

*This opinion is nonprecedential except as provided by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
A24-0985**

State of Minnesota,
Respondent,

vs.

James William Schnitter,
Appellant.

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

Hennepin County District Court
File No. 27-CR-21-5206

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

Mary F. Moriarty, Hennepin County Attorney, Robert I. Yount, Assistant County Attorney,
Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Steven P. Russett, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

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

NONPRECEDENTIAL OPINION

SLIETER, Judge

In this direct appeal from a judgment of conviction of first- and second-degree criminal sexual conduct, appellant argues that the district court (1) abused its discretion by restricting his *voir dire* of potential jurors, (2) abused its discretion by preventing him from presenting extrinsic evidence that the victim's mother previously coached another child to

fabricate an allegation of sexual abuse, and (3) erroneously entered a judgment of conviction for a lesser-included offense. Because the district court acted within its discretion by limiting appellant's *voir dire* and by excluding the extrinsic evidence, and properly imposed a conviction on the second-degree offense, we affirm.

FACTS

The following facts derive from appellant James William Schnitter's jury trial. In 2015, Schnitter began a romantic relationship with S.H., the mother to daughters M.H. (born 2007) and R.H. Later that year, Schnitter, S.H. (mother), M.H., and R.H. moved from New York to Michigan.

In approximately 2018, Schnitter began sexually abusing M.H. when she was 11 years old and living in Michigan. By April 2020, Schnitter, mother, M.H., and R.H., had moved to Minnesota. The sexual abuse continued in Minnesota. Acts of abuse included oral sex, Schnitter sliding his penis over M.H.'s anal region, and Schnitter touching her breasts.

Mother became suspicious of a potential inappropriate relationship after she observed Schnitter taking photos of M.H. late at night and read text messages between them. Mother reported her suspicions to child protective services. In late November 2020, a law-enforcement investigator and child-protection investigator spoke with M.H., but she denied that sexual abuse occurred. M.H. eventually disclosed the abuse to her aunt and made a similar disclosure in a forensic interview conducted in January 2021.

Respondent State of Minnesota charged Schnitter by amended complaint with one count of first-degree criminal sexual conduct—penetration—victim age 13-15—position

of authority in violation of Minn. Stat. § 609.342, subd. 1(b) (2020); and one count of second-degree criminal sexual conduct—significant relationship—multiple acts in violation of Minn. Stat. § 609.343, subd. 1(h)(iii) (2020).

Prior to trial, the state moved to exclude evidence that Schnitter sought to admit through witness testimony that mother previously coached one of her other children—an older half-sibling of M.H. and R.H.—to fabricate sexual-assault allegations against that child’s father in the context of a custody dispute in New York. The district court granted the state’s motion to exclude Schnitter’s proffered extrinsic evidence but allowed Schnitter to cross-examine mother about this issue.

During jury selection, counsel for Schnitter asked prospective jurors several questions about their attitudes regarding the truthfulness of children and whether the jurors would be more inclined to weigh a child’s testimony differently from that of an adult. Counsel asked one prospective juror whether that juror would “have difficulty weighing the testimony of a child the same as an adult,” to which the prospective juror responded, “it really all depends on what they’re a witness to.” When counsel next asked that same juror whether “knowing what the charges are in this case -- do you have concerns for yourself about weighing the credibility of a child compared to an adult,” the district court intervened before the prospective juror answered and asked counsel to approach the bench for a discussion outside the hearing of the prospective jurors. Outside the presence of the jurors, the district court later explained that the question was inappropriate and therefore prevented it from being asked because it required the jurors to disclose in advance how they would address issues that they would be deciding in the case.

The jury found Schnitter guilty on both counts. The district court entered convictions on both counts but imposed one sentence—160 months in prison—on the first-degree criminal-sexual-conduct count.

Schnitter appeals.

DECISION

I. The district court acted within its discretion by restricting Schnitter’s questioning of prospective jurors during *voir dire*.

Schnitter argues that the district court abused its discretion by preventing him from questioning prospective jurors about whether they “would be inclined to believe” or would “always believe” a child alleging sexual abuse. Schnitter asserts that this restriction prevented him from discovering bases for challenging a juror for cause or making an informed exercise of peremptory challenges.

Appellate courts review district court decisions related to the conduct of *voir dire* for an abuse of discretion. *State v. Greer*, 635 N.W.2d 82, 87 (Minn. 2001). The state and federal constitutions guarantee criminal defendants the right to an impartial jury, which includes the right to “conduct an adequate voir dire to identify unqualified jurors.” *State v. Ritter*, 719 N.W.2d 216, 219-20 (Minn. App. 2006) (quotations omitted). *Voir dire* allows parties “to discover grounds for challenges for cause and to assist in the exercise of peremptory challenges.” Minn. R. Crim. P. 26.02, subd. 4(1).

