

*This opinion is nonprecedential except as provided by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
A23-0631**

State of Minnesota,
Respondent,

vs.

Timothy Allen Amacher,
Appellant.

**Filed July 8, 2024
Affirmed in part, reversed in part, and remanded
Wheelock, Judge**

Hennepin County District Court
File No. 27-CR-22-8319

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

Mary F. Moriarty, Hennepin County Attorney, Brittany D. Lawonn, Senior Assistant
County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jenna Yauch-Erickson, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Cochran, Presiding Judge; Wheelock, Judge; and Ede,
Judge.

NONPRECEDENTIAL OPINION

WHEELOCK, Judge

Appellant challenges his conviction for aiding and abetting attempted first-degree murder, arguing that the evidence is insufficient to prove that he intentionally aided another in the commission of the offense, the district court erroneously admitted certain evidence

as relationship evidence, and the prosecutor engaged in misconduct. He also contends that his aiding-after-the-fact conviction must be reversed. We affirm his conviction for aiding and abetting attempted first-degree murder and reverse his conviction for aiding as an accomplice after the fact.

FACTS

Appellant Timothy Allen Amacher met N.L. in 2012 at a gym Amacher owned. The two began dating and, in 2014, moved in together. The relationship between Amacher and N.L. became “tumultuous” as a consequence of Amacher’s unwillingness to control his rage. Amacher’s conduct included cornering N.L., grabbing N.L. by the neck, pulling N.L.’s hair, and damaging property. By October 2015, N.L. had moved out of the shared residence and into a home of her own.

In June 2016, after their relationship had ended, N.L. gave birth to their shared child. Amacher and N.L. appear to have coparented with less conflict initially, with Amacher watching the child at N.L.’s home after N.L. returned to her job working nights as a forensic investigator for the Minneapolis Police Department. But Amacher kept attempting to rekindle the relationship and shaming N.L. over “trying to raise [the child] in a broken home.”

In July 2017, N.L. began dating D.F. N.L. told Amacher about her new relationship, and he reacted angrily, accusing her of cheating on him during their relationship and failing to prioritize their child. In an incident soon after, Amacher entered N.L.’s empty home, set up a scavenger hunt with romantic poems and gifts, and waited for N.L. to come home. When N.L. came home, she discovered Amacher, felt alarmed and upset that he had entered

her residence without permission, and demanded that he return her key. Throughout 2017, Amacher continued this pattern of disturbing conduct, repeatedly calling N.L. and showing up at her home. At one point, Amacher threatened to kill himself if N.L. did not end her new relationship. The strains in the coparenting relationship between N.L. and Amacher became more pronounced in 2018 as Amacher continued to interfere with N.L. and D.F.'s relationship by, among other things, texting D.F. harassing messages and having a woman call N.L. and claim D.F. was being unfaithful.

On August 26, 2018, Amacher reported to Saint Paul police that N.L. had assaulted him in May 2018 by hitting him with her car.¹ The next day, on August 27, Amacher filed for custody of the child. Between the time Amacher filed for custody and the custody trial, Amacher made numerous reports that the child was being physically and sexually abused by D.F. and N.L. Amacher brought the child to Midwest Children's Resource Center (the clinic) on four different occasions with concerns of physical and sexual abuse. Although the child had injuries on some of these occasions, providers at the clinic determined that the injuries were nonspecific for abuse.

A district court in the family division held a trial on the custody issues. At the trial, Amacher's live-in girlfriend, C.L., testified that the child was a victim of abuse. Notwithstanding Amacher's and C.L.'s testimony that the child was being abused, the court awarded N.L. sole physical and sole legal custody of the child. There were various

¹ N.L. was charged for this conduct but ultimately was acquitted.

visitation arrangements over time, but as of April 2021, Amacher was entitled only to supervised visitation with the child once a week at FamilyWise in Minneapolis.

On April 19, 2022, Amacher applied for a set of special plates for his 2022 black Dodge Ram truck. He was given temporary plates. But surveillance video of the truck shows that, as late as the morning of April 21, 2022, Amacher did not have the temporary plates on his vehicle, nor did the vehicle have any decals.

