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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0708**

State of Minnesota,
Respondent,

vs.

Antonio Dupree Wright,
Appellant.

**Filed July 14, 2025
Affirmed
Bond, Judge**

Ramsey County District Court
File No. 62-CR-22-5111

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(for appellant)

Considered and decided by Slieter, Presiding Judge; Ede, Judge; and Bond, Judge.

NONPRECEDENTIAL OPINION

BOND, Judge

In this direct appeal from the judgment of conviction for kidnapping and attempted second-degree murder, appellant argues that he is entitled to a new trial because the district court erred by admitting the victim's out-of-court statements under the forfeiture-by-

wrongdoing exception to the Confrontation Clause and the hearsay rule. Appellant also challenges the district court's exclusion of evidence relating to the victim's past psychiatric diagnosis. We affirm.

FACTS

At approximately 11:45 p.m. on September 2, 2022, police responded to a shooting in St. Paul. At the scene, responding officers found D.W., who had sustained multiple gunshot wounds and appeared afraid. D.W. told officers that he had been in a gray van and "they" tried to kill him but D.W. had jumped from the van and run away. D.W. stated that he knew the shooter from the barbershop but did not know his name. D.W. identified himself to police using a false date of birth and first name.

D.W. gave a second statement in the ambulance as he was being transported to the hospital. In this second statement, D.W. said that, as he was walking down the street in the area of Earl Street and York Avenue, he was forced into a van at gunpoint. D.W. explained that a second man was driving while the man he recognized sat behind him with a gun to his head. The man with the gun, whom D.W. identified as "Figg," told D.W., "you know what you did." D.W. jumped out of the moving van and ran, but Figg chased him and shot him. D.W. stated that Figg lived in a downstairs unit at the Equinox Apartments.

On September 3, while still hospitalized, D.W. gave a third statement to police. D.W. stated that he had known Figg for about a month, that he had seen Figg three or four times, and that Figg was something of a mentor to him. D.W. again explained that Figg had put a gun to D.W.'s head, forced him into the van, and, after D.W. jumped out of the van, chased D.W. and shot him five times. D.W. described Figg as being about 5 feet

9 inches tall, dark-skinned, bald, and skinny. D.W. stated that Figg made rap videos, had a song called “Three Figgas,” and had many tattoos, including one that reads “3 Figs.” D.W. also described the van as a large, gray, conversion-style van with rims and tinted windows.

Police located a gray van at the Equinox Apartments in St. Paul and photographed it; D.W. confirmed it was the van used in the incident. The van was registered to a woman whose address was associated with appellant Antonio Dupree Wright. Police also discovered a video on YouTube entitled “3 Figgas” that showed both Wright and the gray van.

Using phone records and cell-tower location data, police determined that Wright’s cell phone was in the area of Earl Street and York Avenue at the same time as D.W.’s kidnapping. Wright’s phone was either turned off or in airplane mode for the next 45 minutes and was next detected at 12:18 a.m. in Fridley. Wright’s phone was in the area of a Brooklyn Center gas station at 12:23 a.m. The gas station’s surveillance footage from that time period showed the gray van at the gas pumps and Wright entering the store. On September 6, D.W. identified Wright from a photograph as the shooter. Respondent State of Minnesota charged Wright with two counts of kidnapping, Minn. Stat. § 609.25, subd. 1(2), (3) (2022), and two counts of attempted second-degree murder, Minn. Stat. § 609.19, subd. 1(1), (2) (2022).

Wright’s jury trial commenced on December 4, 2023. That day, D.W., who was under subpoena by the state, left a voicemail with the district court stating that he could not appear in court because of health issues. Later that day, D.W. appeared in court, outside

the presence of the jury, and again expressed concern to the court about his health issues. On December 5, D.W. appeared in court to resolve issues relating to his testimony. The district court instructed D.W. to return the next day to testify. D.W. objected that he did not have anything to say and did not want to testify.

