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

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A24-1214**

State of Minnesota,  
Respondent,

vs.

Steven Eric Doan-Hanson,  
Appellant.

**Filed July 14, 2025  
Affirmed in part, reversed in part, and remanded; motion denied  
Harris, Judge**

Isanti County District Court  
File No. 30-CR-22-430

Keith Ellison, Attorney General, Ed Stockmeyer, Assistant Attorney General, St. Paul, Minnesota; and

Jeffrey Edblad, Isanti County Attorney, Cambridge, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jessica Merz Godes, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Bjorkman, Presiding Judge; Bratvold, Judge; and Harris, Judge.

**NONPRECEDENTIAL OPINION**

**HARRIS, Judge**

Appellant challenges his first-degree criminal-sexual-conduct convictions and sentences, arguing (1) the evidence was insufficient to prove that he committed the alleged acts within the timeframes as charged in the criminal complaint; (2) the district court

abused its discretion by admitting hearsay statements; and (3) the district court abused its discretion when it imposed permissive consecutive sentences totaling 688 months because the sentence exaggerated the criminality of his conduct. We agree that the district court's sentencing decision was an abuse of discretion. But we conclude that the evidence was sufficient to support appellant's convictions and that the alleged evidentiary error did not affect appellant's substantial rights. Thus, we affirm in part, reverse in part, and remand for resentencing.

## FACTS

Respondent State of Minnesota charged appellant Steven Eric Doan-Hanson with four counts of first-degree criminal sexual conduct under Minnesota Statutes sections 609.342, subdivision 1a(e) (Supp. 2021)<sup>1</sup> and 609.342, subdivision 1(a) (2020). Doan-Hanson was found guilty on all counts.<sup>2</sup> According to the amended complaint, count 4 occurred on or about August 1, 2019, to September 14, 2021. Counts 1 through 3 occurred on or about September 15, 2021, to March 28, 2022.

The following relevant evidence was elicited at a three-day jury trial. The state introduced the witness testimony of victim L.R.; his mother, J.Z.; Doan-Hanson's husband, J.D.H.; a deputy; an investigator; and a forensic interviewer. Doan-Hanson waived his

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<sup>1</sup> A 2021 session law amended the statute by changing the age of the victim from 13 to 14 and renumbered the relevant subdivision of section 609.342 from 1(a) to 1a(e). *See* 2021 Minn. Laws ch. 11, art. 4, § 16, at 2038-40.

<sup>2</sup> Doan-Hanson was also charged and found guilty of four counts of second-degree criminal sexual conduct. Minn. Stat. § 609.343, subds. 1(a), 1a(e) (Supp. 2021). The district court did not adjudicate these counts because they were lesser-included offenses of counts 1 through 4.

right to testify and introduced the testimony of Dr. Robertson, who evaluated J.D.H. to determine whether he qualified for civil commitment.

***Testimony of L.R.***

At the time of trial in February 2024, L.R. was 14 years old. L.R. and his mother, J.Z., lived at Doan-Hanson's home on two separate occasions, each time for a "few years." L.R. could not remember how old he was or when he first moved in with Doan-Hanson and his husband J.D.H. When he was not living at Doan-Hanson's home, he visited Doan-Hanson "a lot," sometimes going by himself and other times with his mother. When he was not living with Doan-Hanson, L.R. would stay overnight "once or twice a week." L.R. liked visiting and hanging out with Doan-Hanson and saw him and J.D.H. "[k]ind of like family."

L.R. testified that while at Doan-Hanson's home, he would sleep in Doan Hanson's room on the couch or on the bed. When he slept on the bed, Doan-Hanson and J.D.H. would sometimes sleep in bed with him naked. L.R. testified that Doan-Hanson used his mouth and hands to touch L.R.'s penis. L.R. did not recall how many times this happened but testified that it happened "more than twice" and "several times." L.R. also testified that Doan-Hanson "put his fingers in [L.R.'s] butt." L.R. remembered that this happened "[m]ore than one time" but "[n]ot that often."