Between about 3:00 and 4:00 p.m. on April 20, 2022,² Amacher and C.L. were at Amacher's gym, as was Amacher's Dodge Ram. While they were there, C.L. sent an email to a local news organization that detailed Amacher's abuse allegations against N.L. Amacher left the gym alone in his Jeep shortly after 4:00 p.m. and drove to his residence, where he stayed until he traveled to FamilyWise for his scheduled supervised parenting time. Amacher arrived at FamilyWise around 5:25 p.m. At about 6:55 p.m., C.L. drove the Dodge Ram to Amacher's residence. C.L. then drove to the area around FamilyWise, arriving at about 7:23 p.m.

When N.L. arrived at the FamilyWise parking lot at 7:30 p.m., the child and Amacher were still inside the building. N.L. exited her vehicle and walked toward FamilyWise's entrance. As N.L. approached the entrance, an individual wearing all black and a medical facemask ran up behind her and shot her multiple times with a gun. The shooter then fled on foot in the same direction as a black truck that had driven past

² Amacher's and C.L.'s locations are known based on international mobile subscriber identity (ISMI) data obtained from their cellular devices and from data associated with the Dodge Ram. ISMI is a number that uniquely identifies every user of a cellular network.

FamilyWise ten minutes earlier. Officers recovered bullet casings from the scene, which they determined to be from a .380-caliber firearm. N.L. was severely injured, but she did not die from her injuries.

Officers spoke with Amacher inside FamilyWise after the shooting. An officer explained to Amacher that N.L. “was involved in a shooting.” Amacher responded, “A shooting?” The officer asked Amacher to come with him to the station, and Amacher declined. He explained that he felt uncomfortable being interviewed by Minneapolis police because they were N.L.’s “coworkers.” He repeatedly claimed that he “had been threatened by [Minneapolis police].” Officers then explained again that there had been a shooting, and Amacher stated, “Which that has nothing to do with me.” Several minutes into the encounter with officers, Amacher asked, “Is everybody ok?” Officers told him that they were not sure. Amacher responded, “Oh shit. That sucks.” Officers told Amacher that he had to go to the police station for an interview and that he could either go willingly or in handcuffs. Amacher agreed to go with the officers.

After Amacher arrived at the station, a police investigator interviewed him. When Amacher was in the interview room alone, the investigator observed that he was looking at his cellphone, which the officers had allowed him to retain in his possession. With Amacher’s consent, the investigator examined the phone. The phone did not show any incoming or outgoing communication with C.L. since the time of the shooting; however, officers later discovered that home-camera footage had been deleted using Amacher’s cellphone. Law enforcement determined that the footage would have shown C.L. returning to their residence after the crime.

After the interview, officers drove Amacher back to the FamilyWise parking lot so that he could retrieve his Jeep. Officers spoke with Amacher in the parking lot. One sergeant asked Amacher whether there were “any other vehicles on file, or is this it?” Amacher responded, “This is mine.” The sergeant sought clarification, asking, “[S]o this is your only car?” Amacher responded that he owned a Dodge Challenger in addition to the Jeep, but Amacher did not tell officers that he also owned a black Dodge Ram.

On April 28, investigators arrested Amacher, and Amacher voluntarily spoke with them. During the interview, the officers asked Amacher why he did not tell police on the night of the shooting that he also owned a Dodge Ram. Amacher stated that the officers at the scene had not let him finish speaking when they asked about his vehicles. He then told the investigators that he had a Dodge Ram truck but did not consider it to be his as it was leased. The investigators then showed Amacher a picture of the truck from the surveillance video, and Amacher immediately responded, “That’s not my truck. Dead giveaway right here—I have Superman logos.” He claimed to have put the Superman decals on about two weeks before the shooting. Amacher also pointed out that his truck had a “GT logo” that came from the factory and that no GT logo could be seen in the pictures. Amacher also claimed to the investigators that he had put the temporary plates on right away. The investigators asked whether Amacher owned any firearms. Amacher listed several calibers of firearm, none of which were a .380. The investigators then asked him whether he owned a .380-caliber firearm, and Amacher stated that he did not own “either of them anymore.” When asked whether C.L. had guns of her own or access to his guns, Amacher told officers

that C.L. did not even know where his guns were. Amacher also denied having any issues with N.L.

