

*This opinion is nonprecedential except as provided by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
A24-0638**

State of Minnesota,
Respondent,

vs.

John Arland Kirst,
Appellant.

**Filed April 14, 2025
Affirmed
Bratvold, Judge**

Nobles County District Court
File No. 53-CR-22-1088

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

Braden M. Hoefert, Nobles County Attorney, Worthington, Minnesota; and

Travis J. Smith, Special Assistant County Attorney, Slayton, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jennifer Workman Jesness,
Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Ross, Presiding Judge; Smith, Tracy M., Judge; and
Bratvold, Judge.

NONPRECEDENTIAL OPINION

BRATVOLD, Judge

Before his jury trial, appellant pleaded guilty to fleeing a police officer in a motor vehicle. He then proceeded to trial on two other charges. Appellant now challenges the

final judgments of conviction entered after his jury trial for possession and sale of controlled substances. Appellant argues that the district court abused its discretion by admitting video evidence of appellant's motor-vehicle flight from law enforcement. We conclude that the district court did not abuse its discretion by admitting the video evidence. Thus, we affirm.

FACTS

Respondent State of Minnesota charged appellant John Arland Kirst by complaint with four counts for offenses committed in Nobles County on October 26, 2022: count one—third-degree possession with intent to sell a controlled substance under Minn. Stat. § 152.023, subd. 1(1) (2022); count two—fleeing a peace officer in a motor vehicle under Minn. Stat. § 609.487, subd. 3 (2022); count three—fifth-degree possession of a controlled substance under Minn. Stat. § 152.025, subd. 2(1) (2022); and count four—driving after cancellation under Minn. Stat. § 171.24, subd. 5 (2022).

On the first day of his jury trial, Kirst pleaded guilty to the driving offenses—counts two and four—and trial proceeded on the controlled-substance crimes—counts one and three. Also on the first day of trial, the district court considered motions in limine outside the presence of the jury.

Kirst moved to exclude the squad-car video of his flight from law enforcement along with other related evidence, arguing that it was inadmissible character evidence that did not satisfy any exception under the rules of evidence. The prosecuting attorney responded that, “[i]f the defense is objecting on relevance grounds,” the evidence is relevant because it shows Kirst's knowledge that controlled substances were in the vehicle. The district court

granted the motion in limine in part after concluding that Kirst's guilty plea to the fleeing offense was inadmissible. But the district court also denied the motion in part after determining that the squad-car video was relevant to the knowledge element of the controlled-substance crimes and that its probative value was not outweighed by the danger of unfair prejudice.

The following summarizes the evidence received during Kirst's jury trial, including the squad-car video and testimony from two law-enforcement officers—the arresting officer and a chain-of-custody officer.

At around 1:00 a.m. on October 26, 2022, a law-enforcement officer from the Worthington Police Department (arresting officer) was on patrol in a marked squad car on Highway 60 near the junction of Interstate 90. The arresting officer initiated a traffic stop of Kirst's pickup truck for nonfunctioning brake lights. As the arresting officer exited his squad car and approached Kirst's truck, Kirst sped away. The arresting officer returned to his squad car and followed Kirst.

Kirst drove on the interstate from Nobles County into Rock County at speeds of 90 to 100 miles per hour. Kirst's tires struck spike strips set out by law enforcement, but Kirst kept driving. Kirst also drove down an embankment into a ditch, then turned back onto the interstate. Kirst's tires struck a second set of spike strips, after which Kirst's truck lost both front tires. Still, Kirst kept driving on the rims with sparks flying. Finally, Kirst's truck stopped, and the arresting officer took him into custody. The chase lasted about 25 minutes.

The arresting officer performed an inventory search of Kirst's truck. During the search, the arresting officer found a ziplock baggie containing a crystalline substance, a

digital scale with residue on it, and \$2,040 in cash. Most of the cash was evenly divided into two clips, each containing \$1,000. The Minnesota Bureau of Criminal Apprehension tested the crystalline substance found in the ziplock baggie and determined that it was methamphetamine weighing 8.431 grams. The arresting officer testified that, in his experience, this amount of methamphetamine was a larger amount than a typical user would possess at one time.

The jury found Kirst guilty of both controlled-substance crimes, counts one and three. The district court imposed a sentence of 57 months' imprisonment for count one.

Kirst appeals.

DECISION

Kirst argues that the district court abused its discretion by admitting the squad-car video because “its minimal probative value was substantially outweighed by its unfair prejudice” under Minn. R. Evid. 403. The state argues that (1) Kirst forfeited the challenge he makes on appeal to the admissibility of the squad-car video, (2) the district court did not abuse its discretion by admitting the squad-car video, and (3) any alleged error by the district court is harmless.

A. Kirst did not forfeit his arguments under Minn. R. Evid. 403.

The state argues that Kirst forfeited any rule 403 argument because the “only basis [Kirst] gave at trial for his objection” was Minn. R. Evid. 404(b). The state also argues that Kirst waived plain-error review by failing to argue that standard in his principal brief. Kirst argues in his reply brief that he did not forfeit his argument under rule 403 because “the district court ruled the video was admissible . . . under Rules 401 and 403.”

