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Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0349**

State of Minnesota,
Respondent,

vs.

Laura Cerda,
Appellant.

**Filed January 21, 2020
Affirmed
Bjorkman, Judge**

Olmsted County District Court
File No. 55-CR-17-8880

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

Jason T. Loos, Rochester City Attorney, Christopher K. White, Assistant City Attorney,
Rochester, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Roy G. Spurbeck, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Cochran, Presiding Judge; Bjorkman, Judge; and Reilly,
Judge.

UNPUBLISHED OPINION

BJORKMAN, Judge

Appellant challenges her conviction for falsely reporting a crime involving a peace officer, arguing that the district court erred by failing to specifically define “crime” or “criminal act” in the jury instructions. We affirm.

FACTS

On November 7, 2017, Rochester Police Detective Michael Ranfranz attempted to personally serve a subpoena on appellant Laura Cerda as she came out of a courtroom at the Olmsted County Government Center. After their brief encounter, Cerda reported to the Olmsted County Sheriff’s Department that Detective Ranfranz yelled at her, shoved her, touched her breast, and threw the subpoena papers at her. A deputy investigated Cerda’s report, including interviewing her and viewing a one-minute video recording of the encounter that did not support Cerda’s allegations. The state charged Cerda with falsely reporting police misconduct (that constitutes a crime) to law enforcement in violation of Minn. Stat. § 609.505, subd. 2(a)(2) (2016).

At trial, Detective Ranfranz, the investigating deputy, Cerda, and a court services employee who witnessed the encounter testified. Detective Ranfranz stated that he introduced himself to Cerda and tried to explain that he was serving a subpoena on her. But Cerda rebuffed him, saying she could not understand him because she was on medication, and walked away. He briefly touched Cerda’s elbow; she responded by turning around and loudly stating, “Stop touching me. You’re harassing me.” Because he

concluded that Cerda was attempting to avoid service, he read the subpoena out loud, tossed it on the service counter in front of her, and left.

Consistent with Detective Ranfranz's account, the court services employee testified that Detective Ranfranz spoke in normal tones and only Cerda talked in a loud voice. The employee described how Detective Ranfranz placed the subpoena papers on the service counter. She did not recall seeing Detective Ranfranz touch Cerda. The jury watched the one-minute video recording of the encounter, which is consistent with the testimony of the court services employee and Detective Ranfranz.

The investigating deputy testified that Cerda told him that Detective Ranfranz "pushed her with his upper arm and shoulder" and "grabbed her breast with his hand." A body-camera recording of the interview was also presented to the jury. In the recording, Cerda claims that Detective Ranfranz assaulted her and demonstrates how Detective Ranfranz groped her breast with an open hand.

Cerda's trial testimony contradicted some of her prior statements. She testified that Detective Ranfranz "shove[d]" or "nudge[d]" her forcefully. But she denied reporting that he "grabbed, squeezed, [or] caressed [her] breast."

At the conclusion of the trial, the district court instructed the jury regarding the elements of the charged offense:

[W]hoever informs a peace officer, whose responsibilities include investigating or reporting police misconduct, that a peace officer has committed an act of police misconduct, knowing that the information is false and *alleges a crime*, is guilty of a crime.

First, the defendant informed law enforcement, whose responsibilities include investigating or reporting police misconduct, that a peace officer has committed an act of police misconduct;

Second, the false information *alleges a crime*

(Emphasis added.) Cerda did not object to this instruction.

The jury found Cerda guilty. Cerda appeals, arguing that the district court erred by failing to specifically define the “crime” or “criminal act” that she accused Detective Ranfranz of committing.

DECISION

Where, as here, the appellant did not object to the district court’s jury instructions, we review them for plain error. *State v. Peltier*, 874 N.W.2d 792, 799 (Minn. 2016). Under this standard, Cerda must establish (1) error, (2) that is plain, and (3) affects her substantial rights. *State v. Vasquez*, 912 N.W.2d 642, 650 (Minn. 2018). If Cerda makes this showing, we assess whether reversal is required “to ensure the fairness, integrity, or public reputation of judicial proceedings.” *Peltier*, 874 N.W.2d at 799 (quotation omitted).

Minn. Stat. § 609.505, subd. 2(a)(2), provides:

Whoever informs, or causes information to be communicated to, a peace officer, whose responsibilities include investigating or reporting police misconduct, that a peace officer . . . has committed an act of police misconduct, knowing that the information is false, is guilty of a crime and may be sentenced . . . up to the maximum provided for a gross misdemeanor if the false information alleges a criminal act.

Cerda contends that a party cannot be convicted of violating this statute unless the district court defines for the jury the “crime” or “criminal act” about which the false report was

made. And she asserts that the district court plainly erred by failing to do so and that this failure affected her substantial rights. We address each argument in turn.