Law enforcement searched Amacher's residence, business, and truck. From the residence, officers recovered .380-caliber bullets, casings matching those found at the scene of the attempted murder, electronic surveillance equipment, and an empty box for a .380-caliber handgun. From the gym, officers recovered a digital-video-recorder box with more surveillance footage. And from the truck, officers recovered a medical facemask similar to the one worn by the shooter.

On May 2, 2022, respondent State of Minnesota charged Amacher with one count of aiding and abetting attempted first-degree murder and one count of aiding an offender as an accomplice after the fact.

Before trial, the state noticed its intent to admit four categories of relationship evidence under Minnesota Statutes section 634.20 (2022):

1. The origin and history of [N.L.] and Amacher's romantic relationship beginning in 2012, the birth of their child in 2016, and Amacher's refusal to accept [N.L.]'s decision to end the relationship in 2016-17.
2. The protracted child custody battle between [N.L.] and Amacher, starting in 2018 until the date of the charged offense (April 20, 2022), including but not limited to topics covered in family court litigation and the custody trial itself.
3. Amacher's harassment of [N.L.] and her current significant other, including but not limited to false allegations of domestic violence and child abuse during that same time.

4. The origin and history of [C.L.] and Amacher's relationship, including but not limited to [C.L.]'s involvement in the custody dispute and false allegations of child abuse.

Amacher moved to exclude this evidence, arguing that the evidence the state sought to admit was not "similar conduct" within the meaning of the statute and that a father reporting a child's injuries was not an example of prior domestic abuse. The district court issued an order ruling that the evidence was admissible.

At trial, the state presented evidence consistent with the aforementioned events. In doing so, it also presented some evidence that Amacher now challenges on appeal.

Amacher's next-door neighbor testified about an interaction he had with C.L. in the weeks following the shooting. The neighbor had gone to Amacher's house to return a pair of C.L.'s glasses that he found. When the neighbor saw C.L., she immediately began to sob and ran over and gave him a hug. C.L. then told the neighbor that she "pulled the trigger." Amacher did not object to this testimony.

A social worker who had interviewed the child when he was five years old testified about that interview. She explained that the child told her that his dad, Amacher, believed that D.F. was touching him on his penis but that his dad was wrong and D.F. had never touched his penis. The prosecutor then asked the social worker whether the child "appear[ed] to be forthright." She responded that he did. Amacher did not object.

The medical director of the clinic that treated the child when his father brought him in for forensic evaluations also testified. After the medical director testified about the

treatment the child received at the clinic, the state asked him, “What is medical child abuse?” The medical director explained:

So medical child abuse is—it’s a—you might hear it called Munchausen syndrome by proxy. It really means that a child is being abused and medical providers are really being used as the tool of abuse. So in the classic form, they may come in and a parent lies about a child’s symptoms or maybe even fabricates, makes—makes a child ill, and then the child gets unnecessary tests, unnecessary interventions based upon a history that is not true. And in medicine, a history, you know—“why did you come to the doctor today” is really important. So when people lie or falsify that, kids end up getting tests and diagnosis, getting things happened to them that aren’t justified and it’s abusive.

The medical director opined that medical child abuse may negatively impact a child’s well-being. The prosecutor then asked, “Is the medical child abuse one of the things that you took into consideration when declining to treat or see [the child]?” The medical director testified that it was. The prosecutor then asked, “[H]ow did that factor into your decision not to want [the clinic] to see [the child]?” The medical director responded, “I was concerned about it and I didn’t want us to be part of the problem.” Amacher did not object.

After the state finished presenting its case in chief (which included over 40 witnesses and hundreds of exhibits), the parties gave their closing arguments. In addressing count II, the aiding-after-the-fact charge, the prosecutor pointed to several different acts by Amacher that were part of a “continuous course of conduct,” including deleting certain surveillance footage; providing false information to officers about his ownership of the Dodge Ram and a .380-caliber handgun and his relationships with N.L. and C.L.; and

obstructing the investigation by applying Superman decals to his truck and replacing his license plates. After he finished arguing that the state proved all of the elements of count II, the prosecutor went on to state:

Again, I want to emphasize you should find the defendant guilty of both counts. Both have been proven beyond a reasonable doubt. Count II only accounts for him concealing evidence after-the-fact and providing misleading information. And that's serious and that's bad, but a conviction on that won't fully account for what he did in this case and for the ten years of hell that [N.L.] went through.

