

*This opinion is nonprecedential except as provided by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
A24-0156**

State of Minnesota,
Respondent,

vs.

Harold Ladell Williams,
Appellant.

**Filed February 10, 2025
Affirmed
Bentley, Judge**

Ramsey County District Court
File No. 62-CR-20-1222

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

John Choi, Ramsey County Attorney, Anna R. Light, Assistant County Attorney, St. Paul,
Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jessica Merz Godes, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Slieter, Presiding Judge; Larson, Judge; and Bentley,
Judge.

NONPRECEDENTIAL OPINION

BENTLEY, Judge

In this direct appeal from a conviction for third-degree criminal sexual conduct, appellant argues that the prosecutor committed misconduct by (1) misstating the evidence, (2) shifting the burden of proof to appellant to provide another explanation for DNA

evidence that tied him to the offense, and (3) inflaming the passions and prejudices of the jury by repeatedly stating that the alleged victim had been “raped.” After a careful consideration of the record, we conclude that the prosecutor did not commit misconduct rising to the level of plain error and therefore affirm.

FACTS

This case stems from a 17-year-old female’s report to police that her uncle, appellant Harold Ladell Williams, penetrated her vagina with his penis. Respondent State of Minnesota charged Williams with three counts of third-degree criminal sexual conduct. *See* Minn. Stat. § 609.344, subd. 1(d) (victim mentally impaired, mentally incapacitated, or physically helpless), (e) (victim 16 or 17 and actor is in position of authority), (f) (victim 16 or 17 and actor has significant relationship with victim) (2018). The case proceeded to a jury trial in August 2023. The relevant trial testimony and procedural history follow.

A. State Witness Testimony

Victim’s Testimony

The state first called M.O. She testified that, on July 22, 2019, she asked her paternal uncle, Williams, for a ride from her apartment in Menomonie, Wisconsin, to her father’s house in Owatonna, Minnesota, and Williams agreed. M.O. lived in the apartment, and not with family, because she was a ward of the state of Wisconsin and received assistance from that state to pay for rent. M.O.’s father was “in and out” and not around for her, and her mother had passed away. She generally had no means of transportation and no support from family members, except that Williams had co-signed for the apartment and would sometimes give M.O. rides.

When Williams picked M.O. up on July 22, it was late at night. On the way to her father's house, M.O. told Williams she was "thirsty." Williams responded that he had liquor at his apartment in St. Paul and that they could "stop there." At the apartment, M.O. and her uncle drank together and M.O. got "pretty drunk." She then fell asleep on Williams's bed. When she woke up, Williams was "on top of [her] . . . raping [her]." M.O. pretended she was still sleeping.

The next morning, M.O. told Williams that she "had a dream that [her] ex and his friends had raped [her]." Williams said, "I'm so sorry." M.O. then said, "I know what you did. I'm not f---ing stupid. You know what you did." M.O. testified that she did not recall Williams's immediate response, but she told Williams that if he dropped her off in Owatonna and bought her McDonalds and a pack of cigarettes, she would not say anything. At some point that morning, M.O. called her father and told him that Williams "raped" her.

M.O. and Williams left and went to a gas station, where Williams bought M.O. a pack of cigarettes. M.O. went into the bathroom and washed her vagina. When she came out of the bathroom, she saw her father at the gas station conversing with Williams, but she nevertheless got back in the car with Williams to continue the ride to Owatonna. On the way there, Williams talked to M.O. about "his dead daughter," and M.O. told him she was "kind of glad she's dead, because [he] probably would've done the same thing to her." Williams got "pissed off" and dropped her off "in the middle of . . . nowhere early, early in the morning." M.O. knocked on doors until someone answered. M.O. called her siblings from the house, and her siblings later picked her up and took her to the hospital for a DNA test and "rape kit."

Nurse Examiner's Testimony

The state then called the nurse who examined M.O. She testified that she is a sexual assault nurse examiner, meaning she received “specialized training in . . . caring for victims of sexual assault.” She recounted that M.O. was tearful and upset when the nurse first met with her. M.O. told the nurse “that she was raped” and, in response to the nurse’s questioning, said that she did not know whether Williams ejaculated inside her. When the nurse examined M.O., she observed a “large amount of white fluid secretions” in M.O.’s vaginal vault that “did not have any color [or] odor” that would “indicate an infection was present.” The nurse swabbed M.O.’s vagina, cervix, and perineum, took a urine sample, and collected M.O.’s pants and underwear. Then, the nurse placed the swabs and samples in a box and handed it to law enforcement.

