

*This opinion is nonprecedential except as provided by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
A24-1175**

State of Minnesota,
Respondent,

vs.

James Rodney Schertner,
Appellant.

**Filed July 28, 2025
Affirmed
Larkin, Judge**

Hennepin County District Court
File No. 27-CR-23-11447

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

Mary F. Moriarty, Hennepin County Attorney, Nicole Cornale, Assistant County Attorney,
Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Charles F. Clippert, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

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

NONPRECEDENTIAL OPINION

LARKIN, Judge

Appellant challenges his conviction of first-degree criminal sexual conduct, arguing that the district court abused its discretion by permitting a forensic interviewer to testify as an expert at his trial. We affirm.

FACTS

On June 2, 2023, respondent State of Minnesota charged appellant James Rodney Schertner with two counts of first-degree criminal sexual conduct; the victim was his minor granddaughter, AS. The charges were tried to a jury. Prior to trial, the state moved the district court to allow expert testimony from a forensic interviewer from CornerHouse who twice interviewed AS regarding the sexual abuse.¹

Schertner objected to the interviewer testifying as an expert witness regarding common grooming behaviors, the circumstances surrounding delayed and incremental disclosures, and common characteristics of child sex-abuse victims. Schertner also argued that the interviewer's testimony would not contribute anything "that the jury will not already be able to glean themselves as it relates to whether or not [AS is] testifying or speaking credibly."

The district court ruled that the interviewer could testify as an expert, reasoning:

Well, obviously, we shouldn't have testimony that tells the jury who to believe and who not to believe, right? I think [the interviewer] can testify as an expert forensic interviewer. I think you all agree on that. She has been through the training. She has the qualifications, and she's employed as such at Cornerhouse. I think it is fair game for any opinion that she gives or any procedure that she's talking about for you, [defense counsel], to ask her about her personal experience and training in that particular area, whether it be delayed report or whatever.

¹ "CornerHouse is a private independent agency that interviews victims of alleged child abuse who are referred from child protection and law enforcement." *State v. Goldenstein*, 505 N.W.2d 332, 337 (Minn. App. 1993), *rev. denied* (Minn. Oct. 19, 1993).

At trial, the state presented evidence that on December 31, 2022, AS reported to her brother that Schertner had abused her. In January 2023, AS's brother reported the abuse to their parents, who then asked AS about the abuse. AS disclosed the abuse directly to her mother, who later explained what had happened to AS's father. AS's parents then reported the abuse to police, and in February 2023, AS participated in two forensic interviews at CornerHouse.

AS testified regarding the abuse. She also testified about her participation in the two CornerHouse interviews:

Q: Okay. Why did you go to CornerHouse more than once?

A: So, the first time, I told them basically everything that happened. But, after telling them what happened, more stuff came up that I didn't really remember because I was just—you know when your brain, like, just has a really bad memory? It just tries to push it to the back; so you don't really remember it. And that's kind of what happened.

Q: And so you went back to tell—to tell more about what you remember?

A: Yes.

Q: Do you know how you ended up there a second time?

A: I asked my mom if we could go because I was . . . starting to remember more stuff. And I wanted to actually, like, say more.

The CornerHouse interviewer testified about her credentials, about CornerHouse, and about the forensic-interview process. She explained the different ways in which children disclose abuse and factors that influence delayed reporting. She also explained the concepts of script and episodic memory and their impacts on the forensic-interview process.

During trial, Schertner objected to the interviewer's testimony about ways in which children disclose abuse, factors that affect delayed reporting, and script and episodic memory. He argued that the interviewer was "trying to testify as an expert as it relates to things like memory—how memory works" and that although the interviewer cited to studies in her testimony, she had "done no research" that he was aware of. He argued that he had "not received an expert summary of any kind that got into any of these details or any of these topics or any of the things that she's testifying to, any of these studies she's reviewed to form these opinions—things like that." The district court overruled Schertner's objection.

The jury found Schertner guilty of both counts of first-degree criminal sexual conduct. The district court entered judgment of conviction for one count and sentenced Schertner to 144 months' imprisonment.

Schertner appeals.

DECISION

Schertner contends that the district court abused its discretion by allowing the CornerHouse forensic interviewer to testify as an expert.

