This opinion is nonprecedential except as provided by Minn.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
A21-1575

State of Minnesota,
Respondent,

vs.

Christopher Lee Konakowitz,
Appellant.

Filed December 12, 2022
Affirmed
Larson, Judge

Brown County District Court
File No. 08-CR-19-1031

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

Charles W. Hanson, Brown County Attorney, Jill M. Jensen, Assistant County Attorney, New Ulm, Minnesota (for respondent)

Michelle K. Olsen, Birkholz & Associates, LLC, Mankato, Minnesota (for appellant)

Considered and decided by Larson, Presiding Judge; Johnson, Judge; and Smith, Tracy M., Judge.

NONPRECEDENTIAL OPINION

LARSON, Judge

Appellant Christopher Lee Konakowitz challenges his convictions for three counts of first-degree criminal-sexual conduct. Appellant argues: (1) the statute of limitations bars the charges against him; (2) the unreasonable delay in charging violates his due-

process rights; (3) the record lacks sufficient evidence to support his convictions; and (4) the district court improperly admitted *Spreigl* evidence. We affirm.

FACTS

In October 2019, the Brown County Sheriff's Office received an email from a 24-year-old complainant alleging appellant had sexually assaulted her when she was between four and six years old. In later interviews, the complainant reported that appellant had sexually assaulted, or attempted to sexually assault, her on several occasions approximately twenty years ago.

In November 2019, respondent State of Minnesota charged appellant with two counts of first-degree criminal-sexual conduct, in violation of Minn. Stat. § 609.342, subd. 1(a) (1998); one count of first-degree criminal-sexual conduct, in violation of Minn. Stat. § 609.342, subd. 1(h)(i) (1998); and two counts of second-degree criminal-sexual conduct, in violation of Minn. Stat. § 609.343, subd. 1(a) (1998).

After charging appellant, the state filed a notice of intent to introduce *Spreigl* evidence.[1] Of note, the state sought to introduce evidence of appellant's 2003 conviction for fourth-degree criminal-sexual conduct where appellant admitted to touching a five-year-old girl ("the *Spreigl* victim") on the vagina with his hand between September and December 2001.[2] According to police reports, witnesses stated that this incident occurred while appellant lived with the *Spreigl* victim and her mother. The state conveyed that it

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[1] We refer to evidence of a defendant's prior crime, wrong, or bad act as *Spreigl* evidence. *See State v. Spreigl*, 139 N.W.2d 167 (Minn. 1965); Minn. R. Evid. 404(b).

[2] Although the state initially provided notice of four *Spreigl* incidents, it sought to introduce only evidence of the 2003 offense at trial.

intended to use this evidence to establish a common scheme or plan. The district court issued a written order granting the state's motion to admit evidence of the 2003 offense.

Prior to trial, appellant filed a motion to dismiss all charges based on the statute of limitations and the state's delay in charging. Appellant contended that the statute of limitations for the current offenses started to run in 2008 when appellant reported certain incidents during a polygraph examination, which appellant took as part of sex-offender treatment. During the exam, appellant identified 15 additional victims. Appellant argued to the district court that one of the disclosed victims was the complainant in this case.

The district court held a motion hearing where appellant's former probation officer (PO) offered the following testimony. The PO testified that he did not attend the polygraph examination but took notes after reviewing the results. He also testified that he did not file his notes or the polygraph results with the court. He indicated he did not report the polygraph results to the police. The PO further testified that he did not consider himself "law enforcement," and does not have the power to arrest or sign criminal complaints. Following the hearing, the district court issued a written order denying appellant's motion to dismiss based on the statute of limitations and the state's delay in charging.

At trial, the state called the complainant to testify regarding certain incidents involving appellant. The complainant testified that she was between four and six years old at the time of these incidents. The complainant stated she was around "three and a half feet tall" at that age and that appellant was the size of a "grown man." The complainant testified that she knew appellant because they are relatives.

As relevant to this appeal, the complainant described two sexual-assault incidents. She stated that the first occurred when appellant took her into appellant's bedroom ("the bedroom incident"). The complainant stated that she and appellant were alone in appellant's bedroom, and that she remembered laying on her back on his bed. The complainant stated appellant kneeled at the end of the bed, removed her pants, and spread her legs apart. The complainant testified appellant touched her genitalia and that "there was slight penetration." In describing how she felt during the incident, the complainant testified, "I think I was just trying to distract myself or maybe I didn't know if it was, like, a hundred percent right or maybe I felt like it was wrong and that's why I couldn't tell anybody as a kid because I was scared, but I don't remember."

