

*This opinion is nonprecedential except as provided by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
A21-1326**

State of Minnesota,
Respondent,

vs.

Scott Wade Ramey,
Appellant.

**Filed August 8, 2022
Affirmed
Worke, Judge**

Olmsted County District Court
File No. 55-CR-21-144

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

Mark A. Ostrem, Olmsted County Attorney, James E. Haase, Assistant County Attorney,
Rochester, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Sara L. Martin, Assistant Public
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Frisch, Presiding Judge; Worke, Judge; and Johnson,
Judge.

NONPRECEDENTIAL OPINION

WORKE, Judge

Appellant challenges his criminal-sexual-conduct convictions, arguing that he was denied his right to a unanimous verdict and the evidence is insufficient to support his convictions. We affirm.

FACTS

On December 15, 2020, 20-year-old A.A. reported to law enforcement that appellant Scott Wade Ramey¹ held her prisoner and repeatedly raped her. A.A. explained to Investigator Anja Kelley, who specializes in sexual-assault cases, that Ramey approached her in a park about a month prior and coerced her into going to his shed where he raped her.

Kelley looked into Ramey's contact with law enforcement and discovered his shed. On December 31, 2020, she called A.A. During the call, A.A. also identified a church closet as a location where Ramey had assaulted her. A.A. also stated that Ramey had a gun. Kelley visited the church to verify the closet.

On January 4, 2021, Kelley met with A.A. A.A. stated that when she first met Ramey in the park, she felt intimidated and pressured to go with him to his shed because he placed a gun, knives, and pepper spray on a park table. She disclosed that on the first day at the shed, she bled on a blue blanket after Ramey raped her. It left a stain even after Ramey washed it. A.A. described another incident when Ramey pushed her onto a couch, put a gun to her head, and then raped her. A.A. guessed that Ramey raped her seven times. She stated that Ramey threatened to "throw her down the river," and that after she saw a baby deer carcass in a truck, Ramey called her "dead baby deer."

¹ At the time, Ramey was 56 years old.

On January 7, 2021, officers executed search warrants. Officers found pepper spray for bears, stacks of condoms, packets of pills, cough liquid gels, a pocket-knife, and a blue stained blanket in Ramey’s shed. Officers did not find a gun.

The state charged Ramey with first-degree criminal sexual conduct—penetration while armed with a dangerous weapon and third-degree criminal sexual conduct—use of force/coercion. *See* Minn. Stat. §§ 609.342, subd. 1(b), .344, subd. 1(c) (2020).²

At Ramey’s jury trial, A.A. testified that in November 2020, Ramey approached her and “put down [on a park bench] some guns and knives and pepper spray and continued to pressure [her] to [go] with him to his shed over and over again.” In the shed, Ramey made A.A. soup, which she described as tasting “unusual.” A.A. felt “uncomfortable,” “unsafe,” and “drugged.” Ramey put on a condom and had sex with A.A. A.A. did not want to have sex with Ramey. She testified that she bled on a blanket. A photo of a stained blanket found in Ramey’s shed was admitted into evidence. The second time that Ramey had sex with A.A., he wore a condom, but he took it off and continued to have sex with her.

A.A. spent three days in Ramey’s shed. Ramey forced A.A. “to drink . . . cough drops” that made her feel like she was hallucinating and outside her normal state of mind. She felt that Ramey was going to hurt her because he used “threats and . . . was controlling.” She could not recall how many times over the three days Ramey sexually assaulted her in the shed, but she stated that it was more than five times. One time after she told Ramey that she wanted to leave he threatened her with a gun and raped her again.

² The offense dates are between November 14 and December 10, 2020.

Ramey then took A.A. to a church and raped her in a closet. She described Ramey as “controlling,” “possessive,” “aggressive,” and “physical.” She stated that he yelled at her and used “threatening words.” She testified: “He would push me down, he would tell me, ‘I’m going to break your leg and bleed’ He would call me a prostitute or a dead baby deer.”