Minnesota Rule of Evidence 702 governs the admissibility of expert testimony. *State v. Obeta*, 796 N.W.2d 282, 288 (Minn. 2011). The rule states:

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise. The opinion must have foundational reliability. In addition, if the opinion or evidence involves novel scientific theory, the

proponent must establish that the underlying scientific evidence is generally accepted in the relevant scientific community.

Minn. R. Evid. 702.

“Under this rule, expert testimony is admissible if: (1) the witness is qualified as an expert; (2) the expert’s opinion has foundational reliability; (3) the expert testimony is helpful to the jury; and (4) if the testimony involves a novel scientific theory, it must satisfy the *Frye-Mack* standard.” *Obeta*, 796 N.W.2d at 289. “The basic consideration in admitting expert testimony under [r]ule 702 is the helpfulness test—that is, whether the testimony will assist the jury in resolving factual questions presented.” *State v. Grecinger*, 569 N.W.2d 189, 195 (Minn. 1997).

“The admission of expert testimony is within the broad discretion accorded [to] a [district] court, and rulings regarding materiality, foundation, remoteness, relevancy, or the cumulative nature of the evidence may be reversed only if the [district] court clearly abused its discretion.” *State v. Ritt*, 599 N.W.2d 802, 810 (Minn. 1999) (quotation and citation omitted). “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. Garland*, 942 N.W.2d 732, 742 (Minn. 2020) (quotation omitted). “A defendant claiming that the district court erred in admitting evidence must demonstrate that the admission was both erroneous and prejudicial.” *State v. Stewart*, 643 N.W.2d 281, 292 (Minn. 2002).

Expert Disclosure

Schertner argues that the state did not provide expert disclosures as required under Minn. R. Crim. P. 9.01, subd. 1(4)(c), which provides:

A person who will testify as an expert but who created no results or reports in connection with the case must provide to the prosecutor for disclosure to the defense a written summary of the subject matter of the expert's testimony, along with any findings, opinions, or conclusions the expert will give, the basis for them, and the expert's qualifications.

Such a summary “must be disclosed in time to afford counsel the opportunity to make beneficial use of it.” Minn. R. Crim. P. 9.03, subd. 2(a).

Although Schertner objected to the content of the interviewer's testimony during trial and complained that he had “not received an expert summary of any kind that got into any of these details or any of these topics or any of the things that she's testifying to, any of these studies she's reviewed to form these opinions—things like that,” he did not cite rule 9.03 as a basis for relief. Schertner raises the alleged rule violation as a basis for relief for the first time on appeal.

“A defendant may preserve a claim of evidentiary error by making a pretrial motion to exclude the challenged evidence or by objecting at trial when the evidence is introduced.” *State v. Vasquez*, 912 N.W.2d 642, 649 (Minn. 2018). Such an objection “preserves review only for the stated basis for the objection or a basis apparent from the context of the objection.” *Id.* Because Schertner did not cite the alleged rule violation as a basis for relief when he objected to the content of the forensic examiner's testimony at trial, the issue is forfeited. *See id.* at 650 (stating the defendant forfeited review of the district court's determination that he waived privilege as to certain evidence because the defendant did not make a timely claim of privilege).

“[W]e review forfeited issues for plain error.” *Id.* “In order to meet the plain error standard, a criminal defendant must show that (1) there was an error, (2) the error was plain, and (3) the error affected the defendant’s substantial rights.” *State v. Myhre*, 875 N.W.2d 799, 804 (Minn. 2016). Under the substantial-rights prong, Schertner “bears the burden of establishing that there is a reasonable likelihood that the absence of the error would have had a significant effect on the jury’s verdict.” *State v. Horst*, 880 N.W.2d 24, 38 (Minn. 2016) (quotation omitted).

Schertner makes no attempt to meet his burden under the plain-error standard. He does not cite or apply the plain-error standard, and he does not argue that the alleged lack of disclosure affected his counsel’s ability to defend him at trial. Thus, he is not entitled to relief under the plain-error standard.