Forensic Scientist Testimony

The final witness the state called was the forensic scientist with the Minnesota Bureau of Criminal Apprehension who processed the test kit assigned to M.O. When the forensic scientist analyzed the swabs, he determined that they each contained DNA that matched Williams’s Y-chromosome DNA profile, meaning that neither Williams nor his paternally related male relatives could be excluded from matching the sample. The forensic scientist said it was possible that the vaginal swab contained sperm, but the scientist could not “make any firm conclusion.”

B. Defense Witness Testimony

Williams testified in his own defense and his version of the events differed from M.O.’s in a number of ways. He testified that he went to sleep after arriving at his apartment

with M.O., and that M.O. was being loud and woke him up, but he went back to sleep after telling her to be quiet. When he woke up again, he found M.O. drinking alcohol, which prompted a disagreement. Later that morning, when the two of them were on the way to Owatonna, M.O. got upset after Williams began to “preach . . . stories” about addiction. Williams pulled over and let M.O. out of the car, but M.O. left some belongings in his car. He later met M.O. and her father at a gas station so that M.O. could get her belongings. Williams denied having sex with or sexually assaulting M.O.

The defense also called M.O.’s father, who testified that he picked up M.O. after she got out of Williams’s car. M.O. requested to go to a gas station to “wash up,” and her father obliged. After M.O. was “finished with the gas station,” they met up with Williams. When asked about M.O.’s reputation for truthfulness, her father said, “[T]hat’s my daughter and I love her, but I wouldn’t trust her.”

C. Closing Arguments

In closing arguments, both sides focused on M.O.’s credibility. The prosecutor urged the jury to believe M.O., offering that any “conflicting accounts” were because she “was dealing with a lot at the time.” And even if the jury did not fully believe M.O., the state argued that “the results of the [sexual assault] exam” are sufficient corroborating evidence of Williams’s guilt. The prosecutor described the charged conduct as “rape” and used that word, or a variation of it, 20 times in his closing and rebuttal arguments.¹ Defense counsel’s theory was that M.O. fabricated the story to “burn down her uncle’s reputation.”

¹ In his brief, Williams argued that the prosecutor used the word “rape” 19 times in his closing argument. In our close review of the transcript, we counted one additional time.

To support that view, defense counsel suggested that M.O.’s testimony was inconsistent with other evidence and argued that the presence of Williams’s DNA on the swabs did not necessarily mean that Williams was guilty.

D. Conviction and Sentencing

The jury found Williams guilty of the significant-relationship criminal sexual conduct charge, Minn. Stat. § 609.344, subd. 1(f), and acquitted Williams of the mentally impaired/physically helpless criminal sexual conduct charge, Minn. Stat. § 609.344, subd. 1(d). The position-of-authority criminal sexual conduct charge, Minn. Stat. § 609.344, subd. 1(e), was dismissed. The district court entered a judgment of conviction on the significant-relationship charge, sentenced Williams to a stayed term of 36 months’ incarceration, and placed him on 10 years’ probation with the condition that he serve 45 days in home detention or on work release under supervision of the county correctional facility.

Williams appeals.

DECISION

Williams claims that he was denied a fair trial because the prosecutor committed misconduct during closing arguments. Because Williams did not object to the asserted misconduct at trial, we review the alleged error under a modified plain-error test. *State v. Westrom*, 6 N.W.3d 145, 157 (Minn. 2024) (citing *State v. Ramey*, 721 N.W.2d 294, 299-300 (Minn. 2006)). Under this test, “the defendant has the burden to demonstrate that the misconduct constitutes (1) error, (2) that was plain.” *Id.* (quotation omitted). “An error is plain if it is clear or obvious. Usually this is shown if the error contravenes case law, a rule,

or a standard of conduct.” *Ramey*, 721 N.W.2d at 302 (quotation and citation omitted). If the defendant establishes that the misconduct was plain error, “the burden then shifts to the [s]tate to demonstrate that the error did not affect the defendant’s substantial rights.” *Westrom*, 6 N.W.3d at 157 (quotation omitted). If the state fails to meet its burden, this court determines “whether the error should be addressed to ensure fairness and the integrity of the judicial proceedings.” *Id.* (quotation omitted).

