

*This opinion is nonprecedential except as provided by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
A23-1089**

State of Minnesota,
Respondent,

vs.

Carl Stanley Williams,
Appellant.

**Filed July 8, 2024
Affirmed
Smith, Tracy M., Judge**

Hennepin County District Court
File No. 27-CR-22-965

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

Mary F. Moriarty, Hennepin County Attorney, Mark V. Griffin, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Andrew C. Wilson, Wilson & Clas, Minneapolis, Minnesota (for appellant)

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

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

Appellant Carl Stanley Williams appeals from judgments of conviction, following a jury trial, for first-degree criminal sexual conduct, kidnapping, and first-degree aggravated robbery. He argues that the district court abused its discretion by denying his motion for a mistrial following the testimony of the victim regarding a previous identification of Williams as her assailant that was never disclosed to the defense. Williams also raises several additional issues in his pro se supplemental brief. We affirm.

FACTS

This case stems from criminal sexual conduct, kidnapping, and aggravated robbery committed against K.Y. on January 14, 2022. Following the incident, respondent State of Minnesota charged Williams with four criminal counts: two counts of first-degree criminal sexual conduct, one count of kidnapping, and one count of first-degree aggravated robbery. The matter proceeded to a jury trial in March 2023.

At trial, K.Y. described being kidnapped, robbed, and sexually assaulted at gunpoint by a stranger in a ski mask after driving to a gas station. The assailant forced his way into the driver's seat of K.Y.'s car, ordering K.Y. to move to the passenger seat. He then drove away with her and, after parking the car, stole her credit card and sexually assaulted her before she was able to flee from the car and seek help.

The main issue at trial was the identity of K.Y.'s assailant. K.Y. testified first and identified Williams in court as her assailant. On cross-examination, K.Y. acknowledged that there had been no lineup procedure by which she identified Williams and that she had

seen Williams at several of his pretrial hearings. On redirect examination, the prosecutor asked K.Y. how she recognized Williams as her assailant. K.Y. responded, “I recognized everything else on his face, his eyes, his lips and, being in court, his voice.” On recross-examination, defense counsel questioned K.Y. as follows:

Q: You say you recognize Mr. Williams’s voice from hearing him in court prior to today; is that right?

A: Yes.

....

Q: . . . What day in court did you recognize his voice?

A: . . . [T]he first court appearance from Zoom court.

Q: Okay. And who did you tell that to? Who did you say, “I recognize his voice”? Who did you tell that to?

A: To my advocate.

After K.Y. completed her testimony and was released by the district court, defense counsel raised a concern that K.Y. testified that she had communicated to the prosecution that “she had recognized Mr. Williams’s voice from a prior court appearance” but the prosecution had not disclosed that statement.

The prosecutor said that she did not “recall specifically” any statement by K.Y. about recognizing Williams’s voice but “remember[ed] her talking about . . . his eyes and his mouth.” Defense counsel stated that the prosecution also had not disclosed those statements.

After speaking with the victim-witness advocate during a subsequent recess, the prosecutor stated:

I did inquire of . . . the advocate assigned to [K.Y.] regarding the issue of Mr. Williams’s voice. [The victim-witness advocate] said it’s possible that the victim told her something about his voice and that she wouldn’t have written it down. She said that she would not have thought that was relevant, that she

chitchats with people, and that she doesn't go into police reports. She only reads the complaint and that her role is not as a fact finder but as a systemic advocate.

She said it didn't appear to her that ID was an issue in this case, and so that wouldn't have struck her as relevant. She said that she would have passed something on if the victim had said something like: "We have the wrong guy."

I also searched my own recollection[,] . . . I believe I misspoke about her previously saying she could recognize his eyes and his lips. I don't recall her saying that she could recognize his brown eyes. That was the first time I heard it was this morning. But I did recall that she had said that she could recognize his lips, and the way -- and I couldn't figure out where I had had that in my mind. And I did go through the file, and that is something that is said by the victim. Victim describes his lips during her [sexual assault nurse examiner (SANE)] examination, which obviously has been disclosed as part of the discovery in this case.

Williams then moved for a mistrial.

The district court made the following findings:

I'm going to find it's more likely than not, given what the witness testified to, and I do find that witness to be credible, that she told the victim advocate about being able to recognize the defendant from his voice as she heard it, you know, at the time of the incident and at the first appearance.

I'm going to find that . . . it's not to the degree that the witness is relating facts about the case that is a government agent. And while I appreciate that government agent's -- I'd certainly pass it along if it's inconsistent, I do think there's a duty on the part of the lawyers to make sure if there's additional -- I mean, kind of finishing in second place for prejudice is that there's additional inculpatory evidence not known, not revealed, in discovery that should have been revealed as to the voice identification.

