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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A23-1025**

State of Minnesota,
Respondent,

vs.

Jordan King LaBelle,
Appellant.

**Filed July 8, 2024
Affirmed; motion denied
Slieter, Judge**

Beltrami County District Court
File No. 04-CR-21-1997

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

David L. Hanson, Beltrami County Attorney, Symon Schindler-Syme, Assistant County Attorney, Bemidji, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jennifer Workman Jesness, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Bjorkman, Presiding Judge; Smith, Tracy M., Judge;
and Slieter, Judge.

NONPRECEDENTIAL OPINION

SLIETER, Judge

This is a direct appeal from the district court's judgment of conviction for first-degree criminal sexual conduct, malicious punishment of a child, and possession of child pornography. Appellant Jordan King LaBelle requests that this court reverse and

remand for a new trial on the criminal-sexual-conduct and malicious-punishment-of-a-child counts, arguing that the district court abused its discretion by admitting improper relationship evidence. LaBelle also requests that this court reverse his conviction for possession of child pornography, arguing that the evidence was insufficient to prove beyond a reasonable doubt that he knew or should have known the pornographic character of the photos on his cell phone.¹ Because the district court acted within its discretion to allow the admission of relationship evidence and there exists sufficient evidence to support his conviction for possession of child pornography, we affirm.

FACTS

In January 2023, respondent State of Minnesota charged LaBelle by complaint with, as relevant to this appeal, two counts of first-degree criminal sexual conduct pursuant to Minnesota Statutes section 609.342, subdivision 1(a) (2014); one count of second-degree criminal sexual conduct pursuant to Minnesota Statutes section 609.343, subdivision 1(a) (2014); two counts of malicious punishment of a child pursuant to Minnesota Statutes

¹ LaBelle submitted a *pro se* supplemental brief arguing that we should reverse the convictions because (1) some testimony was untruthful and (2) his prior convictions were also based on untrue allegations. The state moved to strike LaBelle's *pro se* brief.

Upon reviewing LaBelle's *pro se* brief, we discern no reviewable claim of error. His arguments are unsupported by citation to legal authority and would require us to impermissibly review matters outside the record on appeal and engage in fact-finding and credibility determinations. *See State v. Ivy*, 873 N.W.2d 362, 367 (Minn. App. 2015), *rev. denied* (Minn. Mar. 15, 2016) ("It is not [this court's] role as a reviewing court to evaluate the credibility of the evidence."); *State v. C.J.M.*, 409 N.W.2d 857, 859 (Minn. App. 1987), *rev. denied* (Minn. Sept. 18, 1987) ("It is the exclusive function of the jury to weigh the credibility of witnesses in a criminal trial."). Consequently, we decline to address LaBelle's claims and deny the state's motion to strike as moot.

section 609.377, subdivision 2 (2014); and one count of possession of child pornography pursuant to Minnesota Statutes section 617.247, subdivision 4(a) (2014). These charges stemmed from allegations of years of physical abuse against LaBelle's son, C.L., and allegations of physical and sexual abuse against his daughter, S.C.

The case proceeded to a jury trial from which the following facts are derived. LaBelle began to physically abuse C.L. when C.L. was 10 years old, at which point LaBelle and the children's mother, B.L., were still in a romantic relationship and living together with the children. But B.L. and the children eventually moved out, and the children would occasionally visit LaBelle at his apartment.

C.L. testified that LaBelle physically abused him by punching him and hitting him with a belt hard enough to leave bruises. C.L. also testified that LaBelle choked him. The abuse continued until C.L. was approximately 12 years old. C.L. did not report the abuse to his mother.

LaBelle began to physically and sexually abuse S.C. when she was eight years old, when the family still lived together. S.C. testified that LaBelle would hit her in the head and stomach hard enough to leave a mark. LaBelle also penetrated S.C.'s vagina with his penis, hands, and a purple vibrator; performed oral sex on her; and forced her to kiss him and perform oral sex on him. The abuse ended when B.L. stopped letting S.C. visit LaBelle at his apartment—S.C. was 11 years old at this time.