The complainant testified to a second incident in which appellant took her to his boat that was parked on a trailer on the side of his house ("the boat incident"). She said that appellant placed her in the passenger seat and then pulled a tarp over the boat. The complainant stated that appellant knelt in front of her, took off her pants and underwear, and then "forc[ed]" her knees apart. The complainant testified she had her knees clenched together because she knew appellant's behavior was wrong. The complainant testified that appellant touched her genitalia with his hands and that he penetrated her "[s]lightly with his fingers."

The jury found appellant guilty of two counts of first-degree criminal-sexual conduct, in violation of Minn. Stat. § 609.342, subd. 1(a), for both the bedroom incident and the boat incident, and one count of first-degree criminal-sexual conduct, in violation

of Minn. Stat. § 609.342, subd. 1(h)(i), for the boat incident. The jury found appellant not guilty of the two second-degree criminal-sexual-conduct charges.

This appeal follows.

I.

Appellant challenges the district court's decision to deny his pre-trial motion to dismiss. Appellant asserts that, because he disclosed the charged behavior during the 2008 polygraph examination that his PO reviewed, his convictions are barred by the statute of limitations and an unreasonable delay in charging.[3] We address each argument in turn.

A. Statute of Limitations

Appellant first argues the district court erred when it denied appellant's motion to dismiss based on the statute of limitations. The relevant statute of limitations provides

> Indictments or complaints for violation of sections 609.322 and 609.342 to 609.345, if the victim was under the age of 18 years at the time the offense was committed, shall be found or made and filed in the proper court within the later of nine years after the commission of the offense or three years after the offense was *reported to law enforcement authorities*.

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[3] Appellant made a similar argument in his recent appeal for a separate conviction involving different victims. *State v. Konakowitz*, No. A21-1578, 2022 WL 3711450, at *2-4 (Minn. App. Aug. 29, 2022), *rev. denied* (Nov. 15, 2022). There, appellant argued the charged offenses had been reported to law enforcement in 2001 when "Brown County Family Services along with a police officer interviewed [one of the child-victim's] mother regarding incidents between [appellant] and [child-victim]." *Id.* at *2. In affirming appellant's conviction, we concluded that "[g]eneral allegations of appellant's potential sexual misconduct towards [the two child-victims] do not constitute a report of 'the offense' to law enforcement." *Id.* at *3. "To trigger the statute of limitations, conduct underlying the particular offense for which the state charged appellant must have been reported to law enforcement." *Id.*

Minn. Stat. § 628.26(e) (2018) (emphasis added). The parties agree that the state did not charge appellant within nine years after the commission of the offense, so we must decide whether the state charged appellant within "three years after the offense was reported to law enforcement authorities." The parties dispute the meaning of the phrase. Thus, we are faced with a statutory-interpretation question, which we review de novo. *Ford v. Minneapolis Pub. Sch.*, 874 N.W.2d 231, 232 (Minn. 2016).

The object of statutory interpretation is to ascertain and effectuate the intent of the legislature. *State v. Struzyk*, 869 N.W.2d 280, 284 (Minn. 2015). The legislature intends a criminal statute of limitations to "protect individuals from having to defend themselves against charges when the basic facts may have become obscured by the passage of time." *Reed v. State*, 793 N.W.2d 725, 731 (Minn. 2010) (quoting *Toussie v. United States*, 397 U.S. 112, 114 (1970)). "A statute should be interpreted, whenever possible, to give effect to all of its provisions." *Am. Family Ins. Grp. v. Schroedl*, 616 N.W.2d 273, 277 (Minn. 2000). If a statute is unambiguous, we apply its plain meaning. *Larson v. State*, 790 N.W.2d 700, 703 (Minn. 2010).

Appellant contends the phrase "law enforcement authorities" in Minn. Stat. § 628.26(e) plainly includes probation officers, like his PO who reviewed the 2008 polygraph examination. The state disagrees, arguing the phrase means authorities charged with investigating crime and apprehending those who commit crimes, and that probation officers do not serve those functions.