L.R. testified that J.D.H. also touched him inappropriately "[i]n the same way." He explained that Doan-Hanson touched him when J.D.H. was and was not present, and that J.D.H. touched him when Doan-Hanson was not present. L.R. additionally testified that Doan-Hanson and J.D.H. would look after him when J.Z. was unavailable. For example,

L.R. recalled that Doan-Hanson and J.D.H. watched him for ten days when one of his sisters was in the hospital. When asked what occurred during these ten days, L.R. answered “[k]ind of the same thing as before.” L.R. added that both Doan-Hanson and J.D.H. told him not to say anything about what occurred. L.R. testified that when his mother asked whether he had been touched inappropriately, he answered “no.” He explained that his mother “wouldn’t back down” and he eventually confirmed what happened.

The state also introduced the deputy who responded to J.Z.’s call reporting that L.R. had been abused by Doan-Hanson. The deputy testified that when he spoke with J.Z. on April 6, 2022, J.Z. indicated that “there was something that occurred recently in the past week or so, but she did not have an ultimate timeline of when it started.”

#### ***Testimony of J.D.H. and Hearsay Statements***

The state called J.D.H. as a witness. When asked about conversations he had with J.Z.—specifically admitting that he and Doan-Hanson had molested L.R.—J.D.H. could not remember the conversation because of psychological treatment he was receiving at the time. J.D.H. also could not remember speaking with the investigator or J.Z.

Because of J.D.H.’s inability to recall these conversations, the state moved to allow J.Z. and the investigator to testify about what J.D.H. told them in past conversations. The state argued that the proffered testimony by J.Z. and the investigator were admissible as statements against interest made by an unavailable declarant under Minnesota Rule of Evidence 804(b). Defense counsel objected, arguing that J.D.H.’s mental illness rendered his statements unreliable. Notably, defense counsel did not object to J.D.H. being an “unavailable” declarant. The district court admitted J.D.H.’s statements to J.Z. and the

investigator, and it limited the statements “to [J.D.H.’s] own involvement and sexual assault of [LR].” In supporting its ruling, the district court noted:

The first question -- the foundational question is whether the witness making the statement is unavailable. Um, in this case Rule 804(a)(3) is the definition there that answers that question. A witness is unavailable if they testify to a lack of memory of the subject matter of the declarant’s statement. So, as a foundation matter Mr. [J.D.H.’s] statements meet the first qualification of that exception.

The district court later clarified that J.D.H. was “unavailable” because “he’s testified today [and] he can’t remember any of the statements at all.”

### ***Testimony of J.Z. and Hearsay Statements***

The state called J.Z. who initially testified that she and her children lived with L.R.’s father “on and off” since 2009.<sup>3</sup> J.Z. testified that she and her children also lived with Doan-Hanson on two occasions for “six months” each time. She could not remember L.R.’s age the first time they lived with Doan-Hanson, but she stated that “[h]e was younger.” When asked whether it was “one year or a few years” between the two occasions, J.Z. answered, “a few years.”

In early April 2022, J.Z. learned that L.R. had been sexually abused. When she asked L.R. about it, he “kept telling [her] no.” J.Z. asked him again the next day and received the same response. Then, on April 6, L.R. “admitted [the sexual touching] happened,” and J.Z. made a report to law enforcement.

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<sup>3</sup> J.Z. testified at the beginning of the trial and then was later recalled to provide additional testimony at the end of the state’s case-in-chief.

On the third day of trial, the state recalled J.Z. to testify about her conversations with J.D.H. in April 2022 (L.R. would have been approximately 12 years old at the time). J.Z. testified that J.D.H. called her and confessed that he sexually abused L.R. She explained that J.D.H.'s demeanor during the call was "just like talking to a friend. Just nonchalant." According to J.Z., "[J.D.H.] was just trying to get everything off of his chest so that he could start fresh and not be with [Doan-Hanson] anymore."

After the phone call, J.Z. asked L.R. if it was true that he had been sexually abused; L.R. said "no mom" and that he "[did not] want to talk about it." When she asked the next day, L.R. again said "no." Three days after the first phone call, J.Z. spoke with J.D.H. on the phone again and put him on speakerphone to speak with L.R. According to J.Z., J.D.H. told L.R. "it's okay, [L.R.], you can tell the truth. I told you[r] mom everything." Afterwards, L.R. admitted that "he had been touched."

J.Z. testified that from her conversations with J.D.H., L.R. would have been "[e]ight [or] nine" years old when the abuse first started.