In 2019, S.C. reported the physical abuse to B.L. and B.L. called the police, but the police only filed a report because there was no physical evidence. In 2020, when S.C. was

12 years old, she finally reported the sexual abuse to B.L., and B.L. reported the sexual abuse to law enforcement.

In 2020, after S.C. reported the sexual abuse, S.C. and C.L. were interviewed at the Family Advocacy Center where they each provided a detailed account of the abuse their father inflicted on them. During the interview, S.C. acknowledged that LaBelle took photos of intimate parts of her body. This led investigators to search LaBelle's cell phone on which they found seven pictures of female genitalia. An investigator testified that when he asked LaBelle about the pictures on his cell phone, LaBelle said he was not sure what pictures the investigator was talking about, but that "they were either from a gal he was talking with or several gals he was talking with or they're images of his daughter." LaBelle further explained that S.C.'s cell phone had been confiscated at school and after he retrieved the cell phone, he looked through it and found photos S.C. took of herself. LaBelle claimed that he sent the photos to himself and then, from his cell phone, sent them to B.L.

B.L. testified that LaBelle never sent her nude photos of S.C. S.C. testified that LaBelle took nude photos of her "private parts" with a cell phone, and she identified her body in five of the seven nude photos recovered from LaBelle's cell phone.

LaBelle also testified at trial and denied the allegations.

Before instructions were given to the jury, the state dismissed the count of second-degree criminal sexual conduct. The jury returned a verdict of guilty on the remaining charges. The district court entered judgments of conviction and imposed an aggravated sentence of 288 months' imprisonment for one count of first-degree criminal

sexual conduct and concurrent sentences of one year imprisonment for malicious punishment of C.L. and 46 months' imprisonment for possession of child pornography. Sentences were not pronounced on the other two convicted counts. LaBelle appeals.

DECISION

I. The district court acted within its discretion by admitting relationship evidence.

LaBelle challenges the admission of the following two categories of relationship evidence at trial: (1) “general relationship evidence” and (2) testimony about his prior convictions for domestic abuse and stalking. Because some of the evidence was objected to and some not, causing different standards of review to apply, we address each in turn.

General Relationship Evidence

LaBelle contends that the district court erred by admitting various items of general relationship evidence pursuant to Minnesota Statutes section 634.20 (2022). LaBelle argues that admission of this evidence was error because the probative value was substantially outweighed by the danger of its prejudicial effect on the jury.

At trial, both children testified that they once witnessed LaBelle throw glass bowls at B.L. and that once, when they got too close while sitting together or playing, LaBelle became upset and called C.L. a “pervert.” B.L. testified about the abusive nature of her relationship with LaBelle.

LaBelle did not object to the admission of this evidence during trial. Appellate courts review unobjected-to errors for plain error. *State v. Myhre*, 875 N.W.2d 799, 804 (Minn. 2016). To establish reversible error under the plain-error test, “a criminal defendant

must show that (1) there was error, (2) the error was plain, and (3) the error affected the defendant's substantial rights." *Id.* "If any prong of the test is not met, the claim fails." *State v. Jackson*, 714 N.W.2d 681, 690 (Minn. 2006). And, even if a defendant demonstrates plain error, an appellate court should "correct the error *only* when it seriously affects the fairness, integrity, or public reputation of judicial proceedings." *Pulczynski v. State*, 972 N.W.2d 347, 356 (Minn. 2022). We discern no error in the district court's refraining from *sua sponte* excluding this general relationship evidence.

Minnesota Statutes section 634.20 provides that "[e]vidence of domestic conduct by the accused against the victim of domestic conduct, or against other family or household members, is admissible unless the probative value is substantially outweighed by the danger of unfair prejudice." This type of evidence "is relevant because it illuminate[s] the history of the relationship between the victim and defendant and may also help prove motive or assist the jury in assessing witness credibility." *State v. Matthews*, 779 N.W.2d 543, 549 (Minn. 2010).

The defense counsel's opening statement and cross-examination of the witnesses challenged S.C. and C.L.'s credibility, including their delay in reporting the abuse. The state addressed these challenges by asking why S.C. and C.L. did not report the abuse earlier. Both victims explained that it was because they did not want to endanger their mother.