A.A. testified that on November 19, 2020, she went inside a restaurant and gave an employee a note telling the employee to call 911 because Ramey was trying to kidnap her. Police arrived and took A.A. to a shelter.

During cross-examination of A.A., Ramey’s attorney elicited testimony that A.A. had revealed more details during her second meeting with Kelley.

Kelley testified about the investigation. She stated that A.A. contacting her was a “big step” and that A.A. did not initially disclose a lot of information. Kelley testified that A.A. disclosed more details at the second meeting because A.A. was more comfortable after she had time to reflect on what happened to her. Kelley testified that A.A.’s “story didn’t change, but . . . she remembered more details.” Kelley stated that it is common for victims to provide more details in subsequent interviews.

The jury found Ramey guilty as charged. The district court sentenced Ramey to 280 months in prison. This appeal followed.

DECISION

Specific-unanimity jury instruction

Ramey first argues that the district court plainly erred by failing to give the jury a specific-unanimity instruction. The district court instructed the jury that its verdict must be unanimous, but Ramey did not request a specific-unanimity instruction.

Because Ramey did not request a specific-unanimity instruction at trial, this court reviews for plain error. *State v. Crowsbreast*, 629 N.W.2d 433, 438 (Minn. 2001). Under the plain-error test, this court must determine whether there was (1) an error; (2) that was plain; and (3) that affected Ramey’s substantial rights. *See State v. Gunderson*, 812 N.W.2d 156, 159 (Minn. App. 2012).

An error is plain if it “contravenes case law, a rule, or a standard of conduct.” *State v. Webster*, 894 N.W.2d 782, 787 (Minn. 2017) (quotation omitted). An alleged error does not contravene caselaw unless the issue is “conclusively resolved.” *State v. Jones*, 753 N.W.2d 677, 689 (Minn. 2008). Ramey bears a heavy burden to show that an error affected his substantial rights, which is satisfied if the error was prejudicial and affected the outcome of the case. *See State v. Griller*, 583 N.W.2d 736, 741 (Minn. 1998). If any requirement of the plain-error test is not satisfied, this court need not address the others. *State v. Lilienthal*, 889 N.W.2d 780, 785 (Minn. 2017). But if the three prongs of the plain-error test are met, this court must then decide whether to address the error “to ensure fairness and the integrity of the judicial proceedings.” *State v. Milton*, 821 N.W.2d 789, 805 (Minn. 2012) (quotation omitted).

Ramey argues that he was charged with two counts prohibiting a single act. He claims that because the state offered evidence of multiple, distinct acts occurring in different locations over the course of three weeks, the district court was required to instruct the jury to unanimously agree on a particular act.

A jury's verdict must be unanimous in all criminal cases, meaning the jury must agree that the state proved each element of the offense. Minn. R. Crim. P. 26.01, subd. 1(5); *State v. Pendleton*, 725 N.W.2d 717, 730-31 (Minn. 2007). While "the jury must unanimously agree on which acts the defendant committed if each act itself constitutes an element of the crime," it is not required to unanimously agree on "alternative means or ways in which the crime can be committed." *State v. Stempf*, 627 N.W.2d 352, 354-55 (Minn. App. 2001) (quotation omitted). When the state offers different means for proving a crime, the jury need not agree on the specific means, "[b]ut different factual courses of conduct or states of mind that are offered to prove an element of a crime must show equivalent blameworthiness or culpability." *State v. Dalbec*, 789 N.W.2d 508, 511 (Minn. App. 2010) (quotation omitted), *rev. denied* (Minn. Dec. 22, 2010).

