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Minn. Stat. § 480A.08, subd. 3 (2016).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-1282**

State of Minnesota,
Respondent,

vs.

Michael John Wind,
Appellant.

**Filed May 29, 2018
Affirmed
Cleary, Chief Judge**

Beltrami County District Court
File No. 04-CR-16-3233

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

David Hanson, Beltrami County Attorney, David P. Frank, Assistant County Attorney,
Bemidji, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Rachel F. Bond, Assistant Public
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Halbrooks, Presiding Judge; Cleary, Chief Judge; and
Rodenberg, Judge.

UNPUBLISHED OPINION

CLEARY, Chief Judge

In this direct appeal from a judgment of conviction of third-degree criminal sexual
conduct, appellant Michael John Wind argues that the district court abused its discretion

by admitting evidence that he gave a false name to police nine months after the alleged offense. Because appellant's arguments go to the weight of the consciousness-of-guilt evidence rather than its admissibility, we affirm.

FACTS

On October 4, 2016, appellant was charged with third-degree criminal sexual conduct for an incident that occurred on March 28. A warrant for appellant's arrest was issued on October 6. On December 23, a police officer spotted appellant in a public library. The officer believed there was an active warrant for his arrest. An assisting officer approached appellant and asked for his name. Appellant responded with a name other than his own. Believing he provided a false name, police arrested appellant.

Respondent State of Minnesota filed a motion in limine to admit the library encounter as consciousness-of-guilt evidence and appellant objected. The district court heard arguments on the motion before trial and ruled that the evidence would only be admitted as consciousness-of-guilt evidence on rebuttal if appellant testified that the March 28 incident was consensual. Appellant testified that the incident was consensual and the district court provided a limiting instruction before allowing the responding officer to testify about the library encounter on December 23.

The jury found appellant guilty. The district court imposed an aggravated sentence of 124 months but granted the parties' joint motion for a downward-dispositional departure and stayed the sentence for 20 years. This appeal follows.

DECISION

“Evidentiary rulings rest within the sound discretion of the [district] court and will not be reversed absent a clear abuse of discretion. On appeal, the appellant has the burden of establishing that the [district] court abused its discretion and that appellant was thereby prejudiced.” *State v. Amos*, 658 N.W.2d 201, 203 (Minn. 2003) (citation omitted). Where an error does not implicate a constitutional right, the appellant bears the burden of demonstrating that a new trial is warranted because the error substantially influenced the jury’s verdict. *State v. Sanders*, 775 N.W.2d 883, 887 (Minn. 2009).

Appellant argues that a proper nexus did not exist between the library encounter and the crime charged and thus the district court erred in admitting the consciousness-of-guilt evidence. We disagree.

A defendant’s conduct suggesting that he is aware of his guilt is relevant evidence. *See State v. McTague*, 190 Minn. 449, 453, 252 N.W. 446, 448 (1934). Specifically, providing a false name to police “is a circumstance to be considered—not as a presumption of guilt, but as something for the jury—as suggestive of a consciousness of guilt.” *Id.* That a defendant may have other motives for his conduct does not render that conduct inadmissible but is rather an additional consideration for the jury. *State v. Hagen*, 391 N.W.2d 888, 892 (Minn. App. 1986), *review denied* (Minn. Oct. 17, 1986).

Appellant cites *State v. McDaniel*, 777 N.W.2d 739 (Minn. 2010), to support his argument that a nexus must exist between the crime charged and the consciousness-of-guilt conduct. The appellant in *McDaniel* relied on *Ricks v. Commonwealth*, 573 S.E.2d 266, 269 (Va. Ct. App. 2002), to support the argument that the consciousness-of-guilt evidence

was inadmissible because he did not know he was a suspect and thus no evidence connected the crime charged to the consciousness-of-guilt evidence. *McDaniel*, 777 N.W.2d at 747. But the *McDaniel* court did not adopt the holding from *Ricks*; rather, *McDaniel* simply holds that a defendant's reasons to flee police "go to the weight of the evidence—not its admissibility." *Id.*

Here, evidence admitted on rebuttal that appellant gave police a false name prior to arrest is relevant as consciousness of guilt. That appellant may not have been aware of the charge or warrant prior to providing a false name goes to the weight of the consciousness-of-guilt evidence rather than its admissibility. The district court did not abuse its discretion in admitting the evidence.

Affirmed.