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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A23-1917**

In the Matter of the Welfare of: R. A. C., Child.

**Filed September 16, 2024
Affirmed
Smith, Tracy M., Judge**

St. Louis County District Court
File No. 69VI-JV-21-114

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

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

Kim Maki, St. Louis County Attorney, Leah Stauber, Assistant County Attorney, Virginia, Minnesota (for respondent)

Considered and decided by Larkin, Presiding Judge; Smith, Tracy M., Judge; and Harris, Judge.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

In this appeal from a continuance without adjudication and disposition, appellant argues that the district court's finding of guilt of second-degree criminal sexual conduct must be reversed for insufficient evidence. Alternatively, he argues that he is entitled to a new trial because of prejudicial prosecutorial misconduct. We affirm.

FACTS

Between July 2019 and April 2020, appellant R.A.C. resided with his father, stepmother P.F., and half-siblings. During November 2019, R.A.C.'s father and stepmother separated. After the separation, the children frequently moved between their father's residence in Virginia, Minnesota (the Virginia house) and P.F.'s residence in Mountain Iron, Minnesota (the Mountain Iron apartment).

In the spring or summer of 2021, R.A.C.'s half-sister, J.E.D., disclosed to her parents that R.A.C. had made sexual contact with her during the time that R.A.C. lived with them when she was nine to ten years old. In September 2021, respondent State of Minnesota filed a delinquency petition charging R.A.C. with two counts of second-degree criminal sexual conduct pursuant to Minnesota Statutes section 609.343, subdivision 1(a) (complainant under 13 years old and actor more than 36 months older than complainant) and (d) (actor armed with a dangerous weapon) (2018). The matter proceeded to a bench trial in June 2023. The following evidence was presented.

The First Assault

J.E.D. testified that the first time that sexual contact occurred was in the Mountain Iron apartment. She testified that she was lying down on the floor when R.A.C. lay down next to her and rubbed her lower, front "private parts" with his hand. J.E.D. stated that her mother, R.A.C.'s stepmother, was home, packing with her brothers, and that her brothers ran into the room and started playing, which caused her and R.A.C. to get up from the floor.

J.E.D.'s mother reported to the police that J.E.D. said the first assault happened in the apartment, that R.A.C. locked her brothers in a bedroom, that R.A.C. "touched her leg,

told her he would hunt her down and kill her if she told anybody, . . . [and] made her jack him off while he called her names,” and that he made her lick “his thing.” J.E.D.’s testimony thus differs from what her mother reported to the police as J.E.D.’s first statement on the first assault. But, while J.E.D. agreed that the first time she talked to her mother about the assaults, she described R.A.C. threatening her, making her touch him and “jack him off and then . . . lick the white stuff off his penis,” she did not agree that she was describing the first assault. The defense attorney asked, “[A]nd that was also the first time that – when you told her the first time that it happened?” to which J.E.D. responded, “Yes. . . . Oh no. I told my mom that the first time it happened was outside of her room in the apartment, like, outside of her apartment.” She also clarified that her statements about R.A.C. locking her brothers in the bedroom was about the second assault.

J.E.D.’s testimony about the first assault also differed from what she identified as the first assault in her forensic interview. In the forensic interview, J.E.D. initially described the first sexual contact as having occurred in the Mountain Iron apartment while her mother was out running errands and her other brothers were locked in a room. She stated that R.A.C. told her to put a blanket over her eyes and then rubbed her “private” over her clothes with his hand “for 30 minutes or an hour or something.” Later in the interview, J.E.D. stated that the first day her mother got the apartment, R.A.C. showed her an online video of adults having sex, that R.A.C. made her “rub his private” with her hand while they watched the video, and that “white stuff” came out. J.E.D. stated that this occurred in the living room in the Mountain Iron apartment while her brothers were locked in another room by R.A.C.

Descriptions of Other Incidents of Sexual Contact

J.E.D. also testified about another incident at the Mountain Iron apartment during which R.A.C. put a blanket over J.E.D.'s head and "rubb[ed] down [her] front." This occurred while R.A.C. was babysitting his half-siblings and the brothers were locked in the mother's bedroom.

On another occasion, R.A.C. and J.E.D. were in what J.E.D. described as her "hideout"—a space in a torn-down bathroom at the top of the basement in the Virginia house—when R.A.C. rubbed his penis on J.E.D.'s buttocks.