A district court has “significant discretion” in instructing the jury. *State v. Matthews*, 779 N.W.2d 543, 549 (Minn. 2010); *see Smith v. Kahler Corp.*, 211 N.W.2d 146, 153 (Minn. 1973) (noting district court’s “considerable latitude” in choosing jury instructions and that instructions need not “guard against” all possibilities for “misapprehension” (quotation omitted)). “If the instructions, when read as a whole, correctly state[] the law in language that can be understood by the jury, there is no reversible error.” *Matthews*, 779 N.W.2d at 549 (alteration in original). But a district court must instruct on the elements of the charged offense. *Peltier*, 874 N.W.2d at 799 (stating it is plain error to omit a jury instruction on an element of the offense). And instructions that confuse or mislead the jury are erroneous. *State v. Vang*, 847 N.W.2d 248, 261 (Minn. 2014).

Here, the district court told the jury that in order to reach a guilty verdict they had to find that Cerda falsely reported to a law enforcement officer that a peace officer committed “a crime.” The court instructed that the elements of the false reporting offense are: “First, the defendant informed law enforcement, whose responsibilities include investigating or reporting police misconduct, that a peace officer has committed an act of police misconduct; Second, the false information *alleges a crime . . .*” (Emphasis added.) This instruction comports with the law because it addresses the elements of the charged offense, including the requirement that Cerda falsely alleged that Detective Ranfranz committed a crime.

Cerda argues that the district court clearly erred because it should have further defined the terms “crime” or “criminal act” for the jury. We disagree. In Minnesota, a “crime” is any “conduct which is prohibited by statute and for which the actor may be sentenced to imprisonment, with or without a fine.” Minn. Stat. § 609.02, subd. 1 (2018). Cerda reported that Detective Ranfranz physically and sexually assaulted her. The general nature of assault crimes is well known to Minnesota citizens. *See* Minn. Stat. § 609.02, subd. 10(2) (2018) (generally defining “assault” as “the intentional infliction of or attempt to inflict bodily harm upon another”); *State v. King*, 257 N.W.2d 693, 697-98 (Minn. 1977) (stating that citizens are presumed to know the law); *see also Mitchell v. Mitchell*, 47 N.W. 308, 309 (Minn. 1890) (upholding the sufficiency of a civil complaint in which the plaintiff merely alleged that the defendants “assaulted” the plaintiff). The record does not indicate the challenged instruction confused or misled the jury about what the state needed to prove to establish Cerda’s guilt. *See State v. Hager*, 727 N.W.2d 668, 676-77 (Minn. App. 2007) (holding that the district court’s plain error in failing to instruct that an obstruction-of-legal-process conviction requires “physical” obstruction affected Hager’s substantial rights when the jury’s questions during its deliberations reflected its confusion on that topic).

Unlike the cases that Cerda cites, the false reporting offense does not require proof of a particular predicate crime. *See, e.g., State v. Jorgenson*, 758 N.W.2d 316, 324-25 (Minn. App. 2008) (reversing for plain error when a jury instruction did not define a predicate “crime of violence” that was a necessary element of the offense of terroristic threats), *review denied* (Minn. Feb. 17, 2009). The state did not have to prove Cerda falsely accused Detective Ranfranz of committing a *particular* crime, only that he committed a

crime. In that regard, the elements of Cerda’s offense are consistent with the offense of falsely reporting a crime under Minn. Stat. § 609.505, subd. 1 (2016) (involving a false allegation of criminal conduct by “others”). The patterned jury instructions for this similar offense include the element that “the defendant informed a law enforcement officer that *a crime* had been committed.” 10A *Minnesota Practice*, CRIMJIG 24.34 (2015) (emphasis added). The district court did not commit error—plain or otherwise—in instructing the jury.

Even if the district court had erred, Cerda did not demonstrate that such error affected her substantial rights. To meet this requirement, Cerda must show there is a “reasonable likelihood that the giving of the instruction in question would have had a significant effect on the verdict of the jury.” *State v. Griller*, 583 N.W.2d 736, 741 (Minn. 1998) (quotation omitted). She has not made this showing. The investigating deputy’s body-camera recording of Cerda’s interview documents Cerda’s accusation—that Detective Ranfranz physically and sexually touched her against her will. Indeed, the specifics of Cerda’s allegations against Detective Ranfranz were essentially undisputed. The jury chose to credit Detective Ranfranz’s denials, the court services employee’s testimony, and the surveillance video from the government center that contradicted Cerda’s allegations. And Cerda’s trial testimony contradicted her statements to the investigating deputy.¹ Because the evidence at trial amply supports the finding of Cerda’s guilt, we

¹ At trial, Cerda denied telling the investigating deputy that Detective Ranfranz had “grabbed, squeezed, [or] caressed [her] breast.” But she later testified that Detective Ranfranz “went palm in” when he tried to touch her elbow, and she felt “part of his hand touch [her] on [her] breast.”

conclude that any error in the jury instructions had no effect on the jury's verdict. *See State v. Kelley*, 855 N.W.2d 269, 283-84 (Minn. 2014) ("An erroneous jury instruction will not ordinarily have a significant effect on the jury's verdict if there is considerable evidence of the defendant's guilt.").

Affirmed.