As to the lip identification, I'm finding no harm in that it was also disclosed in the SANE examination and doesn't

work as surprise. As to the eye identification, I'm going to find on this record that that was unknown by the state to the point that . . . the alleged victim testified to it on the stand.

The district court then asked the prosecutor about the proposed remedy of a mistrial. The prosecutor argued against it, asserting that defense counsel effectively minimized any potential prejudice related to K.Y.'s undisclosed voice-identification statement through cross-examination. Defense counsel responded that K.Y.'s identification of Williams's voice at his first court appearance was a "de facto one-person show-up" that was "coercive and suggestive" and that its nondisclosure denied Williams the opportunity to move to suppress the identification evidence before trial.

The district court said that, before deciding whether to grant a mistrial, it would have to take into account any actual prejudice and whether there were other ways to remedy the error. The district court stated:

So, I've heard a piece of what I think is perfectly legitimate prejudice, which is I would have moved to suppress it as a one-person show-up de facto, or something along those lines. I'm happy to have that hearing, and I think I'm obliged to have that hearing to see whether that rectifies the prejudice.

The district court decided against having a hearing at that moment but instead took the mistrial motion under advisement. The trial proceeded, the matter was never revisited, and the district court did not specifically rule on the motion.

The jury found Williams guilty of all four counts. The district court left one of the criminal-sexual-conduct counts adjudicated and sentenced Williams to 360 months in prison for the other criminal-sexual-conduct count, 108 months in prison for kidnapping,

and 98 months in prison for aggravated robbery, the sentences to be served concurrently.

At sentencing, the district court told Williams:

I'll note for the record, sir, that I recognize that you did not receive a perfect trial, but I certainly think that you received a fair trial. I will note that I think that the evidence in this case, even without the victim's identification, was overwhelming. Your DNA was found in the victim's car. You were caught in proximity of the very distinctive replica of Roy-Rogers-like six-shooter, and [the victim's] credit card was on your person when you were arrested. And, of course, I'm sure the jury noted your shifting explanation for how that credit card came to be in your possession.

I find that to be overwhelming evidence of your guilt in this case in addition to the fact that I found the victim, even without regard to . . . the in-court identifications[] made -- even without that, . . . or excluding that, I found that the victim's testimony was credible, and as a result I find the jury was well within its rights and within its discretion to enter the verdict that they did.

Williams appeals.

DECISION

I. The district court did not abuse its discretion by denying Williams's motion for a mistrial.

Appellate courts review the denial of a motion for a mistrial for an abuse of discretion. *State v. Manthey*, 711 N.W.2d 498, 506 (Minn. 2006).¹ “A mistrial should be

¹ As a preliminary matter, the state contends that this appeal should be dismissed because the district court did not issue an order denying Williams's mistrial motion, asserting, “An appellate court can only review an actual order, not an implied one.” Contrary to the state's assertion, an appellate court may review a district court's implicit denial of a motion for a mistrial. *See, e.g., id.* at 505 (reviewing district court's denial of motion for mistrial even though “[t]he court did not specifically rule on the mistrial motion”). We therefore decline to dismiss this appeal.

granted only if there is a reasonable probability, in light of the entirety of the trial including the mitigating effects of a curative instruction, that the outcome of the trial would have been different had the incident resulting in the motion not occurred.” *State v. Griffin*, 887 N.W.2d 257, 262 (Minn. 2016). The district court “is in the best position to determine whether an error is sufficiently prejudicial to require a mistrial or whether another remedy is appropriate.” *Id.*

Williams argues that the district court abused its discretion by denying his motion for a mistrial because (1) the district court made clearly erroneous factual findings regarding K.Y.’s out-of-court identification of Williams and (2) there was a reasonable probability that K.Y.’s identification testimony affected the verdict. We address each argument in turn.

A. The district court’s factual findings do not constitute reversible error.

Williams contends that the district court made two erroneous factual findings regarding the prosecution’s failure to disclose K.Y.’s previous identification of Williams.

First, he argues that the district court’s “ruling that the victim advocate is not a government agent is an abuse of discretion because a Hennepin County Attorney’s Office’s victim advocate is a state agent.” The district court stated that K.Y.’s statement to the victim-witness advocate was “not to the degree that the witness is relating facts about the case that is a government agent.” Even if this statement by the district court meant that it found that the victim-witness advocate was not a government agent, the error was harmless because the district court ruled that the prosecution should have disclosed K.Y.’s statement.

See State v. Cloutier, 971 N.W.2d 743, 749 (Minn. App. 2022) (“[E]rror without prejudice is not grounds for reversal.”), *aff’d*, 987 N.W.2d 214 (Minn. 2023).