J.E.D. recalled another incident at the Virginia house, this time in her bedroom, during which R.A.C. rubbed his penis between her buttocks while their pants were down and that "white stuff" came out. She stated that she did not know what the white stuff was and that it got on her clothes.

J.E.D. described another incident that occurred in her bedroom at the Virginia house. She stated that R.A.C. tried to put his penis in her while she was on all fours with her clothes off. She also stated that she kicked R.A.C. and that she could not remember anything after that. She testified that this was the scariest incident "because he tried to put it in [her]." She recalled that R.A.C. was "leaving the next day or something."

In her forensic interview, J.E.D. recalled that, on one occasion, R.A.C. threatened her with a knife while he rubbed his penis between her buttocks. At trial, J.E.D. acknowledged that she made this statement but she did not testify that he threatened her with a knife.

Closing Argument and Verdict

The parties submitted written closing arguments. In his closing argument, R.A.C. objected to several statements in the state's closing argument as prosecutorial misconduct.

The district court issued an order finding R.A.C. guilty of one count of second-degree criminal sexual conduct pursuant to Minnesota Statutes section 609.343, subdivision 1(a) (complainant under 13 years old and actor more than 36 months older than complainant). The district court dismissed the other count of second-degree criminal sexual conduct, under Minnesota Statutes section 609.343, subdivision 1(d) (actor armed with a dangerous weapon), because the state did not prove beyond a reasonable doubt that R.A.C. was armed with a dangerous weapon. The order did not address R.A.C.'s prosecutorial-misconduct objections. In November 2023, the district court granted R.A.C. a stay of adjudication and placed R.A.C. on probation for six months.

R.A.C. appeals.¹

DECISION

I. The evidence is sufficient to sustain the district court's finding that R.A.C. was guilty of second-degree criminal sexual conduct.

R.A.C. first argues that the district court's finding of guilt must be vacated because the evidence presented at trial is insufficient to prove that he engaged in second-degree criminal sexual conduct. We disagree.

¹ In March 2024, R.A.C. filed this appeal, requesting that this court reverse and vacate the district court's finding of guilt. In May 2024, R.A.C. was discharged from probation and the district court dismissed the proceedings pursuant to the stay of adjudication. The state moved to dismiss the appeal as moot, but this court denied the state's motion.

When a disputed element of an offense is based on direct evidence, appellate review is limited to a careful review of the record to determine “whether the evidence, when viewed in a light most favorable to the conviction, was sufficient to permit the [fact-finder] to reach the verdict which [it] did.” *State v. Horst*, 880 N.W.2d 24, 40 (Minn. 2016) (quotation omitted). The reviewing court must “assume that the [fact-finder] believed the state’s witnesses and disbelieved any evidence to the contrary.” *State v. Friese*, 959 N.W.2d 205, 214 (Minn. 2021) (quotation omitted). The reviewing court will not overturn a conviction if the fact-finder could have reasonably found the defendant guilty, giving due regard to the presumption of innocence and the burden of proving an offense beyond a reasonable doubt. *State v. Griffin*, 887 N.W.2d 257, 263 (Minn. 2016). “[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 omitted).

Relevant to this appeal, to sustain a conviction of second-degree criminal sexual conduct, the state needed to prove that R.A.C. engaged in “sexual contact” with J.E.D. *See* Minn. Stat. § 609.343, subd. 1(a). “Sexual contact” includes: “the intentional touching by the actor of the complainant’s intimate parts” and “the touching of the clothing covering the immediate area of the intimate parts.” Minn. Stat. § 609.341, subd. 11(a)(i), (iv) (2018). “‘Intimate parts’ includes the primary genital area, groin, inner thigh, buttocks, or breast of a human being.” *Id.*, subd. 5 (2018).

J.E.D.’s testimony was direct evidence establishing that R.A.C. engaged in sexual contact with her. At trial, J.E.D. testified that R.A.C. touched her intimate parts, including

her genital area and buttocks, and the clothing covering the immediate areas of such intimate parts.² The district court cited this testimony in its findings of fact.

