

*This opinion is nonprecedential except as provided by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
A21-0596**

State of Minnesota,
Respondent,

vs.

Douglas Wayne Young,
Appellant.

**Filed August 22, 2022
Affirmed
Gaïtas, Judge**

Hennepin County District Court
File No. 27-CR-20-11857

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

Michael O. Freeman, Hennepin County Attorney, Brittany D. Lawonn, Senior Assistant
County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Suzanne M. Senecal-Hill,
Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Gaïtas, Presiding Judge; Cochran, Judge; and
Halbrooks, Judge.*

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

NONPRECEDENTIAL OPINION

GAÏTAS, Judge

Appellant Douglas Wayne Young appeals his convictions for first-degree criminal sexual conduct, domestic assault by strangulation, and second-degree assault. He argues that the district court abused its discretion by allowing respondent State of Minnesota to introduce “voluminous evidence” of the victim’s injuries, which unfairly prejudiced the jury’s consideration of his guilt. We affirm.

FACTS

In May 2020, Minneapolis police arrested Young after he assaulted J.B. in her apartment. Young and J.B. had an on-and-off intimate relationship. Following the arrest, the state charged Young with first-degree criminal sexual conduct, Minn. Stat. § 609.342, subd. 1(e)(i) (Supp. 2019); domestic assault by strangulation, Minn. Stat. § 609.2247, subd. 2 (2018); and second-degree assault, Minn. Stat. § 609.222, subd. 1 (2018). The state also filed a notice of its intent to seek an upward durational departure from the presumptive sentence prescribed by the sentencing guidelines.

At Young’s jury trial, J.B. recounted a violent incident, during which Young grabbed her by the neck; dragged her by the arm; hit her; choked her; threw her on the floor and on her bed; threatened to hit her with a hammer; and threw the hammer onto the bed, causing it to hit her face. J.B. also testified that Young knelt on her torso during the incident and forced his penis into her mouth. According to J.B., she lost consciousness at times during the assault.

Responding officers testified that, when they arrived at J.B.'s apartment, Young came out of the building, shirtless and with his pants unzipped. Young told the officers that they should take him to jail.

Medical providers testified about the extent of J.B.'s injuries, which included bruising; cuts; swelling; petechiae; shoulder dislocation; and fractures of the clavicle, humerus, hyoid, ribs, and transverse process. The state introduced 45 photographs of J.B.'s injuries, which were taken by medical providers at the hospital. Additionally, the state presented evidence from J.B.'s sexual assault exam. Swabs from J.B.'s mouth contained sperm cells that were consistent with Young's DNA profile.

During Young's testimony, he acknowledged assaulting J.B. He also admitted to sending apology letters to J.B., which he wrote after reviewing photographs of her injuries. But Young testified that the sexual contact had been consensual.

The jury found Young guilty on all counts. The jury also found facts that aggravated the criminal-sexual-conduct offense, specifically that Young fractured J.B.'s clavicle, humerus, hyoid, ribs, and transverse process and caused J.B. to suffer a protracted and disfiguring shoulder injury.¹ Based on these jury findings, the district court determined that the first-degree criminal-sexual-conduct offense was more serious than a typical offense of this type and was committed with particular cruelty. The district court granted

¹ At Young's trial, the parties presented evidence relating to both guilt and the presence of aggravating sentencing factors. But the district court did not provide the jury with instructions and special interrogatories regarding the presence of aggravating factors until after the guilty verdicts. The jury engaged in a second round of deliberations to determine whether the state proved the aggravating factors. Young made no objection in the district court to proceeding in this manner.

the state’s motion for an upward durational departure and sentenced Young to 312 months in prison.

Young appeals.

DECISION

Young argues that the district court abused its discretion by admitting “voluminous evidence” of J.B.’s injuries over his objection. He challenges the scope of the evidence regarding J.B.’s injuries—particularly 45 photographs taken by medical providers. Because Young did not dispute that he assaulted J.B., he argues that the photographs were irrelevant, cumulative, and unfairly prejudicial.