### ***Testimony of the Investigator***

The investigator testified that he spoke with J.D.H. over the phone on two occasions. During the first conversation on April 15, 2022, "[J.D.H.] talked about using his hands and his mouth on [L.R.'s] penis." The investigator added that J.D.H. "said that it happened numerous times." J.D.H. also admitted to the investigator that he inserted his finger into L.R.'s anus.

The investigator spoke with J.D.H. again on April 27, 2022. The investigator testified that "[J.D.H.] said that [J.D.H. and Doan-Hanson] both knew that[] [L.R.] was

twelve-years-old at the time when th[ese] allegations were going on.” When asked how long the abuse had been going on based on his conversation with J.D.H., the investigator stated, “[s]ince the fall before, so 2021 into the point where they moved out.” The investigator also testified that J.D.H. told him that there was sexual touching at “[L.R.’s] house and also at the Doan-Hanson residence in the basement.”

The state introduced the investigator’s interview with Doan-Hanson at his residence. During this interview, Doan-Hanson did not admit to engaging in any sexual contact with L.R.

### ***Testimony of Forensic Interviewer***

The state also introduced a forensic interviewer, who interviewed L.R. on two occasions in April 2022. According to the forensic interviewer, L.R. reported that the abuse “happened multiple times and started when he was younger” but that “he wasn’t sure what younger was.” In the second interview L.R. indicated that he and his family lived with Doan-Hanson “two times.” “[T]he first time was two to three . . . or four to five years prior” and “the second was more recent.” To get a better idea of timeframes, the interviewer “asked if it had happened the first time that he had lived there. And [L.R.] indicated that it had, and the second time.” The interviewer also testified that L.R. had “indicated that it was before COVID had started” and, when asked how old he was at the time, L.R. said “twelve.”

According to the interviewer, L.R. said that “he had been touched by two guys and described, . . . [J.D.H.] and [Doan-Hanson].” L.R. also said that “he had been touched in a private area . . . and the behind . . . with fingers, and he also mentioned mouth by both of

them.” L.R. also indicated that “he had been asked to touch [J.D.H. and Doan-Hanson] as well in their private area . . . with his mouth and his hand.”

L.R. also mentioned that the abuse happened at Doan-Hanson’s house and at a trailer that had been converted into a camper. L.R. described two specific places within Doan-Hanson’s home: “one was on the bed” and the other was in an “entertainment area.” When asked whether anyone else was in the house during these times, the interviewer testified that L.R. “indicated that no one else was downstairs, but he did indicate that . . . his mother and . . . [Doan-Hanson’s] mom and dad who were owners of the house . . . were upstairs. And maybe his sister, too, at some point.”

### ***Defense’s Case-in-Chief***

After the state rested its case, Doan-Hanson, through defense counsel, moved for a directed verdict on all counts. Doan-Hanson explained that counts 1 through 3 alleged a timeframe of September 15, 2021, to March 28, 2022; and count 4 alleged a timeframe of August 1, 2019, to September 14, 2021. He argued that there was never “any solid time given for any of these acts as far as whether or not they fell into these date ranges or not.” Doan-Hanson added, “nobody seems to have any real memory or could give any concrete answers to when and where any of these acts might have happened.” The state argued that there was testimony that the abuse “happened during the first period of time that the victim was living in [Doan-Hanson’s] home, and it happened the last time when [L.R.] was living in the defendant’s home the second time.” The state added that there was reference to L.R. being between the ages of nine and twelve, which fits the date ranges listed in the complaint.

The district court denied the directed verdict, finding that there was enough “facts for the jury to decide whether or not [the allegations] occurred.”

Doan-Hanson waived his right to testify at trial. His only witness was Dr. Michael Robertson, a licensed psychologist, who evaluated J.D.H. in April 2022 to determine if he qualified for civil commitment. Dr. Robertson testified generally about his evaluation of J.D.H. and concluded that he met the criteria for civil commitment, but believed there “might be less restrictive alternatives.”

The jury found Doan-Hanson guilty on all counts. Prior to sentencing, Doan-Hanson moved for a downward dispositional departure, arguing that he was amenable to probation because he has the support of family and friends. At sentencing, the state asked the district court to impose permissive consecutive sentences for each count, resulting in a total of 688 months. The district court denied Doan-Hanson’s departure motion.

The district court convicted Doan-Hanson of all four charges and imposed consecutive sentences of 172 months each, totaling 688 months in prison. It explained that it imposed consecutive sentences because the four individual counts were “separate incidents against a child,” and “[t]he child will have it as part of his experience for the rest of his life.”