Amacher did not object. Amacher's attorney gave his closing argument, the prosecutor made a rebuttal, and the jury found Amacher guilty of both charges. The district court convicted Amacher of both counts and imposed a 216-month sentence for aiding and abetting attempted first-degree murder.

Amacher appeals.

DECISION

I. The circumstantial evidence proves beyond a reasonable doubt that Amacher intentionally aided C.L.

Amacher contends that the evidence is insufficient to support his conviction for aiding and abetting attempted first-degree murder because it did not prove that he intended to aid C.L. in attempting to murder N.L. Because the state proved the intent and aid elements of his conviction with circumstantial evidence, we must review the sufficiency of the evidence underlying these elements under a heightened standard. *State v. Al-Naseer*, 788 N.W.2d 469, 473 (Minn. 2010). Under the heightened circumstantial-evidence standard, we first determine what circumstances were proved by “winnow[ing] down the

evidence presented at trial to a subset of facts that is consistent with the jury’s verdict and disregard[ing] evidence that is inconsistent with the jury’s verdict.” *State v. Gilleylen*, 993 N.W.2d 266, 275 (Minn. 2023) (quotation omitted). Then we consider “whether the reasonable inferences that can be drawn from the circumstances proved support a rational hypothesis other than guilt.” *Al-Naseer*, 788 N.W.2d at 473 (quotation omitted). If the circumstantial evidence forms “a complete chain that, in view of the evidence as a whole, leads so directly to the guilt of the defendant as to exclude beyond a reasonable doubt any reasonable inference other than guilt,” then the evidence is sufficient. *Id.* (quotation omitted). “A defendant may not rely on conjecture or speculation to set aside a verdict.” *Gilleylen*, 993 N.W.2d at 275 (quotation omitted).

Here, the circumstances proved that are consistent with the guilty verdict are as follows:

- Amacher was in the midst of a contentious dispute with N.L. over the custody and care of their shared child.
- Amacher was in a romantic relationship with C.L. at the time of the offense, they lived together, and they were together in the hours before the shooting.
- Amacher had a 2022 black Dodge Ram truck that C.L. drove to FamilyWise before shooting N.L.
- Amacher applied for temporary plates for that truck the day before the shooting but did not affix them until the day after the shooting—the same day a Superman decal first appeared on the truck.
- After the shooting, but before he had the opportunity to speak with C.L., Amacher told officers that he owned only two cars—a Jeep and a Dodge Challenger—and did not identify the Dodge Ram as a vehicle he owned.

- Amacher’s cellphone was used to delete surveillance video that would have shown C.L. leaving their residence in Amacher’s truck right before the shooting and returning to their residence in that same truck just after the shooting. Amacher was looking at his cellphone in the police-station interview room after N.L. was shot.
- Amacher denied owning a .380-caliber firearm, the same caliber firearm used in the shooting. But in Amacher’s residence, officers found bullets for a .380-caliber handgun, bullet casings from a .380-caliber handgun that matched those found at the scene of the shooting, and an empty gun box for a .380-caliber handgun.
- C.L. did not own any guns, nor did she know where Amacher stored his guns.³ But after the shooting, she nonetheless told her neighbor that she “pulled the trigger.”

For a fact-finder to find Amacher guilty, these circumstances must (1) prove beyond a reasonable doubt that Amacher “intentionally aid[ed], advise[d], hire[d], counsel[ed], or conspire[d] with or otherwise procure[d],” Minn. Stat. § 609.05, subd. 1 (2020), C.L. to attempt first-degree murder pursuant to Minn. Stat. § 609.185(a)(1) (2020), and (2) must exclude all other rational hypotheses inconsistent with guilt. We conclude that they do.

