that they had to unanimously agree about which firearm he possessed on March 4, 2019—the semi-automatic rifle that informant "bought" or the shotgun that informant was offered but did not purchase. According to Nord, the district court's failure to provide a specific unanimity instruction likely led to disagreement among jurors about which of the two guns he possessed, violating his right to a unanimous verdict and requiring reversal of his conviction for ineligible person in possession of a firearm. Because Nord did not request such an instruction during trial, we again apply plain error review. *See Davenport*, 947 N.W.2d at 260 (applying plain error review to claim of failure to give necessary instruction); *see also* Minn. R. Crim. P. 31.02.

Nord's claim of plain error relies on *State v. Stempf*, where we addressed the district court's denial of a specific unanimity instruction. 627 N.W.2d 352, 354, 358 (Minn. App. 2001). There, the state alleged that the defendant was guilty of one count of drug possession, but presented evidence of two separate acts of possession that occurred on two different occasions and in two different locations. *Id.* at 354. We reaffirmed in *Stempf* that jury instructions that "allow for possible significant disagreement among jurors as to what acts the defendant committed" violate a defendant's right to a unanimous verdict. *Id.* at 354. Under the circumstances presented in *Stempf*—where the state alleged two "separate and distinct culpable acts, either one of which could support a conviction" that "lack[ed]

unity of time and place"—we determined that the district court erred in denying the defendant's request for a specific unanimity instruction. *Id.* at 358-59. Because the jury could have disagreed about which act of possession the defendant actually committed, we concluded that a new trial was required. *Id.*

Although Nord did not request a specific-unanimity instruction, he now argues that his jury may have disagreed about which firearm he possessed, implicating his right to a unanimous jury verdict. He contends that the state presented evidence of two independent acts of possession, and that some jurors could have found that he possessed the semi-automatic rifle, while other jurors could have found that he possessed the shotgun.

We disagree. While the two guns may have been *recovered* at different times—with the semi-automatic rifle being the product of the controlled buy and the shotgun being discovered during the subsequent search of the garage—the state alleged that Nord committed one act, possessing the two guns in the same place at the same time. Both accomplice and informant testified that they witnessed Nord lay two guns out on a table during the controlled buy, and their testimony was corroborated by other circumstantial evidence already discussed. Given the testimony that Nord simultaneously possessed two firearms, and the fact that both firearms were ultimately recovered, there is no reasonable likelihood that jurors could have disagreed about which of the two guns Nord possessed.

A plain error is generally shown by a clear or obvious violation of caselaw, a rule, or standard of conduct. *See State v. Zinski*, 927 N.W.2d 272, 275 (Minn. 2019) (discussing plain-error standard). Under the circumstances here, Nord has not shown that the district court's failure to give a specific unanimity instruction was a clear or obvious violation of

Stempf or any other applicable authority. Where there is no potential for "possible significant disagreement among jurors as to what acts the defendant committed," *Stempf*, 627 N.W.2d at 354, the district court was not required to sua sponte provide a specific unanimity instruction. Thus, the district court did not plainly err when it did not give Nord's jury a specific unanimity instruction for the offense of ineligible person in possession of a firearm.

III. Nord's sentence for receiving stolen property is based on an incorrect criminal history score.

Nord argues that the district court erroneously sentenced him to 24 months for his receiving-stolen-property conviction because his criminal history score incorrectly included a custody-status point. Although the present offenses occurred during the original term of Nord's probation for a prior conviction, he points to court records showing that he was actually discharged from probation before the date of the offenses here. And according to Nord, his sentence must be reversed based on a 2019 amendment to the Minnesota Sentencing Guidelines and our recent decision in *State v. Robinette*, 944 N.W.2d 242, 248 (Minn. App. 2020), *review granted* (Minn. June 30, 2020), which instructs district courts to apply that amendment in all cases sentenced after the amendment's effective date.

To address this issue, we must consider de novo the proper interpretation of the Minnesota Sentencing Guidelines and the effect of our relevant precedent. *See State v. Strobel*, 932 N.W.2d 303, 306 (Minn. 2019). Under the 2018 version of the sentencing guidelines, a custody-status point was to be assigned "if the offender [was] discharged from probation but committ[ed] an offense within the initial period of probation pronounced by

the court." Minn. Sent. Guidelines 2.B.2.a(1)-(4) (2018). But in 2019, this provision of the sentencing guidelines was modified; the change allows the assignment of a custody-status point only when an offender commits an offense *while still on probation*. Minn. Sent. Guidelines 2.B.2.a(1)-(4) (Supp. 2019).

