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**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A17-0205**

State of Minnesota,  
Respondent,

vs.

Ronald James Meyer,  
Appellant.

**Filed January 22, 2018  
Affirmed  
Halbrooks, Judge**

Ramsey County District Court  
File No. 62-CR-16-4266

Lori Swanson, Attorney General, St. Paul, Minnesota; and

John J. Choi, Ramsey County Attorney, Peter R. Marker, Assistant County Attorney,  
St. Paul, Minnesota (for respondent)

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Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Bjorkman, Presiding Judge; Halbrooks, Judge; and  
Reyes, Judge.

**UNPUBLISHED OPINION**

**HALBROOKS, Judge**

Appellant challenges his convictions of assault-fear, assault-harm, and domestic  
assault by strangulation arguing that the district court committed reversible error by

admitting relationship evidence under Minn. Stat. § 634.20 (2014) and that a new trial is required because the admission of relationship evidence significantly affected the jury's verdict. Appellant also argues that the evidence was insufficient to prove that he intended to cause H.R. fear of bodily harm or death. We affirm.

## **FACTS**

Appellant Ronald James Meyer lived with two roommates, G.J. and H.R. One day, while H.R. was lying in bed, she heard G.J. in another room, yelling at Meyer to get his hands off him. When H.R. entered the other room to intervene, she saw Meyer standing with his hands around G.J.'s neck. H.R. yelled at Meyer to take his hands off G.J. After H.R. took Meyer's hands off of G.J., Meyer grabbed a plate from the kitchen sink, held it in a vertical position, and pushed the plate against H.R.'s stomach with enough force to push her backward. H.R. testified that Meyer was aware that she had recently undergone surgery when he pushed the plate into her stomach.

After the incident, H.R. called the police. By the time the police arrived, Meyer had left the house. He later returned, and H.R. called the police and asked them to come back. While she was on the phone, she heard Meyer state, "I'll kill you guys" while arguing with G.J. The police report notes that G.J. looked "immediately relieved" upon seeing them. The police ordered Meyer out of the house and arrested him.

Based on this incident, the prosecutor charged Meyer with two counts of threats of violence under Minn. Stat. § 609.713, subd. 1 (2014), two counts of felony domestic assault under Minn. Stat. § 609.2242, subd. 4 (2014), which included an assault-harm charge against G.J. and an assault-fear charge against H.R., and one count of domestic

assault (by strangulation) under Minn. Stat. § 609.2247, subd. 2 (2014). A jury trial was held; the state dismissed one threats-of-violence charge, and the district court granted Meyer’s motion for judgment of acquittal on the other threats-of-violence charge. The jury convicted Meyer of assault-fear against H.R., assault-harm against G.J., and domestic assault by strangulation against G.J. The district court imposed a stayed upward-durational departure sentence of 36 months in prison for the felony domestic-assault-harm conviction against G.J. and a stayed sentence of 21 months in prison for the felony domestic-assault-fear conviction against H.R. After Meyer violated probation, the district court revoked his probation and executed both sentences. This appeal follows.

## **D E C I S I O N**

### **I. Admissibility of Relationship Evidence**

Meyer challenges the admission of testimony concerning his prior conduct toward H.R., arguing that this evidence should not have been admitted as relationship evidence under Minn. Stat. § 634.20. We will not reverse a district court’s decision to admit similar-conduct or relationship evidence under Minn. Stat. § 634.20 in a domestic-abuse prosecution case absent a clear abuse of discretion. *State v. Lindsey*, 755 N.W.2d 752, 755 (Minn. App. 2008). The defendant claiming error in admitting evidence bears the burden of showing error and resulting prejudice. *Id.*

Before trial, the state filed a motion in limine to introduce relationship evidence involving Meyer, H.R., and G.J. Over Meyer’s objection, the district court granted the state’s motion at a pretrial hearing, reasoning that it would “be helpful to the jury and the probative value is not substantially outweighed by danger of unfair prejudice.” During the

prosecutor's direct examination of H.R. in trial, H.R. testified about Meyer's previous domestic-conduct incident against her:

I was in my room and I was sleeping and he kept walking through my room because you go through my bedroom to go to the front door and he kept coming in and saying he was going down to check the mail and it was like 1:00 in the morning and I kept asking him to stop coming in my room and he said he had to go down and check the mail.

