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**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-1560**

State of Minnesota,
Respondent,

vs.

Glen Dale Acon,
Appellant.

**Filed September 4, 2018
Affirmed
Rodenberg, Judge**

Ramsey County District Court
File No. 62-CR-16-2998

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

John Choi, Ramsey County Attorney, Adam E. Petras, Assistant County Attorney, St. Paul,
Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Suzanne M. Senecal-Hill,
Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Connolly, Presiding Judge; Johnson, Judge; and
Rodenberg, Judge.

UNPUBLISHED OPINION

RODENBERG, Judge

Appellant Glen Dale Acon appeals from his convictions for second-degree
intentional murder, second-degree felony murder, and aiding and abetting first-degree riot,

all for the benefit of a gang. He argues that his right to a speedy trial was violated, that the district court erroneously denied his pretrial suppression motion, and that the district court erred by admitting unnecessary and prejudicial gang expert testimony. Appellant also raises several arguments in a pro se supplemental brief. We affirm.

FACTS

R.B. and his girlfriend went to a barbecue at Mounds Park in St. Paul on April 17, 2016. Appellant was also present. R.B. and his girlfriend left the barbecue shortly after 7:00 p.m. As they walked to their car, a black SUV rolled past. R.B., who associated with the “Forever After Money” (FAM) gang, recognized the SUV’s occupants as individuals associated with the “Everybody Killer” (EBK) gang. FAM and EBK used to be affiliated, but FAM split off from EBK and some animosity developed between the two groups. EBK is associated with the East Side gangs and FAM has had disputes with the East Side gangs since the split.

The EBK gang members exchanged words with R.B. as they passed in the SUV. The driver of the SUV parked it out of sight, and four or five people got out. They walked over to R.B. and began arguing with him. It appeared to some present that the group was going to attack R.B. Appellant and another male intervened by standing near R.B. and saying to the EBK group that any fight should be one-on-one. Eventually, someone from the EBK group displayed a gun. Appellant pulled out his own gun. At that point, other bystanders began to disperse.

R.B. testified at trial that he asked appellant if he could borrow appellant’s gun. Multiple witnesses testified that appellant handed his gun to R.B. and that appellant did not

appear upset that R.B. had the gun. R.B. testified that appellant said, “[D]o your thing little bro,” before hiding behind a tree. R.B. said that he shot the gun once toward the EBK gang members and once into the air. R.B. returned the gun to appellant and ran away. R.B. testified that, before he started running, he saw appellant fire the handgun. Witnesses described the scene as being one of chaos and terror, with people running and fleeing. During the commotion, B.C. was shot in the head. He later died. Forensic examiners discovered approximately forty cartridge casings from .357, .22, .40, and 9-millimeter guns at the scene.

Two days after this shooting at Mounds Park, police apprehended appellant in downtown St. Paul. Officers saw appellant carrying and throwing a handgun as he fled from them on foot. Law enforcement recovered a handgun holster with a silver magazine and a Sig Sauer .357 caliber handgun that appellant had thrown. A bag of .357 caliber ammunition was also recovered from appellant’s vehicle. Minnesota Bureau of Criminal Apprehension forensic examiners determined that the major DNA profiles taken from the handle and trigger of the Sig Sauer gun matched appellant. The forensic examiners also concluded that some of the cartridge casings recovered from Mounds Park had been ejected by the gun recovered from appellant when he was arrested. Several of these cartridge casings were found near the tree behind which witnesses reported that appellant had been hiding. Forensic examiners also determined that bullet fragments recovered during the autopsy of B.C. were from a bullet fired from appellant’s gun.

The state charged appellant with two counts of second-degree murder and one count of first-degree riot, all committed for the benefit of a gang.

Appellant's Speedy-Trial Demands and Waivers

Appellant pleaded not guilty and demanded a speedy trial on May 20, 2016. Appellant withdrew that demand and waived his right to a speedy trial on June 13, 2016. On August 11, 2016, appellant again demanded a speedy trial. He then withdrew his second speedy-trial demand on August 24, 2016.