The Minnesota Rules of Evidence provide that “[e]rror may *not* be predicated upon a ruling which admits or excludes evidence *unless* a substantial right of the party is affected,” Minn. R. Evid. 103(a) (emphasis added), *and*, with admitted evidence, the party claiming error has made “a timely objection or motion to strike . . . stating the specific ground of objection, if the specific ground was not apparent from the context.” Minn. R. Evid. 103(a)(1). “A defendant’s objection to the admission of evidence preserves review only for the stated basis for the objection or a basis apparent from the context of the objection.” *State v. Vasquez*, 912 N.W.2d 642, 649 (Minn. 2018).

Our review of the transcript leads us to conclude that Kirst preserved the argument he makes on appeal. During the hearing on motions in limine, Kirst objected to the admission of evidence of the fleeing offense and, specifically, the squad-car video. Kirst’s attorney argued that “any reference to the act of fleeing, any reference to a crime of fleeing would be considered evidence of prior bad acts which is not admissible under Rule of Evidence 404(b).”

Although Kirst objected to the squad-car video under rule 404(b), the district court stated its ruling in three steps. First, it determined that the squad-car video was relevant under rule 401 to the “specific element[]” that Kirst “knowingly possessed the illegal drugs.” Second, the district court ruled that evidence of Kirst’s guilty plea for the fleeing offense would “result in confusion of the issues” and “should not be admitted” under rule 403. Third, the district court determined that “the actual facts,” as shown in the squad-car video, had probative value that was “not outweighed by the danger of unfair

prejudice.” The district court added that “it’s a very fine hairline cut here but the actual facts, [Kirst’s] actual conduct, and evidence of that would be admissible for this trial.”

Vasquez instructs that a party preserves for review “the stated basis for the objection or a basis apparent from the context of the objection.” *Id.* The district court’s analysis of the squad-car video’s admissibility under rule 403 provided the “context of the objection.” *Id.* Also, to the extent that we assume Kirst is limited to the stated basis for his objection—rule 404(b)—that rule requires the district court to exclude the evidence *unless*, among other things, the probative value of the evidence is *not* outweighed by its potential for unfair prejudice to the defendant. Minn. R. Evid. 404(b)(2)(c). This portion of rule 404(b) is substantively the same as the rule 403 argument Kirst is making on appeal. We therefore conclude that Kirst did not forfeit his argument about the admission of the squad-car video on rule 403 grounds and that the issue is properly before us.

B. The district court did not abuse its discretion by admitting the squad-car video.

Kirst argues that the district court abused its discretion by admitting the squad-car video because the evidence was not relevant to any contested issue and its unfair prejudice substantially outweighed its “minimal probative value.” The state argues that the district court did not abuse its discretion because the squad-car video was highly relevant to the elements of knowledge and venue, the video’s probative value was not substantially outweighed by any danger of unfair prejudice, and the state “has a right to prove its case by evidence of its own choosing.”

The district court has broad discretion to determine whether evidence is relevant. *State v. Schulz*, 691 N.W.2d 474, 477 (Minn. 2005). We will not reverse a district court’s evidentiary ruling absent an abuse of discretion. *State v. Hanks*, 817 N.W.2d 663, 667 (Minn. 2012). “A district court abuses its discretion when its decision is based on an erroneous view of the law or is against logic and the facts in the record.” *State v. Hallmark*, 927 N.W.2d 281, 291 (Minn. 2019) (quotation omitted). “On appeal, the defendant has the burden of proving that the district court abused its discretion and that the defendant was thereby prejudiced.” *State v. Thiel*, 846 N.W.2d 605, 615 (Minn. App. 2014), *rev. denied* (Minn. Aug. 5, 2014).

Generally, relevant evidence is admissible. Minn. R. Evid. 402. Evidence is relevant if it has “any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” Minn. R. Evid. 401. Relevant evidence may be excluded, however, if “its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.” Minn. R. Evid. 403.

Additionally, “[e]vidence of a person’s character or a trait of character” is generally not admissible to prove action in conformity with that character or trait on a particular occasion. Minn. R. Evid. 404(a). Similarly, “[e]vidence of another crime, wrong, or act is not admissible to prove the character of a person in order to show action in conformity” with that bad character. Minn. R. Evid. 404(b)(1). A prior bad act “may, however, be

admissible for other purposes”; the rule lists several such purposes, including intent and knowledge. *Id.*

The district court determined that the squad-car video was relevant to prove Kirst’s knowledge that he had contraband in his truck. The district court’s ruling is supported by applicable law. The state had the burden to prove Kirst’s knowledge as an element of both controlled-substance crimes—possession and intent to sell. Minn. Stat. § 152.01, subd. 15a(3) (2022) (defining “sell” to include “possess[ing] with intent” to sell); *see State v. Papadakis*, 643 N.W.2d 349, 354 (Minn. App. 2002) (explaining that knowledge is an element of a crime of controlled-substance possession). Caselaw has recognized that evidence of fleeing law enforcement is “a circumstance to be considered . . . as suggestive of a consciousness of guilt.” *State v. McTague*, 252 N.W. 446, 448 (Minn. 1934) (discussing McTague’s flight after arrest as relevant evidence supporting the jury’s verdict).

