

*This opinion is nonprecedential except as provided by  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  
A23-1874**

State of Minnesota,  
Respondent,

vs.

Vincent Lee Sims,  
Appellant.

**Filed December 2, 2024  
Affirmed in part, reversed in part, and remanded  
Ross, Judge**

Blue Earth County District Court  
File No. 07-CR-22-1426

Keith Ellison, Attorney General, Jacob Campion, Assistant Attorney General, St. Paul, Minnesota; and

Patrick McDermott, Blue Earth County Attorney, Mankato, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Steven P. Russett, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Schmidt, Presiding Judge; Ross, Judge; and Ede, Judge.

**NONPRECEDENTIAL OPINION**

**ROSS, Judge**

A woman awoke to find her boyfriend in a different, darkened room standing over her five-year-old granddaughter. Her boyfriend, Vincent Sims, quickly covered his crotch and knocked the woman's phone from her hand when she tried to call the police, yelling, "It's not what you think!" After a bench trial, the district court convicted Sims of first-

degree criminal sexual conduct and interference with an emergency call. Sims argues on appeal that the district court erroneously admitted hearsay statements from the child victim and that his sentence must be reversed to correct a conflict between the district court's oral sentencing pronouncement and its written sentencing order. Sims's hearsay challenge fails because the child's statements to the forensic interviewer were properly admitted under Minnesota Statutes section 595.02, subdivision 3 (2022), and because admitting into evidence her statements to the police officer was harmless error. We therefore affirm in part. But we reverse in part and remand for the district court to clarify the sentencing ambiguity.

## **FACTS**

Thirty-three-year-old Vincent Sims stayed over at his then-girlfriend's home in Mankato one night in April 2022. His girlfriend, whom we will call Alice to maintain her privacy, woke up during the night to an unusually dark house. Alice always left the lights and television on at night, so she was suspicious and went to investigate. She found Sims in a dark room standing over a couch where her five-year-old granddaughter lay. Alice clicked on the lights. Sims flinched and grabbed a plastic bag, which he used to cover his crotch.

Alice confronted Sims, demanding, "What the 'f' you doing?" Alice whisked her granddaughter to the bathroom. Her granddaughter, whom we will refer to as Lucy, told Alice, "[M]y brain is hurting" and "telling m[e] crazy things." Alice noticed that Lucy began to tremble when she saw Sims appear in the doorway. After Lucy indicated that Sims

had hurt her, Alice tried to call the police. But Sims knocked her phone out of her hand, repeatedly yelling, “It’s not what you think!”

One of Alice’s sons was also in the house, and he called his older brothers to come over. When Sims heard them arriving, he repeatedly pleaded to Alice, “[K]ill me.” The older brothers beat Sims until Mankato police officers arrived.

Officer Larry Stone interviewed Lucy. Lucy told him that a man had touched her shoulder and her throat, and then pulled down his pants. Later that day, Dr. Arne Graff, a specialist in child-abuse pediatrics, examined her. Lucy told Dr. Graff that Sims placed her on the couch, removed her pants and panties, and put his penis “all the way in” her mouth. Officials directed Lucy to the Child and Family Advocacy Center for a forensic interview. During the recorded interview, she appeared unfocused, fidgety, and fatigued. Lucy told the interviewer that Sims hurt her and that his “dookie dookie” went on her face, head, and eyes. When asked if his “dookie dookie” went anywhere else, Lucy pointed at her mouth, and she said that he “came in my mouth with poop on it.” The state charged Sims with first-degree criminal sexual conduct, domestic assault, and interference with an emergency call.

Before trial, the state submitted a notice to the district court and Sims of its intent to offer at trial statements Lucy made to Officer Stone, as well as the video recording of the forensic interview. Sims objected to the admission of the forensic-interview video and submitted an expert report challenging its reliability. The parties argued over admission of the video at the pretrial hearing, where the district court deferred ruling on the objection until “before or during trial.”