At an omnibus hearing on December 22, 2016, the district court noted that trial, previously scheduled for January 17, 2017, was being postponed. Defense counsel stated that a trial date of May 1, 2017, had been agreed upon. Defense counsel noted that appellant “is unhappy with that” and “thinks it’s taking too long.” Appellant’s trial attorneys also stated that they “spoke to [appellant] about the benefit of having both of [his attorneys] at full strength and being able to focus on the case at 100 percent.” Appellant said that he felt like his speedy-trial right had been violated because over 120 days had passed since his earlier speedy-trial demand. Appellant’s trial counsel stated, “We have talked to you. You know why.” Appellant then said, “Nothing for me to say. I can’t say what I want to, so I don’t know that there is anything for me to say.”

No new speedy-trial demand was made at the omnibus hearing. The district court then discussed how managing other trials had resulted in appellant’s trial being set for January. The district court stated that it “was fully prepared, I think the attorneys were, to give you your trial on January 17th. But as you know something came up and made that difficult to happen.” The district court also noted that there were several motions that needed to be addressed before trial, including appellant’s motion challenging whether police had probable cause to arrest him.

Omnibus Hearing Concerning Appellant's Arrest

At a pretrial omnibus hearing, appellant challenged whether law enforcement had probable cause to arrest him. Saint Paul Police Officer Chad Degree testified that he was familiar with appellant and that law enforcement had learned that appellant had a gun at Mounds Park at the time of the shooting and had video evidence confirming that. Minneapolis Police Officer Jeffrey Werner testified that he had worked with a confidential reliable informant (CRI) over the previous nine months. This CRI had provided reliable information that had led to arrests for controlled substances and weapons at least three times. This CRI told Officer Werner that an individual known as “Mike Mike” contacted him and was trying to get rid of a handgun that “had a body on it.”¹ The CRI provided neither “Mike Mike’s” real name nor a description of “Mike Mike’s” person, vehicle, or clothing. The CRI gave “Mike Mike’s” phone number to Officer Werner, who obtained GPS location information concerning that phone.² Officer Werner also shared the CRI’s information with Officer Degree. Officer Degree knew that appellant used the nickname “Mikey” or “Mike Mike,” that appellant was ineligible to possess a firearm, and that appellant was on parole for possession of a firearm.

Officer Degree and other police officers went to the location in downtown St. Paul associated with the Global Positioning System (GPS) pings on “Mike Mike’s” phone

¹ It is agreed that a gun with “a body on it” refers to a gun that was used to kill someone.

² At the omnibus hearing, no record was made concerning how a cell phone’s location can be tracked based on its “pings” from various cell phone towers. The parties do not dispute the validity or accuracy of the GPS location information for appellant’s phone used in this case.

number. The officers located appellant, whom Officer Degree recognized on sight. The officers surveilled appellant while the CRI continued to speak with him on the phone. The CRI told Officer Werner that “Mike Mike” had the gun on his person. The officers watched appellant get into and leave in a green Tahoe and followed that vehicle for about an hour. During that time, the officers did not see a gun or notice appellant violate any laws.

When the CRI told the officers that appellant was about to get rid of the gun, the officers waited for appellant to exit the Tahoe, and then approached him. Officer Werner testified that, when they decided to approach, the officers “were initiating a stop based on reasonable articulable suspicion” and that this was an “investigative stop” intended to result in appellant being detained for further investigation. A uniformed officer in a marked police vehicle activated his lights to initiate the stop. As officers approached appellant, he fled on foot. Officers saw appellant holding and then throwing a handgun as he fled. The officers arrested appellant and recovered the handgun and holster that appellant had thrown.

Expert Gang Testimony at Trial

The state called St. Paul Police Officer Darryl Boerger to testify at trial as a gang expert. Officer Boerger provided the legal definition of a criminal gang, which is an organization that has the “primary activity” of committing crimes, including “robberies, thefts, auto theft, burglary, [and] assaults.” Upon further questioning, Officer Boerger testified that EBK and FAM meet the definition of a criminal gang and commit “crimes the community becomes outraged with because they become violent.” Officer Boerger also testified that, since a 2013 split, there has been much tension and fighting between

FAM and the East Side gangs. The officer also testified that E-Blocc was a West Side gang that was regularly in conflict with the East Side gangs and that E-Blocc gang members committed a number of crimes enumerated in Minn. Stat. § 609.11, subd. 9, such as assault, robbery, burglary, and drive-by shootings.

Officer Boerger also testified concerning gang culture. The officer explained that respect is the “number one priority” for gang members. “Old gangsters” are those who have been involved in the gang community for the longest time and expect the most respect. According to Officer Boerger, most gangs are no longer hierarchical but E-Blocc has “one person who called the shots . . . [and] [i]f it wasn’t taken seriously, there were consequences.” Those consequences often involve physical violence. He further testified that gangs adhere to the idea that “[t]he enemy of my enemy is my friend.”