Foundational Reliability

Schertner argues that the district court abused its discretion because the state did not establish foundation for the CornerHouse interviewer to provide expert testimony regarding anything other than CornerHouse interview protocols and because the record did not demonstrate that the interviewer’s testimony was foundationally reliable. When determining foundational reliability under rule 702, “the district court must analyze the proffered testimony in light of the purpose for which it is being offered” and “consider the underlying reliability, consistency, and accuracy of the subject about which the expert is testifying.” *Doe v. Archdiocese of St. Paul*, 817 N.W.2d 150, 167-68 (Minn. 2012).

In overruling Schertner’s trial objection to the content of the forensic interviewer’s testimony, the district court reasoned:

[S]he has indicated that she's been through the CornerHouse protocol training. She has many years dealing with children in a professional capacity. What I am hearing her explain is how she does her job and why she does her job the way she does.

I don't think she's testifying as an expert in memory like a Ph.D[.] would. I don't think she's testifying as an expert in—certainly, not in veracity; right? She's just explaining to us how she does her job and why she does her job the way she does it and how she alters her job, depending on what the person she's talking to tells her.

Schertner asserts that the interviewer improperly testified “about memory and how it related to delayed reports and memory script,” that the interviewer’s CV does not reflect any “trainings or classes related to children’s memory,” and that the interviewer referenced research and studies, but did not testify about the type of research and studies she had reviewed. But as the district court reasoned, the interviewer’s testimony was not like that of a “Ph.D[.]” expert in memory. Although she generally explained concepts regarding memory in the context of disclosures by child-sex-abuse victims, she testified regarding her training and background, and in ruling on the issue, the district court cited the interviewer’s CornerHouse protocol training and experience working with children in a professional capacity.

Schertner does not persuade us that the forensic interviewer’s testimony lacked foundational reliability.

Helpful to Trier of Fact

Schertner also argues that the district court abused its discretion because the interviewer’s testimony was not helpful to the trier of fact. Specifically, he claims that the

interviewer's testimony regarding delayed and incremental reporting was vague and imprecise, and did not add precision or depth.

“Expert opinion testimony is not helpful if the subject of the testimony is within the knowledge and experience of a lay jury and the testimony of the expert will not add precision or depth to the jury's ability to reach conclusions about that subject which is within their experience.” *State v. Vang*, 774 N.W.2d 566, 578-79 (Minn. 2009) (quotation omitted).

Minnesota courts have recognized the usefulness of expert opinion testimony regarding delayed and incremental reporting of sexual abuse. For example, in *State v. Myers*, the Minnesota Supreme Court held that the district court did not err in admitting expert testimony regarding characteristics of sexually abused children, including those observed in the seven-year-old victim in that case:

The nature . . . of the sexual abuse of children places lay jurors at a disadvantage. Incest is prohibited in all or almost all cultures, and the common experience of the jury may represent a less than adequate foundation for assessing the credibility of a young child who complains of sexual abuse. . . . Because of the child's confusion, shame, guilt, and fear, disclosure of the abuse is often long delayed. . . . By explaining the emotional antecedents of the victim's conduct and the peculiar impact of the crime on other members of the family, an expert can assist the jury in evaluating the credibility of the complainant.

359 N.W.2d 604, 610 (Minn. 1984).

The Minnesota Supreme Court has stated, “we do not intend to establish a categorical rule that expert testimony concerning all characteristics typically displayed by adolescent sexual assault victims is admissible,” but “in cases where a sexual assault victim

is an adolescent, expert testimony as to the reporting conduct of such victims . . . is admissible in the proper exercise of discretion” of a district court. *State v. Hall*, 406 N.W.2d 503, 505 (Minn. 1987); *see State v. Reyes*, 890 N.W.2d 406, 413 (Minn. App. 2017) (“Because the opinion testimony was limited to whether certain characteristics were common in cases dealing with the sexual abuse of adolescents, we conclude that the testimony was within *Hall*’s parameters and that the district court did not err in admitting it.”); *see also State v. Garden*, 404 N.W.2d 912, 915 (Minn. App. 1987) (citing *Myers* in reasoning that “admission of an expert’s opinion . . . obviously would assist a jury”), *rev. denied* (Minn. June 25, 1987).

Schertner does not persuade us that the forensic interviewer’s testimony was not helpful to the jury.

In conclusion, the district court did not abuse its discretion in allowing the CornerHouse interviewer to testify as an expert at trial.

Affirmed.