

*This opinion is nonprecedential except as provided by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
A23-0880**

State of Minnesota,
Respondent,

vs.

Jordan William Carter,
Appellant.

**Filed August 12, 2024
Affirmed
Worke, Judge**

St. Louis County District Court
File No. 69DU-CR-20-3788

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

Kimberly J. Maki, St. Louis County Attorney, Duluth, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Roy G. Spurbeck, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Harris, Presiding Judge; Worke, Judge; and Schmidt, Judge.

NONPRECEDENTIAL OPINION

WORKE, Judge

Appellant challenges his conviction of second-degree murder, arguing that the evidence leaves grave doubts about his guilt and that the district court abused its discretion

by admitting hearsay evidence. Appellant also challenges the district court's decision to withhold confidential documents following a data request. We affirm.

FACTS

In December 2020, respondent State of Minnesota alleged that appellant Jordan William Carter caused the death of three-year-old C.J.G. (the child). The state charged Carter with second-degree murder while committing felony malicious punishment of a child. *See* Minn. Stat. §§ 609.19, subd. 2(1), .377, subd. 4 (2020). Carter waived his right to a jury trial and the matter proceeded to court trial.

Carter and the child's mother (mother) began a relationship in 2019. In early 2020, mother and the child moved in with Carter. Carter was laid off during the pandemic and he became the child's caregiver.

On September 3, 2020, Carter cared for the child while mother went to work. Around noon, according to Carter, the child fell down the stairs to the basement; Carter did not witness the fall. Carter reported that the child "bounced back up" and said he was okay. The child vomited a few hours later. Carter asked his mother, a registered nurse, to examine the child. She noticed several bruises on the child and advised Carter to watch for signs of a concussion. The child threw up again before mother arrived home. Carter did not tell mother about the child's fall until around 4:00 p.m.

The next day, the child seemed recovered and responsive. That evening, Carter came up the stairs from the basement where the child's room was located, carrying the child and saying his name. The child was unresponsive and struggling to breathe. The child was transported to the hospital. A doctor diagnosed him with bilateral acute subdural

hematomas and cerebral edema from injury which caused loss of blood flow and oxygen. The child was examined by four doctors, who each testified at trial. The doctors noted slightly different injuries, but each concluded that the child's injuries were consistent with child abuse and not a fall or pneumonia. While at the hospital, both Carter and mother provided statements to investigators.

The child was declared dead by neurologic criteria on September 6, 2020. The doctor who conducted the autopsy testified that the manner of death was homicide and the child's cause of death was complications from blunt force head and neck injuries. A doctor testified for the defense that the child's injuries and death could be explained by the respiratory virus RSV or pneumonia.

The district court found Carter guilty, concluding that the state proved beyond a reasonable doubt that Carter caused the child's death while maliciously punishing him. It found the state's medical witnesses credible and the defense's witness not credible. The district court specifically determined that the child's death was caused by abusive head trauma that likely took place prior to Carter carrying the child up the stairs.

The district court sentenced Carter to 180 months in prison. This appeal followed.

DECISION

Sufficiency of the evidence

Carter first argues that the evidence leaves "grave doubts" about his guilt, requiring reversal or a new trial. *See State v. Kallestad*, 206 N.W.2d 557, 557 (Minn. 1973) (stating that when we "entertain grave doubts as to defendant's guilt, it is our duty to grant a new trial"). However, in making this argument, Carter does not contend that the evidence was

insufficient to sustain the conviction. In fact, Carter specifically recognizes that the evidence was “technically sufficient,” that a conviction can be based on the testimony of a single credible witness, *State v. Hill*, 172 N.W.2d 406, 407 (Minn. 1969), and that witness credibility is an issue for the fact-finder, *State v. Foreman*, 680 N.W.2d 536, 539 (Minn. 2004). However, he contends that in cases with additional reasons to question a witness’s testimony, appellate courts will reverse convictions. We are unpersuaded that we are presented with such a case.

Here, after hearing testimony from five medical experts for the state and one medical expert for Carter, the district court found that Carter caused the child’s death. The district court found the state’s experts to be credible and Carter’s expert to not be credible.

Carter relies on caselaw in which the supreme court reversed convictions based on concerns about the credibility or reliability of a single testifying witness. *See State v. Huss*, 506 N.W.2d 290, 292-93 (Minn. 1993) (holding that testimony of alleged victim of child abuse was insufficient because there was expert testimony that the child had been exposed to highly suggestive material); *State v. Langteau*, 268 N.W.2d 76, 77 (Minn. 1978) (reversing conviction that was based solely on uncorroborated testimony of victim); *State v. Ani*, 257 N.W.2d 699, 700 (Minn. 1977) (affirming conviction but recognizing that in some cases, lack of corroboration may lead to conclusion that evidence of guilt is insufficient). But here, Carter does not provide any reasons or evidence to impeach the credibility of the state’s expert witnesses. As a result, Carter has not shown that we should

depart from our well-settled precedent under which we defer to the credibility determinations of the fact-finder.¹

In sum, “grave doubts” about Carter’s conviction do not exist; thus, neither reversal nor a new trial is warranted.

Admission of evidence

Carter next argues that the district court abused its discretion by admitting, over his hearsay objection, a recorded interview of mother by police as a prior consistent statement under Minn. R. Evid. 801(d)(1)(B).