Officer Boerger identified images of appellant’s tattoos, stating that appellant had the word “E-Blocc” tattooed on his right forearm and the word “MONSTER” on his left arm. Officer Boerger testified that, from his experience with appellant and other E-Blocc members, the word “monster” on appellant’s arm means that appellant “is the man. . . . He demands respect, he gets respect. He is a true gangster. And monster is what you in your own minds would think a monster would be.”

Appellant’s Trial Presentation and the Verdict

The case was tried to a jury. During trial, the attorneys and the district court spoke in chambers “about [a] couple of [appellant’s] witnesses [who] have not been found yet.” Efforts were being made to locate them. Appellant’s trial counsel had previously noted to

the district court that there was “a bit of uncertainty” concerning whether appellant’s final witness would be present.

Appellant testified at trial that he went to a barbecue at Mounds Park on April 17, 2016. At some point, appellant saw a gathering in the street. Appellant testified that he walked over to the group in the street but did not, before that day, know any of the individuals involved. Upon approaching the group, appellant saw a female yelling and spraying pepper spray at members of the group. Appellant also testified that R.B. had taken off his shirt and was saying he would fight anyone from the group one-on-one. Appellant testified that he stepped in to tell the group to fight R.B. one-on-one.

Appellant testified that he took out his gun after someone else flashed one, then tucked his own gun back under his shirt. Appellant testified that R.B. had asked for appellant’s gun but appellant had said “no” and kept watching the other armed man before putting the gun away. Appellant felt a tug in front of him, then realized that R.B. had grabbed his gun. Appellant testified that he would not have given anyone his gun because he has “a phobia about other people [having] guns” and not having one himself. Appellant testified that R.B. was running toward the group yelling about how he would kill someone. Appellant said he briefly chased R.B., but then hid behind a tree when he heard the first gunshot. Eventually, R.B. gave the gun back to appellant. According to appellant, the gun “had no more bullets in it” when R.B. returned it to him. Appellant testified that he never shot the gun that day. On cross-examination, appellant testified that he does not know who the East Side gangs are and that “E-Blocc and East Side has never been in a feud.” Appellant agreed that he is with the E-Blocc gang and goes by “Mikey” and “E-Blocc

Monster.” Appellant also admitted that he ran from the police and threw his gun and holster on April 19, 2016.

After appellant’s testimony, the district court spoke with counsel in chambers before stating on the record that at least one defense witness was no longer in contact with his attorney after receiving a subpoena. The defense rested. The jury found appellant guilty of all charges. The district court sentenced appellant to 441 months in prison.

This appeal followed.

D E C I S I O N

I. Appellant’s speedy-trial right was not violated.

Appellant argues that the delay from the scheduled January 17 trial date to May 1, when trial began, violated his speedy-trial right.

The United States and Minnesota Constitutions guarantee a criminal defendant the right to a speedy trial. U.S. Const. amend. VI; Minn. Const. art. I, § 6; *State v. DeRosier*, 695 N.W.2d 97, 108 (Minn. 2005). In Minnesota, a “trial is to commence within 60 days from the date of demand unless good cause is shown . . . why the defendant should not be brought to trial within that period.” *State v. Hahn*, 799 N.W.2d 25, 29-30 (Minn. App. 2011), *review denied* (Minn. Aug. 24, 2011); *see also* Minn. R. Crim. P. 11.09(b).

A deliberate attempt to delay trial weighs heavily against the state. *Barker v. Wingo*, 407 U.S. 514, 531, 92 S. Ct. 2182, 2192 (1972). “A more neutral reason such as negligence or overcrowded courts should be weighted less heavily but nevertheless should be considered since the ultimate responsibility for such circumstances must rest with the government rather than with the defendant.” *Id.* But “[i]f a defendant’s own actions caused

the delay, there is no violation of the right to a speedy trial.” *State v. Griffin*, 760 N.W.2d 336, 340 (Minn. App. 2009).

