

*This opinion will be unpublished and
may not be cited except as provided by
Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-1196**

State of Minnesota,
Respondent,

vs.

Tanya Jo Eidhammer,
Appellant.

**Filed April 8, 2019
Affirmed
Reilly, Judge**

Cottonwood County District Court
File No. 17-CR-17-338

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Nicholas Anderson, Cottonwood County Attorney, Windon, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Davi E. Axelson, Assistant Public
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Reilly, Presiding Judge; Rodenberg, Judge, Bratvold,
Judge.

UNPUBLISHED OPINION

REILLY, Judge

Appellant argues that the district court improperly excluded evidence and testimony
at trial. We affirm.

FACTS

Appellant Tanya Jo Eidhammer was in a romantic relationship with E.M. for approximately two years. During the relationship, Eidhammer used a Honda Accord, owned solely by E.M., and had her own key to the car. Eidhammer and E.M. lived together in Mountain Lake until the relationship ended in mid-July 2017. On July 17, 2017, the couple had an argument about the Accord. E.M. called the police and an officer responded to assist with the conflict. E.M. agreed to allow Eidhammer to use the Accord until July 20 to accommodate a medical appointment for Eidhammer's daughter. Eidhammer agreed to return both the Accord and her key to the car on July 20. On the agreed upon date, E.M. went to the Mountain Lake house to retrieve the Accord, but it was not there. The next day, E.M. reported the Accord stolen to the Mountain Lake Police Department.

On July 26, the Mountain Lake police saw the Accord outside of the Mountain Lake house. The officer approached Eidhammer, who was standing by the Accord, and told her that she could not take the Accord because it had been reported stolen. Eidhammer claimed her key to the Accord was in its center console, but the officer could not find it after searching that location. Ultimately, E.M. had to have the Accord towed. Respondent State of Minnesota then charged Eidhammer with theft of a motor vehicle in violation of Minn. Stat. § 609.52, subd. 2(a)(17) (2016). The case proceeded to a jury trial.

At trial, Eidhammer planned to introduce four pages of text messages sent between E.M. and herself.¹ Before trial, the state moved to exclude the text messages on both

¹ The four pages of text messages appeared to be screen shots from Eidhammer's cell phone. We note that two pages of text messages indicated that the communications

relevance and foundation grounds. The district court heard arguments from both parties regarding the text messages. Eidhammer’s attorney admitted that “there would be an evidentiary problem” if the text messages were offered as an exhibit, and withdrew his request but indicated that he still wished to question E.M. regarding the text messages. The district court granted the state’s motion to prohibit the admission of the text messages as exhibits but reserved ruling on the relevance of any testimony regarding the text messages until it was elicited. The defense did not question E.M. regarding the text messages during trial. At the conclusion of trial, the jury found Eidhammer guilty.

Eidhammer now appeals.

D E C I S I O N

I. The District Court Did Not Exclude Testimony Regarding Text Messages.

Eidhammer challenges the district court’s alleged exclusion of relevant testimony at trial. Though the district court granted the state’s motion to exclude the text messages from being admitted as evidence, the district court stated that it would “rule on the issue of relevance of testimony when that testimony comes around,” and reiterated that “testimony [would] have to be dealt with at the time it is offered.” However, Eidhammer’s trial counsel never inquired about the text messages during cross-examination.

This court will consider an issue not raised before the district court if it constitutes plain error.

The United States Supreme Court has established a three-prong test for plain error, requiring that before an

occurred in March 2017, one page indicated that the communications occurred in June 2017, and the last page of text messages was undated.

appellate court reviews an unobjected-to error, there must be (1) error; (2) that is plain; and (3) the error must affect substantial rights. If these three prongs are met, the appellate court then assesses whether it should address the error to ensure fairness and the integrity of the judicial proceedings.

State v. Griller, 583 N.W.2d 736, 740 (Minn. 1998). “An error is plain if it is clear or obvious, which is typically established if the error contravenes case law, a rule, or a standard of conduct. *State v. Webster*, 894 N.W.2d 782, 787 (Minn. 2017) (quotation omitted). Because Eidhammer’s trial counsel never asked E.M. about the text messages during cross-examination, and therefore the district court never made a ruling on the relevance of any testimony, we determine that no error occurred.

II. Eidhammer Has Not Met Her Burden to Show Prejudice.

It is unclear from Eidhammer’s brief if she also contests the district court’s evidentiary ruling on the admissibility of the text messages. To the extent Eidhammer does, we reject her argument. We note that Eidhammer’s trial counsel admitted that “there would be an evidentiary problem” if the text messages were offered as exhibits, and explicitly withdrew his intention to offer the text messages as an exhibit on the record. We nevertheless review the district court’s decision for an abuse of its discretion.

Generally, evidentiary rulings rest within the sound discretion of the district court and will not be reversed absent a clear abuse of discretion. *State v. Amos*, 658 N.W.2d 201, 203 (Minn. 2003). A criminal defendant has a constitutional right to a meaningful opportunity to present a complete defense. *California v. Trombetta*, 467 U.S. 479, 485, 104 S. Ct. 2528, 2532 (1984); *State v. Richards*, 495 N.W.2d 187, 191 (Minn. 1992). “But this right is not absolute” as “[c]riminal defendants are bound by the rules of evidence,

which are designed to assure fairness and reliability in ascertaining guilt or innocence.” *State v. Wilson*, 900 N.W.2d 373, 384 (Minn. 2017) (citations omitted). Even where a criminal defendant alleges that the inability to present a defense violates his constitutional rights, evidentiary questions are reviewed for an abuse of discretion. *Id.* (citing *State v. Henderson*, 620 N.W.2d 688, 698 (Minn. 2001)). Therefore, appellant has the burden of establishing that the district court abused its discretion and that appellant was thereby prejudiced. *Amos*, 658 N.W.2d at 203; *State v. Hall*, 764 N.W.2d 837, 841 (Minn. 2009).

Eidhammer has not met her burden to show that the district court abused its discretion and that she was thereby prejudiced. This court may consider the strength of each party’s evidence when determining whether admitting excluded evidence would have led to a different result. *State v. Zumberge*, 888 N.W.2d 688, 697 (Minn. 2017). Here, an officer testified that in July he responded to a dispute regarding the Accord, and that he brokered a deal between E.M. and Eidhammer for her temporary continued use of the Accord until July 20. The state also presented evidence that on July 26, Eidhammer told another officer that she did not return the Accord on the agreed upon date because she could not reach E.M. She did not tell the officer that she thought that she could continue to use the Accord. The state also presented evidence that Eidhammer did not return the key as initially agreed upon. Therefore, even if the district court had erroneously excluded the text messages, that decision was harmless.

Affirmed.