An appellate court reviews the district court’s evidentiary rulings for an abuse of discretion. *State v. Peltier*, 874 N.W.2d 792, 802 (Minn. 2016). “A district court abuses its discretion when its decision is based on an erroneous view of the law or is against logic and the facts in the record.” *State v. Vangrevenhof*, 941 N.W.2d 730, 736 (Minn. 2020) (quotation omitted). The appellant must demonstrate that the district court abused its discretion in allowing the evidence and that the evidence was unfairly prejudicial. *Peltier*, 874 N.W.2d at 802.

Evidence is relevant when it has “any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” Minn. R. Evid. 401. Evidence that “logically tends to prove or disprove a material fact in issue” is relevant. *State v. Mosley*, 853 N.W.2d 789, 797 (Minn. 2014). But relevant evidence may be excluded when “the danger of unfair prejudice” substantially outweighs “its probative value.” Minn. R. Evid. 403. “Unfair

prejudice ‘does not mean the damage to the opponent’s case that results from the legitimate probative force of the evidence; rather, it refers to the unfair advantage that results from the capacity of the evidence to persuade by illegitimate means.’” *State v. Hahn*, 799 N.W.2d 25, 33 (Minn. App. 2011) (quoting *State v. Bolte*, 530 N.W.2d 191, 197 n.3 (Minn. 1995)), *rev. denied* (Minn. Aug. 24, 2011). “Evidence that is probative, though it may arouse the passions of the jury, will still be admitted unless the tendency of the evidence to persuade by illegitimate means overwhelms its legitimate probative force.” *State v. Schulz*, 691 N.W.2d 474, 478-79 (Minn. 2005).

During the trial, Young made several objections to the evidence of J.B.’s injuries. He first objected to testimony about J.B.’s injuries. Young argued that J.B.’s detailed testimony about her injuries, and the testimony of medical providers about the extent of J.B.’s injuries, was “irrelevant” to whether Young committed the charged offenses. The district court overruled the objection to testimony about J.B.’s injuries, concluding that the extent of the injuries corroborated the “brutality of the assault that [J.B.] had described.”

Young also objected to the state’s request to admit 45 photographs documenting J.B.’s injuries. Although he agreed that the state could introduce photographs of J.B.’s injuries through the testifying forensic nurse examiner, he argued that the sheer volume of photographs that the state sought to admit would be cumulative and unfairly prejudicial. The district court viewed the photographs and determined that “there are a lot of photos . . . mostly because there are a lot of injuries.” While some of the photos depicted the same injuries, the district court did not find those photos to be cumulative because they showed “different zoom levels, which is important.” The district court observed that the wider

angled photos depicted the relationship between different injuries, whereas closeups revealed the “exact nature of each individual injury.” Thus, the district court allowed the state to introduce all 45 of the photographs of J.B.’s injuries.

Young now argues that the district court’s evidentiary rulings were an abuse of discretion. He first contends that the district court abused its discretion by allowing the state to admit extensive evidence regarding J.B.’s injuries during the “guilt phase” of the trial even though that evidence was only relevant to the presence of aggravating factors, which the jury considered separately.² But the evidentiary portion of Young’s trial was unitary—there was no “guilt phase” and “sentencing phase” of the trial, except that the jury was presented with the special interrogatories concerning aggravating factors after they reached their verdicts on the substantive offenses. And if Young is now indirectly arguing that the district court erred in not bifurcating the trial, he has forfeited this argument. He never moved the district court to bifurcate the evidentiary portion of the trial, and he did not object to the unitary trial that occurred. *See Rairdon v. State*, 557 N.W.2d 318, 323

² When the state provides notice of its intent to seek an upward durational departure, “[t]he court must . . . determine whether to conduct a unitary or bifurcated trial.” Minn. R. Crim. P. 11.04, subd. 2(a). In making this determination,

the court must determine whether the evidence supporting an aggravated sentence is otherwise admissible in the guilt phase of trial and whether a unitary trial would unfairly prejudice the defendant. The court must order a bifurcated trial if the evidence supporting an aggravated sentence includes evidence otherwise inadmissible at the guilt phase of the trial or if that evidence would unfairly prejudice the defendant in the guilt phase.

