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**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-1144**

State of Minnesota,
Respondent,

vs.

Deandre Darnell Bradley,
Appellant.

**Filed June 24, 2019
Affirmed
Smith, Tracy M., Judge**

Meeker County District Court
File No. 47-CR-18-20

Keith Ellison, Attorney General, Peter Magnuson, Assistant Attorney General, St. Paul, Minnesota; and

Brandi Schiefelbein, Meeker County Attorney, Litchfield, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Anders J. Erickson, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Schellhas, Presiding Judge; Jesson, Judge; and Smith, Tracy M., Judge.

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

SMITH, TRACY M., Judge

In this direct appeal from a final judgment of conviction and sentence for felony domestic assault, appellant Deandre Bradley challenges the district court's admission at trial of evidence regarding three prior bad acts—one involving the current victim, and two

involving a previous girlfriend. Because the district court did not abuse its discretion by admitting the evidence as relationship evidence, we affirm.

FACTS

In January 2018, Bradley was charged with committing felony domestic assault (harm) and felony domestic assault (fear) against his girlfriend, A.Z. At trial, A.Z. testified that, on January 6, 2018, Bradley grabbed the hair on the back of her head, yanked her head down, and threatened to “f--- [her] up more if [she] called anybody.” In his testimony, Bradley denied assaulting A.Z. and indicated that A.Z. was “us[ing] the judicial system as a way to get [him] in trouble” because she was angry at him.

Over Bradley’s objection, evidence of three previous incidents of domestic conduct was admitted under Minn. Stat. § 634.20 (2018). First, A.Z. testified about what happened on the day that an earlier relationship she had with Bradley ended. She testified that, in 2012, Bradley pushed her head into a bathroom cabinet and grabbed her by the neck after they had an argument because she believed he was cheating on her. Second, E.U., who dated Bradley in 2014, testified that, on April 10, 2014, Bradley got mad because E.U.’s then-five-year-old daughter talked loudly with someone on the phone and that Bradley then grabbed E.U. by the arms, threw her up against the wall, and trashed her apartment. Third, E.U. testified to another incident on June 10, 2014, in which Bradley punched her in the back of the head, grabbed her, and slapped her in the face during an argument about their relationship. The district court gave the jury a cautionary instruction immediately before A.Z.’s and E.U.’s testimony was introduced.

Bradley was found guilty of both offenses, convicted of felony domestic assault (harm) as the greater offense, and sentenced to 24 months in prison.

This appeal follows.

DECISION

A district court's decision to admit evidence under Minn. Stat. § 634.20 is reviewed for an abuse of discretion. *State v. McCoy*, 682 N.W.2d 153, 161 (Minn. 2004). To obtain reversal based on such an abuse of discretion, an appellant must also establish that the error prejudiced the outcome of the trial. *See State v. Benton*, 858 N.W.2d 535, 541 (Minn. 2015).

Section 634.20 provides for the admission of what is known as “relationship evidence.” *State v. Mathews*, 779 N.W.2d 543, 549 (Minn. 2010). Under the statute, “[e]vidence of domestic conduct by the accused against the victim of domestic conduct, or against other family or household members, is admissible unless the probative value is substantially outweighed by the danger of unfair prejudice.” Minn. Stat. § 634.20. Bradley does not dispute that A.Z.’s and E.U.’s testimony is relationship evidence; instead, he argues that the evidence is inadmissible because “the probative value is substantially outweighed by the danger of unfair prejudice.” *Id.*

Probative value of the evidence

Bradley argues that the evidence regarding previous domestic conduct against E.U. was irrelevant, and therefore inadmissible, because it only illuminates his relationship with E.U., not with A.Z., the alleged victim of the charged crimes. This argument is unconvincing. As an initial matter, the supreme court has interpreted Minn. Stat. § 634.20 to mean that “evidence of similar conduct in domestic abuse trials *is relevant* and admissible unless it should be excluded for the reasons listed [in the statute].” *McCoy*, 682 N.W.2d at 159 (emphasis added). Thus, the relationship evidence is relevant. The question

under section 634.20 is whether the risk of prejudice substantially outweighs its probative value. The probative value of relationship evidence depends on the extent to which the evidence “helps to establish the relationship between the victim and the defendant” or “places the [charged offense] in context.” *State v. Barnslater*, 786 N.W.2d 646, 652 (Minn. App. 2010), *review denied* (Minn. Oct. 27, 2010). “[E]vidence showing how a defendant treats his family or household members, such as his former spouses or other girlfriends, sheds light on how the defendant interacts with those close to him, which in turn suggests how the defendant may interact with the victim.” *State v. Valentine*, 787 N.W.2d 630, 637 (Minn. App. 2010) (quotation omitted), *review denied* (Minn. Nov. 16, 2010). E.U.’s testimony illuminates Bradley’s relationship with A.Z. and, therefore, has probative value.

