

*This opinion is nonprecedential except as provided by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
A20-0708**

State of Minnesota,
Respondent,

vs.

Aaron Mathew Hubert,
Appellant.

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

Rice County District Court
File No. 66-CR-17-324

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

John L. Fossum, Rice County Attorney, Terence Swihart, Chief Assistant County Attorney,
Faribault, Minnesota (for respondent)

Kirk M. Anderson, Anderson Law Firm, PLLC, Minneapolis, Minnesota (for appellant)

Considered and decided by Worke, Presiding Judge; Reyes, Judge; and Jesson,
Judge.

NONPRECEDENTIAL OPINION

REYES, Judge

Appellant challenges his convictions of criminal sexual conduct, kidnapping, assault, threats of violence, and false imprisonment following a court trial, arguing that (1) the state provided insufficient evidence to prove appellant's guilt based on a lack of

proof of venue and the victim's lack of credibility and (2) the district court abused its discretion by allowing the state to present relationship evidence from his ex-wife under Minn. Stat. § 634.20 (2020). We affirm.

FACTS

A mutual friend introduced appellant Aaron Mathew Hubert and victim C.N. while appellant was incarcerated. The two began dating after appellant's release from jail. C.N. was then incarcerated for a few months before being released on a work-release program, which required her to report to a Volunteers of America (VOA) facility in Roseville. The VOA imposed strict requirements for leaving the facility, reporting after work, and limiting cell-phone use and visitors. Appellant frequently encouraged C.N. to break the VOA rules without regard to the consequences she could face.

On February 4, 2017, appellant went to C.N.'s place of work in Roseville and handed her a gift for their one-year anniversary. Appellant appeared visibly angry at C.N. when he gave her the gifts, so C.N. said she would speak with him after her shift, which ended between 8:30 p.m. and 9:00 p.m. At the end of C.N.'s shift, C.N. called the VOA to notify them that she would be taking the bus back to the facility, as required under the VOA rules. While C.N. was walking toward the bus stop, appellant approached her angrily and demanded she get in the car with him. Appellant then grabbed C.N. by the arm, and she felt "[i]t was like I was going with [appellant] whether I liked it or not." Appellant said he would drive her "home," which C.N. thought meant the VOA. Instead, appellant drove in the opposite direction on highway I-35W south toward Minneapolis. C.N. tried opening the car door to jump out but appellant grabbed her by the hair and pulled her back. She

also tried grabbing the steering wheel, cried and begged to be let out anywhere, and kicked the car out of gear several times. Appellant repeatedly hit C.N.'s face, knocking her glasses off, and pinned her head to the center console and seats so that C.N. could not move.

While appellant continued driving south on I-35, he told C.N. that he had killed her ex-boyfriend, J.G., and two other people. C.N. saw that appellant had a knife on him. In total, appellant drove for about an hour before stopping on a dirt country road. Appellant then ordered C.N. into the back seat, where he followed. He partially ripped her shirt and bra after she refused to take them off and then used the knife to cut the remaining material before attempting to tie her up with the ripped clothes. Appellant then held the blade of the knife to C.N.'s thigh and threatened to slice her thighs unless she cooperated with his sexual demands. C.N. repeatedly asked appellant to stop and cried as appellant sexually penetrated her. Appellant continued hitting and holding down C.N. throughout these acts (first sexual assault).

Appellant then drove to his parents' house in Rice County "[r]ight at the end of the road" from the location of the first sexual assault. Before going into the house for a few minutes, appellant warned C.N. that an alarm would go off if she tried to exit the car. Appellant came back to the car with a larger knife and resumed hitting C.N.

Next, appellant drove back to the site of the first sexual assault, and the two fought before appellant did "more of the same stuff" (second sexual assault). Appellant also strangled C.N. several times, rendering her unconscious. Once C.N. regained consciousness, she convinced appellant that she would stay the night with him. Appellant agreed to take C.N. back to her house if she promised to be quiet and take a shower. As

soon as C.N. entered appellant's parent's house and heard appellant's mother, R.H., talking, she began screaming. Appellant tried to cover C.N.'s mouth, but R.H. had opened the door, finding C.N. crying. R.H. started yelling and calling C.N. a "lying b—ch." Appellant's father, T.H., did not react in a hostile manner and instead took C.N. to the hospital. At the hospital, a sexual-assault nurse examined C.N., and C.N. spoke with a police officer.