Doan-Hanson appeals.

## **DECISION**

### **I. The state presented sufficient evidence to sustain Doan-Hanson’s conviction.**

Doan-Hanson argues that the state failed to prove one element beyond a reasonable doubt—that he penetrated L.R. on “three separate incidences” between September 15,

2021, to March 28, 2022 (counts 1 through 3), or that a single incident occurred between August 1, 2019, to September 14, 2021 (count 4). For the reasons set forth below, we are not persuaded.

Because the state presented direct evidence as to these elements, both parties agree that the direct-evidence standard of review applies to one element of each of the charges that Doan-Hanson challenges. Under the direct-evidence standard, we examine “the evidence in the light most favorable to the verdict and consider whether the evidence was sufficient to permit the jurors to reach the verdict they did.” *State v. Moore*, 10 N.W.3d 676, 682 (Minn. 2024). We affirm if “the jury, acting with proper regard for the presumption of innocence and regard for the requirement of proof beyond a reasonable doubt, could reasonably conclude that the defendant was guilty of the charged offense.” *State v. Alarcon*, 932 N.W.2d 641, 648 (Minn. 2019) (quotation omitted).

First, there is sufficient evidence in the record that Doan-Hanson engaged in sexual penetration on at least three separate instances. Sexual penetration is “any intrusion however slight into the genital or anal openings . . . of the complainant’s body by any part of the actor’s body.” Minn. Stat. § 609.341, subd. 12(2)(i) (2020). L.R.’s testimony indicates that Doan-Hanson committed an act of sexual penetration “more than one time” when he “put his fingers in [L.R.’s] butt.” L.R. also testified that Doan-Hanson used his “mouth and his hands” to touch his penis and confirmed that it happened “more than twice” and “several times.” Additionally, L.R. testified that Doan-Hanson touched his penis or his butt when J.D.H. *was* and *was not* present. These incidents concerned Doan-Hanson, not J.D.H., and occurred “more than twice” and “several times” while at *Doan-Hanson’s*

residence. Although L.R. did not testify that Doan-Hanson touched him inappropriately exactly on three separate incidences, his testimony is sufficient to conclude that it happened more than twice and several times.

To be sure, L.R. also testified that Doan-Hanson and J.D.H. touched him inappropriately while they watched over him at *L.R.'s home* when his mom was at the hospital with his sister for ten days. When L.R. was asked about the abuse that occurred while at his home, he testified “[k]ind of the same thing as before,” referencing the use of “mouth and hands” to touch his penis and putting fingers in his anus. This is a separate incident. While L.R. did not testify about specific dates or timeframes, his testimony is sufficient to conclude that the abuse that occurred while at his (L.R.’s) home was a separate incident.

Second, there was sufficient evidence to support that counts 1 through 3 occurred within the offense-date range—September 15, 2021, to March 28, 2022. The investigator testified that during his phone call with J.D.H. on April 27, 2022, J.D.H. said that he and Doan-Hanson “both knew that[] [L.R.] was twelve-years-old at the time when th[ese] allegations were going on.” Based on L.R.’s date of birth, he would have been 12 years old during the timeframe alleged in counts 1 through 3. The investigator also testified that J.D.H. indicated that the abuse had been going on “[s]ince the fall before, so 2021 into the point where they moved out.” J.Z. and L.R. moved out sometime before April 6, 2022.<sup>4</sup>

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<sup>4</sup> When J.Z. was asked whether J.D.H. reported the abuse in person or over the phone on April 6, 2022, J.Z. testified that J.D.H. “said it in person a couple times . . . right before we had moved out.” From this testimony, we can discern that J.Z. and L.R. moved out sometime before April 6, 2022.

On this record, there was sufficient evidence for the jury to conclude that Doan-Hanson committed the charged offenses between September 15, 2021, to March 28, 2022.

As to count 4, there is sufficient evidence that Doan-Hanson engaged in sexual penetration between August 1, 2019, to September 14, 2021. J.Z. testified at trial that from her conversations with J.D.H. on April 6, 2022, L.R. would have been eight or nine years old when the abuse first started. And based on L.R.'s date of birth, he would have been nine years old during the timeframe alleged in count 4.

