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**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-0614**

In the Matter of the Welfare of: D. A. H., Child.

**Filed October 23, 2017
Affirmed
Bjorkman, Judge**

Hennepin County District Court
File No. 27-JV-16-4905

Cathryn Middlebrook, Chief Appellate Public Defender, Susan Andrews, Assistant Public Defender, St. Paul, Minnesota (for appellant D.A.H.)

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

Michael O. Freeman, Hennepin County Attorney, Brittany D. Lawonn, Assistant County Attorney, Minneapolis, Minnesota (for respondent state)

Considered and decided by Cleary, Chief Judge; Bjorkman, Judge; and Reyes, Judge.

U N P U B L I S H E D O P I N I O N

BJORKMAN, Judge

Appellant challenges his conviction of aiding and abetting first-degree aggravated robbery, arguing that the district court abused its discretion by permitting the state to impeach him with evidence that he was on juvenile probation when the offense occurred. We affirm.

FACTS

On September 3, 2016, O.J. stopped at a market in Minneapolis on his way to work. He noticed a group of young men outside the market, whom he recognized because they were frequently there. Appellant D.A.H. was among the group. O.J. recognized him because D.A.H. sent him a work application through Facebook, thus becoming one of O.J.'s Facebook contacts.

As O.J. left the market, he believed that the group was waiting for him, so he began walking quickly toward the truck where his wife was waiting. D.A.H. approached him from the front and called out, "Hey, [O.J.], why are you running? We just want to talk." At this point, someone struck O.J. from behind and he fell, briefly losing consciousness. When he came to, D.A.H. kicked him, breaking his nose. O.J. heard someone ask about his wallet and felt someone searching his jacket. His wife, who was waiting for him in her truck, came to his aid by driving at the group and honking until they ran away.

O.J. provided the police with a photo that D.A.H. had uploaded to Facebook, which included two of the other assailants. O.J. also picked D.A.H. out of a photo lineup. O.J.'s wife also identified D.A.H., who was right in front of the truck when she stopped, as one of the attackers.

Before the bench trial, the state moved in limine for permission to question D.A.H. about his juvenile probationary status to demonstrate that he had a motive to lie during his testimony. D.A.H. opposed the motion. The district court ruled that the state could inquire about his probationary status, but the examination must be strictly limited to the fact that

D.A.H. was on probation at the time of the incident. On cross-examination, the state did not elicit details about D.A.H.'s earlier offense.

The district court adjudicated D.A.H. delinquent. The court expressly found that O.J. and his wife were credible witnesses and that D.A.H.'s testimony was not credible. D.A.H. appeals.

D E C I S I O N

We review a district court's evidentiary rulings for an abuse of discretion. *State v. Graham*, 764 N.W.2d 340, 351 (Minn. 2009). We will reverse a conviction based on an erroneous evidentiary ruling only if the defendant can demonstrate prejudice. *Id.* The defendant has the burden of establishing that the district court abused its discretion and that his substantial rights were prejudiced. *State v. Chavez-Nelson*, 882 N.W.2d 579, 588 (Minn. 2016).

D.A.H. argues that the district court abused its discretion because Minn. R. Evid. 609(d) prohibits impeachment of a witness with evidence of juvenile adjudications. We are not persuaded. The purpose of prohibiting use of juvenile adjudications is to protect "the anonymity of juvenile offenders." *Davis v. Alaska*, 415 U.S. 308, 319, 94 S. Ct. 1105, 1111-12 (1974). This purpose is less compelling when the juvenile offender is in court for a new offense, and appears as a witness. The district court permitted the state to ask D.A.H. one question—whether he was on juvenile probation—for the sole purpose of establishing that he had a motive to lie.

The district court's rationale for admitting limited evidence that D.A.H. was on probation is consistent with this court's holding that a defendant who testifies on his own

behalf may be cross-examined about his probationary status “to show that he had a motive to lie.” *State v. Johnson*, 699 N.W.2d 335, 339 (Minn. App. 2005), *review denied* (Minn. Sept. 28, 2005). In *Johnson*, the district court permitted the state to cross-examine Johnson about his probation status and conditions. *Id.* at 338. We relied on Minn. R. Evid. 616, which permits a party to attack a witness’s credibility by showing evidence of bias, prejudice, or other conflicts of interest. *Id.* at 339. And we concluded that “when defendants take the witness stand in their own behalf, they take on the role of a witness and become subject to cross-examination to the same extent as any other witness.” *Id.*

Moreover, D.A.H. has not demonstrated that he was prejudiced by the limited reference to his probationary status. The district court made detailed findings of fact, including express credibility determinations. The findings only refer to D.A.H.’s probation status to explain why he initially gave a false name to an investigating officer. We are mindful that the evidence was presented to the district court rather than a jury. In a bench trial, “[t]he risk of unfair prejudice to [a defendant] is reduced because there is comparatively less risk that the district court judge, as compared to a jury of laypersons, would use the evidence for an improper purpose or have his sense of reason overcome by emotions.” *State v. Burrell*, 772 N.W.2d 459, 467 (Minn. 2009). Based on our careful review of the record, we discern no abuse of discretion by the district court and no showing by D.A.H. that there is a reasonable possibility that he would have been acquitted absent the challenged evidence. *See Graham*, 764 N.W.2d at 351.

Affirmed.