Appellant twice asserted his right to a speedy trial. He withdrew each speedy-trial demand. Appellant’s trial was scheduled to begin on January 17, 2017, but was continued to and began on May 1, 2017. While appellant argues that the only reason for this additional delay was the attorneys’ and the district court’s calendars, the record clearly reflects that the delay from January 17 to May 1 resulted from the request of appellant’s trial counsel. Appellant expressed his unhappiness with the delay at a hearing, but did not renew his speedy-trial demand; appellant’s trial counsel explicitly stated that appellant was not reasserting the demand at that hearing. Appellant’s trial counsel’s request for a continuance defeats appellant’s argument on appeal that his speedy-trial right was violated.

II. The district court did not err when it denied appellant’s motion to suppress the gun and gun-related evidence.

Appellant argues that the district court committed reversible error by declining to suppress the gun and gun-related evidence obtained on April 19, 2016. He argues that the CRI’s information was insufficient to provide probable cause to arrest appellant without a warrant.

The United States and Minnesota Constitutions protect an individual’s right to be free from “unreasonable searches and seizures.” U.S. Const. amend IV; Minn. Const. art. 1, § 10. We “independently review[] the facts to determine the reasonableness of the conduct of police in making the arrest.” *State v. Jenkins*, 782 N.W.2d 211, 221 (Minn. 2010) (quotation omitted). “To determine whether this constitutional prohibition has been

violated, we examine the specific police conduct at issue.” *State v. Timberlake*, 744 N.W.2d 390, 393 (Minn. 2008).

“Police may arrest a felony suspect without a warrant in any public place provided they have probable cause.” *State v. Cook*, 610 N.W.2d 664, 667 (Minn. App. 2000). “Probable cause for an arrest exists when police ‘reasonably could have believed that a crime has been committed by the person to be arrested.’” *Jenkins*, 782 N.W.2d at 221 (quoting *State v. Riley*, 568 N.W.2d 518, 523 (Minn. 1997)). An officer may also “conduct a brief, investigatory stop when the officer has a reasonable, articulable suspicion that criminal activity is afoot.” *Illinois v. Wardlow*, 528 U.S. 119, 123, 120 S. Ct. 673, 675 (2000) (citing *Terry v. Ohio*, 392 U.S. 1, 30, 88 S. Ct. 1868, 1880 (1968)). “[T]he reasonable suspicion showing is ‘not high.’” *State v. Bourke*, 718 N.W.2d 922, 927 (Minn. 2006) (quoting *Richards v. Wisconsin*, 520 U.S. 385, 394, 117 S. Ct. 1416, 1422 (1997)). “Reasonable suspicion must be based on specific, articulable facts that allow the officer to be able to articulate that he or she had a particularized and objective basis for suspecting the seized person of criminal activity.” *State v. Morse*, 878 N.W.2d 499, 502 (Minn. 2016) (quotations omitted). “Police must be able to articulate more than an inchoate and unparticularized suspicion or hunch of criminal activity.” *Timberlake*, 744 N.W.2d at 393 (quotation omitted). We “consider the totality of the circumstances in determining whether the police had justification for a *Terry* stop.” *State v. Hollins*, 789 N.W.2d 244, 248 (Minn. App. 2010), *review denied* (Minn. Dec. 12, 2012).

The district court found that police had probable cause to arrest appellant upon their initial approach to him in downtown St. Paul. Appellant argues that this was error. But

the district court also noted that the officers did not approach appellant until he was out of his car, that appellant fled when he saw law enforcement approaching, and that “a firearm was clearly visible in his possession, giving them probable cause to make an arrest.” On this record, it is evident that appellant was not immediately arrested when law enforcement approached him. Instead, when approached by police who had reasonable suspicion to approach him as an ineligible person possessing a firearm,³ appellant ran from the officers and threw a handgun and holster during his flight.

Assuming without deciding that appellant was seized by the approaching officers, police had a reasonable, articulable suspicion to detain appellant at that point. Police knew him to be ineligible to possess a firearm at the time they approached him on a public street. Probable cause to arrest appellant instantly developed when appellant fled and the officers saw appellant holding and tossing a handgun. There was no unconstitutional police action here. The district court did not err when it denied appellant’s motion to suppress the gun and gun-related evidence.

³ The CRI had told police that “Mike Mike,” appellant’s street name, contacted him and was trying to sell a handgun that had been used to kill someone. The CRI gave the officers “Mike Mike’s” phone number. Officers used the GPS data associated with that number to locate appellant. The CRI’s information, combined with the officers’ prior knowledge and investigation, gave law enforcement reason to believe that appellant was the person who told the CRI he was trying to get rid of the handgun. Upon locating appellant, law enforcement followed him for about an hour, attempting to discern whether appellant—who Officer Degree knew was ineligible to carry a firearm—had a gun.

