

*This opinion is nonprecedential except as provided by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
A24-0506**

State of Minnesota,
Respondent,

vs.

Carlos Ramone Sargent,
Appellant.

**Filed March 3, 2025
Affirmed
Bjorkman, Judge**

Beltrami County District Court
File No. 04-CR-22-810

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, Sara L. Martin, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Wheelock, Presiding Judge; Johnson, Judge; and Bjorkman, Judge.

NONPRECEDENTIAL OPINION

BJORKMAN, Judge

Appellant challenges his convictions of unlawful possession of a firearm or ammunition and controlled-substance possession, arguing that (1) the prosecutor

committed misconduct by failing to adequately prepare the state’s witnesses to avoid blurting out inadmissible testimony, and (2) the district court plainly erred when it failed to provide a specific-unanimity instruction because the state alleged separate instances of firearm and ammunition possession to which he had separate defenses. We affirm.

FACTS

During the early morning of March 17, 2022, Deputy Brandon Newhouse of the Beltrami County Sheriff’s Office and a second officer conducted a routine traffic stop of a vehicle in which appellant Carlos Ramone Sargent was a passenger. After arresting the vehicle’s driver, the officers instructed Sargent to exit the vehicle so it could be searched and towed. By this point, a third officer, Deputy Anthony Hanson, had arrived at the scene.

As Sargent exited the vehicle, the officers observed a firearm on the vehicle floor just in front of the passenger seat where Sargent had been sitting. The officers arrested Sargent and searched his person, finding three rounds of ammunition—a .44 caliber bullet, a .45 caliber bullet, and a .410 shotgun shell—and two small plastic bags containing a white crystalline substance that was later identified as methamphetamine. One of the bags was located inside a package of cigarettes after Sargent informed the officers that there was a “fifth-degree inside of the cigarette box.” Sargent also told the officers that he knew he was not supposed to possess a firearm.

That evening, Deputy Newhouse interviewed Sargent at the jail. After being advised of his *Miranda* rights,¹ Sargent agreed to speak to Deputy Newhouse and admitted

¹ *Miranda v. Arizona*, 384 U.S. 436, 444 (1966) (holding that statements made in custodial interrogation are generally inadmissible unless the suspect is first warned that “he has a

that the recovered firearm was his and that he had owned it for 25 years. He explained that the firearm shoots .45 caliber ammunition “right on the money,” but can also shoot .44 caliber ammunition less accurately. And Sargent stated that he had been awake for ten days straight and uses approximately two grams of methamphetamine every day.

Deputy Newhouse obtained a warrant to collect Sargent’s DNA, which was provided to the Minnesota Bureau of Criminal Apprehension (BCA) for testing along with the firearm. The DNA testing revealed that, although the firearm contained the DNA of multiple individuals, Sargent’s DNA matched the “major male” DNA profile located on the grip, and on the hammer, safety, and release components of the weapon.

Respondent State of Minnesota charged Sargent with one count of possession of a firearm and/or ammunition by an ineligible person under Minn. Stat. § 624.713, subd. 1(2) (2020), and one count of fifth-degree possession of a controlled substance under Minn. Stat. § 152.025, subd. 2(1) (2020). Prior to trial, Sargent stipulated that he is ineligible to possess a firearm or ammunition. During the two-day trial, the jury heard testimony from the three arresting officers as described above and viewed excerpts of body-camera footage of the arrest and the jailhouse interview. And the jury heard testimony from a BCA scientist who explained the DNA testing process and results.

right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed”); *see also State v. Horst*, 880 N.W.2d 24, 30-31 (Minn. 2016) (describing when *Miranda* warnings are required).

The jury found Sargent guilty of both charges. The district court imposed a 60-month prison sentence for the ineligible-possession offense and a concurrent 19-month sentence for the controlled-substance offense.

Sargent appeals.

DECISION

I. Sargent was not deprived of a fair trial because any prosecutorial misconduct was harmless beyond a reasonable doubt.

A prosecutor is a “minister of justice whose obligation is to guard the rights of the accused as well as to enforce the rights of the public.” *State v. Ramey*, 721 N.W.2d 294, 300 (Minn. 2006) (quotation omitted). Accordingly, a prosecutor has a duty to ensure a defendant receives a fair trial, regardless of the strength of the evidence against them. *Id.* This duty includes “prepar[ing] [the state’s] witnesses, prior to testifying, to avoid inadmissible or prejudicial statements.” *State v. McNeil*, 658 N.W.2d 228, 232 (Minn. App. 2003). Failure to do so may constitute prosecutorial misconduct. *State v. Patzold*, 917 N.W.2d 798, 807 (Minn. App. 2018), *rev. denied* (Minn. Nov. 27, 2018).