In *Stempf*, the defendant was charged with one count of possession of a controlled substance based on two separate instances: methamphetamine found at his workplace and methamphetamine found in a truck. 627 N.W.2d at 354. Stempf denied possessing the methamphetamine and provided a defense at trial for each instance. *Id.* In closing arguments, the state told the jury that it could convict Stempf if some jurors found that he possessed the methamphetamine in the workplace, while others found that he possessed the methamphetamine in the truck. *Id.* This court disagreed and determined that the jury

had to agree on which drugs Stempf possessed; without knowing what each of the jurors found, it was impossible to know that the jury's verdict was unanimous. *Id.* at 359.

Caselaw on this subject has continued to develop. For example, in *Crowsbreast*, the supreme court stated that the right to a unanimous verdict does not mean that jurors must agree upon a single means of commission of an offense; rather, "different jurors may be persuaded by different pieces of evidence, even when they agree upon the bottom line." 629 N.W.2d at 439 (quotation omitted).

Ramey claims that the state presented evidence of four acts: (1) the first day when A.A. bled on the blue blanket, (2) the second day when he began penetrating her using a condom but then took it off, (3) the encounter in the church closet, and (4) the incident when he pointed a gun at her. He argues that, like *Stempf*, it is unknown which of these four acts the jury found he committed. But unlike *Stempf*, Ramey provided no individual defenses to the allegations. The case was based on whether the jury believed A.A. And the prosecutor did not put a particular emphasis on one instance over another. Cross-examination of the state's witnesses showed that Ramey's position was that A.A. fabricated the allegations and the defense did not focus on individual incidents.

Additionally, Ramey was convicted of first-degree criminal sexual conduct. The jury found that he was armed with a dangerous weapon to cause A.A. to submit to the sexual assault. *See* Minn. Stat. § 609.342, subd. 1(b). Thus, the jury agreed that Ramey used a dangerous weapon. And because A.A. testified that Ramey had pointed a gun at her on one of the alleged incidents, it seems clear that the jury agreed that Ramey committed the incident when he pointed the gun at A.A.

But even if different jurors determined that Ramey was guilty based on different acts, this would not violate his right to a unanimous verdict because, as we stated earlier, the right to a unanimous verdict does not mean that jurors must agree upon a single means of commission of an offense. *See Crowsbreast*, 629 N.W.2d at 439. Thus, the district court did not err, let alone plainly err, by not giving the jury a specific-unanimity instruction.

Sufficiency of the evidence

Ramey challenges the sufficiency of the evidence supporting his convictions. In evaluating the sufficiency of the evidence, this court “carefully examine[s] the record to determine whether the facts and the legitimate inferences drawn from them would permit the [jury] to reasonably conclude that the defendant was guilty beyond a reasonable doubt of the offense of which he was convicted.” *State v. Waiters*, 929 N.W.2d 895, 900 (Minn. 2019) (quotation omitted). This court reviews the evidence “in the light most favorable to the conviction” and “assume[s] the jury believed the [s]tate’s witnesses and disbelieved any evidence to the contrary.” *State v. Ortega*, 813 N.W.2d 86, 100 (Minn. 2012) (quotation omitted). We “will not disturb the verdict if the jury, acting with due regard for the presumption of innocence and the requirement of proof beyond a reasonable doubt, could reasonably conclude that the defendant was guilty of the charged offense.” *Id.*

First-degree criminal sexual conduct

Ramey argues that the state failed to prove that he used a dangerous weapon because A.A.’s testimony is the only evidence that he used a dangerous weapon, and A.A. is not credible because she did not initially report to law enforcement that he used a weapon, her

testimony was inconsistent, and there was no evidence corroborating her testimony. *See* Minn. Stat. § 609.342, subd. 1(b) (stating that a person who sexually penetrates another is guilty of first-degree criminal sexual conduct if the actor is armed with a dangerous weapon and uses or threatens to use it to cause the complainant to submit).