District courts have significant discretion in defining the scope of *voir dire*. *State v. Gillespie*, 710 N.W.2d 289, 295 (Minn. App. 2006), *rev. denied* (Minn. May 16, 2006). District courts have the responsibility to “restrict or prohibit questions . . . that are

repetitious, irrelevant, or otherwise improper.” *Greer*, 635 N.W.2d at 87. However, “it is an abuse of discretion for [a] [district] court to frustrate the purposes of voir dire by preventing discovery of bases for challenge or inhibiting a defendant’s ability to make an informed exercise of peremptory challenges.” *Id.*

During *voir dire*, a party may not ask questions that attempt to align a juror with one side of the proceedings. See *State v. Backus*, 358 N.W.2d 93, 96 (Minn. App. 1984) (explaining that the district court properly excluded a “question as improperly requiring [a] juror to identify with one side”). Asking jurors whether “if [they] were the defendant, would [they] want [themselves] on the jury” constitutes such a question. *Id.* at 95. And a party may not ask jurors to “disclose in advance of the evidence how they will decide the case.” *State v. Bauer*, 249 N.W.2d 40, 41 (Minn. 1933). In contrast, we held in *Ritter* that the district court improperly frustrated the purpose of *voir dire* by preventing the defense from asking jurors whether they “‘would give more credence or more belief’ to the testimony of a law enforcement officer simply because he or she was an officer.” 719 N.W.2d at 220. Given that the state’s case rested solely on law-enforcement testimony, it was not unreasonable to inquire into a prospective juror’s bias toward law enforcement because it could impact that juror’s ability to be impartial. *Id.*

The district court explained that the desired question was inappropriate because it “related to the charges in this particular case.” The district court indicated that it was proper to ask a question about whether a juror would tend to believe the testimony of a child more than any other person just because it is a child testifying, but the question became improper when it referenced a “child coming forward about *sexual abuse*.”

We conclude that the district court acted within its discretion by preventing this question. The challenged question implicates *Bauer's* prohibition against requiring prospective jurors “to disclose in advance of the evidence how they will decide the case.” 249 N.W.2d at 41. The primary evidence of unlawful sexual contact stems from M.H.’s testimony or the testimony of others regarding M.H.’s accusations. Although Schnitter did not seek to directly ask prospective jurors how they would decide the case, by asking whether they would be inclined to believe a child alleging sexual assault, Schnitter’s question implicates the prohibition we set forth in *Bauer* given the centrality of M.H.’s testimony to the case.

Schnitter relies heavily on *Ritter* in arguing that, just as it was improper to restrict a party from inquiring whether a juror would have a pro-law-enforcement bias, it is similarly improper to restrict a party from asking whether, in a case involving allegations of sexual assault of a child, a juror would be more inclined to believe the child. *See* 719 N.W.2d at 220-21. However, *Ritter* is distinguishable because the challenged questions only address the credibility of law-enforcement testimony in relation to testimony of others; there is no reference to credibility of law enforcement in reference to specific charges. Here, as the district court noted, the challenged question specifically connected the credibility of children in reference to the specific charges in the case.

Schnitter further points to Minn. R. Crim. P. 26.02, subd. 5(1), which frames juror impartiality “in reference to the case,” suggesting that he should have been allowed to ask about credibility in relation to the specific charges. It is true that the district court did not allow questioning about child credibility with specific reference to sexual-assault

allegations. The district court, however, informed prospective jurors that the case involved allegations of sexual assault of a child and allowed Schnitter to ask several questions regarding how the prospective jurors would weigh the credibility of a child. Because the district court's decision is not inconsistent with controlling standards and it allowed Schnitter broad leeway to question prospective jurors about the credibility of child witnesses, it acted within its discretion by restricting the scope of Schnitter's *voir dire*.

II. The district court acted within its discretion by declining to allow Schnitter to present extrinsic evidence that mother coached another child to fabricate an accusation of sexual abuse against that child's father.

Schnitter argues that the district court abused its discretion by preventing him from introducing witness testimony showing that mother coached a different child to falsely accuse that child's father of sexual assault. Schnitter asserts that such testimony was admissible as evidence of mother's motive and intent for contacting child protective services.

Under the state and federal constitutions, criminal defendants have the right to present a complete defense. *State v. Wilson*, 900 N.W.2d 373, 384 (Minn. 2017) (citing *California v. Trombetta*, 467 U.S. 479, 485 (1984)). This right allows criminal defendants to present witness testimony. *Loving v. State*, 891 N.W.2d 638, 646 (Minn. 2017). However, criminal defendants are still bound by evidentiary rules, *Wilson*, 900 N.W.2d at 384, provided that such rules do not "infringe[] upon a weighty interest of the accused and [are not] arbitrary or disproportionate to the purposes [the rules are] designed to serve," *Loving*, 891 N.W.2d at 646 (quotations omitted).