Normally, a district court must sentence a defendant under the version of the sentencing guidelines in effect at the time of the offense of conviction. Minn. Sent. Guidelines 2 (2018). But as Nord notes, we have held that the 2019 amendment at issue applies to sentences imposed from August 1, 2019, onward, regardless of the offense date. *See Robinette*, 944 N.W.2d at 249, 251. Our decision in *Robinette* was based on the common-law amelioration doctrine, which provides "that a law that mitigates punishment be applied to acts committed before the law's effective date, so long as no final judgment has been reached and the legislature has not explicitly expressed contrary intent." *Id.* at 249 (citing *State v. Kirby*, 899 N.W.2d 485, 488 (Minn. 2017)). We determined that there was no legislative intent to circumvent the amelioration doctrine, and accordingly, applied the modification, reversed the defendant's sentence, and remanded to the district court for resentencing. *Id.* at 251.

The state does not address Nord's assertion that he was no longer on probation at the time of his sentencing hearing. Instead, the state asks us to "stay" our consideration of Nord's sentencing issue while *Robinette* is on review at the Minnesota Supreme Court. We decline to do so because "a precedential opinion of this court has immediate authoritative effect." *State v. Chauvin*, 955 N.W.2d 684, 691, (Minn. App. 2021), *review denied* (Minn. Mar. 10, 2021).

Because Nord's offenses occurred when the 2018 sentencing guidelines were in effect, but he was sentenced after the 2019 amendment took effect, *Robinette* instructs that the 2019 guidelines apply. *See Robinette*, 944 N.W.2d at 248-50. The record confirms that Nord was assigned one custody-status point because the instant charges occurred "within the original probation term" of a 2017 felony motor-vehicle-theft conviction. The record also confirms that Nord was discharged from probation in that case as of May 1, 2018. Thus, under the 2019 version of the guidelines in effect when Nord was sentenced in April 2020, he would not receive a custody-status point for the discharged probation. *See* Minn. Sent. Guidelines 2.B.2.a(1)-(4) (Supp. 2019). The inclusion of a custody-status point has a significant effect on the ultimate sentence. With the custody-status point, Nord received a presumptive sentence of 24 months in prison. But without it, the sentencing guidelines call for a 21-month stayed sentence. *See* Minn. Sent. Guidelines 4.A, 5.A (2018).

"[W]hen a defendant is sentenced based on an incorrect criminal history score, a district court must resentence the defendant." *State v. Provost*, 901 N.W.2d 199, 202 (Minn. App. 2017). Because court records indicate that Nord was discharged from probation before he was sentenced, we reverse his sentence for receiving stolen property pursuant to our holding in *Robinette* and remand to the district court for further sentencing proceedings consistent with this opinion.[3]

[3] Unless shown otherwise on remand, our decision has no impact on the statutorily mandated 60-month sentence for Nord's other conviction for ineligible possession of a firearm. *See* Minn. Stat. § 609.11, subd. 5 (2018).

IV. Nord's pro se arguments do not entitle him to relief.

Finally, Nord raises five additional arguments in his pro se supplemental brief, claiming that he was unjustly convicted based on an informant's false allegations, the district court erred in denying his pretrial motion to suppress evidence, he received ineffective assistance of counsel, his right to a speedy trial was violated, and his convictions rest on insufficient evidence. We address each of these claims in turn.

A. Veracity of informant testimony

Nord first challenges the veracity of informant. He asserts that testimony submitted by informants generally leads to "untrue allegations, resulting in unjust convictions." While an informant's testimony may be less credible than the testimony of a lay witness, "[i]t is not our role as a reviewing court to evaluate the credibility of the evidence." *State v. Ivy*, 873 N.W.2d 362, 367 (Minn. App. 2015), *review denied* (Minn. Mar. 15, 2016). Rather, "[i]t is the exclusive function of the jury to weigh the credibility of witnesses in a criminal trial." *State v. C.J.M.*, 409 N.W.2d 857, 859 (Minn. App. 1987), *review denied* (Minn. Sept. 18, 1987). In the absence of any authority or specific arguments to support Nord's position, we decline to reexamine the jury's determination as to the credibility of the informant's testimony in this case.