Second, Williams argues that the district court’s finding that there was “no harm” “as to the lip identification . . . in that it was also disclosed in the SANE examination and doesn’t work as surprise” is not supported by the record. We disagree. As Williams acknowledges, K.Y. gave a description of her assailant’s lips to the SANE nurse, and Williams does not deny that the prosecution disclosed the SANE report to him. Moreover, while K.Y. testified at trial that she told her victim-witness advocate at an earlier hearing that she recognized Williams’s voice, K.Y. did not testify that she previously recognized Williams’s lips. And, though the prosecutor mentioned that she remembered K.Y. “talking about . . . [Williams’s] mouth,” the prosecutor later corrected herself and recalled that the statement was made in a SANE examination, which had been disclosed to the defense. The district court’s finding that K.Y.’s statement regarding the lips of her assailant was disclosed to the defense is supported by the record.²

On this record, the district court properly found that the prosecution should have disclosed to the defense K.Y.’s statement to the victim-witness advocate that she recognized Williams’s voice at a previous hearing, and it did not err by finding that there was no failure to disclose with respect to her statement about Williams’s lips. We turn next to Williams’s argument that the district court should have granted a mistrial based on K.Y.’s voice-identification testimony.

² Williams concedes that the record supports the district court’s determination that K.Y. did not tell the prosecution before trial that she recognized his eyes.

B. It is not reasonably probable that K.Y.'s voice-identification testimony affected the verdict.

In ruling on a motion for a mistrial based on a discovery violation, the district court should consider “(1) the reason why disclosure was not made; (2) the extent of prejudice to the opposing party; (3) the feasibility of rectifying that prejudice by a continuance; and (4) any other relevant factors.” *State v. Lindsey*, 284 N.W.2d 368, 373 (Minn. 1979). In *State v. Spann*, the Minnesota Supreme Court applied the *Lindsey* factors to conclude that the district court did not abuse its discretion by denying Spann’s motion for a mistrial. 574 N.W.2d 47, 53 (Minn. 1998). We follow *Spann* and apply the *Lindsey* factors to this case.

Williams argues that the district court abused its discretion by denying his motion for a mistrial because the *Lindsey* factors do not support the district court’s ruling. We address each factor in turn.

1. Reason for Nondisclosure

Williams contends that “the failure to disclose was deliberate, not inadvertent,” because the victim-witness advocate knew about K.Y.’s statement identifying Williams through his voice, weighed the relevance of the statement, and chose not to disclose it. The record demonstrates that, according to the prosecutor, the victim-witness advocate “said it’s possible that [K.Y.] told her something about [Williams’s] voice and that she wouldn’t have written it down” because “that wouldn’t have struck her as relevant.” Because the victim-witness advocate acknowledged that she might not have reported the statement even if it was made, we cannot conclude that the failure to disclose it was inadvertent.

2. Extent of Prejudice

Williams contends that K.Y.'s undisclosed voice-identification statement was "prejudicial" for five reasons: (1) the voice identification was based on an "unduly suggestive one-person show-up"; (2) if the statement had been disclosed, he could have moved to suppress it; (3) defense counsel needed to address the voice identification through another witness and in closing argument; (4) defense counsel could not adequately prepare to cross-examine K.Y. about her identification of Williams at his first court appearance; and (5) K.Y.'s identification testimony reverberated through the trial.

Williams's arguments are unpersuasive. Setting aside K.Y.'s voice identification of Williams, there was overwhelming evidence of Williams's identity. The evidence included K.Y.'s testimony that she recognized Williams in court based on his eyes and lips, testimony from a forensic scientist from the Minnesota Bureau of Criminal Apprehension (BCA) that DNA consistent with Williams's profile was found in K.Y.'s car, surveillance video depicting parts of the abduction from the gas station, Williams's possession of K.Y.'s credit card when Williams was searched by the police later that same day, and Williams's trial testimony in which he identified himself in surveillance video from the same gas station taken several hours after the incident wearing the same clothing as the assailant and using K.Y.'s credit card. The prosecution's failure to disclose K.Y.'s statement resulted in only minimal, if any, prejudice to Williams.

3. Feasibility of Rectifying Prejudice by a Continuance

Williams contends that a continuance would not have rectified the prejudice because the jury had already heard K.Y.'s identification testimony. The state contends that there

was no need for a continuance. Because there was only minimal prejudice in this case, we agree with the state that there was no need to grant a continuance.

4. Other Relevant Factors

Williams presents as relevant two other factors: (1) defense counsel had no opportunity to object before the substance of K.Y.'s undisclosed statement was revealed and (2) if the nondisclosure was not deliberate, it was still "not justifiable." These factors do not weigh in favor of mistrial because any prejudice arising from K.Y.'s statement did not rise to a level that requires a mistrial.