Generally, “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). And, in prosecutions for criminal-sexual-conduct offenses, Minnesota statutory law provides that “the testimony of a victim need not be corroborated.” Minn. Stat. § 609.347, subd. 1 (2022). It is the province of the fact-finder to determine the weight and credibility to be afforded the testimony of each witness. *State v. King*, 990 N.W.2d 406, 420 (Minn. 2023) (“[Appellate courts] accord great deference to the [district] court’s determination on credibility because credibility and the weight to be given to a witness’s testimony are determinations for the factfinder.” (quotations omitted)). Appellate courts do not retry the facts, and resolution of conflicting evidence is the exclusive function of the fact-finder. *State v. Bliss*, 457 N.W.2d 385, 391 (Minn. 1990).

The district court found J.E.D. “to be credible on the issue of sexual contact.” And, although “there were some inconsistencies in terms of which act of sexual contact happened first, where the acts of sexual contact happened, whether [J.E.D.] was aware that [R.A.C.] would leave the State the day after the last incident, and whether the bedroom(s) of the [Mountain] Iron Apartment and Virginia House are able to be locked,” the district court concluded that these “inconsistencies are not suggestive of a lack of credibility on

² On appeal, R.A.C. challenges only whether the evidence was sufficient to prove “sexual contact” with J.E.D. occurred. He does not appear to challenge the sufficiency of the evidence establishing the other elements of the offense, including J.E.D.’s age or whether he acted intentionally.

the issues before the Court regarding the commission of a sexual assault.” The district court further explained that “[t]here is no evidence to suggest that [J.E.D.] would fabricate the claim of sexual contact under the circumstances of this case” and that, “[b]y testifying about what happened, [J.E.D.] had nothing to gain.”

R.A.C. nevertheless argues that “J.E.D.’s uncorroborated and contradictory statements were not credible and are insufficient to establish sexual contact.” Three criminal-sexual-conduct cases provide guidance as to whether corroboration of a victim’s testimony is required. In *State v. Ani*, the supreme court stated, “[T]he absence of corroboration in an individual case may well call for a holding that there is insufficient evidence upon which a [fact-finder] could find the defendant guilty beyond a reasonable doubt,” but the supreme court held that the circumstances in that case did not require disturbing the fact-finder’s credibility determinations. 257 N.W.2d 699, 700 (Minn. 1977) (quotation omitted). In *Foreman*, the defendant relied on three cases that resulted in reversal, but the supreme court was not persuaded by those cases and explained how they were distinguishable from Foreman’s case. 680 N.W.2d at 539. The supreme court further explained that the distinction between cases in which courts will not disturb the fact-finder’s credibility determinations and cases in which testimony may need corroboration is that, in the latter, there are “additional reasons to question the victim’s credibility” outside of the witness’s inconsistent statements. *Id.* In *State v. Balsley*, we affirmed the appellant’s conviction, explaining that there were not “unusual circumstances that would justify a determination that [the teenage victim’s] testimony was not reliable,” despite

“alleged inconsistencies” in the victim’s testimony. 999 N.W.2d 880, 886-88 (Minn. App. 2023), *rev. granted* (Minn. Feb. 28, 2024).

R.A.C.’s argument primarily focuses on inconsistencies between J.E.D.’s prior statements and her testimony at trial. But these inconsistencies, if any, are an insufficient basis to disturb the district court’s credibility determination absent additional reasons to doubt J.E.D.’s credibility or unusual circumstances.³ See *Foreman*, 680 N.W.2d at 539, 541 (“additional reasons”); *Balsley*, 999 N.W.2d at 886-88 (“unusual circumstances”); *State v. Reichenberger*, 182 N.W.2d 692, 694-95 (Minn. 1970) (upholding a conviction for carnal knowledge of a child even though the victim made conflicting statements regarding “whether intercourse had in fact taken place” and how the penetration occurred). We are not persuaded that there are additional reasons to doubt J.E.D.’s credibility or that there are unusual circumstances that require corroboration of J.E.D.’s testimony.

The cases cited by R.A.C. in which corroboration of a witness’s testimony has been required are distinguishable from this case and involve circumstances that are not present here. In *State v. Gluff*, the supreme court overturned a conviction for aggravated robbery because the witness did not have enough time to reasonably identify the defendant during the robbery and there were errors in the lineup process. 172 N.W.2d 63, 65-66 (Minn.

³ And, contrary to R.A.C.’s assertions, the record demonstrates that J.E.D. gave a logical explanation for the inconsistencies between her prior statements, which were made when she was approximately 11 years old, and her trial testimony, which was given when she was approximately 13 years old. J.E.D. testified that both her trial testimony and interview statements were true but that she said things in a different way during the interview “because [she] was a little kid.”