B.L.'s testimony about the abusive nature of her relationship with LaBelle and the children's testimony that they witnessed LaBelle throw glass bowls at B.L. provided context for the delayed reporting issue and bolstered their credibility after it had been

challenged. This testimony’s substantial probative value regarding the issues of credibility and delayed reporting was not substantially outweighed by the danger of unfair prejudice.

Additionally, the district court provided a cautionary instruction limiting the use of relationship evidence during trial and during its final instructions to the jury. We discern no violation of section 634.20 and conclude that the district court did not err by not excluding this relationship evidence. *See State v. Word*, 755 N.W.2d 776, 784 (Minn. App. 2008) (concluding no plain error where the relationship evidence provided context to a challenge to the witness’ credibility); *State v. Andersen*, 900 N.W.2d 438, 441 (Minn. App. 2017) (observing that “the district court’s cautionary instructions lessened any probability that the jury would rely improperly on relationship evidence”).

Regarding the testimony about LaBelle’s “pervert” comment, it is unclear how this statement is “evidence of domestic conduct,” and LaBelle makes no attempt to explain how it is properly characterized as relationship evidence. We discern no error in the district court’s not excluding this testimony pursuant to section 634.20.

Because there was no error in the admission of the general relationship evidence LaBelle complains of, we need not reach the remaining factors of plain-error analysis. *See Jackson*, 714 N.W.2d at 690.

Testimony About Prior Convictions

LaBelle also argues that B.L.’s testimony about his two prior convictions were (1) inadmissible as relationship evidence and (2) unduly prejudicial. Evidentiary rulings are reviewed for an abuse of discretion. *See State v. Hallmark*, 927 N.W.2d 281, 291 (Minn. 2019). “A district court abuses its discretion when its decision is based on an

erroneous view of the law or is against logic and the facts in the record.” *Id.* (quotation omitted). The “appellant has the burden of establishing that the district court abused its discretion that [the] appellant was thereby prejudiced.” *State v. Amos*, 658 N.W.2d 201, 203 (Minn. 2003). Because LaBelle objected at trial, the harmless-error standard applies. *State v. Peltier*, 874 N.W.2d 792, 802 (Minn. 2016). “Under the harmless-error standard, an appellant who alleges an error in the admission of evidence that does not implicate a constitutional right must prove that there is a reasonable possibility that the wrongfully admitted evidence significantly affected the verdict.” *Id.* (quotation omitted).

At trial, B.L. testified that LaBelle was convicted of domestic assault for an offense committed in August 2008 and that he was convicted of stalking for an offense committed in June 2017.

Though LaBelle objected to the admission of this evidence at trial, he did not raise the particular argument he makes on appeal—that testimony about his convictions is not “evidence of domestic conduct” within the meaning of section 634.20. On appeal, a party cannot “obtain review by raising the same general issue litigated below but under a different theory.” *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988); *see Roby v. State*, 547 N.W.2d 354, 357 (Minn. 1996) (applying *Thiele* in a criminal case). Because LaBelle failed to raise this argument below, and he provides no argument as to why this court should exercise discretion to review it, we deem this argument forfeited. *See Thiele*, 425 N.W.2d at 582.

And even if we did not consider LaBelle’s argument forfeited, it would fail on the merits. LaBelle argues that the “plain language [of section 634.20] does not allow

admission of a defendant's prior conviction" and that evidence of a conviction does not serve the purpose of the statute which is to allow evidence illuminating the history of the parties' relationship. We disagree.

In interpreting the meaning of a statute, this court applies a *de novo* standard of review. *State v. Barnslater*, 786 N.W.2d 646, 650 (Minn. App. 2010). Section 634.20 uses the phrase "[e]vidence of domestic conduct," and provides a nonexhaustive list of what may constitute "domestic conduct." Further, the statute does not limit how the evidence must be presented. *See* Minn. Stat. § 634.20. A conviction *is* evidence that the domestic conduct underlying the crime occurred—and though the conviction is evidence that a defendant was criminally convicted of the conduct, this does not mean that the conviction is not admissible as evidence of the conduct.