On December 6, D.W. testified as part of the state's case-in-chief. On direct examination, D.W. agreed that he was shot on September 2, 2022, at approximately 11:45 p.m., but he denied remembering any details from the incident, including who shot him or what he did after being shot. D.W. stated that he had health issues, head trauma, and memory issues. D.W. remembered waking up in the hospital but denied talking to the police. When the state showed D.W. reports containing his statements to police, D.W. denied that they refreshed his recollection because, he testified, he never spoke to police and "[w]hoever wrote that is lying." D.W. testified that he knows Wright as a friend, and he denied that Wright had a gray van. D.W. denied being concerned about "snitching" and denied that "Wright's people" had bribed him. Wright did not cross-examine D.W. As D.W. left the witness stand, he asked the district court whether he could leave. The district court directed D.W. to talk to the party who had subpoenaed him.

Police reviewed Wright's jail calls and discovered that on December 4, after D.W.'s court appearance, Wright placed a call to a phone number associated with a man named Fredrick Wilson. Wilson had made in-person visits to Wright at the Ramsey County jail. As later found by the district court, in the recorded jail call, Wright and the other participants on the call discussed the trial, their surprise at seeing D.W. in court, and

deliveries of cash and other items to D.W.¹ The state moved to admit D.W.’s out-of-court statements, arguing that Wright had forfeited his right to confront D.W. about the statements.

The district court determined that the jail call indicated a scheme to prevent D.W.’s testimony, that D.W. “was unavailable as a witness on most facts of any consequence in this case,” and that Wright’s wrongful conduct intentionally procured D.W.’s unavailability as a witness. Over Wright’s objection, the district court thus admitted D.W.’s out-of-court statements to police at the scene, his statement in the ambulance, and his statements from the hospital as substantive evidence under the forfeiture-by-wrongdoing exception to the Confrontation Clause and Minn. R. Evid. 804(b)(6).

The state dismissed one of the attempted murder charges during trial. The jury found Wright guilty of the remaining three counts. The district court sentenced Wright to consecutive sentences of 161 months for kidnapping and 153 months for attempted murder.

Wright appeals.

DECISION

I. The admission of D.W.’s out-of-court statements did not violate the Confrontation Clause.

On appeal, Wright argues that the admission of D.W.’s out-of-court statements violated his constitutional right to confrontation because the state failed to establish the applicability of the forfeiture-by-wrongdoing doctrine. Wright also argues that he was

¹ The district court’s findings and ruling related to the jail call are discussed in more detail below, *infra* II.

denied an adequate opportunity to cross-examine D.W. about his prior statements because the state offered D.W.’s statements after D.W.’s testimony. We review de novo the question of whether the admission of evidence violates the Confrontation Clause. *State v. Caulfield*, 722 N.W.2d 304, 308 (Minn. 2006). But we review the district court’s factual findings on the forfeiture-by-wrongdoing elements for clear error. *See State v. Fields*, 679 N.W.2d 341, 345 (Minn. 2004); *State v. Shaka*, 927 N.W.2d 762, 766 (Minn. App. 2019).

A. D.W. was available for purposes of the Confrontation Clause.

The United States and Minnesota Constitutions guarantee criminal defendants the right to confront witnesses against them. U.S. Const. amend. VI; Minn. Const. art. I, § 6. The Confrontation Clause prohibits the “admission of testimonial statements of a witness who did not appear at trial unless he was unavailable to testify and the defendant had had a prior opportunity for cross-examination.” *Crawford v. Washington*, 541 U.S. 36, 53-54 (2004).² Thus, the Confrontation Clause “contemplates that a witness who makes testimonial statements admitted against a defendant will ordinarily be present at trial for cross-examination, and that if the witness is unavailable, his prior testimony will be introduced only if the defendant had a prior opportunity to cross-examine him.” *Giles v. California*, 554 U.S. 353, 358 (2008); *see also State v. Tate*, 985 N.W.2d 291, 304 (Minn. 2023) (“Testimony is generally reliable under the Confrontation Clause if a witness

