

*This opinion is nonprecedential except as provided by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
A23-0796**

State of Minnesota,
Respondent,

vs.

Casimiro Sosa Saavedra,
Appellant.

**Filed July 22, 2024
Affirmed
Wheelock, Judge**

Stearns County District Court
File No. 73-CR-21-6047

Keith Ellison, Attorney General, Lisa Lodin, Assistant Attorney General, St. Paul, Minnesota; and

Janelle Kendall, Stearns County Attorney, St. Cloud, Minnesota (for respondent)

Charles S. Clas Jr., Wilson & Clas, Minneapolis, Minnesota (for appellant)

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

NONPRECEDENTIAL OPINION

WHEELLOCK, Judge

Appellant challenges his convictions for first-degree criminal sexual conduct under Minn. Stat. § 609.342, subd. 1(h) (2014),¹ arguing that (1) he is entitled to a new trial because the district court erred by admitting forensic-interview recordings pursuant to Minnesota Rule of Evidence 807 and (2) his convictions must be reversed because the evidence was insufficient to prove that he committed multiple acts of sexual abuse. We affirm.

FACTS

Respondent State of Minnesota charged appellant Casimoro Sosa Saavedra with three counts of first-degree criminal sexual conduct pursuant to Minn. Stat. § 609.342, subd. 1(h), for multiple acts committed over an extended period of time against his three daughters, all of whom were under the age of 13. The matter proceeded to a jury trial, and the following facts are derived from the trial record.

Appellant and B.A.V. were in a relationship for 17 years and have five children together, three of whom are daughters: victim A, born January 2009; victim B, born July 2011; and victim C, born May 2014.

On August 24, 2021, B.A.V. came home from work and saw victim C crying in the living room. Victim C told B.A.V. about sexual abuse that appellant had perpetrated against her when B.A.V. was not home. Moments later, victims A and B disclosed to

¹ The complaint states that the conduct began on or about January 1, 2015, and we cite the version of the statute in effect at that time.

B.A.V. their own experiences of sexual abuse by appellant. B.A.V. then left the house with the children and called the police.

B.A.V. brought the girls to the hospital, where they each underwent a sexual-assault examination. B.A.V. testified that they “were at the hospital all night long.” The next day, the girls participated in forensic interviews at the Child Advocacy Center. The forensic interviewer described the interview as “a semi structured method of gathering factual information from an individual, most commonly a child, while taking into consideration their developmental ability, their cognition, their exposure to past traumatic events. It is child centered, and it is conducted by a certified interviewer in the practice.” The forensic interviewer testified at trial that, in the interviews, the girls were quiet, but overall, they were relaxed and communicative.

Victim A was 12 years old on the day of her forensic interview and 13 years old when she testified at trial. During the forensic interview, she described multiple instances of abuse that occurred over several years. At trial, she testified that appellant sexually abused her multiple times from the ages of seven to 11. The district court stated for the record that victim A “immediately started crying on the stand. And those tears will not be captured on a transcript, so that’s why I’m putting it on there. And she cried several times on the stand, and she’s the oldest of these children.”

Victim B was ten years old on the day of her forensic interview and 11 years old when she testified at trial. During the forensic interview, she described multiple instances of abuse over several years, beginning when she was eight years old. At trial, she testified that appellant sexually abused her multiple times. After her testimony, the prosecutor told

the district court, on the record and outside the presence of the jury, that victim B initially refused to come into the courtroom.

Victim C was seven years old on the day of her forensic interview and eight years old when she testified at trial. During the forensic interview, she described multiple instances of abuse. At trial, she stated that she did not want to talk about what happened, so the prosecutor provided her with anatomical drawings of men's and women's bodies, and victim C used them to identify the places on her body where appellant touched her and the parts of appellant's body that he used to touch her.

The state moved to admit the forensic interviews of each girl as substantive evidence at trial. The district court admitted victim C's recorded interview under Minn. Stat. § 595.02, subd. 3 (2022), which authorizes the admission of a child's out-of-court statement when the child is under the age of ten and the statement describes sexual abuse, and it admitted the recorded interviews of victims A and B under Minnesota Rule of Evidence 807, the residual exception to the hearsay rule. The jury found appellant guilty of all three counts and further found that each count included an aggravating factor for "multiple forms of penetration."

The district court sentenced appellant to consecutive prison sentences of 288, 172, and 172 months, for a cumulative total of 632 months.²

This appeal follows.

² In sentencing appellant, the district court applied upward departures for each sentence based on the presence of aggravating factors, including the particular vulnerabilities of the victims, that there were multiple incidents per victim, and that the acts took place within the victims' home.