Because section 634.20 does not limit the form or presentation of the evidence of domestic conduct, we will not read such a limitation into the statute. *See State v. Suspitsyn*, 941 N.W.2d 423, 429-30 (Minn. App. 2020) (explaining appellate courts do not add to a statute "what the legislature purposely omits or inadvertently overlooks" (quotation omitted)). We are persuaded that the testimony about LaBelle's prior convictions for stalking and domestic abuse is evidence of the domestic conduct underlying the convictions and conclude that admission of testimony about the convictions was within the district court's discretion. And, because LaBelle has identified no error, we need not complete a harmless-error analysis.

Alternatively, LaBelle argues that it was unduly prejudicial to admit testimony about his prior convictions. LaBelle argues that the evidence was minimally relevant

because the convictions did not make it more or less likely that he committed sexual or physical abuse against his children and the danger that the jury would use these convictions as impermissible character evidence substantially outweighed the minimal relevance. We are not persuaded.

Section 634.20 excludes evidence of domestic conduct if “the probative value is *substantially* outweighed by the danger of unfair prejudice.” (Emphasis added). “Relationship evidence is relevant because it illuminate[s] the history of the relationship between the victim and defendant and may also help prove motive or assist the jury in assessing witness credibility.” *Matthews*, 779 N.W.2d at 549.

Evidence of LaBelle’s prior convictions for stalking and domestic abuse against B.L. was relevant to demonstrate the history of LaBelle’s relationship with his family. Additionally, admission of LaBelle’s prior domestic convictions against B.L. assisted the jury in assessing S.C.’s and C.L.’s credibility because they testified that they did not initially report their abuse due to fear for B.L.’s safety. Furthermore, any unfair prejudice was mitigated by the district court’s cautionary instruction before the evidence was presented and when it read its final instructions to the jury. *See Andersen*, 900 N.W.2d at 441. We conclude that the district court acted within its discretion to allow evidence of LaBelle’s prior convictions.

II. The evidence was sufficient to prove LaBelle knew or should have known that his cell phone contained pornographic photos of a minor.

LaBelle also argues that there was insufficient evidence to prove that he knew the pornographic character of the photographs on his cell phone—an element that the state was

required to prove beyond a reasonable doubt to sustain a conviction for possession of child pornography. *See* Minn. Stat. § 617.247, subd. 4(a).

When evaluating the sufficiency of the evidence, appellate courts review the record to determine “whether the evidence, when viewed in the light most favorable to the conviction, is sufficient to allow the jurors to reach their verdict.” *State v. Olhausen*, 681 N.W.2d 21, 25 (Minn. 2004). The reviewing court assumes the jury believed evidence that supported the verdict and disbelieved any evidence that conflicted with the verdict. *Id.* “[Appellate courts] will not disturb the verdict if the jury, while acting with proper regard for the presumption of innocence and regard for the requirement of proof beyond a reasonable doubt, could reasonably conclude that the defendant was guilty of the charged offense.” *Id.* at 25-26.

A finding of guilt can be based on direct or circumstantial evidence, but the test used by appellate courts to evaluate whether sufficient evidence was produced varies dependent on the type of evidence used to prove the element at issue. The parties disagree about the nature of the evidence used to prove LaBelle’s knowledge. But we are satisfied that the state’s burden was met under either test.

Direct Evidence

“[D]irect evidence is evidence that is based on personal knowledge or observation and that, if true, proves a fact without inference or presumption.” *State v. Harris*, 895 N.W.2d 592, 599 (Minn. 2017) (quotation and alteration omitted). When an element of an offense is supported by direct evidence, this court’s review is limited “to a painstaking analysis of the record to determine whether the evidence, when viewed in the light most

favorable to the conviction, was sufficient to permit the jurors to reach the verdict that they did.” *State v. Horst*, 880 N.W.2d 24, 40 (Minn. 2016). We must assume that “the jury believed the state’s witnesses and disbelieved any evidence to the contrary.” *State v. Moore*, 438 N.W.2d 101, 108 (Minn. 1989).