1969). Here, there are no analogous witness-identification issues and R.A.C. does not allege any procedural defects analogous to the tainted lineup.

In *State v. Langteau*, the supreme court reversed another aggravated robbery conviction because the alleged victim provided the only significant evidence but his actions were “unexplained” and nothing linked the defendant to the crime. 268 N.W.2d 76, 77 (Minn. 1978). There are no similar unexplained actions here.⁴

In *State v. Huss*, the supreme court determined that the testimony of the complainant, who was a three-year-old child, was insufficient to convict the child’s father of criminal sexual conduct because the only direct evidence presented was equivocal as to whether abuse had occurred, the complainant was unable to accurately identify the defendant as her abuser, and significant evidence suggested that the complainant had been exposed to highly suggestive material. 506 N.W.2d 290, 292-93 (Minn. 1993). Specifically, the supreme court explained that “[t]he child was on the stand for almost an hour before she made any accusation of abuse” and then the child testified that both parents “touched her in a bad way.” *Id.* at 292. The child also denied that she had any “yucky secrets,” but she testified that six people touched her private parts and identified “a hug and a touch to her hair” as “bad touches.” *Id.* She also testified inconsistently with

⁴ We also note that, because *Gluff* and *Langteau* concerned convictions of aggravated robbery, not criminal sexual conduct, the supreme court was not required to consider the statute that expressly states that, in a prosecution for criminal sexual conduct, “the testimony of a victim need not be corroborated.” See Minn. Stat. § 609.347, subd. 1. These cases’ applicability in a criminal-sexual-conduct case is therefore limited.

verifiable facts such as her father's physical features and the recentness of contact with her father. *Id.*

The circumstances in the case at hand are not analogous to those in *Huss*. Here, J.E.D. was, at the time of trial, approximately ten years older than the child in *Huss*; in her testimony, she did not hesitate in explaining that the reason she was testifying was because R.A.C. had “molested” her; and she consistently said that R.A.C. was the sole perpetrator. J.E.D. did not, at any point, deny that sexual contact occurred, unlike the child in *Huss* who, at times, denied that she had any “yucky secrets.” And, importantly, unlike in *Huss*, there is no evidence that J.E.D.'s testimony was influenced by any suggestive media or another party.

R.A.C. appears to argue that the circumstances here are similar to those in *Huss* and therefore require the same outcome because J.E.D.'s testimony was contradictory and “specific details that could be corroborated were found to be false.” We are not persuaded.

Regarding R.A.C.'s claim that “specific details that could be corroborated were found to be false,” he does not explain what those “specific details” were in his argument. Because this argument is inadequately briefed, we decline to address it. *See McKenzie v. State*, 583 N.W.2d 744, 746 n.1 (Minn. 1998) (applying the rule that arguments not briefed are forfeited in an appeal in which the appellant “allude[d] to” an issue but “fail[ed] to address them in the argument portion of his brief”).

Regarding the contradictions in J.E.D.'s testimony, R.A.C. primarily focuses on J.E.D.'s testimony about the first time that sexual contact occurred—specifically, where the sexual contact occurred. But J.E.D.'s testimony is not clearly contradictory as to where

the first incident occurred. J.E.D. initially described the location of the first assault as follows:

And it was an apartment, so there's . . . a dining room kind of because it had, like, a microwave, not a stove but a microwave and stuff and it had a pool table. And right next to, like, the kitchen there was this room that was, like, it was completely empty. I don't know what they were going to use it for, but it was completely empty.

. . . .

It was kind of like a room. There wasn't a door or anything. It was just, like, just an open room.

Later, on cross-examination, when the defense attorney appeared to insinuate that the first assault took place in a closet across from the kitchen inside of J.E.D.'s mother's apartment unit, J.E.D. clarified the location of the first assault as follows:

Q: So, when you testified just this morning, you said that the first time happened in a room that was next to the kitchen that was completely empty.

A: Not – not this. It's not – it's not – well, it's in the apartment, but not in my mom's room. Not in, like, the apartment she had. You would go down from her room, and there would be, like, this little space. Not a little space, but there would be, like, this room where you could go, like, if you don't have a microwave, you can cook your food, and then there's . . . like a pool table.