In the two-day bench trial, Lucy testified that Sims’s “boy part” touched her mouth. When asked if anything went inside her mouth, Lucy replied, “no.” The district court allowed the prosecution to play the full forensic interview over Sims’s hearsay objection. The district court also allowed the prosecutor to elicit Lucy’s hearsay statements to Officer Stone, overruling Sims’s hearsay objection. After receiving the evidence, the district court found Sims guilty of first-degree criminal sexual conduct and interference with an emergency call. It sentenced Sims to 273 months in prison for criminal sexual conduct. The district court at sentencing referred to the conviction of interference with an emergency call and stated, “[N]o sentence imposed, or whatever the notation is. 364 days credit.” But on its warrant of commitment, the district court stated that Sims was “sentenced to 364 days” with 364 days of credit for time served.

Sims appeals.

## **DECISION**

Sims makes two principal arguments on appeal. He argues first that the district court improperly admitted into evidence Lucy’s forensic interview and her statements to Officer Stone. We address this hearsay argument in two parts for ease of analysis. Sims contends second that the case must be remanded to correct the warrant of commitment for his interference-with-an-emergency-call sentence. Only his sentencing argument partially prevails.

### **I**

Sims argues unconvincingly that the district court should have excluded Lucy’s forensic interview. We review objected-to evidentiary rulings for an abuse of discretion.

*Holt v. State*, 772 N.W.2d 470, 483 (Minn. 2009). The appellant must show both that the district court erroneously received the evidence and that the error prejudiced his defense. *Id.* We hold that Sims’s arguments in favor of exclusion fail for the following reasons.

Sims argues that Lucy’s recorded interview statements constituted inadmissible hearsay. But the district court may admit an out-of-court statement made by a sexual-assault victim under the age of ten as substantive evidence if the statement is reliable based on the time, content, and circumstances of the statement as well as the credibility of the person to whom the statement was made. Minn. Stat. § 595.02, subd. 3(a). Reliability depends on the totality of the circumstances surrounding the statement. *State v. Sime*, 669 N.W.2d 922, 927 (Minn. App. 2003). Relevant circumstances include statement spontaneity and consistent repetition, use of age-appropriate language, lack of leading questions, close proximity in time between the statement and events described, the lack of preconceived notions by the interviewer, and other indicia of trustworthiness. *Id.* at 927–28. The record informs us that the district court had a sufficient basis to find Lucy’s statements in the forensic interview trustworthy and that it implicitly did so. The interviewer had received training from CornerHouse, a well-established child-interview organization. She had conducted over 250 forensic interviews. She was a neutral examiner without a stake in Lucy’s responses. She followed the child-interviewing protocols and asked few leading questions. The interview occurred only hours after the incident. The interview was conducted in a child-friendly setting at The Child and Family Advocacy Center, where the interviewer was serving as executive director. The interviewer also engaged Lucy using age-appropriate language when describing Sims’s genitalia. Lucy

repeated facts in the interview consistent with what she told Dr. Graff and with what she later testified to at trial when detailing sexual abuse involving Sims's penis touching her mouth. Lucy's other descriptions in the interview similarly match her trial testimony, including that Sims moved her to the couch and that her uncles beat Sims. We hold that, based on Minnesota Statutes section 595.02 (2022), the district court properly exercised its discretion by admitting the forensic interview.

Sims maintains that section 595.02 cannot be the basis for affirming because the district court did not cite the statute when it admitted the forensic interview. Sims is correct that the district court gave no rationale for admitting the interview over his hearsay objection. But we will uphold a ruling when the record and law support it. *See State v. Grunig*, 660 N.W.2d 134, 137 (Minn. 2003). The state notified Sims well before trial of its intent to offer the interview recording. Sims expressly addressed the statute when he challenged the evidence. The parties also argued over the recording's reliability at the pretrial hearing. Although the district court did not make explicit findings, the record includes evidence sufficient for us to address reliability. And Sims does not challenge the other elements of the statute on appeal. *See State, Dep't of Lab. & Indus. v. Wintz Parcel Drivers, Inc.*, 558 N.W.2d 480, 480 (Minn. 1997) (holding that appellate courts will not reach issues that a party fails to adequately brief). Sims argues that the interview was inadmissible hearsay on other grounds, but we need not discuss them because the district court did not abuse its discretion by admitting the interview under section 595.02.