III. Appellant is not entitled to a new trial because any error from improper gang expert testimony was harmless.

Appellant argues that the district court erred by admitting gang expert testimony because the testimony was unfairly prejudicial and improperly dissuaded the jury from exercising its independent judgment.

Appellant objected at trial to the gang expert testimony. We review evidentiary rulings on gang expert testimony for abuse of discretion. *State v. Vang*, 774 N.W.2d 566, 576 (Minn. 2009). Minn. R. Evid. 702 allows “a witness qualified as an expert by knowledge, skill, experience, training, or education” to testify in the form of an opinion if his “scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue.” The supreme court has held that the state may offer expert testimony when a defendant has been charged with committing a crime for the benefit of a gang. *Id.* “General testimony about the workings of a gang or the types of activities in which gangs engage is not considered testimony that reaches an ultimate legal conclusion, and is often necessary to prove that a crime was committed ‘for the benefit of a gang.’” *State v. Brown*, 815 N.W.2d 609, 620 (Minn. 2012) (citation omitted). If a district court abuses its discretion in admitting testimony, we will reverse if the error “substantially influence[d] the jury’s decision.” *DeShay*, 669 N.W.2d at 888. “Our analysis focuses on how the testimony was used and its impact on the jury.” *Vang*, 774 N.W.2d at 579.

The need to prove that a defendant was involved in a criminal gang “does not open the door to unlimited expert testimony.” *State v. DeShay*, 669 N.W.2d 878, 886 (Minn. 2003). Expert testimony is not necessary or proper concerning issues that a jury can resolve by applying principles of general or common knowledge. *Id.* at 885. “Gang expert testimony that duplicates first-hand knowledge testimony should be avoided.” *Vang*, 774 N.W.2d at 576. To be properly admitted, the expert testimony must “add precision or depth to the jury’s ability to reach conclusions about that subject which is within [the expert’s] experience.” *Id.* at 579 (quotation omitted). And testimony that may otherwise be acceptable under Minn. R. Evid. 702 should nevertheless be excluded if its probative value is substantially outweighed by its prejudicial effect. *DeShay*, 669 N.W.2d at 888 (citing Minn. R. Evid. 403).

Appellant argues that the district court abused its discretion by allowing several unduly prejudicial parts of Officer Boerger’s testimony. Appellant first argues that Officer Boerger listed a number of dangerous offenses that the gangs committed and “added commentary designed to strike fear into the jury by telling the jury about the community outrage” over the offenses and that the gangs would victimize “anybody they come in contact with.” But the statements that appellant now challenges were made during Officer Boerger’s discussion of EBK and FAM, and before he was asked any questions about E-Blocc, the gang with which appellant associates. The officer provided only general testimony about E-Blocc’s criminal activity. Officer Boerger’s testimony about criminal behavior of gangs with which appellant was not associated was not unduly prejudicial.

Appellant next argues that the officer's testimony about the hierarchical structure of E-Blocc and the "old gangster" status in the gang community was unfairly prejudicial because it essentially led the jury to believe that appellant was the shooter because he felt disrespected. A gang expert's general testimony that "gang members have to retaliate if a gang member is involved in an incident with a rival gang" is prejudicial because it creates "a risk that the jury would improperly use this evidence to conclude that [the defendant] was the shooter simply because he is a member of a gang." *State v. Blanche*, 696 N.W.2d 351, 362, 374 (Minn. 2005). But the supreme court has approved a gang expert's testimony that certain incidents could provoke retaliation when the expert does not speculate that the shooting was motivated by retaliation and does not directly implicate the defendant in the offense. *State v. Thao*, 875 N.W.2d 834, 841 (Minn. 2016); *State v. McDaniel*, 777 N.W.2d 739, 748-49 (Minn. 2010).

Here, Officer Boerger testified that respect is the "number one priority" in the gang community. He also testified that, while most modern gangs are nonhierarchical, he learned through his work that "E-Blocc was an exception" and has "one person who called the shots." The officer explained that gang members impose consequences for disrespect and that "old gangsters" demand higher levels of respect. Officer Boerger did not opine that the shooting at issue occurred because of disrespect, and did not speculate that appellant was involved in the shooting. Officer Boerger's testimony is consistent with that approved by the supreme court in *Thao* and *McDaniel*. *Id.* Moreover, this testimony provided information outside of the average juror's knowledge and added "precision or

depth to the jury's ability to reach conclusions about that subject which is within [the expert's] experience." *See Vang*, 774 N.W.2d at 579 (quotation omitted).