The district court's order appears to have interpreted the two testimonial statements as consistent and we discern no basis upon which to conclude differently.

R.A.C. also argues that J.E.D.'s testimony about the "white stuff" was inconsistent, asserting that J.E.D. testified that "she thought she saw the 'white stuff' another time but could not remember any other time" and that "having said she could not remember what happened, [J.E.D.] described white stuff on the bed that she cleaned up with a wipe on

some other unidentified date and time.” When asked, “[W]hen you saw the white stuff, what happened?” J.E.D. responded, “I don’t remember.” Then, when asked several questions later about “another time that the white stuff happened,” specifically, “what happened to the white stuff after [she] saw it,” J.E.D. stated, “The second time I remember is it went on the bed . . . I cleaned it up . . . [w]ith a wipe.” While this may be an inconsistency, we are not convinced that it rises to the level of inconsistency that was present in *Huss*, and absent other serious additional reasons to doubt J.E.D.’s credibility we will not invade the district court’s function as fact-finder to determine credibility by requiring corroboration of J.E.D.’s testimony. We thus conclude that J.E.D.’s testimony does not need corroboration and is sufficient to support the district court’s finding of guilt.

II. The prosecutor did not commit prejudicial prosecutorial misconduct during closing argument.

R.A.C. also urges this court to reverse the district court’s finding of guilt because the prosecutor committed misconduct in written closing arguments. We are not persuaded that the statements at issue were misconduct, and, even if they were, we are satisfied that any misconduct was harmless.

When reviewing claims of objected-to prosecutorial misconduct, appellate courts first evaluate whether misconduct occurred and then assess for harmlessness, determining whether the misconduct prejudiced the appellant. *See State v. Carridine*, 812 N.W.2d 130, 150 (Minn. 2012). Accordingly, we proceed by first addressing whether the prosecutor’s statements constitute misconduct before turning to the question of harmfulness.

A. Misconduct

“With respect to claims of prosecutorial misconduct arising out of closing argument, [appellate courts] consider the closing argument as a whole rather than focus on particular phrases or remarks that may be taken out of context or given undue prominence.” *State v. Johnson*, 616 N.W.2d 720, 728 (Minn. 2000) (quotation omitted).

R.A.C. first argues that various statements made by the prosecutor in closing argument were misconduct because they invited the district court to imagine itself in the complainant’s shoes. Generally, “arguments that invite the [fact-finder] to put themselves in the shoes of the victim are considered improper.” *State v. Thompson*, 578 N.W.2d 734, 742 (Minn. 1998) (quotation omitted).

In its closing argument, the state wrote:

At the tender age of nine, [J.E.D.’s] life was threatened by Respondent. Specifically, he threatened to kill her if she told anyone about these assaults. *Imagine [J.E.D.’s] relief when her abuser left. Imagine the year [J.E.D.] went through feeling like she couldn’t tell her parents. Imagine her terror when she was told her abuser might be coming back.* Only when faced with the possibility of being victimized again did she have the courage to disclose what Respondent did to her. [J.E.D.] then had to go through a protocol interview, providing traumatic information to a stranger about events that occurred over a year prior. Two years after the protocol interview, she had to recall these events again in front of a room full of many strangers. Her testimony at trial was credible, and her tears were real.

....

Memory is fickle. I would challenge any adult to recall traumatic events one year after they happened and then recall the exact same details two years later and compare the results. Now *imagine being a thirteen-year-old girl asked to recall the specific order and specific details of multiple incidents of traumatic sexual victimizations over a nine-month period that*

occurred four years ago. In this case the conduct didn't change, and the trauma didn't change.

(Emphasis added.)

