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**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-2026**

State of Minnesota,
Respondent,

vs.

Bradly James Haddock,
Appellant.

**Filed September 30, 2019
Affirmed
Larkin, Judge**

Nobles County District Court
File No. 53-CR-17-685

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

Kathleen A. Kusz, Nobles County Attorney, Worthington, Minnesota; and

Travis J. Smith, Special Assistant County Attorney, Smith & Johnson, Slayton, Minnesota
(for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Melissa Sheridan, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Rodenberg, Presiding Judge; Larkin, Judge; and
Stauber, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

LARKIN, Judge

Appellant challenges his convictions of first-degree criminal sexual conduct and contributing to the delinquency of a child, arguing that the district court erred by admitting the victim's out-of-court statements as evidence at his jury trial on the offenses. Because the district court did not plainly err by admitting the statements, we affirm.

FACTS

Respondent State of Minnesota charged appellant Bradly James Haddock with two counts of first-degree criminal sexual conduct after 14-year-old A.V. reported that Haddock had raped her. Later, the state amended the complaint to include a charge of contributing to the delinquency of a child.

The case was tried to a jury. At trial, A.V. generally testified that Haddock had nonconsensual sex with her and that he “forced himself inside of [her].” A.V. testified that after the incident she sought medical treatment because she “thought [she] might have been pregnant or had an STD” as a result of Haddock's sexual assault.

During cross-examination, defense counsel questioned A.V. about a meeting she had with the prosecutor before trial. A.V. conceded that, during that meeting, she could not remember everything that happened during the sexual assault. A.V. testified that the prosecutor asked her some questions about her use of marijuana with Haddock on the date of the incident. A.V. acknowledged that she told the prosecutor that she “had a bong hit” and that she did “not remember [the marijuana] affecting [her] that much.”

Defense counsel asked A.V. to review a transcript of statements she made regarding the incident to a forensic interviewer at Child's Voice, a child-advocacy center. A.V. acknowledged that, during that interview, she told the interviewer that she "smoked some weed" and "got really high." Defense counsel also asked A.V. about additional details she provided in her Child's Voice interview, which she did not mention in her testimony. A.V. acknowledged that she had provided those details.

Later in the trial, the state offered and the district court received an audio-visual recording of A.V.'s Child's Voice interview, portions of which were played for the jury. Defense counsel informed the district court that he had "no objection" to the admission of that evidence or its publication to the jury. The state also offered and the district court received a summary of A.V.'s medical examination at Child's Voice, which contained information from A.V.'s Child's Voice interview. Defense counsel did not object to the admission of that evidence. There being no objection to the Child's Voice evidence, the district court did not explain its decision to receive the evidence.

The jury found Haddock guilty as charged. The district court entered judgments of conviction on all three offenses and sentenced Haddock to serve 168 months in prison. Haddock appeals.

D E C I S I O N

"'Hearsay' is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." Minn. R. Evid. 801(c). Generally, out-of-court statements offered to prove the truth of the matter asserted are considered hearsay and are inadmissible. Minn. R. Evid. 802. But a prior

statement by a witness is not hearsay if (1) the witness testifies at trial and is subject to cross-examination concerning the statement; (2) the statement is consistent with the witness's testimony; and (3) the statement is helpful to the jury in evaluating the credibility of the witness. Minn. R. Evid. 801(d)(1)(B); *State v. Nunn*, 561 N.W.2d 902, 908 (Minn. 1997). “[B]efore the statement can be admitted, the witness’ credibility must have been challenged, and the statement must bolster the witness’ credibility with respect to that aspect of the witness’ credibility that was challenged.” *Nunn*, 561 N.W.2d at 909.

“[W]hen a witness’ prior statement contains assertions about events that have not been described by the witness in trial testimony, those assertions are not helpful in supporting the credibility of the witness and are not admissible under this rule.” Minn. R. Evid. 801(d)(1) 1989 comm. cmt. But “[t]he trial testimony and the prior statement need not be verbatim.” *State v. Bakken*, 604 N.W.2d 106, 109 (Minn. App. 2000), *review denied* (Minn. Feb. 24, 2000). Admission of a videotaped statement that is reasonably consistent with the trial testimony is not reversible error. *State v. Zulu*, 706 N.W.2d 919, 924 (Minn. App. 2005); *see In re Welfare of K.A.S.*, 585 N.W.2d 71, 76 (Minn. App. 1998) (holding videotaped statement “reasonably consistent” with witness’s trial testimony admissible under Minn. R. Evid. 801(d)(1)(B)). Minor discrepancies do not disqualify the evidence, but inconsistencies that “directly affect the elements of the criminal charge” do. *Bakken*, 604 N.W.2d at 110.