The following exchange occurred while the prosecutor was questioning Deputy Newhouse about the traffic stop and subsequent arrest of Sargent:

Q: What happened when you asked Mr. Sargent to get out of the vehicle?

A: He exited the vehicle. He was cooperative. One of my partners at the time . . . was with me, and he told me that he saw a gun in the car; so Mr. Sargent was placed under arrest.

Q: Why?

A: *I know Sargent from prior experience and knowledge from other law enforcement officers that he’s inelig—*

(Emphasis added.) Defense counsel objected. After sustaining the objection, the district court gave the following curative instruction: “Ladies and gentlemen, I am going to instruct you that you should disregard any testimony regarding prior contact between the deputy and Mr. Sargent.”

The prosecutor pursued a similar line of questioning with Deputy Hanson:

Q: What happened when Mr. Sargent was being removed from the vehicle?

A: At the time, [an officer] observed a firearm in the vehicle as we were removing [Sargent].

Q: So what did you do?

A: I immediately placed [Sargent] under arrest.

Q: Why?

A: *Because my previous experiences with [Sargent], I knew that he was a felon*, and that—I know that he wasn’t able to—

(Emphasis added.) Defense counsel again objected, this time moving for a mistrial. The district court denied the motion, instead directing the jury to “disregard the last answer of Deputy Hanson,” and to “not speculate as to that answer.”

Sargent argues that the prosecutor committed misconduct because they failed to prepare two of the testifying officers to ensure they would not blurt out inadmissible character evidence that he was known to law enforcement and a felon. And Sargent contends that the prosecutor’s failure to do so deprived him of his right to a fair trial. The state acknowledges that the challenged evidence was inadmissible but asserts that any resulting prejudice was minimal.

When reviewing objected-to prosecutorial misconduct, we apply a two-tiered harmless-error test. *State v. Yang*, 774 N.W.2d 539, 559 (Minn. 2009). For “less-serious

misconduct,” we consider whether the misconduct played a substantial part in influencing the jury’s verdict. *State v. Jackson*, 773 N.W.2d 111, 121 (Minn. 2009). But in cases involving “unusually serious prosecutorial misconduct,” we review the misconduct to determine whether the error was harmless beyond a reasonable doubt. *Id.* “Prosecutorial misconduct is harmless beyond a reasonable doubt if the jury’s verdict was surely unattributable to the misconduct.” *State v. Whitson*, 876 N.W.2d 297, 304 (Minn. 2016) (quotation omitted).²

When determining whether misconduct in the presentation of evidence was harmless beyond a reasonable doubt, we consider several nonexclusive factors, including (1) how the improper evidence was presented; (2) whether the evidence was highly persuasive; (3) whether the state emphasized the evidence during the trial, particularly during closing argument; and (4) whether the defendant countered the evidence. *State v. Bigbear*, 10 N.W.3d 48, 54 (Minn. 2024) (evidence); *State v. Wren*, 738 N.W.2d 378, 394 (Minn. 2007) (prosecutorial misconduct). We may also consider the strength of the other evidence establishing the defendant’s guilt. *Biggear*, 10 N.W.3d at 54; *Wren*, 738 N.W.2d at 394.

Here, even assuming that any prosecutorial misconduct was “serious,” the record persuades us that it was harmless beyond a reasonable doubt for three reasons. First, the

² The supreme court has questioned the continuing validity of the two-tiered approach to prosecutorial-misconduct claims. *See, e.g., State v. Carridine*, 812 N.W.2d 130, 146 (Minn. 2012). This issue remains unresolved. *Compare Whitson*, 876 N.W.2d at 304 & n.2 (noting questions regarding the viability of the two-tiered approach and applying the more stringent standard), *with Woodard v. State*, 994 N.W.2d 272, 277-78 n.2 (Minn. 2023) (explaining that the less stringent standard applies to “nonserious” misconduct).

district court's curative instructions mitigated the risk of prejudice from the inadmissible testimony. The court instructed the jury that it should "disregard" the testimony and refrain from "speculat[ing]" about any prior contact Sargent may have had with law enforcement after each objectionable statement. We presume the jury follows the district court's instructions, *Whitson*, 876 N.W.2d at 305, and Sargent has failed to identify evidence suggesting that the jury disregarded the court's instructions or improperly considered the evidence in any way.