In conclusion, the district court did not abuse its discretion by denying Williams's motion for a mistrial because any error in the district court's findings is harmless and it is not reasonably probable that the voice-identification testimony affected the verdict.

II. Williams is not entitled to relief based on his pro se claims.

In his pro se supplemental brief, Williams raises several additional claims, including ineffective assistance of counsel.

A. Ineffective Assistance of Counsel

Williams requests that this appeal be stayed and the matter remanded to the district court for postconviction proceedings to pursue claims of ineffective assistance of counsel. "If, after filing a notice of appeal, a defendant determines that a petition for postconviction relief is appropriate, the defendant may file a motion to stay the appeal for postconviction proceedings." Minn. R. Crim. P. 28.02, subd. 4(4). An appellant moving for such relief must make a "threshold factual showing" from which this court may determine the propriety of the request. *State v. Riendeau*, 603 N.W.2d 341, 344 (Minn. App. 1999). The

grant of a stay for these purposes “should not be construed as an opinion” that appellant is entitled to relief or to an evidentiary hearing on remand. *See id.* This court may also set a time limit for an appellant to file a petition for postconviction relief. Minn. R. Crim. P. 28.02, subd. 4(4) cmt.

In support of his ineffective-assistance-of-counsel claims, Williams states that his trial counsel failed to (1) have the gun that was allegedly used during the offenses tested for his DNA; (2) have his clothes tested for K.Y.’s DNA; (3) question witnesses further about the weather conditions on the day of the incident; (4) obtain various experts, including a DNA expert; (5) obtain location information for his two cell phones; (6) question K.Y. about a lawyer who allegedly provided her with his name or about how she obtained the information to attend his hearings; (7) obtain certain DNA profiles; and (8) obtain possible surveillance videos.

“Generally, an ineffective assistance of counsel claim should be raised in a postconviction petition for relief, rather than on direct appeal.” *State v. Gustafson*, 610 N.W.2d 314, 321 (Minn. 2000); *see also Leake v. State*, 737 N.W.2d 531, 535 (Minn. 2007) (“Because we cannot, on the record presented, determine whether Leake was denied effective assistance of counsel in connection with advice he received from his trial counsel about the consequences of rejecting a plea offer, we remand to the postconviction court for an evidentiary hearing on that issue.”). But, if an ineffective-assistance claim can be determined based on the trial record, we may decide it on direct appeal.

Appellate courts review ineffective-assistance-of-counsel claims under the two-prong test set forth in *Strickland v. Washington*, 466 U.S. 668, 687 (1984). *Andersen v.*

State, 830 N.W.2d 1, 10 (Minn. 2013). Under *Strickland*, an appellant must demonstrate that (1) their counsel’s performance was objectively unreasonable and (2) there is a reasonable probability that, but for counsel’s errors, the outcome would have been different. *Id.* Minnesota courts “will generally not review an ineffective-assistance-of-counsel claim that is based on trial strategy.” *Id.* “Trial strategy” includes matters such as the selection of evidence presented to the jury, what witnesses to call, what questions to ask witnesses, and whether to make objections. *See State v. Bobo*, 770 N.W.2d 129, 138-39 (Minn. 2009). Such matters “lie within the proper discretion of trial counsel and will generally not be reviewed later for competence.” *Id.* at 138.

Williams’s claims that his lawyer’s performance was objectively unreasonable all involve matters of trial strategy. In addition, his claims are based on mere conjecture about what evidence or testimony different strategic choices would have produced. We therefore see no basis to grant a stay for a postconviction petition and instead reject Williams’s ineffective-assistance-of-counsel claims.

B. Other Pro Se Claims

We understand Williams to assert the following additional arguments: (1) the district court abused its discretion by denying his motion for a mistrial, (2) the DNA report should not have been admitted, (3) the DNA report should have been supplied to the jury when the jury requested it, (4) the state failed to adequately investigate the DNA evidence, (5) the jury found him not guilty, (6) K.Y.’s person should have been tested for his DNA, and (7) he did not have enough time to prepare his pro se supplemental brief.

Williams's argument that the district court abused its discretion by denying his motion for a mistrial has been addressed above. His other arguments also fail. The record demonstrates that the BCA's DNA report was withdrawn from evidence. The trial transcript shows that the jury found Williams guilty of all four counts. Finally, Williams had enough time to prepare his supplemental brief. "A defendant, whether or not choosing to proceed pro se, may also file with the court a supplemental brief. The supplemental brief must be filed within 30 days after the State Public Defender's office files its initial brief." Minn. R. Crim. P. 28.02, subd. 5(17). Williams's supplemental brief was filed 64 days after the initial brief.

Affirmed.