Moreover, the forensic interviewer testified that based on her conversation with L.R., which took place in April 2022, L.R. indicated that the abuse first started “two to three . . . or four to five years prior.” Given that the interview took place in April 2022, two to three years prior would mean that the abuse first started around 2019 or 2020, which falls within the timeframe alleged in count 4 (August 2019 to September 2021). Four to five years prior, however, would mean that the abuse first started in 2017 or 2018, before the timeframe alleged in count 4. The interviewer also testified that L.R. reported that “the second [time he lived with Doan-Hanson] was more recent.” L.R. testified, however, that the abuse did not happen the first time he lived at Doan-Hanson's house. Overall, this testimony is not clear because, evidently, “two to three years” and “four to five years” makes a difference for purposes of the timeframes charged.

However, “our review is limited to ascertaining whether under the evidence contained in the record the jury could reasonably find the accused guilty of the offense charged.” *State v. Franks*, 765 N.W.2d 68, 73 (Minn. 2009) (quotation omitted). And viewing the record evidence in the light most favorable to the guilty verdict and assuming

“that the jury disbelieved any testimony in conflict with the result reached,” *State v. Bolstad*, 686 N.W.2d 531, 539 (Minn. 2004) (quotation omitted), there is sufficient evidence for a jury to reasonably conclude that Doan-Hanson was guilty of the charged offenses during the charged offense-date range.

**II. Any error in admitting J.D.H.’s hearsay statement did not affect Doan-Hanson’s substantial rights.**

Doan-Hanson asks us to reverse and remand for a new trial, arguing that the district court abused its discretion by admitting J.D.H.’s hearsay statements under the statement-against-interest exception to the hearsay rule because J.D.H. was not an unavailable witness. The state argues that we should apply the plain-error standard of review, rather than the abuse-of-discretion standard, because Doan-Hanson’s objection at trial is different from his argument on appeal. We agree.

We begin with the general hearsay rule. Hearsay statements are out-of-court statements that are “offered in evidence to prove the truth of the matter asserted.” Minn. R. Evid. 801(c). Hearsay statements are inadmissible at trial unless an exception applies. *State v. Usee*, 800 N.W.2d 192, 198 (Minn. App. 2011). One such exception is when the declarant makes a statement against interest under Minnesota Rule of Evidence 804(b)(3), which “allows the admission of a hearsay statement by an unavailable declarant if the statement would so expose the declarant to criminal liability that a reasonable person would not have made it unless it were true.” *State v. Jackson*, 655 N.W.2d 828, 834 (Minn. App. 2003). This exception rests “on the ‘commonsense notion that reasonable people, even reasonable people who are not especially honest, tend not to make self-inculpatory

statements unless they believe them to be true.” *Usee*, 800 N.W.2d at 198. (quoting *Williamson v. United States*, 512 U.S. 594, 599 (1994)).

At trial, Doan-Hanson based his objection to the admission of the hearsay statements on the ground that J.D.H.’s statements were unreliable, not that he was “unavailable.” Because of the “complexity and subtlety of the operation of the hearsay rule and its exceptions . . . it [is] particularly important that a full discussion of admissibility be conducted at trial.” *State v. Manthey*, 711 N.W.2d 498, 504 (Minn. 2006). Here, there was no full discussion on the record. Because he objected on a different basis before the district court, we review the admission of that evidence for plain error. *See State v. Vazquez*, 912 N.W.2d 642, 649 (Minn. 2018) (“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.”). Under the plain-error test, the defendant must show “(1) error, (2) that was plain, and (3) that affected the defendant’s substantial rights.” *Manthey*, 711 N.W.2d at 504. If all three elements are met, we “may correct the error *only* when it seriously affects the fairness, integrity, or public reputation of judicial proceedings.” *Pulczynski v. State*, 972 N.W.2d 347, 356 (Minn. 2022).

Assuming without deciding that admission of the hearsay statements was plain error, we conclude that such error did not affect Doan-Hanson’s substantial rights. An error affects a defendant’s substantial rights when the defendant establishes 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). To determine whether the error affected the verdict, we consider non-exclusive factors

including, “the manner in which the evidence was presented, its persuasive value, its use in closing argument, and [the defendant’s] counter of the evidence.” *State v. Bigbear*, 10 N.W.3d 48, 56 (Minn. 2024). We also consider strong evidence of guilt because “[s]trong evidence of guilt undermines the persuasive value of wrongly admitted evidence.” *Id.* at 59 (quotation omitted).