² A statement is testimonial “when the circumstances objectively indicate that there is no . . . ongoing emergency, and that the primary purpose of the interrogation is to establish or prove past events potentially relevant to later criminal prosecution.” *Davis v. Washington*, 547 U.S. 813, 822 (2006). The state acknowledges, and we agree, that “most if not all of [D.W.’s] statements were testimonial, as defined in current law.”

testifies in the physical presence of the defendant, is sworn under oath, is subject to cross-examination, and can be properly observed by the trier of fact.”).

The confrontation right, however, is not absolute. *Caulfield*, 722 N.W.2d at 311. A defendant can forfeit the right to confrontation by intentionally procuring a witness’s absence from trial by wrongdoing. *Giles*, 554 U.S. at 366-68. The Minnesota Supreme Court has described the forfeiture-by-wrongdoing exception as a narrow doctrine that “extinguishes confrontation claims on essentially equitable grounds.” *State v. Cox*, 779 N.W.2d 844, 850 (Minn. 2010) (quotation omitted). To establish that a defendant forfeited his right to confrontation, the state must prove four elements by a preponderance of the evidence: “(1) that the declarant-witness is unavailable, (2) that the defendant engaged in wrongful conduct, (3) that the wrongful conduct procured the unavailability of the witness and (4) that the defendant intended to procure the unavailability of the witness.” *Id.* at 851-52; *see also State v. Bellazan*, 18 N.W.3d 385, 394 (Minn. App. 2025), *rev. denied* (Minn. May 28, 2025).

The parties focus their arguments on the first and third elements of the forfeiture-by-wrongdoing exception. Specifically, Wright asserts that D.W. “was not unavailable for Confrontation Clause purposes, making the forfeiture by wrongdoing doctrine inapplicable.” Wright argues, alternatively, that even if D.W. was “unavailable,” Wright did not procure D.W.’s unavailability. The state counters that the district court correctly determined that D.W.’s claimed memory loss made him unavailable for purposes of the Confrontation Clause and that Wright, by causing D.W.’s unavailability, forfeited his right to confront D.W.

The crux of the parties’ dispute is whether D.W.’s claimed lack of memory made him unavailable under the Confrontation Clause.³ We begin, therefore, by considering whether D.W. was unavailable within the meaning of the Confrontation Clause. If D.W. was “not unavailable”—that is to say, if he was “available”—then the Confrontation Clause does not bar the admission of D.W.’s out-of-court statements. *Crawford*, 541 U.S. at 59 n.9 (reiterating that “when the declarant appears for cross-examination at trial, the Confrontation Clause places no constraints at all on the use of his prior testimonial statements”); *California v. Green*, 399 U.S. 149, 161 (1970) (noting that the Confrontation Clause is not violated by the admission of an out-of-court statement if the declarant is available at trial for cross-examination); *Cox*, 779 N.W.2d at 852 (stating that “the State must prove that the declarant-witness is unavailable to avail itself of the forfeiture-by-wrongdoing exception”). And if the Confrontation Clause is not implicated by admission of D.W.’s statements, then we need not consider the applicability of the forfeiture-by-wrongdoing exception to the clause’s guarantees.

The Minnesota Supreme Court has addressed whether a witness who appears at trial and testifies to a lack of memory is available for purposes of the Confrontation Clause. In

³ As noted *infra*, “unavailability” under the Confrontation Clause is not coextensive with “unavailability” under the rules of evidence. *Crawford*, 541 U.S. at 61 (“Where testimonial statements are involved, we do not think the Framers meant to leave the Sixth Amendment’s protection to the vagaries of the rules of evidence.”); *Shaka*, 927 N.W.2d at 767 (noting differences between the forfeiture-by-wrongdoing exception to the Confrontation Clause and the forfeiture-by-wrongdoing exception to the hearsay rule). We thus decline the state’s invitation to hold that the definition of unavailability under the rules of evidence and the Confrontation Clause “are one and the same.”