Appellant also argues that Officer Boerger's testimony concerning the statutory definition of a criminal gang and describing E-Blocc's crimes in terms of the statute impermissibly provided a legal conclusion and essentially told the jury what result to reach.

"[I]t is improper for an expert to express an opinion that [a group] is a criminal gang under the statute, or that a defendant committed a crime to benefit a criminal gang because these opinions are the ultimate conclusions reserved for the jury." *State v. Yang*, 774 N.W.2d 539, 556 (Minn. 2009). "But it is not improper for an expert to testify regarding the underlying facts necessary to determine whether [the group] is a criminal gang or that a defendant committed a crime for the benefit of a gang." *Id.* "[A]n expert may present testimony as to the activities of a group, whether the group has a common name, sign, or symbol, and whether the group members individually or collectively engage in criminal activity." *Id.*

In *Yang*, the supreme court determined that it would have been improper for the gang expert to testify that the gang in which the defendant had stipulated to being a member was a criminal gang under Minnesota law because such testimony was a legal conclusion. *Id.* Here, Officer Boerger provided the legal definition of a criminal gang and testified that EBK and FAM meet that definition. But appellant affiliates with E-Blocc, not EBK or FAM. The officer's testimony that EBK and FAM each meet the statutory definition of a criminal gang was not improper and did not prejudice appellant because the gang that the

state alleged appellant to have benefitted by the charged offenses was not identified by Officer Boerger as one that meets the statutory definition.

There are several respects in which we agree that Officer Boerger's testimony was improper. The prosecutor asked Officer Boerger what types of crimes E-Blocc commits. Officer Boerger responded, "as mentioned in the legal definition of a gang, [section] 609.11, subdivision 9, those crimes of assault, robbery, burglary, auto theft," and drive-by shootings. The supreme court has held that a gang expert's testimony referencing "statute 609.11" in explaining the type of activity that a gang engages in constitutes "a legal conclusion that the third prong of Minn. Stat. § 609.229, subd. 1, had been met" and "invade[s] the province of the jury." *Vang*, 774 N.W.2d at 579. Officer Boerger's reference to Minn. Stat. § 609.11 in describing E-Blocc's criminal activity was improper.

Appellant also challenges Officer Boerger's testimony about the meaning of appellant's tattoos. Officer Boerger's testimony concerning appellant's tattoos was twofold. First, he testified that appellant's "E-Blocc" tattoo reflects appellant's "significant commitment" to the gang. Second, he told the jury that appellant's "Monster" tattoo means "what you in your own minds would think a monster would be." Appellant argues that testimony concerning the "E-Blocc" tattoo improperly suggested that he is an active gang member and that the testimony concerning the "Monster" tattoo was prejudicial.

The supreme court has held that a gang expert's testimony identifying the defendant's tattoos as gang related is not erroneous when the testimony did not duplicate testimony from other witnesses. *Thao*, 875 N.W.2d at 841. The supreme court has expressed concern when an expert testifies that the defendant is a gang member. *Blanche*,

696 N.W.2d at 374; *State v. Lopez-Rios*, 669 N.W.2d 603, 612 (Minn. 2003). Here, appellant himself testified that he is a member of E-Blocc, rendering any such inference from Officer Boerger's testimony unnecessary and of no consequence to appellant's trial posture.

Officer Boerger's comments concerning appellant's "Monster" tattoo are more troubling. Officer Boerger testified that the tattoo means appellant "is the man. He is the guy in E-Blocc" and that he "demands respect, he gets respect." This testimony may have been helpful to put in context appellant's conduct on the day of the shooting. But Officer Boerger's testimony that "monster is what you in your own minds would think a monster would be" impermissibly implies that appellant is a "monster." Such testimony is not helpful to the jury in evaluating the issues before it and serves no legitimate purpose.

Because Officer Boerger's reference to Minn. Stat. § 609.11, subd. 9, in his description of E-Blocc's activities and his statement concerning appellant's "monster" tattoo were improper, we review that testimony for harmless error. *See Vang*, 774 N.W.2d at 576.