So I finally locked the door and I locked it and then he pounded on my door and I wouldn't open it and he kept pounding on it and then he started punching holes in it, and then he did punch—I mean, there was quite a few holes in the door and then I finally opened the door up, and we ended up kind of arguing and he ended up punching me in the stomach that night.

Generally, evidence of a defendant's prior bad acts may not be admitted to show that a defendant acted in conformity with bad character. Minn. R. Evid. 404(b). But Minn. Stat. § 634.20 governs the admissibility of domestic-conduct evidence in domestic-violence cases. A district court may admit domestic-conduct evidence under Minn. Stat. § 634.20 if “(1) it is similar conduct by the accused, (2) it is perpetuated against the victim of domestic abuse or against another family or household member, and (3) the probative value of the evidence is not substantially outweighed by the danger of unfair prejudice.” *State v. Meyer*, 749 N.W.2d 844, 849 (Minn. App. 2008).

Meyer challenges the admission of H.R.'s statement under the third prong, arguing that the evidence was not probative and that it prejudiced his right to a fair trial. “Evidence presented under section 634.20 is offered to demonstrate the history of the relationship between the accused and the victim of domestic abuse.” *State v. Barnslater*, 786 N.W.2d

646, 650 (Minn. App. 2010), *review denied* (Minn. Oct. 27, 2010). The supreme court has expressly recognized “the inherent value of evidence of past acts of violence committed by the same defendant against the same victim.” *State v. Williams*, 593 N.W.2d 227, 236 (Minn. 1999).

At a pretrial hearing, the prosecutor explained that H.R. did not report the previous domestic-conduct incident because Meyer allowed H.R. to live in the home without paying rent, and H.R. was concerned that she would disrupt that arrangement by reporting it. The prosecutor argued that the evidence of the previous incident provided context of H.R. and Meyer’s relationship and would help the jury assess the credibility of the witnesses at trial. Based on the prosecutor’s argument, and over Meyer’s objection, the district court determined that the evidence would be helpful to the jury and that its probative value was not substantially outweighed by the danger of unfair prejudice.

Meyer argues that the evidence was not probative because, unlike cases in which the victim delays reporting or changes her story, H.R. called 911 shortly after Meyer pushed the plate against her. He also argues that the evidence constituted impermissible character evidence and did not help the jury analyze whether H.R. and G.J. fabricated their allegations against him.

We rejected a similar argument in *Meyer*. 749 N.W.2d at 850. In *Meyer*, the victim’s credibility was at issue and the appellant asserted that the relationship evidence led the jury to find him guilty based on past conduct—instead of evidence of the current charged offenses. *Id.* We determined that “the three prior acts of domestic violence . . . provided a context in which to examine [the victim’s] credibility.” *Id.*; see also *Lindsey*,

755 N.W.2d at 757 (noting that relationship evidence has “significant probative value in assisting the jury to judge witness credibility”). Here, Meyer challenged H.R.’s credibility and implied that she lied while testifying. At trial, Meyer’s attorney maintained in opening statement that H.R. “set this whole thing up because [she] wanted to take [Meyer and G.J.’s] social security checks.” Meyer also questioned H.R. about her drug use and highlighted minor inconsistencies between her responses to law enforcement and her testimony. Therefore, we agree with the district court’s determination that the evidence was probative because it helped the jury determine whether H.R.’s allegations were credible.

Meyer also argues that the evidence is not probative because it did not explain the context of their relationship but instead “merely illuminated allegations of a single prior physical assault.” We disagree. Relationship evidence “may be offered to illuminate the history of the relationship, that is, to put the crime charged in the context of the relationship between the two.” *State v. McCoy*, 682 N.W.2d 153, 159 (Minn. 2004). H.R. testified that she felt conflicted about their relationship. While referring to Meyer strangling G.J., H.R. stated that

I don’t think that he really would want to hurt him and means to hurt him, but just I don’t know what mood he was in that he would do that.

. . . .

. . . I just know from seeing [Meyer], being around him when he drinks and stuff he gets—he’s physical. He seems very angry when he gets drunk a lot of times.

She later testified that “I’m not really afraid of [Meyer] as a person because [Meyer]’s pretty cool. But when he’s drinking, when he’s under the influence, he just gets snake-y, and I don’t understand what it’s from, but he’s been like that since I met him.” And she testified that she initially wanted Meyer to be arrested but felt conflicted about testifying against him. Thus, H.R.’s statement provides context of the parties’ relationship that may have helped the jury understand her conflicted perception of the prior domestic-conduct incident.