B. Pretrial motion to suppress evidence

Nord next asks us to review the district court's order denying his pretrial motion to suppress the evidence. But he does not identify any legal basis for his challenge to the district court's decision and he provides no argument or authority. Appellate courts "will not consider pro se claims on appeal that are unsupported by either arguments or citations

to legal authority." *State v. Reek*, 942 N.W.2d 148, 165 (Minn. 2020) (quotation omitted). Due to inadequate briefing, and because we see no obvious error in the district court's denial of the motion to suppress, we need not further consider Nord's argument.

C. Ineffective assistance of counsel

Nord alleges that his trial counsel and the various other attorneys who represented him throughout this case provided ineffective assistance of counsel. To prevail on a claim of ineffective assistance of counsel, a defendant must prove that (1) his counsel's performance was objectively unreasonable and (2) but for counsel's errors, there is a reasonable probability that the outcome of the case would have been different. *Reek*, 942 N.W.2d at 166 (applying *Strickland v. Washington*, 466 U.S. 668, 687, 104 S. Ct. 2052, 2064 (1984)); *see also Peltier v. State*, 946 N.W.2d 369, 372 (Minn. 2020) (explaining that a court need not consider both prongs of the ineffective-assistance-of-counsel test where a defendant fails to prove one prong).

Nord makes just one assertion in support of his claim that he received ineffective assistance of counsel: he alleges that his five separate attorneys "portrayed good intentions" but "certainly remained unaware of 'the bigger picture' that is, this case as a whole." This lone claim is unclear and does not establish that Nord's legal representation was deficient. *State v. German*, 929 N.W.2d 466, 477 (Minn. App. 2019) ("Arguments are forfeited if they are presented in a summary and conclusory form, do not cite to applicable law, and fail to analyze the law when claiming that errors of law occurred." (quotation omitted)). Nord therefore does not present a viable claim of ineffective assistance of counsel.

D. Speedy trial violation

Nord next argues that his due-process right to a speedy trial was violated. He claims that although he never waived his right to a speedy trial, he spent months in custody before his trial.

"Criminal defendants have the right to a speedy trial under the constitutions of both the United States and Minnesota." *State v. Taylor*, 869 N.W.2d 1, 19 (Minn. 2015) (citing U.S. Const. amend. VI; Minn. Const. art. I, § 6.). Alleged speedy trial violations receive de novo review on appeal. *Id.* When reviewing such claims, Minnesota courts must carefully weigh various factors: "(1) the length of the delay; (2) the reason for the delay; (3) whether the defendant asserted his or her right to a speedy trial; and (4) whether the delay prejudiced the defendant." *Id.* (quotation omitted); *see also Barker v. Wingo*, 407 U.S. 514, 92 S. Ct. 2182 (1972).

Nord has not addressed any of these factors and offers no specific argument as to how he was deprived of a speedy trial or whether he suffered prejudice. We do note, however, that the record reveals Nord formally demanded a speedy trial on November 25, 2019, and his trial commenced 49 days later, which was well within the timeframe provided by the Minnesota Rules of Criminal Procedure. *See* Minn. R. Crim. P. 11.09(b) (requiring trial to commence within 60 days after entry of a demand); *State v. Brown*, 937 N.W.2d 146, 152 (Minn. App. 2019) (providing that delays *beyond* the 60 days contemplated under the rule are "a presumptive [speedy trial] violation"), *review denied* (Minn. Feb. 18, 2020). Additionally, the delays during pretrial proceedings were attributable to continuance requests from both the state and defense counsel, unsuccessful plea negotiations, and

litigation of Nord's pretrial motions. Based on the record before us, and without the benefit of any meaningful legal argument, we discern no violation of Nord's speedy-trial rights.

E. Insufficient evidence

Finally, Nord argues his conviction is unjust because the state presented no fingerprint or DNA evidence and "coerced" the testimony of witnesses through mitigated charges or plea deals.

These arguments are without merit. The state was not required to offer fingerprint or DNA evidence because "the standard of proof beyond a reasonable doubt does not dictate any particular type of evidence." *State v. Birk*, 687 N.W.2d 634, 638 (Minn. App. 2004). The state was only required to present sufficient evidence to establish Nord's guilt beyond a reasonable doubt.

As an appellate court, we cannot "re-weigh the evidence and sit, in essence, as a 13th juror." *Reek*, 942 N.W.2d at 166. But our review of the record satisfies us that the evidence was sufficient to support the jury's verdicts.

Affirmed in part, reversed in part, and remanded.