To determine a statute's plain meaning, we construe the words "according to the rules of grammar and their common and approved usage." *Jones v. Borchardt*, 775 N.W.2d

646, 647 (Minn. 2009). We will also "look to the dictionary definitions of [the] words and apply them in the context of the statute." *State v. Haywood*, 886 N.W.2d 485, 488 (Minn. 2016). If it is a legal term, we may rely on legal dictionaries. *T.G.G. v. H.E.S.*, 946 N.W.2d 309, 315 (Minn. 2020).

Both lay and legal dictionaries define "law enforcement" as those who investigate crimes and apprehend those committing crimes. *See, e.g.*, Merriam-Webster.com, https://www.merriam-webster.com/dictionary/law%20enforcement [https://perma.cc/XRU6-YWCX] (defining "law enforcement" as "the department of people who enforce laws, investigate crimes, and make arrests: the police"); *Black's Law Dictionary* 1017 (10th ed. 2014) (defining "law enforcement" as "[t]he detection and punishment of violations of the law" and "[p]olice officers and other members of the executive branch of government charged with carrying out and enforcing the criminal law"); *Black's Law Dictionary* 1018 (10th ed. 2014) (defining "law-enforcement officer" as "[a] person whose duty is to enforce the laws and preserve the peace"). Consistent with the dictionary definitions, the legislature tasks "law enforcement" with "preventing and detecting crime." Minn. Stat. § 626.84, subd. 1(f) (2018). Applying these definitions, the legislature intends the phrase "law enforcement authorities" in Minn. Stat. § 628.26(e) to mean those preventing and detecting crime and apprehending those who are committing crimes.

We must, therefore, determine whether probation officers are "law enforcement authorities" applying that plain meaning. To make that determination, we review the

purpose of the probation-officer position.[4] Both lay and legal dictionaries define a "probation officer" as one who supervises and investigates those already involved with the criminal justice system. *See, e.g.*, Merriam-Webster.com, https://www.merriam-webster.com/dictionary/probation%20officer [https://perma.cc/8QNZ-2ZQC] (defining "probation officer" as "an officer appointed to investigate, report on, and supervise the conduct of convicted offenders on probation."); *Black's Law Dictionary* 1258 (10th ed. 2014) (defining "probation officer" as "[a] government officer who supervises the conduct of a probationer"). And the legislature directs probation officers to monitor those "committed to their care by the [district] court." Minn. Stat. § 244.19, subd. 3 (2018). Thus, we must presume that the legislature draws a distinction between probation officers and law enforcement: probation officers supervise those who are already involved with the criminal-justice system while law enforcement focuses on the prevention and detection of new criminal offenses. *See also, e.g.*, Minn. Stat. § 243.166, subd. 1a (e) (2018) ("Law enforcement authority" means "the chief of police . . . [or] the county sheriff.");[5] Minn.

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[4] We observe that we have issued a nonprecedential opinion concluding that county attorneys and human services employees are not "law enforcement authorities" under Minn. Stat. § 628.26(e) after evaluating the statutory purpose of these positions. *State v. Avila*, No. A18-1567, 2019 WL 3545813, at *4 (Minn. App. Aug. 5, 2019). While this opinion is nonprecedential, we recognize its persuasive value regarding the appropriateness of reviewing the statutory purpose of a position to analyze whether a person serves as a "law enforcement authorit[y]." *See* Minn. R. Civ. App. P. 136.01, subd. 1(c).

[5] The current version of Minn. Stat. § 243.166, subd. 1a (2020), further distinguishes probation officers from law enforcement. The current version defines "law enforcement authority" as "the chief of police of a home rule charter or statutory city and the county sheriff of an unincorporated area in that county." *Id.*, subd. 1a(f). It defines "corrections agent," however, as "a county or state *probation agent* or other corrections employee." *Id.*, subd. 1a(c) (emphasis added).

Stat. § 244.051 (2018) ("All programs serving inmates on supervised release following a prison sentence shall notify the appropriate *probation officer, appropriate law enforcement agency*, and the Department of Corrections . . . ." (emphasis added)).