State v. Holliday, the state called a witness to testify about statements the witness gave to police and county attorneys after witnessing a murder. 745 N.W.2d 556, 561 (Minn. 2008). After reviewing reports detailing his statements, the witness claimed he could not remember making the statements. The district court allowed a police officer to testify as to what the witness said in his interview, and a staff member from the county attorney's office to read a report of the witness's interview into the record. On appeal, the defendant claimed that the admission of the witness's prior statements violated the Confrontation Clause because the witness's memory loss precluded the defendant's ability to cross-examine the witness. *Id.* at 565.

The supreme court rejected the defendant's argument. Relying on *Crawford*, the supreme court concluded that "the admission of a witness's prior statements does not violate the Confrontation Clause where the witness appears for cross-examination and claims that he or she cannot remember either making the statements or the content of the statements." *Id.* Thus, a witness does not need to defend or explain their prior statement because "[t]he Confrontation Clause is satisfied by a declarant's appearance at trial for cross-examination." *Id.* at 568; *see also United States v. Owens*, 484 U.S. 554, 557-59 (1988) (concluding, in a pre-*Crawford* case, that a witness's lack of memory from brain injury did not render the witness unavailable and, consequently, admission of the witness's prior statements did not violate the Confrontation Clause).

While we recognize that the forfeiture-by-wrongdoing exception was not at issue in *Holliday*, we nonetheless conclude that *Holliday* is dispositive on the question of whether

D.W. was available for purposes of the Confrontation Clause.⁴ *Holliday* held that “[t]he Confrontation Clause is satisfied by a declarant’s appearance at trial for cross-examination.” 745 N.W.2d at 568. Here, there is no dispute that D.W. appeared at trial, took the witness stand, was sworn, and answered limited questions about the shooting before testifying to a lack of memory. Because D.W. appeared at trial and testified, he was available for cross-examination notwithstanding his asserted lack of memory. *Id.* at 565; *see also Crawford*, 541 U.S. at 59; *Owens*, 484 U.S. at 557-59 n.9. And because D.W. was available for purposes of the Confrontation Clause, we need not consider the remaining elements of the forfeiture-by-wrongdoing doctrine. *Cox*, 779 N.W.2d at 852 (explaining that the forfeiture-by-wrongdoing exception to the Confrontation Clause requires proof that “the declarant-witness is unavailable”).

In sum, because D.W. appeared at trial and testified, he was available within the meaning of the Confrontation Clause and the clause does not bar admission of D.W.’s out-of-court statements.

B. Wright had the opportunity for adequate cross-examination.

Wright alternatively argues that, because the state did not introduce D.W.’s out-of-court statements until after D.W. testified, Wright was denied the opportunity to confront his accuser. The Confrontation Clause guarantees “an adequate opportunity to cross-

⁴ In arguing that the state failed to prove that D.W. was unavailable, as required for application of the forfeiture-by-wrongdoing doctrine, Wright asserts that “[n]otwithstanding his claims of an absence of memory, [D.W.] appeared in court and testified. He was, therefore, available as a witness for purposes of the Confrontation Clause.” We agree. Because D.W. was “available,” the Confrontation Clause is not implicated by admission of his out-of-court statements.

examine adverse witnesses.” *Owens*, 484 U.S. at 557. But “the Confrontation Clause guarantees only ‘an *opportunity* for effective cross-examination, not cross-examination that is effective in whatever way, and to whatever extent, the defense might wish.’” *State v. Gilleylen*, 993 N.W.2d 266, 278 (Minn. 2023) (quoting *Kentucky v. Stincer*, 482 U.S. 730, 739 (1987)).

Wright relies on language from *Crawford* for his claim that he was denied the opportunity to confront D.W. by virtue of the timing of the admission of D.W.’s out-of-court statements. *Crawford*, 541 U.S. at 59 n.9 (“The [Confrontation] Clause does not bar admission of a statement so long as the declarant is present at trial to defend or explain it.”). Two reasons compel us to reject Wright’s argument.