In reviewing the state's closing argument as a whole, we conclude that these "imagine" statements are not misconduct. The first three "imagine" statements only ask the district court to imagine what the experience was like for the complainant; they did not ask the district court to imagine itself in the position of the victim. Under our caselaw, these types of statements are proper and not misconduct. *See State v. Bashire*, 606 N.W.2d 449, 454 (Minn. App. 2000) (explaining that telling the fact-finder to imagine what it would be like for the victim to experience the circumstances of the crime would not be misconduct), *rev. denied* (Minn. Mar. 28, 2000). And, within the context of the other "imagine" statements, the final "imagine" statement appears to be simply asking the district court to consider what it was like for the victim to experience the circumstances of the crime, the passage of time, and the effect that those circumstances may have had on her ability to recount events as it relates to her credibility. The statement does not appear to be an invitation for the district court to imagine how it would react in that position. Thus, we similarly conclude that this statement was not misconduct. *See id.*

Second, R.A.C. asserts that the prosecutor committed misconduct by appealing to the passions and prejudices of the district court by stating "[J.E.D.] is a brave girl who deserves justice." "A prosecutor must avoid inflaming the [fact-finder's] passions and prejudices against the defendant." *State v. Morton*, 701 N.W.2d 225, 236 (Minn. 2005) (quotation omitted). A prosecutor should also avoid arguments that "divert the [fact-finder]

from its duty to decide the case on the evidence, by injecting issues broader than the guilt or innocence of the accused under the controlling law, or by making predictions of the consequences of the [fact-finder's] verdict.” *State v. Salitros*, 499 N.W.2d 815, 817 (Minn.1993) (quotation omitted).

Taken out of context, this statement might be capable of inflaming the passions of the fact-finder by suggesting that the fact-finder should right a wrong or that the complainant deserves resolution. But, here, the statement was only one sentence out of a two-page closing argument to the district court. We are not persuaded that this statement was sufficient to divert the district court from its role to decide the case based on the evidence, and we therefore conclude that it was not misconduct. *See Nunn v. State*, 753 N.W.2d 657 (Minn. 2008) (concluding that the district court did not err by determining that the prosecutor’s statement that the complainants were “victims of a brutal crime” and “[t]heir lives deserve the protection of the law” in part because the statement was isolated and constituted only three lines of a 37-page closing argument).

B. Prejudice

Even if the statements discussed above constitute misconduct, we are satisfied that they were not prejudicial. Appellate courts will reverse a district court’s determination regarding alleged prosecutorial misconduct “only when the misconduct, considered in the context of the trial as a whole, was so serious and prejudicial that the defendant’s constitutional right to a fair trial was impaired.” *Johnson*, 616 N.W.2d at 727-28. Objected-to prosecutorial misconduct is reviewed for harmless error. *State v. Hunt*, 615 N.W.2d 294, 302 (Minn. 2000).

The standard for determining whether an error was harmless, however, varies based upon the severity of the misconduct. “[I]n cases involving unusually serious prosecutorial misconduct,” appellate courts have “required certainty beyond a reasonable doubt that the misconduct was harmless before affirming.” *State v. Caron*, 218 N.W.2d 197, 200 (Minn. 1974). Under this standard, a prosecutor’s misconduct is harmless if the fact-finder’s verdict was “surely unattributable” to the misconduct. *State v. Nissalke*, 801 N.W.2d 82, 106 (Minn. 2011) (quotation omitted). When a case involves “less serious prosecutorial misconduct,” on the other hand, appellate courts consider “whether the misconduct likely played a substantial part in influencing the [fact-finder] to convict.” *Id.* at 105 (quotation omitted). *But see State v. McDaniel*, 777 N.W.2d 739, 749 (Minn. 2010) (questioning whether this two-tiered approach is still good law, while declining to decide the question); *Carridine*, 812 N.W.2d at 146 (same).

R.A.C. implicitly treats the misconduct as “unusually serious” by arguing that the misconduct was not harmless beyond a reasonable doubt. The state makes no attempt to argue that the conduct was “less serious” or that the less stringent standard for harmless error applies. We need not decide the level of seriousness of the alleged misconduct because, even assuming that the harmless-beyond-a-reasonable-doubt standard applies, we are not persuaded that reversal is warranted.

Here, the complained-of statements constituted five sentences out of a two-page, written closing argument to the district court. We are not convinced that these statements were so influential on the district court that they caused the district court to abandon its responsibility to decide the case on the evidence presented and not emotion. “There is

comparatively less risk that the district court judge, as compared to a jury of laypersons, would . . . have his sense of reason overcome by emotion.” *State v. Burrell*, 772 N.W.2d 459, 467 (Minn. 2009) (concluding that a district court did not abuse its discretion by admitting bad-acts evidence during a bench trial). We consider this reasoning to be applicable here and conclude that the district court’s finding of guilt was surely unattributable to any misconduct in the state’s closing argument. Any misconduct was therefore harmless.

Affirmed.