Doan-Hanson argues that the erroneous admission of J.D.H.’s hearsay statements significantly affected the verdict because the statements were presented in a prominent manner, used in the state’s closing argument, highly persuasive, not effectively countered, and because the evidence of guilt was not strong.

#### ***Manner Presented and Persuasive Value***

Here, the hearsay statements were admitted through testimony of the investigator and J.Z. on two different days of a three-day trial. Notably, J.Z. had already testified and thus appears to have been recalled solely to testify about J.D.H.’s hearsay statements. The challenged statements were also highly persuasive. Indeed, the state noted at trial, outside the presence of the jury, that J.D.H.’s statements corroborated L.R.’s testimony and went “a long ways to proving the matter to the jury.” Moreover, J.D.H.’s hearsay statements were the strongest evidence corroborating L.R.’s testimony; the only witnesses to the abuse were L.R., J.D.H., and Doan-Hanson, and the only exhibit presented at trial was a body-worn camera interview of Doan-Hanson at his residence. And even in that video, Doan-Hanson maintained his innocence and claimed not to have remembered any abuse to L.R. Critically, J.D.H.’s hearsay statements support the distinct timeframes for counts 1 through

3 and count 4. In sum, the persuasiveness and the manner in which the statements were presented favors determining that Doan-Hanson's substantial rights were affected.

### ***Use in Closing Argument***

During closing argument, the state briefly referenced J.D.H.'s hearsay statements. He stated that "those experiences of [L.R.] . . . is largely corroborated by what you heard [J.D.H.] tell [L.R.'s] mother, and what [J.D.H.] told [the] [i]nvestigator." The state again referenced J.D.H.'s "statements coming in through [L.R.'s] mother and coming in through [the investigator] where he admits to touching [L.R.], and the circumstances surrounding that." However, this only consisted of 2 out of 14 pages of the prosecutor's closing and rebuttal argument. We conclude this factor indicated that the challenged testimony did not affect Doan-Hanson's substantial rights.

### ***Effectively Countered***

Doan-Hanson contends that he did not effectively counter the inadmissible evidence because he chose to challenge the "admissibility" of the hearsay statements rather than counter the evidence before the jury. However, defense counsel reminded the jury that Dr. Robertson, a licensed psychologist, recommended that J.D.H. be given medications and be civilly committed. Additionally, the record shows that Doan-Hanson, through defense counsel, cross-examined the investigator and asked questions attempting to undermine J.D.H.'s credibility and mental state at the time he made the hearsay statements. Defense counsel also cross-examined J.Z. the second time she was called to testify about her conversations with J.D.H. And during closing argument, Doan-Hanson's defense counsel continued to challenge his credibility, stating:

[J.D.H.] was hospitalized against his will for a psychotic episode. He was suffering from delusions. He was suffering from paranoia. You heard a lot of specifics about the sort of things that were going on with him. He kept trying to leave the hospital. He believed there was a conspiracy that the hospital had to keep him there against his will. He claimed to be God. He claimed to be Beyonc[é]. He claimed to be CEO of Disney. There was a murder that happened, and he was the one that was investigating it.

On this record, it appears Doan-Hanson effectively countered the hearsay evidence. This factor weighs in favor of concluding the error did not affect Doan-Hanson's substantial rights.

### ***Strong Evidence of Guilt***

The final factor to consider is the strength of the state's evidence. Although L.R. testified that Doan-Hanson touched him inappropriately "more than twice" and "several times," his testimony does not clearly distinguish counts 1 through 4 as occurring within their respective timeframes as charged by the amended complaint. On the other hand, J.Z. testified that based on her conversation with J.D.H., she believed that the abuse started when L.R. was eight or nine years old, which supports count 4. And the investigator testified that based on his conversation with J.D.H. in April 2022, he gathered that Doan-Hanson abused L.R. within the past year, from fall 2021 to when L.R. and J.Z. moved out in the spring of 2022. This testimony by the investigator supports counts 1 through 3 as occurring within the charged offense-date range.