On February 7, 2020, respondent State of Minnesota charged appellant with 11 counts: first-degree criminal sexual conduct—penetration-fear of great bodily harm (count 1); first-degree criminal sexual conduct—penetration-armed with a dangerous weapon (count 2); first-degree criminal sexual conduct—penetration-injury-use of force (count 3); kidnapping-to facilitate felony or flight (count 4); kidnapping-to commit great bodily harm (count 5); second-degree assault with a dangerous weapon (count 6); domestic assault by strangulation (count 7); threats of violence against victim J.G. (count 8); threats of violence against victim C.N. (count 9); false imprisonment (count 10); and fifth-degree assault-infllict or attempt to infllict bodily harm (count 11).

After a three-day court trial, the district court found appellant guilty of all charges except for count 8, which the state had previously dismissed. Twenty witnesses testified, including C.N., appellant's ex-wife D.F., and R.H. Appellant did not testify. The district court sentenced appellant to concurrent presumptive guideline prison sentences of 360 months on count 3 (first-degree criminal sexual conduct) and 158 months on count 5 (kidnapping). This appeal follows.

DECISION

I. Sufficient evidence supports the district court's determination that appellant committed the charged crimes beyond a reasonable doubt.

Appellant argues that the state provided insufficient evidence to support the district court's finding (1) of proper venue and (2) C.N.'s testimony credible. We disagree.

In evaluating the sufficiency of the evidence, we ask whether, given the evidence and legitimate inferences drawn from the record, a factfinder could determine guilt beyond a reasonable doubt. *State v. Flowers*, 788 N.W.2d 120, 133 (Minn. 2010). We view the evidence in the light most favorable to the verdict, and assume that the factfinder believed the evidence supporting the verdict and disbelieved contrary evidence. *Id.*

A. The state presented sufficient evidence to prove venue beyond a reasonable doubt.

Although appellant uses the term “jurisdiction” in his brief, we construe his argument as a venue claim. *See State v. Eibensteiner*, 690 N.W.2d 140, 149 (Minn. App. 2004) (noting that subject-matter jurisdiction concerns whether crime was committed in whole or in part within the state, which is distinct from venue as an element of a crime). The state must prove beyond a reasonable doubt that the charged offense occurred in the charging county. Minn. Const. art. I, § 6; *State v. Larsen*, 442 N.W.2d 840, 842 (Minn. App. 1989). Venue may be proved by circumstantial rather than direct evidence. *State v. Frost*, 200 N.W. 295, 295 (Minn. 1924). “Venue is determined by all the reasonable inferences arising from the totality of the surrounding circumstances.” *State v. Carignan*, 272 N.W.2d 748, 749 (Minn.1978). When an offense is committed in more than one county, venue is proper in any county in which an operative or triggering event occurred.

State v. Daniels, 765 N.W.2d 645, 650 (Minn. App. 2009) (applying *Simion* subject-matter-jurisdiction test to narrower context of venue) (citing *State v. Simion*, 745 N.W.2d 830, 838-39 (Minn. 2008)), *review denied* (Minn. Aug. 11, 2009).

First, C.N. testified at trial that, between the first and second sexual assaults, appellant drove to his parents' home where he hit her several times after retrieving a larger knife. C.N. further testified that the first and second sexual assaults occurred "right at the end of the road" from appellant's parents' home. Second, it is undisputed that appellant's parents' home is in Rice County. Appellant's own witness, R.H., provided her street address and town, which are both located in Rice County. *See Larsen*, 442 N.W.2d at 842 (noting district court may take judicial notice of venue when street address or town name offered during trial). Additionally, one of the officers confirmed that appellant's parents' address is in Rice County. Another officer testified that he was responsible for "confirming [the first and second sexual assaults] did happen in Rice County," and the state offered that officer's video showing the site of the sexual assaults in Rice County through geographic identifiers: near "Shield's Lake" and the specific intersection. *See id.* (stating that testimony referring to well-known lake sufficient to establish venue). Finally, there are several triggering events that tie appellant's crimes to his parent's house because he continued to confine, coerce, transport, and physically harm C.N. while there. Accordingly, we conclude that the state presented sufficient evidence to prove venue in Rice County beyond a reasonable doubt.