A guilty verdict may be based on the testimony of a single credible witness. *State v. Foreman*, 680 N.W.2d 536, 539 (Minn. 2004). And “[c]orroboration is not required in criminal sexual conduct cases.” *State v. Wright*, 679 N.W.2d 186, 190 (Minn. App. 2004), *rev. denied* (Minn. June 29, 2004). Ramey challenges A.A.’s credibility, but we must assume that the jury believed her. Although Ramey claims that A.A.’s report to law enforcement changed, Kelley testified that A.A.’s story did not change and that she only provided additional details during the second meeting. And Kelley testified that it is not uncommon for victims to provide more details in subsequent meetings.

We also note that the timeline of events could have allowed the jury to draw the legitimate inference that Ramey disposed of a gun. On November 19, 2020, A.A. was able to escape from Ramey and had contact with police, and Ramey was aware of this contact. On January 7, 2021, officers searched Ramey’s shed and did not find a gun. Ramey, with knowledge that A.A. had contact with law enforcement, could easily have disposed of the gun between November 19, 2020, and January 7, 2021. The evidence supports Ramey’s first-degree criminal-sexual-conduct conviction.

Third-degree criminal sexual conduct

Ramey also argues that the evidence is insufficient to support his third-degree criminal-sexual-conduct conviction because the state did not prove that he used force or

coercion. He claims that A.A.’s version of events shifted because she did not initially report to law enforcement that he used a weapon or drugged her.

The state was required to prove that Ramey penetrated A.A. without her consent, using force or coercion to accomplish the penetration. Minn. Stat. § 609.344, subd. 1(c).

Force is defined as

the infliction, attempted infliction, or threatened infliction by the actor of bodily harm or commission or threat of any other crime by the actor against the complainant or another, which (a) causes the complainant to reasonably believe that the actor has the present ability to execute the threat and (b) . . . causes the complainant to submit.

Minn. Stat. § 609.341, subd. 3 (2020). Coercion is defined as

the use by the actor of words or circumstances that cause the complainant reasonably to fear that the actor will inflict bodily harm upon the complainant or another, or the use by the actor of confinement, or superior size or strength, against the complainant that causes the complainant to submit to sexual penetration or contact against the complainant’s will. Proof of coercion does not require proof of a specific act or threat.

Id., subd. 14 (2020). Conduct that contributes to an “atmosphere of fear” suggests coercive influence. *State v. Gamez*, 494 N.W.2d 84, 87 (Minn. App. 1992), *rev. denied* (Minn. Feb. 23, 1993).

The statutory definitions of force and coercion do not require the presence of weapons or drugs. And A.A.’s testimony satisfies the jury’s finding of force or coercion. A.A. testified that Ramey was “aggressive” and “physical.” He used “threats and . . . was controlling.” He “yell[ed]” at her and used “threatening words.” A.A. testified: “[Ramey]

would push me down, he would tell me ‘I’m going to break your leg and bleed’ He would call me a prostitute or a dead baby deer.”

Ramey used force. He threatened to inflict bodily harm to cause A.A. to submit. Ramey used coercion. His words and his confinement of A.A. caused her to reasonably fear that he would inflict bodily harm unless she submitted to the sexual acts committed against her. His conduct created an “atmosphere of fear.” *See id.* The evidence is sufficient to support Ramey’s third-degree criminal-sexual-conduct conviction.

Pro se claims

Ramey raises several claims in a pro se supplemental brief. His brief, however, “contains no argument or citation to legal authority in support of [his] allegations.” *See State v. Krosch*, 642 N.W.2d 713, 719 (Minn. 2002). Thus, these claims are forfeited, and we decline to address them. *See State v. Bartylla*, 755 N.W.2d 8, 22 (Minn. 2008) (stating that this court need “not consider pro se claims on appeal that are unsupported by either arguments or citations to legal authority”); *Louden v. Louden*, 22 N.W.2d 164, 166 (Minn. 1946) (“An assignment of error based on mere assertion and not supported by any argument or authorities in appellant’s brief is waived and will not be considered on appeal unless prejudicial error is obvious on mere inspection.”).

Affirmed.