DECISION

Appellant argues that (1) he is entitled to a new trial because the district court erred by admitting forensic-interview recordings pursuant to Minnesota Rule of Evidence 807 and (2) his convictions must be reversed because the evidence was insufficient to prove that he committed multiple acts of sexual abuse. We address each argument in turn.

I. The district court did not abuse its discretion when it admitted the forensic-interview recordings of victims A and B pursuant to Minnesota Rule of Evidence 807.

Appellant first argues that the district court abused its discretion when it admitted the forensic-interview recordings because the factors identified in *State v. Ahmed*, 782 N.W.2d 253, 260 (Minn. App. 2010), do not weigh in favor of admitting the evidence under the residual exception to the hearsay rule set forth in Minnesota Rule of Evidence 807. Specifically, appellant contends that the forensic-interview recordings should not have been admitted under *Ahmed* for the following reasons: they were not spontaneous because the interviews took place the day after the victims first disclosed the abuse; the interviewer asked some leading questions; the victims may have fabricated their stories because appellant fought with B.A.V. during their marriage; and the testimony at trial was too limited for the district court to have determined whether it was consistent with the forensic-interview recordings.³

³ The state argues that appellant forfeited his arguments because he did not properly object at trial to the admission of the forensic-interview recordings. Because appellant objected to the admission of these forensic-interview recordings when he argued that they did not satisfy the *Ahmed* factors, we conclude that appellant preserved this argument for our review.

We review the district court’s decision to admit evidence under a hearsay exception for an abuse of discretion. *Ahmed*, 782 N.W.2d at 259. On appeal, “[t]he burden is on the defendant to show that the district court abused its discretion and that the defendant was prejudiced thereby.” *Id.* A district court abuses its discretion by making findings of fact that are unsupported by the evidence, misapplying the law, or rendering a decision that is against logic and the facts in the record. *State v. Bustos*, 861 N.W.2d 655, 666 (Minn. 2015); *State v. Underdahl*, 767 N.W.2d 677, 684 (Minn. 2009).

Hearsay is an out-of-court statement made by a person other than the person testifying at trial that is offered to prove the truth of the matter asserted. Minn. R. Evid. 801(c). Hearsay is inadmissible unless an exception applies. Minn. R. Evid. 802. A statement that is not admissible under one of the enumerated exceptions to the hearsay rule may be admitted under rule 807, the residual exception, which provides, in relevant part:

A statement not specifically covered by rule 803 or 804 but having equivalent circumstantial guarantees of trustworthiness, is not excluded by the hearsay rule, if the court determines that (A) the statement is offered as evidence of a material fact; (B) the statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts; and (C) the general purposes of these rules and the interests of justice will best be served by admission of the statement into evidence.

Minn. R. Evid. 807.

Determining whether a statement is admissible under rule 807 requires the district court to conduct a two-step analysis. First, the court must examine the “totality of the circumstances to determine whether [the] hearsay statement has circumstantial guarantees of trustworthiness. Specifically, the district court must examine the circumstances actually

surrounding the making of the statements.” *State v. Hallmark*, 927 N.W.2d 281, 292 (Minn. 2019) (quotation omitted). “The totality of the circumstances test used to evaluate trustworthiness under Rule 807 requires a careful balancing of all relevant circumstances surrounding the making of the statement.” *Id.* In child-abuse cases, we have identified several factors to consider when determining the trustworthiness of statements to be admitted pursuant to rule 807, known as the *Ahmed* factors:

whether the statement was spontaneous, whether the questioner had a preconceived idea of what the child should say, whether the statement was in response to leading questions, whether the child had any apparent motive to fabricate, whether the statements are of the type one would expect a child of that age to fabricate, whether the statement remained consistent over time, and the mental state of the child at the time of the statements.

Ahmed, 782 N.W.2d at 260. Second, the district court must determine whether the three requirements specified in rule 807 are met. *Hallmark*, 927 N.W.2d at 293. Appellant challenges only the first step of this analysis.

Here, although the district court did not make a final determination on each *Ahmed* factor, it made a preliminary ruling stating that it was inclined to adopt the state’s position and admit the interviews. The district court stated that, based on the information available to it at the time of its preliminary ruling, there were “substantial circumstantial guarantees of trustworthiness,” but it also stated that it may change course depending on the forensic interviewer’s testimony about the interview protocol and her interviews with the girls. After the forensic interviewer testified, the district court admitted the interviews. And after reviewing the record, we conclude that the *Ahmed* factors weigh in favor of trustworthiness

and that the district court did not abuse its discretion by admitting the forensic-interview recordings. We review each factor in turn.