Because probation officers are not charged with performing "law enforcement" functions, they are not "law enforcement authorities" under Minn. Stat. § 628.26(e). Therefore, even if appellant had disclosed these incidents to his PO during the 2008 polygraph examination, there is no evidence the report was disclosed to "law enforcement authorities." Instead, the first report to law-enforcement authorities occurred in October 2019 when the complainant emailed the Brown County Sheriff's Office, and the statute of limitations started to run in October 2019, one month before the state charged appellant.

For these reasons, the district court did not err when it denied appellant's motion to dismiss based on the statute of limitations.

B. Unreasonable Delay

Appellant also contends the district court erred when it denied his motion to dismiss because the 20-year delay between the offense and the time of charging violated his due-process rights. We review de novo whether a delay in charging violated an appellant's right to due process. *State v. Lussier*, 695 N.W.2d 651, 653-54 (Minn. App. 2005). To show that a precharge delay violates due process, the appellant bears the burden to establish that (1) the precharge delay "caused substantial prejudice" to the appellant's right to a fair trial and (2) the state "intentionally delayed" bringing charges "to gain [a] tactical advantage." *State v. Jurgens*, 424 N.W.2d 546, 550 (Minn. App. 1988) (citing *United States v. Marion*, 404 U.S. 307, 324 (1971)), *rev. denied* (Minn. July 6, 1988); *State v.*

F.C.R., 276 N.W.2d 636, 639 (Minn. 1979) (stating that a defendant must prove both actual prejudice and improper state purpose).

Here, even if we accepted appellant's argument that the state "intentionally delayed" charging appellant, the record does not show the delay "caused substantial prejudice." Appellant argues the two decades between the offense and charges impaired his ability to prepare a defense because "all possible evidence has not been preserved." But "a defendant challenging [precharge] delay must show more than potential prejudice." *Jurgens*, 424 N.W.2d at 551. Here, appellant fails to allege, much less show, anything more than potential prejudice relating to appellant's difficulty in defending the charges. While a long precharge delay "unquestionably affects" a defendant's ability to defend against criminal charges, it does not compel a presumption of prejudice. *See id.* (concluding that 22-year delay between offense and charging did not result in a due-process violation when defendant failed to show actual prejudice).

Appellant has not presented any evidence demonstrating substantial prejudice, and therefore has not met his burden. Thus, the district court did not err when it denied appellant's motion to dismiss based on unreasonable delay in charging.

II.

Appellant next challenges whether the record contains sufficient evidence to support his convictions. Specifically, appellant contends there is not sufficient evidence related to the "penetration" element required for a conviction under Minn. Stat. § 609.342, subd. 1(a), and Minn. Stat. § 609.342, subd. 1(h)(i), or the "force or coercion" element required for a

conviction under Minn. Stat. § 609.342, subd. 1(h)(i). We review these issues de novo. *State v. Hayes*, 826 N.W.2d 799, 803 (Minn. 2013).

When evaluating the sufficiency of the evidence, we "carefully examine 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. Boldman*, 813 N.W.2d 102, 106 (Minn. 2012). We view the evidence in the light most favorable to the verdict, and we assume the factfinder disbelieved any evidence that conflicted with the verdict. *State v. Palmer*, 803 N.W.2d 727, 733 (Minn. 2011). We will not overturn a verdict if the factfinder, upon application of the presumption of innocence and the state's burden of proving an offense beyond a reasonable doubt, could have reasonably found the defendant guilty of the charged offense. *State v. Griffin*, 887 N.W.2d 257, 263 (Minn. 2016).

A. Sexual Penetration

Appellant challenges whether the state presented sufficient evidence to prove the "sexual penetration" element for a conviction under Minn. Stat. § 609.342, subd. 1(a), and Minn. Stat. § 609.342, subd. 1(h)(i). The state needed to prove this element for both the bedroom incident and the boat incident. Appellant argues the complainant's testimony regarding the two incidents did not describe conduct meeting the "sexual penetration" definition.[6] We disagree.

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[6] Appellant also argues the complainant offered conflicting testimony regarding whether appellant penetrated her. Inconsistencies in testimony go to witness credibility, which is an issue for the factfinder. *State v. Juarez*, 837 N.W.2d 473, 487 (Minn. 2013). We will

The statute defines "[s]exual penetration" to include "any intrusion *however slight* into the genital or anal openings: of the complainant's body by any part of the actor's body or any object used by the actor for this purpose." Minn. Stat. § 609.341, subd. 12(2)(i) (1998) (emphasis added). In *State v. Shamp*, we addressed the sufficiency of the evidence to prove "sexual penetration." 422 N.W.2d 520, 524-25 (Minn. App. 1988), *rev. denied* (Minn. June 10, 1988).[7] We concluded that the child-victim's testimony proved "sexual penetration" when the child-victim testified that the defendant "would rub his fingers between the folds of skin over [the child-victim's] vagina, but not insert his fingers 'all the way.'" *Id.* at 526.