Meyer contends that even if the evidence was probative, it was outweighed by its prejudicial effect because the jury could not fairly evaluate the charge after hearing about Meyer’s previous domestic-conduct incident against H.R. The district court determined that the statement’s probative value was not substantially outweighed by the danger of unfair prejudice. *See Meyer*, 749 N.W.2d at 849. “When balancing the probative value against the potential prejudice, unfair prejudice is not merely damaging evidence, even severely damaging evidence; rather, unfair prejudice is evidence that persuades by illegitimate means, giving one party an unfair advantage.” *Lindsey*, 755 N.W.2d at 757 (quotation omitted).

Here, the district court determined that the evidence was probative based on the state’s argument that the evidence put Meyer’s conduct in the context of how he previously interacted with H.R. and G.J. at home. To be sure, the district court did not give the jury a limiting instruction before H.R. testified. But any prejudicial effect was lessened because the district court provided a cautionary instruction during final jury instructions.

Although the evidence was damaging to Meyer, we agree with the district court that its prejudicial effect did not substantially outweigh its probative value because the evidence provided context of H.R. and Meyer's relationship and helped the jury assess both parties' credibility. Therefore, we conclude that the district court did not abuse its discretion by concluding that "the probative value is not substantially outweighed by danger of unfair prejudice" and by admitting the evidence as relationship evidence under Minn. Stat. § 634.20.

## **II. Cautionary Jury Instruction**

Meyer asserts, without providing any supporting authority, that the district court erred by not providing the jury with a cautionary instruction before H.R. testified about the prior domestic-conduct incident. An appellant waives an argument by merely alluding to an issue without addressing it in the argument. *See McKenzie v. State*, 583 N.W.2d 744, 746 n.1 (Minn. 1998). Although we need not address this argument, we briefly analyze this issue based on the record before us.

Meyer neither requested a cautionary instruction to the jury nor objected to the final jury instructions on this ground. Generally, a defendant's failure to request a specific jury instruction or object to an instruction at trial results in forfeiture of the issue on appeal. *State v. Goodloe*, 718 N.W.2d 413, 422 (Minn. 2006). But we may consider whether the district court's failure to provide a jury instruction constitutes plain error affecting Meyer's substantial rights. *Id.* "Plain error exists when the district court commits an obvious error that affects the defendant's substantial rights. An error affects a defendant's substantial

rights if it was prejudicial and affected the outcome of the case.” *Barnslater*, 786 N.W.2d at 653 (quotation and citation omitted).

In *State v. Melanson*, we determined that the district court did not plainly err when it failed to sua sponte provide a limiting instruction to the jury regarding the admission of relationship evidence. \_\_\_ N.W.2d \_\_\_, \_\_\_, 2018 WL 313074, at \*8 (Minn. App. Jan. 8, 2018). But we have also stressed that a district court should “instruct the jury regarding the proper use of relationship evidence . . . both when the evidence is received and in the final jury instructions.” *Barnslater*, 786 N.W.2d at 653. Here, the state conceded that the district court plainly erred. Even so, we need not determine whether the district court’s failure to provide a cautionary instruction constituted plain error because Meyer cannot demonstrate that the lack of instruction affected his substantial rights. *See State v. Sontoya*, 788 N.W.2d 868, 873 (Minn. 2010) (“[I]f a defendant fails to establish that the claimed error affected his substantial rights, we need not consider the other factors.” (quotation omitted)). In *Barnslater*, this court determined a defendant’s substantial rights were not affected when a witness briefly commented on the defendant’s previous conviction, the state did not present evidence of defendant’s conduct underlying those convictions, the district court’s final jury instruction minimized the risk for unfair prejudice, and the other evidence supporting the conviction was strong. *Barnslater*, 786 N.W.2d at 654.

Here, the district court sua sponte provided a limiting instruction before G.J. testified about relationship evidence and, as in *Barnslater*, provided a final cautionary jury instruction informing the jury that it could only consider G.J. and H.R.’s previous conduct testimony for a limited purpose. *See id.* Additionally, H.R.’s testimony of the prior

domestic-conduct incident was brief and consisted of less than two pages of a 291-page trial transcript, and the prosecutor referred to this testimony only once during closing argument in order to provide the context of the parties' relationship. *See id.* The state's evidence was also strong. *See id.* H.R. testified that she witnessed Meyer with his hands around G.J.'s neck and that Meyer pushed a plate against her stomach. G.J. also testified that Meyer had his hands around G.J.'s neck. And a police officer testified that when he arrived at the scene, H.R. was crying and requested medical attention because she had had an altercation with her roommate, and another officer testified that while questioning G.J., G.J. informed him that Meyer was "drinking and acting crazy and wild" and he took pictures of red marks on G.J.'s neck. Therefore, we conclude that although the district court plainly erred by failing to provide a cautionary instruction before H.R. testified about the prior domestic-conduct incident, the error did not affect Meyer's substantial rights because the relevant testimony was brief, the district court provided the jury with a final cautionary instruction that minimized the risk of unfair prejudice, and the state's evidence was strong.