When evaluating alleged prosecutorial misconduct, a reviewing court “look[s] to the closing argument as a whole,” *State v. Zielinski*, 10 N.W.3d 1, 18 (Minn. 2024) (alteration in original) (quotation omitted), and it does not give “undue prominence” to selected phrases or remarks, *State v. Munt*, 831 N.W.2d 569, 587 (Minn. 2013); *see also State v. Segura*, 2 N.W.3d 142, 162-63 (Minn. 2024) (citing cases that decline to grant a new trial based on isolated instances of misconduct).

Williams argues the prosecutor committed misconduct during closing arguments in three ways: (1) by misstating the evidence when he said that Williams had ejaculated inside M.O. and Williams’s semen was inside M.O.’s vagina; (2) by shifting the burden of proof and suggesting that Williams bore a burden to explain the DNA evidence; and (3) by inflaming the passions and prejudices of the jury in using the word “rape,” or a variant thereof, 20 times. We address each issue in turn.

I

We first consider Williams’s allegation that the prosecutor misstated the evidence. “Prosecutors are allowed to argue all reasonable inferences from evidence in the record. It is unprofessional conduct, however, for the prosecutor intentionally to misstate the

evidence or mislead the jury as to the inferences it may draw.” *State v. Smith*, 876 N.W.2d 310, 335 (Minn. 2016) (quotation omitted). A misstatement may be intentional if the prosecutor “should have been sufficiently familiar with . . . testimony to avoid inadvertently misstating it.” *State v. Mayhorn*, 720 N.W.2d 776, 788 (Minn. 2006).

Williams identifies two statements that he claims misstated the evidence. The first statement is from the beginning of the closing argument:

The State has now proven to you that on July 22nd of 2019, the defendant, Harold Ladell Williams, raped his own biological niece, [M.O.], 17 years old at the time, while she was passed out from booze that he gave to her. She woke up, found him on top of her, penetrating her, *and as we now know, ejaculating inside her.*

(Emphasis added.) The second statement is near the end of the closing argument:

Now, what [the nurse] did testify about was that this was more than she would typically see for vaginal secretions. She also testified that it was odorless and colorless, thus leading her to determine it was not likely to be an STI. So what was it? *This was obviously the defendant’s semen.*

(Emphasis added.)

Williams argues that “[t]here is no evidentiary support for the prosecutor’s assertion that the vaginal secretions were ‘obviously the defendant’s semen’” or that Williams ejaculated at all. The state responds that the prosecutor was permissibly drawing an inference from the nurse’s testimony that there was an atypical amount of fluid secretions present in M.O.’s vagina and from the forensic scientist’s testimony that sperm could have been present.

Based on the totality of the evidence introduced at trial, we conclude that Williams has not established that the prosecutor intentionally misstated the evidence. The prosecutor did not inaccurately describe the testimony in either challenged statement. Rather, the prosecutor inferred, based on admitted evidence, that Williams ejaculated inside M.O. The jury reasonably could have found that evidence presented at trial supported the prosecutor's inference. For example, M.O. testified that "[Williams'] d-ck was in [her] . . . vagina," the DNA on the vaginal swab matched Williams's profile, the forensic scientist testified that it was possible that the vaginal swab contained sperm, and the nurse testified that there was a "large amount of white fluid secretions" in M.O.'s vaginal vault that "did not have any color [or] odor" that would "indicate an infection was present." In light of the evidence at trial, the prosecutor's statements do not constitute plain error.

II

Williams next claims that the prosecutor misstated the burden of proof in closing argument and put the burden on Williams to prove an alternative explanation for why his DNA was on the swabs. "The State must prove every element beyond a reasonable doubt to satisfy the requirements of due process." *State v. Beganovic*, 991 N.W.2d 638, 654 (Minn. 2023). "[M]isstaterments of the burden of proof are highly improper." *State v. Strommen*, 648 N.W.2d 681, 690 (Minn. 2002) (quotation omitted). A prosecutor improperly shifts the burden of proof "when they imply that a defendant has the burden of proving his innocence." *State v. McDaniel*, 777 N.W.2d 739, 750 (Minn. 2010).