Here, the circumstances proved establish “a complete chain,” *see Al-Naseer*, 788 N.W.2d at 473, that leads so directly to the conclusion that Amacher aided C.L. that it excludes any other reasonable possibility. There is no dispute that the firearm used in the shooting came from Amacher’s residence, and since C.L. owned no guns and did not know

³ At oral argument, Amacher’s counsel suggested that we should not consider this as a circumstance proved because the firearms were stored in the kitchen cabinets of C.L. and Amacher’s shared residence and it is reasonable to assume that C.L. saw the gun boxes. We disagree. The speculative assertion that C.L. *may* have seen the gun boxes is not part of the subset of facts that is consistent with the jury’s verdict, but rather is inconsistent with the jury’s verdict. We therefore disregard it.

where Amacher stored his, Amacher must have given her the gun in advance of the shooting. Amacher also made his truck more difficult to identify in the days before the shooting by applying for a special license plate and by failing to display his temporary plate on the truck. And after the shooting, before even speaking to C.L., Amacher deleted surveillance video showing her driving the truck before and after the shooting. The only reason for him to do so would be that he knew *before* the shooting that the truck and C.L. would be implicated by the video. These circumstances clearly establish that Amacher had a role in planning the attack on N.L.

Moreover, in determining whether the evidence proves that a defendant intentionally aided another in the commission of a crime, a fact-finder may consider, among other things, “the defendant’s presence at the scene of the crime, a close association with the principal offender before and after the crime, [and] a lack of objection or surprise under the circumstances.” *State v. McAllister*, 862 N.W.2d 49, 53 (Minn. 2015). Here, Amacher was at FamilyWise, the scene of the crime. He spent nearly the entire day before the shooting with the principal, C.L. And he demonstrated a lack of surprise when officers told him about the shooting. In light of these facts, it is unreasonable to conclude that Amacher did not aid C.L. in attempting the first-degree murder of N.L.—his former romantic partner and the mother of his child.

II. Because the challenged relationship evidence was admissible on an alternative ground, the district court did not abuse its discretion by admitting that evidence.

Amacher contends that the district court erroneously admitted a substantial amount of evidence under Minnesota Statutes section 634.20. Amacher identifies the following as

evidence erroneously admitted as relationship evidence⁴ under section 634.20: (1) evidence relating to C.L.’s testimony at the custody trial, her claims about the child being abused, and her interactions with the child; (2) evidence relating to Amacher and C.L.’s relationship, including when they began dating and how they met; (3) evidence about the custody case generally; and (4) evidence that Amacher wanted N.L. to terminate her pregnancy with the child, that Amacher behaved inappropriately at the hospital after the child’s birth, and that Amacher took the child to medical clinics other than the child’s primary-care clinic.

A decision to admit evidence is “within the sound discretion of the district court, and [appellate courts] will not reverse an evidentiary ruling absent a clear abuse of discretion.” *State v. Ali*, 855 N.W.2d 235, 249 (Minn. 2014). But we need not determine whether the district court’s relationship-evidence ruling was an abuse of discretion because we conclude that the district court appropriately admitted all of the challenged evidence under a different theory of admissibility—that it was relevant evidence, the probative value of which was not “substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.” Minn. R. Evid. 403; *see also* Minn. R. Evid. 402 (“All relevant evidence is admissible, except as otherwise provided by the United

⁴ In his opening brief, Amacher also contended that evidence relating to his harassment of D.F. was not admissible under Minn. Stat. § 634.20 because D.F. was not a family or household member of Amacher’s. But, as Amacher conceded at oral argument, the district court also ruled that the evidence relating to D.F. was admissible as evidence relevant to Amacher’s motive and intent, subject to analysis under Minnesota Rule of Evidence 403, and Amacher does not challenge this ruling.

States Constitution, the State Constitution, statute, by these rules, or by other rules applicable in the courts of this state.”).

The district court’s written order says that the state sought to introduce relationship evidence about the following relationships: (1) the origin and history of the relationship between Amacher and N.L.; (2) the custody battle between Amacher and N.L.; (3) the harassment by Amacher of N.L. and D.F.; and (4) the history of Amacher and C.L.’s relationship. After determining that the evidence was admissible under Minn. Stat. § 634.20, the district court explained that “the relationship evidence may also be relevant in establishing motive and intent. The potential for prejudice to the Defendant is minimal and does not substantially outweigh the probative value of this evidence.” This broad ruling clearly encompasses any testimony about the custody trial—including the allegations of abuse—as well as Amacher’s relationships with the victim and with the principal, C.L.