### **III. Assault-Fear**

Meyer argues that we must reverse his conviction of assault-fear against H.R. because the state did not prove that he acted with the specific intent to cause H.R. to fear immediate bodily harm or death. In reviewing sufficiency of the evidence:

We will view the evidence in the light most favorable to the verdict and assume that the factfinder disbelieved any testimony conflicting with that verdict. The verdict will not be overturned if, giving due regard to the presumption of innocence and the prosecution's burden of proving guilt

beyond a reasonable doubt, the [factfinder] could reasonably have found the defendant guilty of the charged offense.

*State v. Palmer*, 803 N.W.2d 727, 733 (Minn. 2011) (alteration in original) (quotations and citation omitted).

Assault-fear occurs “through ‘an act done with intent to cause fear in another of immediate bodily harm or death.’” *State v. Fleck*, 810 N.W.2d 303, 308 (Minn. 2012). (quoting Minn. Stat. § 609.02, subd. 10(1) (2010)). Assault-fear is a specific-intent crime, and the defendant must intend to cause a particular result. *Id.* at 308-09. “An assault-fear offense ‘does not require a finding of actual harm to the victim.’” *Id.* at 308 (quoting *State v. Hough*, 585 N.W.2d 393, 395 (Minn. 1998)). The defendant’s intent becomes the focal point of the inquiry. *Id.* Intent is generally proved by circumstantial evidence by drawing inferences from the defendant’s words and acts in light of the totality of the circumstances, *State v. Cooper*, 561 N.W.2d 175, 179 (Minn. 1997), “and the events leading up to and immediately following the crime,” *State v. Barshaw*, 879 N.W.2d 356, 367 (Minn. 2016).

When a verdict is based on circumstantial evidence, we first identify the circumstances proved, “giving deference to the jury’s acceptance of the proof of these circumstances and rejection of evidence in the record that conflicted with the circumstanced proved by the State.” *Palmer*, 803 N.W.2d at 733 (quotation omitted). We then “independently examine the reasonableness of all inferences that might be drawn from the circumstances proved, including inferences consistent with a hypothesis other than guilt.” *Id.* (quotation omitted).

Here, the evidence demonstrates that Meyer acted with intent to cause fear in H.R. The state introduced evidence at trial that Meyer knew that H.R. was recovering from surgery when he pushed the plate into her abdomen. H.R. heard G.J. say “Knock it off, Motherf--ker. Get your hands off me,” immediately before Meyer pushed her. Meyer then grabbed a plate from the sink and pushed it against H.R.’s stomach with enough force that it pushed her backward.

Meyer testified that he did not assault H.R. or G.J. But “[a] factfinder may reject such an exculpatory statement if the evidence as a whole supports a finding that the actor intended the natural and probable consequences of his actions.” *Hough*, 585 N.W.2d at 396. The jury heard testimony that Meyer recently strangled his roommate, previously punched H.R. in the stomach when he became angry, grabbed a plate while appearing frustrated, and, knowing that H.R. had recently had surgery, forcefully pushed the plate into her abdominal region. Based on the verdict, we can infer that the jury found H.R. and G.J. to be credible and disbelieved Meyer’s testimony.

Meyer argues that the evidence supports an inference other than guilt because the state failed to preclude the inference that he only intended to move H.R. away from his personal space when he pushed the plate against her abdomen. We disagree. Neither the state nor Meyer presented any evidence that Meyer wanted H.R. to move from his personal space. At trial, Meyer testified that he did not even see H.R. on the day that he was arrested. Assuming that the jury believed H.R.’s version of the incident, the only reasonable inference the jury could draw, when viewing the evidence in the light most favorable to the

verdict, is that Meyer acted with the intent to cause H.R. to fear bodily harm. The evidence is sufficient to support Meyer's conviction of felony domestic-assault-fear.

**Affirmed.**