Here, the complainant testified that appellant slightly penetrated her twice. In her testimony regarding the bedroom incident, the complainant testified that appellant touched her genitalia and that "there was slight penetration." And, when describing the boat incident, the complainant testified that appellant touched her genitalia with his hand and penetrated her "[s]lightly with his fingers." Viewing this evidence in the light most favorable to the verdict, there is sufficient evidence to show sexual penetration. Therefore, there is sufficient evidence to support appellant's conviction under Minn. Stat. § 609.342, subd. 1(a), and to support this element of appellant's conviction under Minn. Stat. § 609.342, subd. 1(h)(i).

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not reconsider the jury's determination regarding the credibility of the complainant's testimony.

[7] Although *Shamp* analyzes the "sexual penetration" definition codified in Minn. Stat. § 609.341, subd. 12 (1986), 422 N.W.2d at 526, the relevant statutory language mirrors the statute under which the state charged appellant here.

B. Force/Coercion

Appellant also challenges whether the state presented sufficient evidence to prove he used "force" or "coercion" as required to sustain a conviction under Minn. Stat. § 609.342, subd. 1(h)(i). Appellant argues the complainant's testimony did not prove he used force or coercion during the boat incident. Again, we disagree.

A defendant is guilty of Minn. Stat. § 609.342, subd. 1(h)(i) (1998), where the state proves the defendant "engage[d] in sexual penetration with another person, or in sexual contact with a person under 13 years of age" and "the actor has a significant relationship to the complainant, the complainant was under 16 years of age at the time of the act, and: . . . the actor . . . used *force or coercion* to accomplish the act." Minn. Stat. § 609.342, subd. 1(h)(i) (1998) (emphasis added). The phrase "force or coercion" provides alternative means of committing one element of the offense, rather than separate elements of the offense. *State v. Epps*, 949 N.W.2d 474, 482 (Minn. App. 2020), *aff'd*, 964 N.W.2d 419 (Minn. 2021).

The statute defines "[f]orce" 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) if the actor does not have a significant relationship to the complainant, also causes the complainant to submit.

Minn. Stat. § 609.341, subd. 3 (1998). While the statute defines "coercion" as

> words or circumstances that cause the complainant reasonably to fear that the actor will inflict bodily harm upon, or hold in confinement, the complainant or another, or force the

> complainant to submit to sexual penetration or contact, but *proof of coercion does not require proof of a specific act or threat.*

Minn. Stat. § 609.341, subd. 14 (1998) (emphasis added); *see also State v. Carter*, 289 N.W.2d 454, 455 (Minn. 1979) (holding defendant, although using neither force nor verbalized threats of force, intentionally created an atmosphere of fear which caused complainant to submit to sexual advances).

Here, the complainant testified about appellant's forceful or coercive treatment during the boat incident. The complainant noted that she was only three-and-a-half feet tall at the time of this incident, while appellant was the size of a "grown man." In describing the boat incident, the complainant recalled appellant taking her to his parked boat, placing her in the passenger seat, and pulling a tarp over them. The complainant stated appellant knelt in front of her, took off her pants and underwear, and then "forc[ed]" her knees apart. The complainant testified she had her knees clenched together because she knew appellant's behavior was wrong. A reasonable jury could find that appellant used isolation, his superior size, and the implied threat of another crime to force or coerce the complainant, as well as his physical act of forcing her knees apart against her will.

When viewing the evidence in the light most favorable to the verdict, there is sufficient evidence to show force or coercion, and therefore to support appellant's conviction under Minn. Stat. § 609.342, subd. 1(h)(i).

III.

Appellant finally contends the district court erred when it permitted the state to introduce *Spreigl* evidence of his prior offense. "A district court's decision to admit

Spreigl evidence is reviewed for an abuse of discretion." *State v. Griffin*, 887 N.W.2d 257, 261 (Minn. 2016).