Amacher offers no argument that this relevancy ruling was an abuse of the district court’s broad discretion, and in the absence of such an argument, we cannot conclude that there was error. We therefore conclude that the district court did not abuse its discretion in admitting the challenged evidence on an appropriate alternative ground.

III. Even assuming that the prosecutor engaged in plainly erroneous misconduct, the misconduct did not affect Amacher’s substantial rights.

Amacher contends that the prosecutor engaged in reversible misconduct by eliciting inadmissible evidence, including (1) C.L.’s hearsay statement that she “pulled the trigger”; (2) vouching testimony that the child “seemed forthright” when interviewed about abuse

allegations; and (3) testimony relating to Amacher's alleged medical abuse of his child. He also maintains that the prosecutor engaged in misconduct a fourth time by making an improper closing argument when he asked the jury to hold Amacher accountable.

Because Amacher did not object during any of these four alleged instances of misconduct, we review the alleged misconduct under a modified plain-error standard. *State v. Ramey*, 721 N.W.2d 294, 302 (Minn. 2006). Under that standard, we first determine whether Amacher has met his burden of establishing error that is plain. *Id.* If Amacher establishes plain error, the burden shifts to the state to prove that the error did not affect Amacher's substantial rights. *Id.* An appellate court will conclude that the prosecutor's misconduct affected the defendant's substantial rights only when there is a "reasonable likelihood that the absence of the misconduct in question would have had a significant effect on the verdict of the jury." *Id.* (quotations omitted). "To evaluate the effect on substantial rights, we consider various factors, including the pervasiveness of improper suggestions and the strength of evidence against the defendant." *Id.* (quotation omitted). If the state fails to meet its burden on the substantial-rights prong, then we consider "whether the error should be addressed to ensure fairness and the integrity of judicial proceedings." *State v. Parker*, 901 N.W.2d 917, 926 (Minn. 2017). Here, we need not determine whether the prosecutor committed misconduct, because we are satisfied that any misconduct did not affect Amacher's substantial rights. *See State v. Lilienthal*, 889 N.W.2d 780, 785 (Minn. 2017)

(providing that if any one of the plain-error prongs is not met, we need not address any other requirements).

C.L.’s statement that she pulled the trigger could not reasonably have impacted the verdict because the cellphone-tracking evidence and physical description of the shooter proved beyond a reasonable doubt that C.L. was, in fact, the shooter. And the “vouching” testimony and “medical abuse” testimony were not harmful because they were not relevant to any disputed issue and were referenced only briefly in the context of a nearly month-long trial.

Likewise, the prosecutor’s suggestion that the jury hold Amacher accountable is not harmful when considered in context. When evaluating whether a prosecutor committed misconduct in a closing argument, we consider the arguments in their totality rather than focusing on “phrases or remarks that may be taken out of context or given undue prominence.” *State v. Johnson*, 616 N.W.2d 720, 728 (Minn. 2000) (quotation omitted). Here, the accountability remark was one line out of a 44-page closing argument. In sum, we conclude that there is no reasonable likelihood that the alleged misconduct affected the jury’s verdict.

IV. Amacher cannot be convicted of both aiding and abetting in the commission of the crime and aiding after the fact.

Amacher’s final argument is that his aiding-after-the-fact conviction must be reversed because the district court failed to instruct the jury that it must unanimously decide which acts proved the after-the-fact conviction. We need not address this contention in light of our affirming his conviction for aiding and abetting attempted first-degree murder.

This is because a person who is charged and convicted as a principal to an offense cannot also be liable as an accomplice to that offense. *State v. Leja*, 660 N.W.2d 459, 466 (Minn. App. 2003) (discussing that, under Minnesota law, a defendant found guilty of aiding and abetting first- or second-degree murder is a principal and cannot also be guilty of aiding after the fact), *aff'd as modified on other grounds*, 684 N.W.2d 442 (Minn. 2004). Accordingly, we reverse Amacher's aiding-after-the-fact conviction and remand for the district court to vacate the conviction and leave the guilty verdict intact.

Affirmed in part, reversed in part, and remanded.