STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0346

State of Minnesota,
Respondent,

vs.

Edin Arnold Sanchez,
Appellant.

Filed January 13, 2025
Affirmed
Smith, John, Judge[*]

Lyon County District Court
File No. 42-CR-22-1021

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

Abby Wikelius, Lyon County Attorney, Julianna F. Passe, Assistant County Attorney, Marshall, Minnesota (for respondent)

Michelle K. Olsen, Birkholz & Associates, LLC, Mankato, Minnesota (for appellant)

Considered and decided by Johnson, Presiding Judge; Wheelock, Judge; and Smith, John, Judge.

[*] Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

SMITH, JOHN, Judge

We affirm appellant's conviction for first-degree criminal sexual conduct because the district court did not abuse its discretion in applying the rape-shield law and the evidence is sufficient to support the conviction.

FACTS

In March 2022, L.V. contacted the Marshall Police Department and reported that, 16 years earlier, when she was 11 and 12 years old, she was sexually assaulted on multiple occasions by a family member, appellant Edin Arnold Sanchez. On October 11, 2022, respondent State of Minnesota charged Sanchez with first-degree criminal sexual conduct under Minn. Stat. § 609.342, subd. 1(a) (2004).

Prior to his trial, Sanchez moved to introduce evidence that L.V. also reported being sexually assaulted by another individual around the same time of his alleged sexual conduct. In doing so, he raised his constitutional right to present a defense and asserted that L.V.'s other sexual-assault allegation is not protected under Minnesota's rape-shield law. Accordingly, Sanchez argued he should be allowed to use it to attack her credibility and establish an alternative perpetrator defense.

Following a motion hearing, the district court issued an order excluding the evidence, reasoning both that the rape-shield statute applies and that the "probative value of [the] evidence [is] substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury" under Minn. R. Evid. 403.

A three-day jury trial was held. During the trial, L.V. testified to multiple instances of sexual assault perpetrated against her by Sanchez when she was 11 and 12 years old, including that Sanchez (1) tickled and kissed her while babysitting her and her brother; (2) vaginally penetrated her with his penis while they were alone in his home; (3) showed her pornography, "directed" her to perform oral sex on him, and performed oral sex on her; (4) vaginally and anally penetrated her after they left a celebratory barbeque together; (5) picked her up in his vehicle and touched her vagina; and (6) requested she use his cell phone to take a picture of her vagina and performed oral sex on her.

L.V. further testified about a series of messages Sanchez sent her on Facebook Messenger when she was "about fifteen" years old. In these messages, Sanchez offered L.V. money; sent her an image of an undressed woman; and—when L.V. brought up what happened when she was 11 and 12 years old—stated "I didn't make you do anything, you wanted it."

Additionally, two of L.V.'s peers testified that, when L.V. was around 13 years old, she had disclosed Sanchez's sexual conduct to them. And Sanchez's ex-wife, who was in a relationship with him at the time of the alleged sexual assaults, testified to confronting Sanchez after she observed L.V. sitting on his lap at a family function in a way she deemed inappropriate and to once finding L.V. sleeping alone in Sanchez's bed.

The jury found Sanchez guilty of first-degree criminal sexual conduct and that he had engaged in more than one form of penetration of L.V.—an aggravating factor. The district court sentenced Sanchez to 172 months in prison, an upward durational departure based upon the presence of the aggravating factor.

DECISION

On appeal, Sanchez argues that he is entitled to a new trial because the district court abused its discretion by excluding the evidence of L.V.'s other sexual-assault allegation, and, in the alternative, that there is insufficient evidence to sustain his conviction.

I. The district court did not abuse its discretion in its evidentiary ruling.

We will not overturn a district court's evidentiary ruling absent a clear abuse of discretion, even when constitutional rights are implicated. *State v. Pendleton*, 706 N.W.2d 500, 510 (Minn. 2005). A district court abuses its discretion when "its decision is based on an erroneous view of the law or is against logic and the facts on the record." *State v. Glover*, 4 N.W.3d 124, 134 (Minn. 2024) (quotation omitted).

Minnesota's rape-shield law prohibits the admission of "evidence of [a] victim's previous sexual conduct" unless (1) the consent of the victim is a defense; or (2) the state's case includes evidence of semen, pregnancy, or disease. Minn. Stat. § 609.347, subd. 3 (2022); Minn. R. Evid. 412. Yet, in certain cases, the admission of previous sexual conduct evidence otherwise excluded by the rape-shield law may be "constitutionally required by the defendant's right to due process, his right to confront his accuser, or his right to offer evidence in his own defense." *State v. Kobow*, 466 N.W.2d 747, 750 (Minn. App. 1991), *rev. denied* (Minn. Apr. 18, 1991) (citing *State v. Caswell*, 320 N.W.2d 417, 419 (Minn. 1982)). But the right to present a defense is not unlimited—"a defendant has *no* right to introduce evidence that either is irrelevant, or whose prejudicial effect outweighs its probative value." *State v. Crims*, 540 N.W.2d 860, 865-66 (Minn. App. 1995), *rev. denied* (Minn. Jan. 23, 1996).

In *State v. Goldenstein*, we held that the constitutional right to present a defense requires that prior *false* accusations of sexual abuse are admissible to attack the credibility of a complainant victim. 505 N.W.2d 332, 340 (Minn. 1993), *rev. denied* (Minn. Oct 19, 1993). But before such evidence can be admitted, the district court must "make a threshold determination outside the presence of the jury that a reasonable probability of falsity exists." *Id.*

Sanchez argues that—regardless of the rape-shield law—his constitutional right to present a defense required the admission of the evidence of L.V.'s other sexual-assault allegation to permit him to explore L.V.'s "motive [for] fabrication" as a means of impeaching her credibility.[1] He contends that the district court (1) did not weigh the probative value of the other sexual-assault allegation against its prejudicial impact, and (2) failed to determine whether there was a "reasonable probability" that the allegation was false under *Goldenstein*.

