This opinion is nonprecedential except as provided by Minn.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
A24-0115

State of Minnesota,
Respondent,

vs.

Scott Wayne Erickson,
Appellant.

Filed January 13, 2025
Affirmed
Connolly, Judge

McLeod County District Court
File No. 43-CR-22-620

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

Marc A. Sebora, Hutchinson City Attorney, Hutchinson, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Laura G. Heinrich, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Larkin, Presiding Judge; Connolly, Judge; and Ede, Judge.

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

Appellant challenges his conviction for violation of a harassment retraining order (HRO), arguing that the district court erred by admitting evidence of his prior bad acts that

supported issuing the HRO and evidence for which the state failed to identify the purpose or the issue to which it pertained. We affirm.

FACTS

In 2020, B.H., a store cashier, petitioned for an HRO against appellant Scott Erickson because of his unwanted attention to her while she was at work. This included asking personal questions, waiting for her in the parking lot, and driving past the apartment building where she lived. After a contested hearing, the district court issued an HRO in June 2020 prohibiting appellant from going to the store where B.H. worked or near her apartment until May 28, 2022, and from contacting her if he saw her in the community. He was served with the HRO in July 2020.

In April 2022, appellant went to the store, shopped, and went to the aisle where B.H. was working. Surveillance video showed appellant interacting with B.H., and B.H. testified that he told her the HRO had expired and he would continue to shop at that store. When B.H. called 911 to request another temporary HRO, she was told that the current HRO had another month to run.

Appellant was arrested and charged with one count of misdemeanor violation of an HRO. Prior to trial, he filed a notice of motion and motions in limine, objecting to exhibits in which B.H. described his conduct that led to her obtaining the HRO in June 2020. The district court concluded that B.H.'s statements were "admissible as non-*Spreigl* [evidence] establishing evidence of the connection or relationship and the motive," were not unduly prejudicial, and were relevant. B.H. testified about events at the store and incidents that resulted in her seeking and being granted the HRO. A jury convicted appellant of

misdemeanor violation of a temporary HRO. He was sentenced to probation for one year, including 21 days in jail.

He challenges his conviction, arguing that the evidence of his prior acts that resulted in the HRO should not have been admitted and that the state had failed to identify the disputed facts that necessitated the admission of the evidence.

DECISION

> We generally will not reverse a verdict even when improper evidence is presented to the jury unless there is a reasonable possibility that the wrongfully admitted evidence significantly affected the verdict. . . .
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> . . . .
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> Non-exclusive factors we consider to determine whether a reasonable possibility exists that the erroneously admitted evidence significantly affected the jury's verdict include (1) the manner in which the party presented the evidence, (2) whether the evidence was highly persuasive, (3) whether the party who offered the evidence used it in closing argument, and (4) whether the defense effectively countered the evidence.

State v. Bigbear, 10 N.W.3d 48, 54 (Minn. 2024) (quotations omitted). "We also consider whether the evidence of guilt was strong." *Id*. at 56. Even if we assume it was error to admit the challenged evidence in this case, we conclude that there is not a reasonable probability that such evidence significantly affected the verdict.

Here, the disputed evidence was presented by exhibits containing B.H.'s earlier statements and by testimony from her that described appellant's coming to her workplace two or three times a week, finding her when she was cleaning, and asking her personal questions such as where she lived, for about five months. B.H. testified that this escalated

to the point where appellant began following her home from work, hiding outside her apartment or at a nearby pizza restaurant, or going to her boyfriend's workplace, all of which made her feel "incredibly uncomfortable" and prevented her from sleeping. She filed for an HRO against appellant because she "didn't think that he would stop any other way."

The persuasive value of the evidence was to provide context and show that appellant had paid unwelcome attention to B.H. for an extended period of time and would not stop, which caused her to contact police to request a temporary HRO when appellant appeared at the store again, told her the HRO expired, and said he would continue to shop at the store.

The prosecutor did not reference any pre-HRO activity in closing argument. Although appellant testified, he was not asked about any pre-HRO activity, and his counsel did not counter B.H.'s evidence.

As to the weight of the evidence, the supreme court in *Bigbear* recognized that "[s]trong evidence of guilt undermines the persuasive value of wrongly admitted evidence." 10 N.W.3d at 59 (quotation omitted). Here the evidence against appellant is strong. Appellant testified that he knew an HRO was issued for two years and confirmed that he was present at the hearing when the HRO was issued. In rebuttal, B.H. testified that the judge made it clear that the HRO was valid until May 22. Appellant also acknowledges in his brief that "most of the . . . facts" presented at trial "were not disputed[,]" and his counsel conceded there was a valid HRO in effect when appellant went to the store and that appellant had contact with B.H. at the store. The elements of an HRO

violation are that the defendant knows of the order and violates it. Minn. Stat. § 609.748, subd. 6(b) (2020). Based on this record, there is strong evidence of appellant's guilt, which is a '"very important' factor [that] weighs heavily in favor of finding that any error was harmless." *Bigbear*, 10 N.W.3d at 60.

In sum, after weighing the harmless-error factors, we conclude that appellant has not shown that there is any reasonable possibility the jury would have reached a different verdict had evidence regarding the incidents that preceded B.H. obtaining the HRO not been admitted.

Affirmed.