Haddock argues that the district court erred by admitting A.V.’s statements from the Child’s Voice interview and examination summary because the statements were inconsistent with A.V.’s trial testimony. Haddock did not object to the admission of those

statements. This court reviews such an alleged, unobjected-to error under the plain-error standard of review. Minn. R. Crim. P. 31.02; *State v. Ramey*, 721 N.W.2d 294, 297 (Minn. 2006). The plain-error standard requires the defendant to show: (1) error, (2) that was plain, and (3) that affected substantial rights. *State v. Griller*, 583 N.W.2d 736, 740 (Minn. 1998). Error is plain when 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). If all three elements are satisfied, this court determines whether it should address the error to ensure the fairness and integrity of the judicial proceedings. *State v. Kuhlmann*, 806 N.W.2d 844, 852-53 (Minn. 2011). If any part of the plain-error test is not met, this court need not consider the others. *Webster*, 894 N.W.2d at 786.

We begin by asking whether the district court plainly erred by admitting A.V.’s statements. Haddock argues that although A.V.’s prior consistent out-of-court statements were admissible, “the [Child’s Voice] interview contained an important inconsistency from [A.V.’s] trial testimony.” Specifically, Haddock argues that A.V. testified “that she only had one hit of marijuana and she did not think it affected her much,” whereas she told the Child’s Voice interviewer that “she was really high on marijuana during the incident.”

Haddock further argues, “More importantly, [A.V.’s] statements to the Child’s Voice personnel contained additional assertions, accusations and details that [A.V.] did not describe in her extremely brief trial testimony.” For example, Haddock contends that A.V.’s prior statements were inconsistent because A.V. did not testify that “Haddock pushed her on the bed, removed her clothing, put his hands and mouth on her breasts,

shoved a finger in her vagina, put his penis in her mouth after he ejaculated and stopped when her sister knocked on the door.”

It is not clear or obvious that the district court erred by admitting A.V.’s statements. The statements were not relevant to an element of the charged offenses. *See Bakken*, 604 N.W.2d at 110 (stating that if inconsistencies directly affect the elements of a criminal charge, the consistency requirement is not satisfied and the prior inconsistent statements may not be received as substantive evidence under Minn. R. Evid. 801(d)(1)(B)). And although A.V.’s trial testimony was less detailed than her Child’s Voice interview, this court has rejected similar challenges to the admission of a child-victim’s prior statement. *See K.A.S.*, 585 N.W.2d at 75-76 (rejecting argument that videotaped interview was not a prior consistent statement because it was more detailed than the related trial testimony). In sum, Haddock fails to establish that the district court’s failure to exclude the challenged statements sua sponte—after he expressly agreed to their admission—was error that was clear or obvious.

Moreover, even if Haddock had satisfied the first three parts of the plain-error test, for the reasons that follow we would not conclude that the error “seriously affect[ed] the fairness and integrity of the judicial proceedings.” *See Kuhlmann*, 806 N.W.2d at 853. At trial, Haddock informed the district court that he did not object to the admission of A.V.’s statements, and he relied on those statements in his defense. Again, defense counsel cross-examined A.V. regarding inconsistencies between her Child’s Voice statements and trial testimony before the state had even offered those statements. And in closing argument,

defense counsel argued that the jury should not believe A.V. based on those inconsistencies.

In sum, instead of objecting to the introduction of A.V.'s statements and arguing that the jury should not hear the content of her Child's Voice interview, Haddock used A.V.'s inconsistent statements to mount a defense. An error does not affect the fairness and integrity of judicial proceedings if a reversal "would allow a party to choose to try a case on one theory while holding a second theory in reserve for a possible appeal" because such action "would adversely impact the integrity of the judicial proceedings." See *Frazier v. Burlington N. Santa Fe Corp.*, 811 N.W.2d 618, 626-28 (Minn. 2012) (applying the *Griller* criminal plain-error test in a civil case).

In conclusion, Haddock has failed to show that he is entitled to relief under the plain-error standard of review. We therefore affirm without addressing the state's argument that Haddock "cannot challenge the admission of the Child's Voice interview on appeal because he affirmatively waived any objection he might have raised at trial."

Affirmed.