## II

Sims also argues that the district court improperly admitted Lucy's statements to Officer Stone. An appellant who argues that the district court improperly admitted evidence must establish that there was a reasonable possibility that the wrongfully admitted evidence significantly affected the verdict. *State v. Peltier*, 874 N.W.2d 792, 802 (Minn. 2016). In deciding what effect erroneously admitted evidence had on the verdict, we consider how the evidence was presented, how persuasive it was, whether it was used in closing argument, and whether it was effectively countered. *Townsend v. State*, 646 N.W.2d 218, 223 (Minn. 2002). While Sims's hearsay arguments have some merit, based on the following analysis we conclude that any error in allowing Officer Stone to recount Lucy's statements was harmless.

There is no reasonable possibility that Lucy's statements to Officer Stone substantially impacted the verdict. The conviction of first-degree criminal sexual conduct can stand only if the state proved beyond a reasonable doubt that Sims sexually penetrated or contacted Lucy. *See* Minn. Stat. § 609.342, subd. 1(a) (2022). As Sims acknowledges on appeal, Lucy's statements to Officer Stone did not allege sexual penetration or contact, but that "a man" touched her shoulder, touched her throat, and took off his clothes. The district court does not mention these statements in its conclusions of law and its factual findings do not indicate that it found them compelling. These circumstances weigh against reversing. *See State v. Bigbear*, 10 N.W.3d 48, 54–55 (Minn. 2024) (including the manner in which the party presented the evidence and whether it was highly persuasive as factors bearing on the harmless-error assessment). By contrast the district court found other

evidence compelling when convicting Sims. “Strong evidence of guilt undermines the persuasive value of wrongly admitted evidence.” *Id.* at 54. The district court found Lucy’s reaction to seeing Sims in the doorway of the bathroom to be “particularly compelling.” It found the testimony of Dr. Graff credible recounting Lucy’s statements that Sims put his penis “all the way” into her mouth. It found Alice’s testimony “highly reliable.” Alice had testified to the events leading her to discover Sims standing over Lucy, speaking with Lucy in the bathroom, and confronting Sims afterward. The district court also found specific details from the forensic interview compelling, such as Lucy’s recounting that Sims’s “dookie dookie” touched her lips and mouth. And the district court found Lucy’s testimony that Sims’s “boy part” touched her mouth to be credible. All of this evidence that the district court found credible overwhelmingly substantiates first-degree criminal sexual conduct and shows that Lucy’s comparatively innocuous and vague statement to Officer Stone had little bearing on Sims’s guilty verdict.

### III

Sims urges us to reverse his sentence of 364 days’ imprisonment on his conviction of interference with an emergency call. The district court stated at his sentencing hearing that Sims was “convicted but no sentence imposed, or whatever the notation is. 364 days credit.” The written order and warrant of commitment lists that Sims is sentenced to 364 days in jail, with 364 days credit. Sims argues that the oral statement of “no sentence imposed” should prevail over all else. The state agrees that the sentence should be reversed and remanded, but only to clarify ambiguity in the sentencing order. We agree with the state. When a district court’s oral pronouncement of a sentence and a written sentencing

order conflict, the oral pronouncement usually prevails. *See State v. Staloch*, 643 N.W.2d 329, 332 (Minn. App. 2002). But the district court’s oral sentence here is unclear. Having “no sentence imposed” contradicts the notion that Sims receives “364 days credit,” since there would be no need to apply credit to a nonexistent sentence. The written order, giving 364 days credit on a sentence of 364 days, suggests that the district court meant no *further* sentence would be imposed. But the oral pronouncement remains ambiguous even with the context provided in the written order. We are also reluctant to use proclamations outside a sentencing hearing to determine judicial intent. *Pageau v. State*, 820 N.W.2d 271, 277–79 (Minn. App. 2012). We therefore reverse Sims’s sentence for interfering with an emergency call and remand the case to the district court to clearly pronounce Sims’s sentence.

**Affirmed in part, reversed in part, and remanded.**