Even without the challenged hearsay statements, the testimony from the forensic investigator also supported the offense-date range. The forensic interviewer testified that, in her April 2022 interview, L.R. reported that the abuse started two to three or four to five

years prior when his family first lived with Doan-Hanson. She added that the second time L.R. lived with Doan-Hanson “was more recent.” Further, there was testimony of the deputy, who explained that, when he spoke with J.Z., she indicated “there was something that occurred recently in the past week or so,” which the deputy used to establish the timeframe of the abuse to inform his investigation. Overall, the state’s evidence was strong.

In sum, we conclude that even if the error was plain, it did not affect Doan-Hanson’s substantial rights.

**III. The district court abused its discretion when it imposed permissive consecutive sentences totaling 688 months because the sentence exaggerates the criminality of Doan-Hanson’s conduct.<sup>5</sup>**

Doan-Hanson argues that the district court abused its discretion by imposing four consecutive sentences totaling 688 months because that sentence exaggerates the criminality of his conduct. He asks us to reverse his sentence and remand to the district court for resentencing.

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<sup>5</sup> In his reply brief, Doan-Hanson argues for the first time that Minnesota Statutes sections 609.035 and 609.04 prohibited the district court from adjudicating and sentencing each of counts 1, 2, and 3, and he seeks a remand to vacate two of those three convictions/sentences. The state moved to strike or disregard this portion of Doan-Hanson’s reply brief. The motion was referred to this panel to determine whether to strike portions of Doan-Hanson’s reply brief. In general, issues not raised or argued in appellant’s principal brief cannot be raised in a reply brief. *See State v. Yang*, 774 N.W.2d 539, 558 (Minn. 2009) (concluding that a matter raised for first time in reply brief is waived and should be stricken); *see also* Minn. R. Civ. P. 128.02, subd. 3. But we deny the states motions to strike as unnecessary because we did not rely on the challenged portions of the state’s brief to reach our decision. *See Drewitz v. Motorwerks, Inc.*, 728 N.W.2d 231, 233 n.2 (Minn. 2007) (denying motion to strike as moot after not considering challenged portions of brief).

Under the Minnesota Sentencing Guidelines, consecutive sentences are permissible where the defendant is being sentenced for multiple first-degree criminal sexual conduct convictions. Minn. Sent’g. Guidelines 2.F.2.a(1)(ii) (Supp. 2021). “We review a district court’s decision to impose consecutive sentences for an abuse of discretion.” *State v. McInnis*, 962 N.W. 2d 874, 892 (Minn. 2021). We will not disturb the district court’s imposition of permissive consecutive sentences “unless the resulting sentence unfairly exaggerates the criminality of the defendant’s conduct.” *Id.* (quotation omitted); *see* Minn. Stat. § 244.11, subd. 2(b) (2020) (stating that we may review sentences to “determine whether the sentence is inconsistent with statutory requirements, unreasonable, inappropriate, excessive, unjustifiably disparate, or not warranted by the findings of fact issued by the district court.”). In determining whether the district court abused its discretion, “we look to past sentences received by other offenders.” *McInnis*, 962 N.W.2d at 892 (quotation omitted). In so doing, we rest our determination “on our collective, collegial experience in reviewing a large number of criminal appeals from all the judicial districts.” *State v. Norton*, 328 N.W.2d 142, 146-47 (Minn. 1982). We also have the discretion to modify a sentence in the interests of fairness and uniformity. *State v. Vazquez*, 330 N.W.2d 110, 112 (Minn. 1983)

Here, the district court convicted Doan-Hanson of four counts of first-degree criminal sexual conduct and imposed four consecutive sentences at the top range of the Minnesota Sentencing Guidelines range of 172 months each, resulting in a total aggregate sentence of 688 months. The district court explained that counts 1 through 4 were “separate

incidents against a child,” and “[t]he child will have it as part of his experience for the rest of his life.”

Doan-Hanson argues, and the state does not contest, that J.D.H. received a 172-month sentence for the same conduct.<sup>6</sup> The only difference, Doan-Hanson argues, is that Doan-Hanson chose to exercise his constitutional right to a jury trial and J.D.H. pleaded guilty.<sup>7</sup> Although Doan-Hanson is not entitled to a reduced sentence merely because his co-defendant received a lesser sentence, *see State v. Olson*, 765 N.W.2d 662, 665 (Minn. App. 2009), we find his argument convincing, particularly in comparison to other similar offenders.