Hearsay is an out-of-court statement offered to prove the truth of the matter asserted. Minn. R. Evid. 801(c). Such statements are inadmissible unless they fall within an enumerated exception. Minn. R. Evid. 802. But “[a] statement is not hearsay if . . . [t]he declarant testifies at the trial . . . and is subject to cross-examination concerning the statement, and the statement is . . . consistent with the declarant’s testimony and helpful to the trier of fact in evaluating the declarant’s credibility as a witness” Minn. R. Evid. 801(d)(1)(B). A prior consistent statement may be admitted as non-hearsay if the district

¹ We also note that this court has previously cautioned against relying on the analysis from these cases as they are inconsistent with our current sufficiency analysis. *See State v. Phillips*, No. A19-0863, 2020 WL 2312506, at *3 (Minn. App. May 11, 2020) (“The *Langteau* and *Ani* opinions reflect a form of appellate review that was more common in the early 20th century. . . . But in recent decades, the supreme court consistently has applied a form of review that is more deferential to the fact-finder’s evaluation of the evidence.”), *rev. denied* (Minn. Aug. 11, 2020); *see* Minn. R. Civ. App. P. 136.01, subd. 1(c) (stating that nonprecedential opinions are not binding but may be cited as persuasive authority). Thus, because this caselaw does not supersede our well-established sufficiency analysis and because Carter does not raise a sufficiency argument, we do not review the sufficiency of the evidence on appeal.

court makes a threshold determination that the witness's credibility has been challenged, the statement would bolster the witness's credibility, and the statement is consistent with the witness's trial testimony. *State v. Bakken*, 604 N.W.2d 106, 109 (Minn. App. 2000), *rev. denied* (Minn. Feb. 24, 2000).

Carter argues that the district court abused its discretion by admitting the evidence when mother's credibility was not challenged. As a preliminary matter, Carter argues that this court should review the district court's decision for an abuse of discretion; however, as the state correctly points out, Carter did not raise this specific theory in district court. *See State v. Rodriguez*, 505 N.W.2d 373, 376 (Minn. App. 1993), *rev. denied* (Minn. Oct. 19, 1993). Accordingly, we review only for plain error. *See* Minn. R. Crim. P. 31.02.

Under the plain-error test, an appellant is entitled to relief on an issue to which no objection was made at trial only if (1) there is an error, (2) the error is plain, and (3) the error affects the appellant's substantial rights. *State v. Griller*, 583 N.W.2d 736, 740 (Minn. 1998). If these three requirements are satisfied, the appellant also must satisfy a fourth requirement, that the error "seriously affects the fairness and integrity of the judicial proceedings." *State v. Little*, 851 N.W.2d 878, 884 (Minn. 2014).

Here, mother's credibility was sufficiently challenged to satisfy rule 801(d)(1)(B). During cross-examination and re-cross, Carter's attorney challenged mother's credibility in several ways, including questioning specifically about the statements she made to police, the child's past injuries and accidents, the text messages and phone calls she exchanged with Carter, and her observations about Carter's interactions with the child. *See State v. Manley*, 664 N.W.2d 275, 288 (Minn. 2003) (reasoning that credibility of two child

witnesses was challenged by cross-examination regarding whether children were confused or no longer recalled events).

In sum, Carter has not shown error; thus, we need not reach the other plain-error prongs.

Confidential records

Finally, Carter requests that we review the district court's decision to not disclose confidential law-enforcement records.

Prior to trial, Carter made a generic discovery request to the state, including an inquiry for personal data. *See Brady v. Maryland*, 373 U.S. 83, 87 (1963) (establishing that “the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution”). In response, the state sought certain records from the police department that had been withheld as private data pursuant to the Minnesota Government Data Practices Act. *See* Minn. Stat. §§ 13.43, .02, .03 (2022). As a result, the state filed a motion to compel pursuant to Minn. Stat. § 13.03, subd. 6, and for disclosure to the district court for in-camera review. The district court granted the state's motion to compel, and the police department sent the requested documents directly to the district court and it completed an in-camera review. The district court then determined that the benefit of disclosing the private personal data did not outweigh the harm to those with an interest in its confidentiality. Accordingly, the district court did not disclose the documents to either party.

Even if we assume that the district court should have disclosed the confidential documents to Carter, to obtain a new trial, Carter must show that the failure to disclose the documents prejudiced him. *See* Minn. R. Crim. P. 31.01 (requiring harmless error to be disregarded). An error is harmless if there is no reasonable possibility that it “substantially influence[d] the [fact-finder]’s decision.” *State v. DeShay*, 669 N.W.2d 878, 888 (Minn. 2003).

Here, any error was harmless. The documents include the professional records of the police officers who testified. However, we note that Carter did not articulate what specific information he sought from these documents or how he would use that information. In any case, our review of the documents indicates that they would not have substantially influenced the verdict. First, the testimony of the police officers established the factual background of the allegations but was not central to the district court’s determination of guilt. The district court’s order does not highlight the officer’s testimony and instead focuses almost entirely on the experts who testified to the child’s injuries and his cause of death. In making this credibility determination, the district court does not rely on the officers’ testimony. Thus, our careful review of the record here indicates that the central issue before the district court was a matter of expert credibility, to which the officers’ testimony had little relevance. Any error in refusing to disclose the confidential documents is harmless.

Affirmed.