Williams identifies two statements by the prosecutor that he claims shifted the burden of proof. First, in his principal argument, the prosecutor posed rhetorical questions about the presence of Williams’s DNA on the swabs:

How else can that be explained? How else can it be explained other than she was telling the truth about her uncle raping her and that he was lying about it? How else does a person’s DNA end up inside another person’s vagina only a few hours later?

And at the end of his rebuttal argument, the prosecutor made a more pointed statement about the conclusions that may be drawn from the presence of Williams’s DNA on the swab:

The bottom line is the defense cannot explain, and they don’t need to, but there’s only one logical inference for how the defendant’s DNA got inside [M.O.]’s vagina and on her cervix and on her perineal swabs, and that’s that he raped her. It can’t be explained any other way because it’s impossible to make that explanation. There’s only one reasonable explanation for that, and I ask you to find Mr. Williams guilty.

Williams argues these statements were misconduct because they “suggested Williams bore some burden to prove an alternative, innocent explanation for the DNA evidence.”

We disagree that the prosecutor shifted the burden. A prosecutor may argue about “the merits or the supporting evidence of possible defenses,” *State v. Davis*, 982 N.W.2d 716, 727 (Minn. 2022), and such statements do not “improperly shift the burden,” *State v. Nissalke*, 801 N.W.2d 82, 106 (Minn. 2011). Both of the challenged statements were focused on the merits of Williams’s defense—that the underlying conduct did not occur—rather than the burden of proof.

The prosecutor's first statement challenged the defense's position that the jury should believe Williams's testimony instead of M.O.'s testimony. Using rhetorical questions, the prosecutor implied that the presence of Williams's DNA inside of M.O.'s vagina was consistent with M.O.'s testimony and inconsistent with Williams's. The statements called for the jury to consider whether Williams could be believed in light of the DNA evidence; they did not state that Williams had a burden to provide an alternative explanation for the evidence.

The prosecutor's second statement came after the defense had suggested in closing that M.O. may have "use[d] something of Mr. Williams's to try to contaminate her own vagina." The prosecutor responded that Williams's DNA was found on a cervical swab, that there was no evidence of contamination, and that it was questionable that M.O. would "preserve[] [Williams's] DNA somehow and [place] it all the way into her cervix." The conclusion of that line of argument was that "[t]here's only one reasonable explanation" for the DNA evidence. When analyzing a similar argument, the supreme court found no misconduct in a prosecutor's statement that, "'if you focus on the evidence,' the only conclusion it supports is convictions for the charged crimes." *Davis*, 982 N.W.2d at 727. Here, as in *Davis*, the prosecutor's argument was properly focused on "the merits of potential defenses and an actual defense argument in closing argument." *Id.*

Moreover, considering "the closing argument as a whole," *Zielinski*, 10 N.W.3d at 18 (quotation omitted), neither of the challenged statements "imply that [the] defendant has the burden of proving his innocence," *McDaniel*, 777 N.W.2d at 750. Immediately after the prosecutor said that the defense could not explain the DNA evidence, the prosecutor

clarified, “they don’t need to.” And, earlier in the prosecutor’s rebuttal argument, the prosecutor reminded the jury to follow “the definition [of proof beyond a reasonable doubt] provided from the Court,” which he described as “the highest standard we have in the law . . . for a good reason.” We therefore conclude that the prosecutor did not commit plain-error misconduct by shifting the burden of proof.

III

Williams’s final argument is that the prosecutor improperly inflamed the passions and prejudices of the jury by referring to the charged conduct as “rape” multiples times. Williams invokes the well-established rule that, “[i]n closing argument, a prosecutor must ‘avoid inflaming the jury’s passions and prejudices against the defendant.’” *State v. Fraga*, 898 N.W.2d 263, 278 (Minn. 2017) (quoting *State v. Porter*, 526 N.W.2d 359, 363 (Minn. 1995)). He maintains that “rape” “is a colloquial term that connotes physical violence and evokes strong emotional responses,” and the prosecutor’s repeated use of the term “improperly shifted the jury’s focus from a dispassionate analysis . . . to an emotionally charged narrative about a vulnerable adolescent who was not only ‘raped’ by her uncle but whose accusation of ‘rape’ was disbelieved by her own father.”