Second, the challenged testimony was not presented in a prominent way. It was brief—amounting to two sentences out of the 518-page trial transcript—both of which were cut off by defense counsel's objection before they could be completed. *See Bigbear*, 10 N.W.3d at 56 (considering the "relative number of transcript pages that the [inadmissible] evidence occupies" when analyzing prominence). And the prosecutor did not reference either statement or Sargent's criminal history during closing argument or at any other point during the trial. *See Wren*, 738 N.W.2d at 394 (concluding that prosecutorial misconduct was harmless beyond a reasonable doubt in part because the "objectionable conduct was brief").

Third, the evidence of Sargent's guilt was strong. The three officers testified that they saw the firearm at Sargent's feet as he exited the vehicle, and they found ammunition and methamphetamine on his person. The jury viewed excerpts of body-camera footage in which Sargent acknowledged that he was not supposed to have a firearm, admitted to owning the firearm, and reported that the firearm could shoot the calibers of ammunition

he was carrying in his pocket. Moreover, the jury was presented with evidence showing that Sargent's DNA was present on the weapon.

Because any alleged prosecutorial misconduct was harmless beyond a reasonable doubt—the more stringent of the two prosecutorial-misconduct standards of review—we conclude that Sargent's right to a fair trial was not infringed.

II. The district court did not commit reversible error by failing to instruct the jury on specific unanimity for the firearm-possession charge.

A person previously convicted of a crime of violence is ineligible to possess a firearm or ammunition; doing so is a crime. Minn. Stat. § 624.713, subd. 1(2). “Possession may be proved through evidence of actual or constructive possession.” *State v. Harris*, 895 N.W.2d 592, 601 (Minn. 2017). Actual possession requires “direct physical control” over an object. *State v. Stone*, 982 N.W.2d 500, 510 (Minn. App. 2022) (quotation omitted), *aff'd*, 995 N.W.2d 617 (Minn. 2023). In contrast, constructive possession occurs when there is a strong inference that “the defendant physically possessed the item at one time and did not abandon his possessory interest in it.” *State v. Smith*, 619 N.W.2d 766, 770 (Minn. App. 2000), *rev. denied* (Minn. Jan. 16, 2001).

At trial, the state presented evidence of both actual (ammunition) and constructive (firearm) possession. Sargent offered distinct defenses to each possession theory. Regarding the firearm, he argued that he was unaware of its presence due to his exhausted state and that any of his DNA found on the weapon could be attributed to physical proximity. As to the bullets, he contends they did not meet the legal definition of “ammunition” because they were not proven operable.

Following the close of evidence, the district court gave a general-unanimity instruction, advising the jurors that their verdict must be unanimous. But the court did not instruct them that they must unanimously agree upon which act of firearm or ammunition possession Sargent committed. Instead, the court instructed the jury that it must determine whether Sargent “knowingly possessed a firearm and/or ammunition.” Sargent did not object to the jury instructions but now challenges the district court’s failure to give a specific-unanimity instruction.

We review unobjected-to jury instructions for plain error. *State v. Wenthe*, 865 N.W.2d 293, 299 (Minn. 2015). To establish plain error the appellant must show (1) error, (2) that is plain, and (3) that affects a defendant’s substantial rights. *State v. Griller*, 583 N.W.2d 736, 740 (Minn. 1998). If any one of these requirements is not met, we need not consider the others. *State v. Webster*, 894 N.W.2d 782, 786 (Minn. 2017). And if all the requirements are satisfied, we may correct the error only if it seriously affects the “fairness and integrity of our judicial system.” *State v. Bey*, 975 N.W.2d 511, 521 (Minn. 2022) (quotation omitted).

Here, we need not consider the first two plain-error requirements because we conclude that the claimed error did not affect Sargent’s substantial rights. A defendant’s substantial rights are prejudiced when it is reasonably likely that the district court’s error had a significant effect on the jury’s verdict. *Griller*, 583 N.W.2d at 741. The defendant bears the “heavy burden” of establishing that the third plain-error requirement is met. *Id.* Sargent has not carried this burden.

As noted above, the evidence of Sargent's guilt was strong. The state presented the testimony of multiple witnesses who observed the firearm on the floor of the car next to the passenger seat and recovered ammunition from Sargent's person, the body-camera footage of the arrest and interview, and the DNA results linking Sargent to the firearm. This evidence, coupled with Sargent's stipulation that he could not lawfully possess a firearm or ammunition, convinces us that it is not reasonably likely that the district court's failure to issue a specific-unanimity instruction had a significant impact on the jury's verdict. *See Bey*, 975 N.W.2d at 522 (concluding the substantial-rights prong of the plain-error standard was not met, in part, because the evidence of the defendant's guilt, which included testimony from multiple witnesses and video recordings, was "strong"). Because the alleged instructional error did not prejudice Sargent's substantial rights, reversal is not warranted. *See Griller*, 583 N.W.2d at 741.

Affirmed.