First, in *Holliday*, the supreme court considered and rejected a similar argument. *Holliday* recognized that *Crawford*’s “conclusion that the Confrontation Clause does not bar admission of a prior testimonial statement ‘so long as the declarant is present at trial to defend or explain it’ could be interpreted to require that the declarant actually defend or explain the statement.” 745 N.W.2d at 565 (quoting *Crawford*, 541 U.S. at 59 n.9 (citation omitted)). But the supreme court concluded that “such an interpretation both ignores the fact that [*Crawford*’s] language still focuses on presence and ability to act without requiring that the record show the declarant actually did defend or explain the statement,” *id.* (quotation omitted), “and is at odds with the Court’s more explicit assertion that ‘when the declarant appears for cross-examination at trial, the Confrontation Clause places no constraints at all on the use of his prior testimonial statements,’” *id.* at 565-66 (quoting *Crawford*, 541 U.S. at 59 n.9). *See also Delaware v. Fensterer*, 474 U.S. 15, 22 (1985)

(holding that “the Confrontation Clause is generally satisfied when the defense is given a full and fair opportunity to probe and expose” a witness’s inability to remember their prior statements).

Second, while the state offered D.W.’s out-of-court statements after D.W. had finished testifying and left the witness stand, the record does not reflect that D.W. was excused from his subpoena or that Wright was unable to ask that D.W. be recalled so that Wright could cross-examine him about his statements. In *Holliday*, as in this case, the witness’s out-of-court statements were admitted through a police officer *after* the witness testified to a lack of memory. 745 N.W.2d at 561. And we are unaware of any Minnesota authority requiring that the state, in order to satisfy the Confrontation Clause, must introduce a witness’s prior statement while the witness is testifying on direct examination.

We conclude that Wright was not denied an adequate opportunity to confront D.W. about his out-of-court statements.

II. The district court did not abuse its discretion by admitting D.W.’s out-of-court statements under the forfeiture-by-wrongdoing exception to the rule against hearsay.

Wright argues that, even if admission of D.W.’s out-of-court statements did not violate the Confrontation Clause, he is entitled to a new trial because D.W.’s statements were inadmissible hearsay. Appellate courts afford trial courts “considerable discretion in admitting evidence” and “review their evidentiary rulings for an abuse of that discretion.” *State v. Martinez*, 725 N.W.2d 733, 737 (Minn. 2007). “On appeal, the appellant has the burden of establishing that the trial court abused its discretion and that appellant was thereby prejudiced.” *Holliday*, 745 N.W.2d at 568 (quoting *State v. Amos*, 658 N.W.2d

201, 203 (Minn. 2003)). A district court abuses its discretion if its evidentiary determination is based on an erroneous view of the law or is against logic and facts in the record. *State v. Hallmark*, 927 N.W.2d 281, 291 (Minn. 2017). The district court’s factual findings will not be reversed unless “clearly erroneous.” *Fields*, 679 N.W.2d at 345.

The forfeiture-by-wrongdoing exception is codified in Minnesota Rule of Evidence 804(b)(6). *Bellazan*, 18 N.W.3d at 394; *Shaka*, 927 N.W.2d at 767. Under Minn. R. Evid. 804(b)(6), “[a] statement offered against a party who wrongfully caused or acquiesced in wrongfully causing the declarant’s unavailability as a witness and did so intending that result” is not excluded by the hearsay rule.⁵ The rules of evidence, unlike Confrontation Clause caselaw, define “unavailable” as including a witness who “testifies to a lack of memory of the subject matter of the declarant’s statement.” Minn. R. Evid. 804(a)(3). A district court is entitled to “draw reasonable inferences from circumstantial evidence in determining whether a defendant’s wrongdoing procured the unavailability of a witness.” *Shaka*, 927 N.W.2d at 769.