Bradley also challenges the relevance, or, more appropriately, the probative value, of the evidence of the prior assault against A.Z. He suggests that the probative value was minimal because A.Z. was not a recanting victim and therefore the state did not need to show the “full picture of the relationship” so the jury could understand how his control over her “might affect [her] willingness to testify.” Bradley relies on *McCoy*, 682 N.W.2d 153. In *McCoy*, the victim sent a letter to the court before the trial, stating that she had given false information to the police out of anger because she had learned that her husband was cheating on her. 682 N.W.2d at 156. During trial, she testified that she did not remember what she had previously told the police. *Id.* Recognizing that an abuser’s control over a victim and the absence of other witnesses are “difficulties that can arise in prosecuting domestic abuse crimes,” the supreme court held that the admission of prior domestic conduct under section 634.20 could provide the jury “a context with which it could better judge the credibility of the principals in the relationship.” *Id.* at 161.

However, *McCoy* did not hold that the abuser's control over the victim is required for the evidence of prior domestic conduct to have probative value. And this court has held evidence of prior domestic conduct to be sufficiently probative in many cases in which the victim did not recant her allegations. *See, e.g., State v. Patzold*, 917 N.W.2d 798, 802-03 (Minn. App. 2018), *review denied* (Minn. Nov. 27, 2018); *State v. Andersen*, 900 N.W.2d 438, 440 (Minn. App. 2017); *Barnslater*, 786 N.W.2d at 649. Although A.Z.'s testimony might have had different or additional probative value had the facts of this case been akin to *McCoy*, it nevertheless had probative value here to place the charged offense in the context of their relationship.

Danger of unfair prejudice

Next, Bradley argues that there was a significant danger of unfair prejudice because the risk of the jury using the relationship evidence as propensity evidence was too high. It is certainly true that evidence regarding a defendant's prior conduct can, in some situations, pose "the risk of leading the jury to improperly conclude that [the defendant] has a propensity to behave criminally and should now be convicted, and punished, for the charged offense[]." *State v. Hormann*, 805 N.W.2d 883, 891 (Minn. App. 2011), *review denied* (Minn. Jan. 17, 2012). However, Bradley has not shown that his case presents such a situation. *Cf. id.* (holding that "open-ended and narrative testimony" covering 20 years of marriage "without temporal specificity" was not admissible as relationship evidence).

Rather, the circumstances here are much more similar to those in *Andersen*, where the defendant punched his girlfriend in the face, and the victim testified that the defendant had hit her face on a different occasion in the previous year. 900 N.W.2d at 439-40. The defendant in *Andersen* argued, as Bradley does in this case, that "'it was nearly impossible'

for the jury to fairly evaluate the charges after it heard the relationship evidence.” *Id.* at 442. This court rejected the argument, holding that, given the district court’s cautionary instruction, the unfair prejudice was not so substantial. *Id.* at 441-42.

“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.” *State v. Bell*, 719 N.W.2d 635, 641 (Minn. 2006) (quotation omitted). “A district court’s limiting instruction lessens the probability of undue weight being given by the jury to the evidence.” *State v. Ware*, 856 N.W.2d 719, 729 (Minn. App. 2014) (quotation omitted). Here, the district court carefully prefaced each introduction of A.Z.’s and E.U.’s testimony with a cautionary instruction, and it is undisputed that these instructions were adequate. The probative value of A.Z.’s and E.U.’s testimony is not substantially outweighed by the danger of unfair prejudice.

Because the district court did not abuse its discretion in admitting the relationship evidence under section 634.20, we need not address whether the outcome of the trial was prejudiced by its admission.

Affirmed.