Kirst makes two arguments. First, Kirst contends that the squad-car video was not relevant because Kirst’s “knowledge was not the focus of this trial.” Kirst argues that his defense focused on whether he possessed the drugs “with the intent to sell” or whether he possessed them “for personal use.” We are not convinced this argument shows that the district court abused its discretion. The state “must prove each and every element of the offense charged beyond a reasonable doubt.” *State v. Kuhlmann*, 780 N.W.2d 401, 404 (Minn. App. 2010), *aff’d*, 806 N.W.2d 844 (Minn. 2011). This burden applies to the knowledge element of the controlled-substance offenses. Minnesota Rule of

Evidence 404(b) recognizes that intent and knowledge are appropriate limited purposes for the admission of prior-bad-act evidence.

The record supports the state's argument that Kirst contested the knowledge element. Kirst's attorney stated during closing argument that the state had "no evidence that [Kirst] knew it was a controlled substance." The squad-car video was probative of Kirst's knowledge of controlled substances in his truck along with his "consciousness of guilt." *McTague*, 252 N.W. at 448. Thus, the district court did not abuse its discretion in determining that the squad-car video was relevant.

Second, Kirst argues that, even if the squad-car video was relevant, its relevance was outweighed by unfair prejudice because it was improper character evidence under rule 404(b). Unfairly prejudicial evidence "is not merely damaging evidence, even severely damaging evidence," but evidence "that persuades by illegitimate means, giving one party an unfair advantage." *Schulz*, 691 N.W.2d at 478. Kirst contends that the squad-car video made it more likely that the jury would view Kirst "as a dangerous criminal and convict him because of the behaviors the video depicted."

Kirst cites *State v. Clark*, in which the Minnesota Supreme Court determined that evidence of Clark's previous bank-robbery conviction was properly admitted to show absence of mistake or identity, but should not have been admitted to prove Clark's intent. 755 N.W.2d 241, 260-61 (Minn. 2008). The supreme court reasoned that the prior bank-robbery conviction was not probative of Clark's intent for the offense charged at trial—killing a police officer. *Id.* at 261. The supreme court added that, when evidence of a prior bad act is a "close call," the district court should exclude the evidence. *Id.* at 260-61.

Even so, while the supreme court found error in the district court's reasoning, it did not conclude that the district court abused its discretion by admitting evidence of Clark's prior conviction. *Id.*

The district court's evidentiary ruling here is distinguishable from the ruling discussed in *Clark*. The district court excluded evidence of Kirst's guilty plea for fleeing from police officers, reasoning that it would "result in confusion of the issues" and was unfairly prejudicial under rule 403. Thus, the district court differentiated the guilty plea from the squad-car video, which, it concluded, was probative of "the issue of whether or not [Kirst] knew that he had contraband in the car that he was attempting to hide or prevent law enforcement from discovering." Unlike the disputed evidence in *Clark*, in which the supreme court noted that it did not see "how the intent involved in the bank robbery proves intent in killing an officer," 755 N.W.2d at 261, the squad-car video of Kirst's flight goes directly toward his knowledge of contraband in the truck and his "consciousness of guilt" for the controlled-substance crimes. *McTague*, 252 N.W. at 448. The district court concluded that the squad-car video's probative value was not "outweighed by the danger of unfair prejudice" under rule 403. Based on this record, we cannot say that the district court abused its discretion in admitting the squad-car video.¹

¹ The state also argues, in the alternative, that the squad-car video was admissible as "immediate-episode" and "intrinsic" evidence. Under the immediate-episode rule, "[t]he state may prove all relevant facts and circumstances which tend to establish any of the elements of the offense with which the accused is charged, even though such facts and circumstances may prove or tend to prove that the defendant committed other crimes." *State v. Wofford*, 114 N.W.2d 267, 271 (Minn. 1962). Under the rule of intrinsic evidence, "a rule 404(b) analysis is unnecessary if the evidence of another crime is intrinsic to the crime charged." *State v. Hollins*, 765 N.W.2d 125, 131 (Minn. App. 2009). Because we

In sum, the squad-car video showing Kirst's flight from law enforcement was relevant evidence of his knowledge that he had contraband in his pickup truck and his consciousness of guilt, and its probative value was not substantially outweighed by unfair prejudice. We therefore conclude that the district court did not abuse its discretion by admitting the squad-car video under rule 403. Because we conclude that the district court did not abuse its discretion by admitting the squad-car video, we need not reach the state's argument about harmless error.

Affirmed.

conclude that the district court did not abuse its discretion in admitting the squad-car video, however, we need not reach this alternative argument.