An appellant who claims the trial court erred in admitting evidence bears the burden of showing an error occurred and that the error was prejudicial. *State v. Campbell*, 861 N.W.2d 95, 102 (Minn. 2015). If we determine that the district court erroneously admitted *Spreigl* evidence, we must then determine "whether there is a reasonable possibility that the wrongfully admitted evidence significantly affected the verdict." *State v. Bolte*, 530 N.W.2d 191, 198 (Minn. 1995) (quoting *State v. Post*, 512 N.W.2d 99, 102 n.2 (Minn. 1994)).

Before evidence of a prior crime or other bad act may be admitted at trial, five requirements must be satisfied:

> (1) the state must give notice of its intent to admit the evidence; (2) the state must clearly indicate what the evidence will be offered to prove; (3) there must be clear and convincing evidence that the defendant participated in the prior act; (4) the evidence must be relevant and material to the state's case; and (5) the probative value of the evidence must not be outweighed by its potential prejudice to the defendant.

Ness, 707 N.W.2d at 686. In determining whether to admit the evidence, the district court must conduct a thorough examination of the purpose for which the evidence is offered. *Id.* After the district court is satisfied that the purpose for which the evidence is being offered is one of the exceptions to Minn. R. Evid. 404(b)'s general prohibition of prior-bad-acts evidence, the court then must determine whether the probative value of the evidence is outweighed by its potential to be unfairly prejudicial under Minn. R. Evid. 403. *Id.*

Appellant contends the district court abused its discretion in weighing the fourth and fifth *Ness* factors. We find appellant's argument unpersuasive.

Regarding the fourth *Ness* factor, the state offered the evidence of the 2003 offense to prove a common plan or scheme. The state can use offenses that have a "marked similarity" to the charged offense to show a common scheme or plan. *State v. Tomlinson*, 938 N.W.2d 279, 286 (Minn. App. 2019) (quotation omitted), *rev. denied* (Minn. Feb. 26, 2020). When there is a close relationship—in terms of time, place, or modus operandi—between the charged offense and the *Spreigl* offense, the evidence is relevant and material. *State v. Gomez*, 721 N.W.2d 871, 878 (Minn. 2006). But *Spreigl* evidence need not be identical in every way to the charged crime. *State v. Kennedy*, 585 N.W.2d 385, 391 (Minn. 1998).

As the district court described, there are marked similarities between appellant's interactions with *Spreigl* victim and the complainant. Both offenses occurred around the same general time, between 1999 and early 2002. Both offenses occurred at the location where appellant resided at the time. Both offenses involved an approximately five-year-old girl previously known to appellant. Additionally, appellant isolated both the *Spreigl* victim and the complainant before touching their genitalia with his hands. We observe no abuse of discretion in the district court's weighing of this factor.

For the fifth *Ness* factor, the district court determined that the probative value of the *Spreigl* evidence outweighed its potential for prejudice. The district court determined the *Spreigl* evidence had significant probative value considering the many similarities between appellant's interactions with the *Spreigl* victim and the complainant. *Tomlinson*, 938

N.W.2d at 287. As the district court noted, the state had a "legitimate need to show a common scheme or plan in order to paint a complete picture for the jury."

While there was the potential for prejudice in admitting the *Spreigl* evidence, the district court took steps to limit this prejudice. *State v. Cermak*, 365 N.W.2d 243, 247 n.2 (Minn. 1985) ("'[P]rejudice' 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." (quoting 22 Charles Wright and Kenneth Graham, Federal Practice and Procedure—Evidence § 5215 at 275 (1978)). The district court provided a cautionary instruction both before the introduction of the evidence and in the final jury instructions. *See Kennedy*, 585 N.W.2d at 392 (noting that providing cautionary instructions lessened the likelihood that the jury would give undue weight to *Spreigl* evidence). The district court instructed the jury that the *Spreigl* evidence was offered for the "limited purpose" of "assisting [the jury] in determining whether [appellant] committed those acts with which [he was] charged in the complaint." We conclude that the district court did not abuse its discretion in determining the probative value of the evidence outweighed its potential for prejudice.

For these reasons, the district court did not abuse its discretion when it permitted the state to introduce *Spreigl* evidence of the 2003 offense.

Affirmed.