

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0286**

State of Minnesota,
Respondent,

vs.

Jamal Tyshawn Jackson,
Appellant.

**Filed April 19, 2021
Affirmed
Ross, Judge**

St. Louis County District Court
File No. 69DU-CR-18-2928

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

Mark S. Rubin, St. Louis County Attorney, Duluth, Minnesota (for respondent)

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

Considered and decided by Ross, Presiding Judge; Smith, Tracy M., Judge; and Rodenberg, Judge.*

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

NONPRECEDENTIAL OPINION

ROSS, Judge

Jamal Jackson left a bar in Duluth, began talking to a man who was sitting in a car, and then shot another man in the face. Jackson appeals from his conviction of second-degree intentional murder. He argues that the district court improperly prohibited him from introducing evidence that a gun and money were inside the car, preventing him from proving that he shot the man in self-defense. He also argues that the district court improperly allowed the state to introduce evidence that he engaged previously in a violent incident. He adds the contentions in a supplemental brief that his trial counsel was ineffective and the jury-selection process was biased. We conclude that the district court acted within its discretion by excluding the car-content evidence, that there is no reasonable likelihood evidence of Jackson's prior conduct impacted the jury's verdict, and that Jackson's other arguments lack support in the record. We therefore affirm.

FACTS

Jamal Jackson left a bar in downtown Duluth after midnight in September 2018. He approached a car parked in front of another bar across the street and began speaking to the driver, whom we will call Occupant, and with another man who stood about five feet away, whom we will call Victim. Jackson shot Victim in the face, killing him.

Jackson fled, hid the handgun in a park under a bush, and asked a friend to drive him to his mother's house in Champlin. Jackson turned himself in to police the next day. The state charged Jackson with second-degree murder under Minnesota Statutes section 609.19, subdivision 1(1) (2018).

The district court granted the state's motions *in limine*, prohibiting Jackson from introducing evidence about money and a gun that were inside Occupant's car. The district court also granted the state's motion to present *Spreigl* evidence of a 2018 incident when Jackson allegedly violently accosted bystanders who examined his car believing it to have been stolen. The district court did so because it determined that the 2018 incident, like the shooting, revealed a pattern of Jackson's responding to challenges with "extreme and unreasonable" violent conduct that he later portrays as self-defense.

The district court held a seven-day jury trial where more than ten on-scene witnesses, six police officers, and Jackson testified. The jury found Jackson guilty based on evidence tending to prove the following facts.

Jackson and Victim had been inside the bar, but both went outside. Occupant was parked in front waiting inside his car to pick up someone. A fourth man was speaking with Victim, standing near Occupant's car. Jackson approached Occupant, supposedly to clear the air about a burglary that Occupant had suspected Jackson of being involved in. Jackson then walked toward Victim and shot him in the face.

Jackson's version differs. He told jurors that Occupant waved Victim over and Victim blew cigarette smoke in Jackson's face, flicked his cigarette toward Jackson, and told him to "[m]ove the f--k around before I kill you." Jackson said he saw Victim reach for a gun. This, Jackson said, caused him to panic, pull his own gun, and shoot Victim. Jackson left, hid his gun under a bush in a park, and called his friend to take him to his mother's house in Champlin. Jackson claimed that Occupant blamed him for burglarizing

his house and that he “had . . . a hit out on” Jackson. This Jackson knew, he said, because he had received “weird” phone calls telling him to “watch [his] back.”

Occupant contradicted Jackson’s account. He told the jury that he never accused Jackson of burglary or threatened to harm him. He also denied having waved Victim over to his car.

On cross-examination, Jackson said that he had gotten the gun after a man punched him in the eye in 2018. Jackson’s counsel asked him about that encounter, and Jackson recounted that the man punched him because he “tried to sway them away from [his] car.” The prosecutor asked Jackson to elaborate about the alleged punching incident, and Jackson denied having squared off with the person and denied pushing past him to get to the person who was dialing 9-1-1. The prosecutor called the man to testify who had punched Jackson. He said that he had seen a car parked in front of his apartment with a detached bumper and broken window. He testified that he poked his head into the car and that Jackson came out of an apartment combatively, approaching him. He told jurors that, once Jackson realized that his roommate was calling the police, Jackson became more aggressive, squared up as if to ready himself to fight. He said that Jackson began to throw a punch, prompting him to punch Jackson on the chin.

After the jury’s guilty verdict, the district court sentenced Jackson to 367 months’ imprisonment. This appeal follows.

DECISION

Jackson challenges his conviction on four theories. He first argues that the district court wrongly refused to allow him to offer evidence about his self-defense claim. He next

contends that the district court wrongly allowed the state to present evidence that he had aggressively confronted bystanders who called the police after suspecting that his car had been stolen or crashed. He also argues that he is entitled to a new trial because his attorney did not provide him with effective representation. He argues finally that a purportedly biased jury-selection process rendered his trial unfair. The arguments are unpersuasive.