The first factor is whether the statements were spontaneous. Here, the forensic interviews were conducted the day after the girls first disclosed the sexual abuse. The district court stated, “I do think that even though the statements aren’t necessarily spontaneous, the temporal proximity from the disclosure to the next day is very quick in time.” The girls disclosed the abuse when B.A.V. came home from work, and they went to the hospital that evening. It is unclear exactly how much time passed between when the girls left the hospital and when they participated in the forensic interviews. However, it is clear that the interviews occurred less than 24 hours from the time the girls first disclosed the abuse. Appellant does not identify any caselaw that specifies the amount of time that would be too much time for this factor to weigh in favor of a determination of trustworthiness. We conclude that the relatively short amount of time here, much of which was spent at the hospital undergoing sexual-assault examinations, is not enough to preclude a finding that the girls’ statements were spontaneous. Thus, this factor weighs in favor of trustworthiness.

The second factor is whether the interviewer had any preconceived idea when engaging in the interview. Here, the forensic interviewer testified that, prior to these interviews, she knew that the girls had alleged sexual abuse by their father, that they had been to a medical facility prior to coming to the Child Advocacy Center, and that all three girls had disclosed similar abuse. She testified that any disclosures prior to the interview do not change the protocol of the interview. She also testified that “in the forensic

interview [the child] is the expert. . . . I explain to them that I will not guess that I know the answer to something or guess that I know something about them.” The evidence in the record persuades us that that the interviewer had few, if any, preconceived ideas. Thus, the second factor weighs in favor of trustworthiness.

The third factor is whether the statements were made in response to leading questions. The interviewer testified that “[t]he overall goal of a forensic interview is to gather information from . . . the child in their words from their memory, and to remain child centered.” She testified that sometimes leading questions are appropriate as they help direct the child to discussing the allegations but that she always returns to broad and open-ended questions. The interviews demonstrate that the interviewer used leading questions to direct each girl to a particular moment or memory, but then returned to open-ended questions. The evidence shows that the interviewer elicited key statements describing abuse after asking open-ended, not leading, questions. Thus, the third factor weighs in favor of trustworthiness.

The fourth factor is whether the child had a motive to fabricate their story. Appellant appears to suggest that the girls could have been motivated to fabricate their stories because of their parents’ “marital strife.” In support, appellant points to trial testimony that the girls witnessed him mistreating B.A.V. But the evidence shows that the girls were afraid and reluctant to report, victims A and B reported only after they witnessed victim C—who was seven years old—spontaneously tell B.A.V. about the abuse, and they all cried when they did so. Thus, the fourth factor weighs in favor of trustworthiness.

The fifth factor is whether the statements are of the type that a child of that age would fabricate. The district court found that the statements were not “of the type that one would expect a child of these young ages to fabricate,” reasoning that the girls were not of the age at which—and this was not the type of case in which—a child might be expected to fabricate such a story about their parent. Appellant does not challenge this finding, and we agree with the district court’s reasoning. Thus, the fifth factor weighs in favor of trustworthiness.

The sixth factor is whether the child’s statements are consistent over time. We acknowledge that the girls’ testimonies at trial do not provide the same level of detail as the forensic-interview recordings; however, this does not render them inconsistent. The forensic interviewer testified as to the efforts that she and the Child Advocacy Center make so that children feel comfortable talking during an interview, which explains the difference between the two settings that led to increased detail in the recorded interviews as compared to the girls’ in-court testimony. The girls’ trial statements do not contradict their forensic-interview recordings, and although appellant argues that this does not equate to consistency, he does not identify any authority to support the proposition that the statements must be equally detailed to be consistent. Thus, the sixth factor weighs in favor of trustworthiness.

The final factor is the mental state of the child at the time of the statements. The interviewer testified that, during their interviews, the girls were quiet, but “very communicative,” relaxed, and open to talking. She testified that this is average behavior in her interviews with children and that she tries to cultivate it. Appellant did not provide

any arguments about this factor. Thus, the seventh factor weighs in favor of trustworthiness, along with the six other factors.

Ultimately, the district court considered the *Ahmed* factors. In doing so, it determined that all of the circumstances provided guarantees of trustworthiness and admitted the forensic-interview recordings accordingly. Upon our review of the *Ahmed* factors and the record, we conclude that the district court did not abuse its discretion when it admitted the recorded statements of victims A and B pursuant to rule 807.