Review of the record defeats Sanchez's first argument. As stated above, the district court expressly concluded *both* that the evidence of L.V.'s other sexual-assault allegation was barred by the rape-shield law *and* that its probative value was substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. *See* Minn. R. Evid. 403. The proper balancing test was applied. *State v. Anderson*, 394 N.W.2d 813,

[1] In his briefing on appeal, Sanchez also argued that the district court misapplied the rape-shield law because "uncorroborated statements of [a] complainant victim" do not constitute "sexual conduct" under Minn. Stat. § 609.347, subd. 3. At oral argument, Sanchez conceded this point, acknowledging that Minnesota caselaw conclusively establishes that the term "sexual conduct," as used in the rape-shield statute, includes "allegations of sexual abuse." *Kobow*, 466 N.W.2d at 750.

817-18 (Minn. App. 1986) (upholding the application of the rule 403 balancing test where evidence of prior sexual abuse charges related to a possible motive to fabricate), *rev. denied* (Minn. Dec. 12, 1986).

Turning to Sanchez's falsity argument under *Goldenstein*, we conclude it has been forfeited on appeal. "A reviewing court must generally consider only those issues that the record shows were presented and considered by the trial court in deciding the matter before it." *State v. Morse*, 878 N.W.2d 499, 502 (Minn. 2016) (quoting *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988)). At oral argument, Sanchez conceded that he did not argue that L.V.'s other sexual-assault allegation was false before the district court. Indeed, our careful examination of the record reveals he only contended that the allegation goes generally toward L.V.'s "credibility and veracity." We observe a significant difference between affirmatively asserting that an allegation is false and contending that it may suggest untruthfulness in some regard. Moreover, Sanchez offered no evidence from which the district court could have found that a "reasonable probability of falsity" existed. *Goldenstein*, 505 N.W.2d at 340.

On the record before us, we discern no abuse of discretion in the district court's exclusion of the evidence of L.V.'s other sexual-assault allegation under the rape-shield law.

II. Sufficient evidence supports Sanchez's first-degree criminal sexual conduct conviction.

When determining whether there is sufficient evidence to support a jury's finding, we conduct "a painstaking analysis of the record to determine whether the evidence, when

viewed in a light most favorable to the conviction, was sufficient to permit the jurors to reach the verdict which they did." *State v. Horst*, 880 N.W.2d 24, 40 (Minn. 2016) (quotation omitted). In conducting this review, we assume that "the jury believed the state's witnesses and disbelieved any evidence to the contrary." *State v. Moore*, 438 N.W.2d 101, 108 (Minn. 1989). We will not disturb the jury's verdict if, after applying the presumption of innocence and the state's burden to prove the elements of an offense beyond a reasonable doubt, the jury could reasonably have found the defendant guilty of the charged crime. *State v. Griffin*, 887 N.W.2d 257, 263 (Minn. 2016).

To be guilty of first-degree criminal sexual conduct under Minn. Stat. § 609.342, subd. 1(a), a defendant must (1) engage in sexual penetration or sexual contact of a complainant under 13 years of age, and (2) must be more than 36 months older than the complainant. "Sexual penetration," as defined by the statute, includes "sexual intercourse, cunnilingus, fellatio, or anal intercourse." Minn. Stat. § 609.341, subd. 12(1) (2004). "Sexual contact" includes "the intentional touching of the complainant's bare genitals or anal opening by the [defendant's] bare genitals or anal opening with sexual or aggressive intent." Minn. Stat. § 609.341, subd. 11(c) (2004). Here, the state had to prove that Sanchez (1) sexually penetrated or made sexual contact with L.V., (2) when L.V. was under 13 years of age, and (3) is more than 36 months older than L.V.

All three elements of the state's case were established through witness testimony. L.V. clearly testified that she had been vaginally and anally penetrated by Sanchez before she turned 13 years old. L.V. also clearly testified that she was made to perform oral sex on Sanchez and that he performed oral sex on her before she turned 13 years old. Finally,

the detective assigned to L.V.'s case testified that, through his investigation, he learned that Sanchez was born on February 22, 1981, making him 14 years older than L.V.

Sanchez argues that the state's witnesses provided inconsistent testimony such that the jury lacked a basis for finding him guilty.[2] But it is the role of the jury to determine the weight and credibility of witness testimony. *Moore*, 438 N.W.2d at 108.

We conclude that the evidence, viewed in the light most favorable to the verdict, was more than sufficient to support Sanchez's conviction of first-degree criminal sexual conduct.

Affirmed.

[2] Sanchez also (1) contends that "the evidence does not support that the [j]ury gave due regard to the presumption of innocence as required under Minnesota jurisprudence," and (2) appears to raise an evidentiary challenge to a limiting instruction given by the district court. But Sanchez has failed to present evidence or offer specific legal authority for either assertion. "An assignment of error in a brief based on mere assertion and not supported by argument or authority is waived unless prejudicial error is obvious on mere inspection." *State v. Wembley*, 712 N.W.2d 783, 795 (Minn. App. 2006) (quotation omitted), *aff'd on other grounds*, 728 N.W.2d 243 (Minn. 2007). Accordingly, Sanchez has forfeited these additional arguments.