As part of the forfeiture motion, the state submitted a recording of Wright’s jail call. In its detailed ruling finding that D.W.’s out-of-court statements were admissible under the forfeiture-by-wrongdoing exception, the district court stated that it “spent an extraordinarily significant amount of time listening and relistening to this jail call.” Because portions of the call were difficult for the district court to understand, the court

⁵ Hearsay is “a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.” Minn. R. Evid. 801(c). Generally, hearsay is inadmissible at trial unless an exception to the general rule applies. Minn. R. Evid. 802.

listened to the call “30 times, if not more—maybe 50” to become comfortable with the voices and vernacular being used.

The district court’s findings of fact regarding the contents of the call include that: it was Wright who was speaking; Wright and the other speakers “talk in such detail that there can be no question that this trial is being discussed, both in terms of the things that were happening in court, the jury being picked, [D.W.] coming in, the voicemail that he made”; Wright and the other speakers express surprise that D.W. had been in court; Wright states, “Y’all gotta tap in. Man, you all gotta definitely tap”; one of the other speakers references “cash on delivery,” payment, and “packages” that were “Gucci,” and states, “I got you, bro, I got you, I got you”; in reference to the call D.W. made to the court about his health concern, a woman states, “I gotta get the number. I got the number he called from”; Wright directs the speakers to “have a sleepover” and they discussed going north; Wright directs the speakers to “[s]end it through Amazon” and states, “You’ve gotta let ‘em know, if motherf--ker show up, that sh-t going televise, post it.”

The district court further found that the parties on the phone with Wright placed a call to another number, while Wright was still on the call. One of the speakers told Wright, “He got him on the horn right now.” The other speaker can be heard stating, “I gotta pull up. You said you were going out of town,” and “Remember you said you was going to Vegas.” Wright states, “Yeah, gotta have a sleepover. It’s in the home stretch.”

The district court’s order specifically addresses each element of the forfeiture-by-wrongdoing hearsay exception, including whether Wright’s conduct was wrongful and intentional. As to that question, the district court found:

This jail call makes it clear enough to me that [Wright] and his associates apparently engaged in a bribery scheme designed to influence or prevent [D.W.'s] testimony in this case. If their initial efforts didn't work, [Wright] instructed the woman on the phone that they needed to tap in. "Y'all definitely need to tap in." This conduct would be illegal under Minnesota law, the bribery statutes. I'm finding that it's wrongful.

Finally, the district court determined that whether Wright acted intentionally to procure D.W.'s unavailability "is plain from the context of the call," which showed that Wright was indicating "a clear intent to make sure that [D.W.] was not going to cooperate in this case," and from the timing of the call in relation to D.W.'s unexpected appearance in court. The district court found that D.W.'s claimed memory loss was "utterly incredible" and "amongst the most unbelievable testimony [it had] ever seen." And the court observed that two people in the courtroom and Wright burst into laughter and nodded along when D.W. was asked whether he had received any gifts in exchange for his testimony.

Wright argues that the state failed to prove by a preponderance of the evidence that Wright wrongfully and intentionally caused D.W.'s unavailability. Having carefully reviewed the record, we conclude that the district court's findings that Wright engaged in wrongful and intentional conduct are not clearly erroneous and, therefore, the admission of D.W.'s out-of-court statements was not an abuse of discretion.

The district court made detailed factual findings regarding the content of Wright's jail call, the speakers' discussion about the trial and surprise that D.W. had appeared in court, the references to payments and gifts, the timing of the call in relation to D.W.'s court appearance, Wright's direction to his associates to "tap in," and the speakers' apparent simultaneous call to D.W. to remind him to go out of town. The district court supported

these factual findings about the jail call with its observation that D.W.’s asserted lack of memory was “utterly incredible” and that Wright and his supporters who were present in the courtroom laughed and nodded when the state asked D.W. if he had received gifts. “The [district] court is in a far better position than we are to evaluate the various factors bearing on the credibility of the witnesses, such as their demeanor, disposition, and character.” *Albertson v. Albertson*, 67 N.W.2d 463, 466 (Minn. 1954); *see also Bobo v. State*, 820 N.W.2d 511, 517 n.4 (Minn. 2012) (applying *Albertson*’s observation in a criminal case). The evidence of intentional wrongdoing may be, as Wright argues, primarily circumstantial. But a district court is not limited to direct evidence when considering the elements of forfeiture-by-wrongdoing. *Shaka*, 927 N.W.2d at 769.