On the record in this case, we conclude that the prosecutor’s use of that word did not constitute plain error because (1) no binding authority provides that the use of the term “rape” is improper and (2) the prosecutor’s use of the term reflected the testimony at trial.

First, “[a]n error is plain if it contravenes a principle that is ‘conclusively resolved’ at the time of appeal.” *State v. Portillo*, 998 N.W.2d 242, 250 (Minn. 2023) (quoting *State v. Jones*, 753 N.W.2d 677, 689 (Minn. 2008)). Williams offers no binding authority that

“rape” is a term tending to inflame a jury’s passions, and we have found none. To the contrary, we identified two cases where this court has held that a prosecutor’s use of that word to describe sex crimes did not inflame the jury’s passions. *State v. Cross*, A13-2329, 2014 WL 7236942, at *3, 5-6 (Minn. App. Dec. 22, 2014), *rev. denied* (Minn. Feb. 25, 2015); *State v. Mireles*, A03-0699, 2004 WL 1244077, at *4 (Minn. App. June 8, 2004). These nonprecedential opinions are not binding on us, Minn. R. App. P. 136.01, subd. 1(c), but they persuade us that there is no plain rule that a prosecutor’s use of the term “rape” to describe criminal sexual conduct tends to improperly inflame a jury’s passions.

Second, we are not persuaded that the prosecutor’s use of the term “rape” in this context constitutes prosecutorial misconduct because the word was used by both parties throughout trial. M.O. described what happened to her as “rape,” the nurse used the word to describe what M.O. reported during her examination, and the father and Williams used the word to describe M.O.’s allegations against Williams. In all, the word “rape,” in its various forms, was used 27 times during the parties’ presentation of their cases, not including the closing arguments.

In sum, with respect to all three of Williams’s arguments, we conclude that he has not met his burden to establish plain error, and we discern no basis to reverse his conviction.²

Affirmed.

² Because Williams failed to establish plain error, we need not address the remaining prongs of our modified plain-error standard. *State v. Epps*, 964 N.W.2d 419, 423 (Minn. 2021) (“Notably, a negative answer to any one of the three parts of the plain error doctrine may end our analysis and a defendant’s quest for relief.”). But it is apparent that, even if

prosecutorial misconduct occurred, the state has established that any such misconduct did not affect Williams’s substantial rights. To determine whether Williams’s substantial rights were affected, “we consider the strength of the evidence against the defendant, the pervasiveness of the improper suggestions, and whether the defendant had an opportunity to (or made efforts to) rebut the improper suggestions.” *Portillo*, 998 N.W.2d at 251-52 (quoting *Davis*, 735 N.W.2d at 682). First, the state had a strong case. M.O. testified that Williams penetrated her vagina with his penis, and DNA that matched Williams’s profile was found on M.O.’s vaginal, cervical, and perineal swabs. Second, the misconduct was not pervasive. The asserted misstatement of evidence and burden-shifting occurred two times each. And, although the prosecutor used the word “rape” repeatedly in closing argument, that word was used throughout the trial, and the jury’s split verdict—finding Williams guilty of the significant-relationship criminal-sexual-conduct charge but not guilty of the mentally impaired/physically helpless charge—serves “as an ‘indicat[ion] that the members of the jury were not unduly inflamed by the prosecutor’s comments.’” *State v. Washington*, 521 N.W.2d 35, 40 (Minn. 1994) (quoting *State v. DeWald*, 463 N.W.2d 741, 745 (Minn. 1990)). Third, and finally, defense counsel had an opportunity to, and did, rebut most of the asserted improper statements. In closing, counsel for Williams challenged the prosecutor’s assertions that Williams had ejaculated and properly explained the reasonable-doubt standard. The court also instructed the jury to convict only if Williams was guilty beyond a reasonable doubt and to disregard statements by attorneys that conflicted with the jurors’ memories of the evidence. We presume the jury followed those instructions. *State v. Vang*, 774 N.W.2d 566, 578 (Minn. 2009). For these reasons, we would also affirm on the substantial-rights prong of the modified-plain-error test.