S.C. testified that LaBelle took nude photos of her with his cell phone and identified herself in five of the seven nude photographs recovered from LaBelle’s cell phone. “[A] conviction can rest on the uncorroborated testimony of a single credible witness.” *State v. Foreman*, 680 N.W.2d 536, 539 (Minn. 2004) (quotation omitted). We therefore conclude that, under the direct-evidence test, S.C.’s testimony was sufficient to prove that LaBelle knew or had reason to know of the pornographic content and character of the photos on his cell phone.

Circumstantial Evidence

Even if, as LaBelle contends, the evidence used to prove the knowledge element was circumstantial, we are convinced that the evidence was sufficient to sustain the conviction. Circumstantial evidence is “evidence from which the factfinder can infer whether the facts in dispute existed or did not exist” and always requires an inferential step. *Harris*, 895 N.W.2d at 599 (quotation omitted).

“Under the circumstantial-evidence standard, [appellate courts] apply a two-step analysis.” *State v. Silvernail*, 831 N.W.2d 594, 598 (Minn. 2013). We first identify the circumstances that were proved at trial. *Id.* At this step, the reviewing court defers to “the jury’s acceptance of the proof of these circumstances” and “consider[s] only those circumstances that are consistent with the verdict.” *Id.* at 598-99 (quotations omitted).

Second, the reviewing court determines whether the circumstances, when viewed “as a whole,” are “consistent with guilt and inconsistent with any rational hypothesis except that of guilt.” *Id.* at 599 (quotation omitted). At this step, appellate courts do not defer to the fact-finder’s choice between reasonable inferences. *Id.* “Circumstantial evidence must form 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.” *State v. Al-Naseer*, 788 N.W.2d 469, 473 (Minn. 2010) (quotation omitted). If it does not, the conviction must be reversed. *Id.* at 475.

Circumstances Proved

Viewing the evidence in the light most favorable to the verdict, the following are the circumstances proved relevant to the knowledge element:

- LaBelle took nude photographs of S.C.’s “private parts” with a cell phone.
- Seven nude photographs of female genitalia and breasts were found on LaBelle’s cell phone.
- Five of the seven nude photographs recovered from LaBelle’s cell phone were of S.C.
- S.C. was under the age of 14 when LaBelle took these photographs.
- LaBelle is S.C.’s father.
- When the photos were being taken, LaBelle accused S.C. of “seeing other people.”
- LaBelle sexually abused S.C. repeatedly over the course of approximately three years.

The circumstances proved are consistent with LaBelle’s guilt.

No Reasonable Alternative Hypothesis

LaBelle argues, however, that the circumstances proved are also consistent with rational hypotheses other than guilt. Specifically, that (1) he did not view the photos and (2) he did not have them for a purpose that was pornographic. We are not persuaded. In determining the circumstances proved, we presumed that the jury rejected these same claims by LaBelle at trial and we must defer to the jury's credibility determination. *See Silvernail*, 831 N.W.2d at 598-99 (explaining that appellate courts "consider only those circumstances that are consistent with the verdict . . . because the jury is in the best position to evaluate the credibility of the evidence" (citation omitted)). And because we also presume that the jury credited S.C.'s testimony that LaBelle took the photographs, it necessarily follows that LaBelle was aware of their content.

The jury heard testimony from LaBelle that he took the pictures "to ensure S.C. was not injured." But, as we stated, the jury rejected LaBelle's claim and it is therefore not part of the circumstances proved. It is not rational to conclude that LaBelle took the photos merely "to ensure S.C. was not injured" and for no other pornographic purpose. This hypothesis ignores the greater context of the repeated sexual abuse LaBelle inflicted on S.C. and no rational jury, having found LaBelle guilty of criminal sexual conduct against S.C., could have come to the conclusion that LaBelle proposes. LaBelle points to no other evidence which would support a rational hypothesis other than guilt, and mere speculation does not support a rational hypothesis other than guilt. *See State v. Tscheu*, 758 N.W.2d 849, 858 (Minn. 2008) ("[W]e will not overturn a conviction based on circumstantial evidence on the basis of mere conjecture." (quotations omitted)).

We thus conclude that, even under the circumstantial-evidence test, the evidence was sufficient to prove that LaBelle knew his cell phone contained pornographic photos of S.C.

Affirmed; motion denied.