In *Vang*, the supreme court held that the expert's testimony containing a legal conclusion concerning whether a group was a criminal gang was harmless because "[t]he State did not rely on the testimony in its closing argument," there was substantial evidence that the group was a criminal gang, and the district court instructed the jury to consider the expert opinion evidence "neither more nor less" than other evidence. 774 N.W.2d at 579. Here, the state likewise did not rely on the officer's impermissible testimony in summation. The district court also instructed the jury on the proper use of expert testimony. As in

Vang, “This instruction presumably minimized any prejudice appellant suffered from [Boerger]’s improper legal opinion.” *Id.* at 579-80.

Additionally, while Officer Boerger’s testimony concerning appellant’s “monster” tattoo was improper, it did not substantially influence the verdict. Testimony from several witnesses supports the conclusion that appellant handed R.B. the gun. Forensic evidence also revealed that appellant’s gun matched several cartridge casings found at the scene, including cartridges found where appellant himself testified that he was standing. The bullet fragment recovered from B.C.’s head during the autopsy was identified at trial as having come from appellant’s gun, on which appellant’s DNA was found. Based on the substantial evidence against appellant, the jury’s verdict is not attributable to Officer Boerger’s fleeting but improper riff on appellant’s “Monster” tattoo.

Appellant is not entitled to a new trial. Most of the district court’s evidentiary rulings at trial were proper. As to the two instances of improper gang expert testimony, the record convinces us that those errors were harmless.

IV. Appellant’s pro se arguments are meritless.

Appellant raises five arguments in his pro se supplemental brief. He argues that: (1) the ballistics evidence should not have been admitted at trial; (2) counts three and four (second-degree and felony-murder charges) were not charged with proper predicates; (3) the Snapchat videos should have been excluded because they were prejudicial and showed none of the fighting; (4) the transcripts contain inaccurate dates; and (5) his trial counsel was ineffective for encouraging him to waive his speedy-trial rights and for failing to show him all of the paperwork in his case.

First, appellant's pro se supplemental brief cites no legal authority. "We will not consider pro se claims on appeal that are unsupported by either arguments or citations to legal authority." *State v. Bartylla*, 755 N.W.2d 8, 22 (Minn. 2008).

Despite inadequate briefing, we have reviewed and considered appellant's pro se arguments and find them to be meritless. There is no basis in the record to support the argument that the ballistics evidence was improperly admitted at trial. Appellant's challenge to counts three and four of the amended complaint is procedurally improper. Appellant may only appeal an adverse final judgment, defined as "when the district court enters a judgment of conviction and imposes or stays a sentence." Minn. R. Crim. P. 28.02, subd. 2(1). Here, the district court pronounced a sentence for count one only, precluding appellant's challenge to any other counts. The Snapchat videos of which appellant complains depict what occurred before the shooting and were certainly relevant and helpful to the jury. Concerning appellant's arguments that the transcripts are inaccurate, appellant fails to either establish the claimed inaccuracy or show how any inaccuracy prejudiced him. "General allegations of error, without detailing specific factual or legal errors, do not aid our review of the lower court's proceedings." *State v. Bowles*, 530 N.W.2d 521, 525 n.1 (Minn. 1995). This generalized claim of error does not entitle appellant to relief.

Finally, appellant claims that his trial counsel was ineffective for encouraging him to waive his speedy-trial rights and for failing to provide appellant with all of the case-relevant paperwork. He argues that he "may have" accepted a plea agreement if he had that paperwork.

To succeed on a claim that his trial counsel was ineffective, appellant must show that trial counsel's performance "(1) fell below an objective standard of reasonableness (performance prong), and (2) that a reasonable probability exists that the outcome would have been different but for counsel's errors (prejudice prong)." *Blanche*, 696 N.W.2d at 376. On this record, appellant has not demonstrated that his trial counsel's performance was unreasonable, and he has not demonstrated any reasonable probability that the outcome would have been more favorable to him had his trial counsel acted differently. He also identifies no evidence in the record that the state offered any plea agreement, and only claims that he "may have" accepted such a deal had things gone differently. Appellant's ineffective-assistance-of-counsel claim is without merit.

In sum, appellant's right to a speedy trial was not violated because the delay of which appellant complains was caused by his own request for a continuance of the trial date. The district court did not err in admitting gun-related evidence. And while parts of the gang expert's testimony were improper, that testimony had no effect on the jury's verdict.

Affirmed.