I

We reject Jackson’s contention that the district court wrongly prevented him from submitting evidence that supported his self-defense theory—the fact that Occupant had a gun and money inside his car, supposedly supporting the speculation that Occupant and Victim were engaged in some sort of conspiracy to shoot Jackson. We will not reverse a district court’s evidentiary ruling unless we see an abuse of discretion. *State v. Zumberge*, 888 N.W.2d 688, 694 (Minn. 2017). Evidence of a specific, alleged act is relevant to a self-defense theory to support the notion that the defendant acted in reasonable fear of imminent danger of death or great bodily harm only if the defendant also “proves that he knew of the specific act at the time of the alleged offense.” *Id.* Jackson admits that he did not know that Occupant possessed the supposedly relevant items in his car. Jackson’s ignorance that Occupant possessed the gun and money means that the evidence of the possession could not have given Jackson reason to fear that he was in any imminent danger of anything. The purported hit-man evidence was therefore irrelevant to Jackson’s defense.

II

Likewise unavailing is Jackson’s contention that the district court wrongly allowed the state to submit evidence of his 2018 incident as evidence of prior misconduct, or *Spreigl*

evidence. *See* Minn. R. Evid. 404(b); *State v. Spreigl*, 139 N.W.2d 167 (Minn. 1965). The district court has considerable discretion when deciding whether to admit *Spreigl* evidence. *State v. Ness*, 707 N.W.2d 676, 685 (Minn. 2006). But we need not decide whether the district court abused its discretion by erroneously admitting *Spreigl* evidence if the error was harmless, meaning it had no reasonable possibility of contributing to the conviction. *Zumberge*, 888 N.W.2d at 694. And it is clear to us that the allegedly improper admission of evidence had no reasonable likelihood of impacting the jury's decision.

The overwhelming strength of the state's case, including the underwhelming strength of Jackson's self-defense strategy, convince us that the *Spreigl* evidence could not have reasonably affected the verdict. We assess the strength of the state's case to determine whether the erroneous admission of evidence may have influenced the jury's verdict. *See State v. Larson*, 389 N.W.2d 872, 875 (Minn. 1986). The state's case here is obviously strong. Jackson undisputedly shot Victim in the face, and seven eyewitnesses did not hear Victim engage in any threat or see him engage in any hostility immediately before Jackson shot him. Other than from Jackson, no witness testified that Victim drew a gun or appeared to be reaching for one before Jackson shot him. Of course, attempting to conceal involvement in a shooting tends to weaken a self-defense theory, *see State v. Pearson*, 775 N.W.2d 155, 162 (Minn. 2009), and here, Jackson did so by fleeing the scene, hiding his gun, and leaving the city. There being essentially no evidence or rational theory supporting the idea that Jackson shot Victim because Jackson feared imminent danger, we have no doubt that the *Spreigl* evidence did not prejudice the verdict.

III

The arguments in Jackson's supplemental brief fare no better. He maintains that his attorney provided ineffective assistance by failing to present evidence of a surveillance-camera video that he says would have corroborated his self-defense claim by showing Victim reaching into his waistband area. The Sixth Amendment guarantees criminal defendants the effective assistance of counsel. *Strickland v. Washington*, 466 U.S. 668, 687, 104 S. Ct. 2052, 2064 (1984). To secure reversal based on ineffective assistance of counsel, Jackson must show that his attorney's representation was objectively unreasonable and that a reasonable probability exists that the result would have been different but for his attorney's poor performance. *State v. Rhodes*, 657 N.W.2d 823, 842 (Minn. 2003). Jackson's contention fails on the second *Strickland* element because he cannot demonstrate that the result of the proceeding would have been different.

Even assuming that the alleged surveillance video existed, Jackson has not shown that it would have produced evidence leading to a different trial outcome. The jury viewed a surveillance-camera video referenced by Jackson's counsel. The state introduced the video and a police officer narrated its footage. If there was a different video available, Jackson has not identified it. If he is referring to the same video, there was no need for his attorney to also introduce the same footage. *See* Minn. R. Evid. 403 (allowing district court to exclude cumulative evidence). We have no reason to conclude that failing to introduce the alleged footage had any impact on the verdict.

Jackson also argues that his attorney did not heed his request to contest the omnibus hearing on self-defense grounds and instead moved to dismiss the claim due to lack of

evidence. But we consider ineffective-assistance claims on the strong “presumption that, under the circumstances, the challenged action might be considered sound trial strategy.” *Strickland*, 466 U.S. at 689, 104 S. Ct. 2065 (quotation omitted). Jackson offers nothing to rebut this presumption.

IV

Jackson also appears to argue in his supplemental brief that he is entitled to a new trial because the jury selection was racially biased against him. The Sixth Amendment entitles criminal defendants to be tried by a jury derived from a pool of potential jurors that reflect a fair cross-section of the community. *Taylor v. Louisiana*, 419 U.S. 522, 530, 95 S. Ct. 692, 697 (1975). But Jackson has the burden of showing “that the group allegedly excluded is a ‘distinctive’ group in the community, that the group in question was not fairly represented in the venire, and that the underrepresentation was the result of a ‘systematic’ exclusion of the group in question from the jury selection process.” *State v. Williams*, 525 N.W.2d 538, 542 (Minn. 1994). To establish systematic exclusion, Jackson must show that the allegedly excluded group of jurors “has been significantly underrepresented on the [jury] panels” as a result of the state’s unfair selection procedures. *Id.* at 543. Jackson has offered only conclusory assertions of bias without attempting to meet the evidentiary threshold necessary to support his accusation. We therefore need not address it further.

Affirmed.