Appellate courts review a district court's evidentiary rulings for an abuse of discretion, even when a defendant alleges that an evidentiary ruling impacts the ability to present a complete defense. *Wilson*, 900 N.W.2d at 384. "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 on record." *Andersen v. State*, 940 N.W.2d 172, 177 (Minn. 2020) (quotation omitted). In the criminal context, erroneous exclusion of defense evidence requires reversal unless the error "was harmless beyond a reasonable doubt." *State v. Wenthe*, 865 N.W.2d 293, 306 (Minn. 2015).

Unless provided otherwise, relevant evidence is admissible. Minn. R. Evid. 402. Relevant evidence is evidence that makes a fact of consequence more or less probable than without the evidence. Minn R. Evid. 401. However, a district court may exclude relevant evidence 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.

Although Schnitter argues that the evidence would be admissible under rule 404(b) to show mother's motive and intent, we begin our analysis with rule 403 because, even if the evidence was relevant under rule 404(b), rule 403 gives the district court discretion to exclude relevant evidence in certain situations. *See State v. Washington*, 693 N.W.2d 195, 203 (Minn. 2005) ("Even relevant and material *Spriegl* evidence is not admissible if its probative value is substantially outweighed by the danger of unfair prejudice.").

The district court excluded the proffered evidence pursuant to rule 403, explaining that, when considering the limited probative value of evidence of “a very separate incident in a different state involving different people,” “it would be a high risk of unfair prejudice to the state and that it would confuse the issues to the jury.”

We conclude that rule 403 supports the district court’s decision to exclude Schnitter’s desired evidence. As the district court noted, Schnitter’s proffered evidence is minimally probative because it involves alleged accusations against a different individual in a different state and which purportedly occurred in the context of a custody dispute. Here, Schnitter has no legal parental rights to M.H. and the proffered evidence does not involve accusations of abuse against Schnitter. The district court reasonably determined that the evidence created a risk of confusing the jury by having them consider evidence from a family-law dispute not germane to this criminal case. Given a district court’s wide latitude in excluding evidence under rule 403, we conclude that it acted within its discretion by excluding Schnitter’s proffered evidence because of its minimal probative value when weighed against the risk of unfair prejudice.

III. The district court properly convicted Schnitter of second-degree criminal sexual conduct.

Schnitter last argues that the district court erroneously entered a conviction on second-degree criminal sexual conduct as a lesser-included offense of first-degree criminal sexual conduct.

Pursuant to Minnesota Statutes section 609.04, subdivision 1 (2020), a criminal defendant “may be convicted of either the crime charged or an included offense, but not

both.” We review *de novo* whether a conviction violates section 609.04. *State v. Bonkowske*, 957 N.W.2d 437, 443 (Minn. App. 2021). Appellate courts have interpreted section 609.04 as prohibiting district courts from entering multiple convictions for a single act. *See, e.g., State v. LaTourelle*, 343 N.W.2d 277, 284 (Minn. 1984) (explaining that section 609.04 prohibits “multiple convictions under different sections of the statute for a single criminal act”); *State v. Spears*, 560 N.W.2d 723, 726 (Minn. App. 1997) (“[Section 609.04] bars a court from entering two convictions for one act simply because a defendant’s single act violated multiple provisions of a statute.”), *rev. denied* (Minn. May 28, 1997).¹

Our caselaw is instructive in evaluating whether Schnitter’s conduct constituted multiple “acts” for which section 609.04, subdivision 1, would not bar conviction on both the first- and second-degree offenses. In *State v. Papadakis*, we determined that possessing two different items in separate places—cocaine in a garage and steroids in a bedroom—constituted separate acts. 643 N.W.2d 349, 353, 357-58 (Minn. App. 2002).

Here, M.H. testified to experiencing repeated acts of sexual abuse that occurred over a long period of time. More specifically, M.H. testified that at least one act of sexual penetration occurred in Minnesota. M.H. additionally testified to multiple separate acts of sexual contact that occurred in Minnesota, including several occasions in which Schnitter slid his penis over her anal region or touched her breasts. Consistent with our holding in

¹ In contrast to section 609.04, which addresses multiple convictions, Minnesota Statutes section 609.035 (2020) prevents multiple *sentences* for offenses arising out of a single behavioral incident. *See also Munt v. State*, 920 N.W.2d 410, 416 (Minn. 2018) (explaining that “conduct” under section 609.035 refers to a “single behavioral incident”). The district court’s decision not to sentence Schnitter on the second-degree offense is not at issue in this appeal.

Papadakis, we conclude that Schnitter's acts of sexual penetration and sexual conduct constituted separate acts pursuant to section 609.04, meaning that the district court therefore did not err by entering convictions on both first- and second-degree criminal sexual conduct.

Affirmed.