We see no clear error in the district court’s findings or abuse of discretion in its determination that a preponderance of the evidence established that Wright and his associates attempted to wrongfully and intentionally prevent D.W. from testifying by providing him with gifts and cash. *Bellazan*, 18 N.W.3d at 395-396 (concluding that the district court’s findings of fact regarding defendant’s calls to the victim from jail established that defendant engaged in wrongful conduct). Therefore, the district court did not abuse its discretion by admitting D.W.’s out-of-court statements under the forfeiture-by-wrongdoing exception to the rule against hearsay.

III. The district court did not abuse its discretion in excluding evidence of D.W.’s prior psychiatric assessment.

Wright’s final claim challenges the district court’s exclusion of evidence regarding D.W.’s prior psychiatric assessment. “Evidentiary rulings rest within the sound discretion

of the district court,” and appellate courts “will not reverse an evidentiary ruling absent a clear abuse of discretion.” *State v. Ali*, 855 N.W.2d 235, 249 (Minn. 2014).

In an attempt to attack D.W.’s credibility, Wright sought to call a psychologist who would testify about the contents of a written psychiatric assessment of D.W. conducted in 2012 by the Minnesota Department of Corrections. The psychologist would also offer an opinion as to whether D.W.’s 2012 diagnosis for antisocial personality disorder involved the characteristic of deceitfulness. The state objected.

After reviewing the proffered evidence and considering the arguments of counsel, the district court denied Wright’s request. The district court noted that admission of the 2012 diagnosis raised hearsay concerns and that the psychologist’s opinion testimony had questionable foundational reliability. The district court ultimately excluded the evidence of D.W.’s prior psychiatric diagnosis on the ground that any probative value in the diagnosis as it related to D.W.’s character for truthfulness was outweighed by its prejudicial value. In its ruling, the district court questioned the relevance of the evidence given the lack of proof that the diagnosis related to D.W.’s truthfulness, found that the evidence would be a “grossly prejudicial” character attack, and determined that its admission risked becoming “a sideshow.”

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.

We discern no abuse of discretion in the district court’s decision to exclude evidence of D.W.’s psychiatric diagnosis. The district court determined that Wright had failed to sufficiently connect D.W.’s ten-year-old diagnosis with a present character trait of deceitfulness. Without such a connection, the evidence had minimal probative value on the issue of D.W.’s credibility. Any probative value would have been outweighed by the unfairly prejudicial nature of the evidence and the other 403 considerations identified by the district court. As the district court found, a past mental-health diagnosis might be viewed as improper character evidence and risked creating a “sideshow” for the jury. Therefore, the district court did not abuse its discretion when it denied Wright’s request to admit evidence of D.W.’s past psychiatric diagnosis.⁶

Affirmed.

⁶ Wright contends that the evidence was admissible under Minn. R. Evid. 806. Rule 806 provides that, when a hearsay statement has been admitted into evidence, the credibility of the declarant may be attacked with any evidence that would be admissible for those purposes had the declarant testified. Minn. R. Evid. 806. But even if it were admissible under rule 806, the evidence would still be subject to rule 403. *See State v. Patterson*, 329 N.W.2d 840, 841 (Minn. 1983). Because we conclude that the district court did not abuse its discretion when it excluded D.W.’s psychiatric diagnosis under rule 403, we do not separately consider whether the evidence would have been admissible under rule 806.