B. We defer to the district court's determinations of witness credibility.

Appellant argues that the evidence is insufficient to support his convictions because the only evidence is out-of-court statements and trial testimony from the victim, and the victim is not credible based on her false statements. Appellate courts defer to the factfinder's credibility determinations. *State v. Moore*, 438 N.W.2d 101, 108 (Minn. 1989). It is not our role on appeal to reweigh the evidence or to reassess witness credibility. *See State v. Franks*, 765 N.W.2d 68, 73 (Minn. 2009).

Appellant points to some inconsistencies in the evidence for support. But the record is clear that the district court expressly found C.N. credible because she provided trial testimony consistent with (1) her statements to law enforcement on the night of the offenses; (2) the photographs of her injuries; and (3) her demeanor on the witness stand. The district court also noted C.N.'s honesty about her convictions on direct examination and cross-examination. On the other hand, the district court expressly found appellant's only witness, R.H., not credible. Because we defer to the district court's credibility determinations and the record supports its findings, we do not disturb them.

II. The district court did not abuse its discretion by allowing the state to present relationship evidence from appellant's ex-wife.

Appellant argues that the district court abused its discretion by allowing the state to introduce evidence of appellant's prior sexual assault of his ex-wife, D.F., as relationship

evidence under Minn. Stat. § 634.20, and alternatively, that the evidence was inadmissible as *Spreigl* evidence.¹ We are not persuaded.

We review a district court’s evidentiary ruling for an abuse of discretion. *State v. Nunn*, 561 N.W.2d 902, 906-07 (Minn. 1997). A defendant challenging the admission of evidence must show that (1) the district court abused its discretion and (2) the abuse was prejudicial. *Id.* at 907. If the ruling does not implicate a constitutional right, the defendant must prove “there is a reasonable possibility that the wrongfully admitted evidence significantly affected the verdict.” *State v. Matthews*, 800 N.W.2d 629, 633 (Minn. 2011) (quotations omitted). Appellant addresses only the first prong.

Appellant argues that relationship evidence is not admissible here because appellant’s ex-wife is not the victim in this case. But section 634.20 expressly incorporates the definition of “family or household members” from Minn. Stat. § 518B.01, subd. 2(b)(1) (2020), which includes “former spouses.” (“Evidence 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.”). Moreover, we addressed this issue in *State v. Valentine* in which Valentine argued that the district court abused its discretion by allowing evidence of prior domestic assaults against his other girlfriend under section 634.20. 787 N.W.2d 630, 634-35 (Minn. App. 2010), *review denied* (Minn. Nov. 16, 2010). Analyzing section 634.20 in light of section 518B.01, subd. 2, we stated that “evidence showing how a defendant treats his

¹ Courts generally refer to evidence of other crimes or bad acts as *Spreigl* evidence. See *State v. Spreigl*, 139 N.W.2d 167 (Minn. 1965).

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 defendant may interact with the victim.” *Id.* at 637 (emphasis added).

Appellant appears to rely on *State v. Copeland* for the proposition that section 634.20 applies *only* when the victim of the prior domestic abuse is also the victim of the charged offenses. 656 N.W.2d 599 (Minn. App. 2003), *review denied* (Minn. Apr. 29, 2003). In *Copeland*, the state charged Copeland with second-degree assault, neither involving a “family or household member” nor involving a “domestic conduct” charge under section 634.20. *Id.* at 601. As such, *Copeland* is not applicable.

We conclude that the district court did not abuse its discretion by allowing the state to present D.F.’s testimony as relationship evidence. We therefore do not address appellant’s alternative argument that the evidence was inadmissible under *Spriegl. Valentine*, 656 N.W.2d at 638 (declining to analyze admissibility as *Spriegl* evidence after concluding evidence of domestic abuse of household member admissible under section 634.20).

Affirmed.