Minn. R. Crim. P. 11.04, subd. 2(b).

(Minn. 1996) (“Failure to object ordinarily forfeits a criminal defendant’s right to review, although a defendant may obtain appellate review of and relief from plain errors affecting substantial rights if those errors had the effect of depriving the defendant of a fair trial.” (citation omitted)); *see also* Minn. R. Crim. P. 31.02 (providing that appellate courts may review unobjected-to plain error when it affects a defendant’s substantial rights).

Young also argues that the evidence about the extent of J.B.’s injuries was not relevant because he “never disputed that a physical altercation occurred” and none of the charged offenses “required the state to prove a brutal assault.” We disagree. Young was charged with first-degree criminal sexual conduct under Minnesota Statutes section 609.342, subdivision 1(e)(i), which required the state to prove that Young caused J.B. personal injury, and that Young used force or coercion to sexually penetrate J.B. Moreover, despite Young’s admission that he assaulted J.B., the state still had the burden of establishing that Young was guilty of the charged assault offenses beyond a reasonable doubt. *State v. Pakhnyuk*, 926 N.W.2d 914, 919 (Minn. 2019) (providing that the state must prove every element of a charged offense beyond a reasonable doubt). The extent of J.B.’s injuries was clearly relevant to Young’s guilt.

Finally, Young argues that even if evidence was relevant, the district court had a duty to exclude it because it was unduly inflammatory. He contends the extensive evidence of J.B.’s injuries undoubtedly “aroused the jury’s passions and diverted its attention from deciding whether the state met its burden.” Here, the district court considered Young’s argument that the sheer number of photographs was unfairly prejudicial. But the district court ultimately determined that the photos were necessary to show J.B.’s actual injuries

and that their relevance outweighed any potential for unfair prejudice. *See Hahn*, 799 N.W.2d at 33 (“[P]hotographs are not rendered inadmissible just because they vividly depict a shocking crime or incidentally tend to arouse the passions and prejudices of the jurors.” (quotation omitted)); *see also State v. Hummel*, 483 N.W.2d 68, 74 (Minn. 1992) (concluding that the district court has discretion over the admission of relevant photographs); *State v. Sullivan*, 502 N.W.2d 200, 202 (Minn. 1993) (stating that a photograph’s graphic nature cannot be the only reason for excluding it from evidence). Likewise, the district court determined that J.B.’s testimony and the testimony of her treating physician were relevant to the elements of the charged offenses, were not cumulative, and did not unfairly prejudice Young.

The district court appropriately exercised its discretion in concluding that the evidence of J.B.’s injuries was admissible. Thus, Young has not shown any error in the district court’s evidentiary rulings.

But even if the district court did err in allowing this evidence, we cannot conclude that the evidence significantly affected the jury’s guilty verdicts. “[A]n appellant who alleges an error in the admission of evidence that does not implicate a constitutional right must prove that there is a reasonable possibility that the wrongfully admitted evidence significantly affected the verdict.” *Peltier*, 874 N.W.2d at 802 (quotation omitted) (discussing factors court considers when determining whether wrongfully admitted evidence significantly affected the verdict). In deciding what effect erroneously admitted evidence had on the verdict, the reviewing court considers “the manner in which the evidence was presented, whether it was highly persuasive, whether it was used in closing

argument, and whether the defense effectively countered it.” *Townsend v. State*, 646 N.W.2d 218, 223 (Minn. 2002).

Here, the state’s evidence against Young was strong. The testimony about the extent of J.B.’s injuries and the photographs merely corroborated J.B.’s account of an incredibly violent incident. And Young’s attorney specifically argued to the jury that it should not allow the evidence of J.B.’s injuries “to impede [its] judgment” in determining whether the state satisfied the burden of proving guilt. Given these circumstances, we cannot conclude that there is any reasonable possibility that the evidence Young complains of here significantly affected the verdict.

Affirmed.