II. Sufficient evidence supports appellant's convictions on count one as to victim A and count two as to victim B.

Appellant argues that the state did not provide sufficient evidence to prove his guilt of counts one and two, each of which was for first-degree criminal sexual conduct, because the trial testimonies of victims A and B were too vague to prove beyond a reasonable doubt that multiple acts took place as to each victim as is required under Minnesota Statutes section 609.342, subdivision 1(h)(iii). The state argues that it met its burden because appellant's argument presumes that he succeeded on the first issue presented in this appeal—that the district court erred by admitting the forensic-interview recordings—and is therefore based only on the evidence remaining if the forensic-interview recordings are excluded. Because we concluded that the district court did not abuse its discretion by admitting the recordings, we consider the recordings when evaluating the sufficiency of the evidence as to the multiple-acts element of first-degree criminal sexual conduct. Whether a defendant's conduct meets the definition of a particular offense presents a

question of statutory interpretation that we review de novo. *State v. Hayes*, 826 N.W.2d 799, 803 (Minn. 2013).

The standard of review we apply when evaluating the sufficiency of evidence depends on whether direct or circumstantial evidence supports the element of the offense that is challenged on appeal. *State v. Stein*, 776 N.W.2d 709, 714 (Minn. 2010) (“A conviction based on circumstantial evidence receives stricter scrutiny than a conviction based on direct evidence.”). “Testimony provided by a witness, concerning what the witness saw or heard, is considered direct evidence.” *State v. Brazil*, 906 N.W.2d 274, 278 (Minn. App. 2017), *rev. denied* (Minn. Mar. 20, 2018). When reviewing an element proved through direct evidence, as the multiple-acts elements of the offenses are here, we conduct “a painstaking analysis of the record to determine whether the evidence, when viewed in a light most favorable to the conviction, is sufficient to allow the jurors to reach the verdict they did.” *Ahmed*, 782 N.W.2d at 261 (citing *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989)). Appellate courts consider only the evidence consistent with the verdict “because the jury is in the best position to evaluate the credibility of the evidence.” *State v. Silvernail*, 831 N.W.2d 594, 599 (Minn. 2013). A conviction will not be reversed “if the jury, acting with due regard for the presumption of innocence and for the necessity of overcoming it by proof beyond a reasonable doubt, could reasonably conclude that a defendant was proven guilty of the offense charged.” *Bernhardt v. State*, 684 N.W.2d 465, 476-77 (Minn. 2004) (quotation omitted).

Here, the jury found appellant guilty of first-degree criminal sexual conduct, which is defined as follows:

A person who engages in sexual penetration with another person, or in sexual contact with a person under 13 years of age as defined in section 609.341, subdivision 11, paragraph (c), is guilty of criminal sexual conduct in the first degree if any of the following circumstances exists: . . .

(h) the actor has a significant relationship to the complainant, the complainant was under 16 years of age at the time of the sexual penetration, and: . . .

(iii) the sexual abuse involved multiple acts committed over an extended period of time.

Minn. Stat. § 609.342, subd. 1(h)(iii). The statute defines “sexual contact with a person under 13” years of age as follows:

the intentional touching of the complainant’s bare genitals or anal opening by the actor’s bare genitals or anal opening with sexual or aggressive intent or the touching by the complainant’s bare genitals or anal opening of the actor’s or another’s bare genitals or anal opening with sexual or aggressive intent.

Minn. Stat. § 609.341, subd. 11(c) (2014). Appellant challenges only the element that “the sexual abuse involved multiple acts committed over an extended period of time.” *Id.*

The statute does not define “multiple acts.” Courts may consult dictionaries to assist them in determining the common and ordinary meanings of the language in a statute. *State v. Thonesavanh*, 904 N.W.2d 432, 436 (Minn. 2017). The plain meaning of “multiple” is “more than one.” *Merriam-Webster’s Collegiate Dictionary* 816 (11th ed. 2003). Our previous opinions about criminal-sexual-conduct offenses support this definition. In *State v. Rucker*, we concluded that “specific dates need not be proved in cases charging criminal sexual conduct over an extended period of time.” 752 N.W.2d 538, 547 (Minn. App.

2008), *rev. denied* (Minn. Sept. 23, 2008). Therefore, we conclude that “multiple” as used in this statute aligns with the plain meaning of the word, and we apply that plain meaning here.

During trial, victims A and B each testified that multiple acts took place, and during their forensic interviews, victims A and B provided details of more than one act. Because there is direct evidence from their forensic-interview recordings and their testimony at trial that the sexual abuse involved multiple acts committed over an extended period, the evidence is sufficient to support appellant’s convictions on counts one and two.

The forensic-interview recordings of victims A and B and their testimonies are direct evidence the state introduced to prove that appellant engaged in multiple acts of sexual abuse over an extended period of time with each of the victims. Because the jury credited the girls’ statements and we defer to those credibility findings, *see Silvernail*, 831 N.W.2d at 599, we conclude that the state provided sufficient evidence for the jurors to reasonably find that appellant was guilty of these offenses beyond a reasonable doubt.

Affirmed.