Doan-Hanson does not dispute that consecutive sentences are permissive under the sentencing guidelines. Instead, Doan-Hanson argues that his aggregate sentence of 688 months exaggerated the criminality of his conduct when compared to sentences received by other offenders. Based on our collective experience and review of the case law, we agree with Doan-Hanson that his sentence of 688 months for convictions of four counts of first-degree criminal sexual conduct involving multiple counts of sexual conduct against a child is excessive and exaggerates the criminality of his conduct.

One comparator can be found in *State v. Suhon*, 742 N.W.2d 16, 19-20 (Minn. App. 2007), where the defendant was convicted of two counts of first-degree criminal sexual conduct and one count of third-degree criminal sexual conduct for abusing his daughter

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<sup>6</sup> The details of J.D.H.’s convictions, plea agreement, and sentence are not included in this record. Minn. R. Civ. App. P. 110.01.

<sup>7</sup> The state argues that J.D.H. pleaded guilty to fewer counts and, therefore, is not similarly situated for sentencing purposes.

three times per week over a ten-year period (approximately 832 acts of sexual abuse). The defendant received permissive consecutive sentences totaling 278 months, sentences that we upheld and which we discerned no abuse of discretion by the district court. *Id.* at 25. In contrast, the record shows that the sexual abuse that Doan-Hanson inflicted here—while still reprehensible—occurred far less frequently over a much shorter timespan than the abuse in *Suhon*.

In *State v. Perleberg*, 736 N.W.2d 703, 704-05 (Minn. App. 2007), *rev. denied* (Minn. Oct. 16, 2007), the defendant was convicted of six counts of first-degree criminal sexual conduct. The district court imposed three consecutive sentences of 144 months, resulting in a total of 432 months, followed by five years of conditional release. *Id.* at 705. In its order, the district court explained that the consecutive sentences were justified because the “victim reported that the sexual assaults occurred on at least 250 occasions.” *Id.* Here, Doan-Hanson was convicted of four counts of first-degree criminal sexual conduct. Moreover, there were fewer instances of abuse here.

In *State v. Kellogg*, No. A03-16, 2004 WL 422703, at \*4 (Minn. App. March 9, 2004), *rev. denied* (Minn. May 18, 2004),<sup>8</sup> the defendant was convicted of three counts of first-degree criminal sexual conduct and three counts of second-degree criminal sexual conduct, ten counts of use of a minor in a sexual performance and one count of possession of child pornography. The district court determined that the defendant’s acts were 17 separate behavioral incidents involving multiple victims, and it imposed consecutive

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<sup>8</sup> The state relies on this nonprecedential case, which we cite only as persuasive authority. Minn. R. Civ. App. P. 136.01, subd. 1(c).

sentences for each count, for a total of 717 months. *Id.* On appeal, while acknowledging the great deference afforded to district courts for sentencing decisions, we modified the defendant's sentence to reflect an aggregate of 537 months. *Id.* at 5.

And in *State v. Senske*, 692 N.W.2d 743, 745 (Minn. App. 2005), the defendant pleaded guilty to two counts of first-degree criminal sexual conduct for acts inflicted on his stepdaughter and son. *Id.* The district court found several aggravating factors, including victim vulnerability, planning and manipulation, which included "blindfolding the children, posing them, and requiring them to have sex with each other," threats, abuse of a position of trust, and multiple incidents of abuse. *Id.* The district court imposed two consecutive sentences of 216 months, both upward durational departures, totaling 432 months. We concluded that the district court did not abuse its discretion when it imposed consecutive sentences of 216 months for each count. *Id.*

Comparing Doan-Hanson's sentence involving multiple counts of first-degree criminal sexual conduct to cases involving both findings of aggravating factors and upward durational departures further demonstrates that Doan-Hanson's aggregate sentence of 688 months exaggerated the criminality of his conduct. All of these examples demonstrate the disparity between Doan-Hanson's aggregate sentence and the sentences imposed in other first-degree criminal-sexual-conduct cases against children. They show a range of sentences between 218 months and 537 months. In each of these cases, the defendant was convicted of egregious sexual abuse of one or more children on numerous occasions, often over many years. However, in each case, the defendant ultimately received a sentence much shorter than Doan-Hanson's 688-month aggregate sentence. Notably, in the cases

that involved aggravating factors and upward departures, those defendants still received a significantly lesser sentence than Doan-Hanson.

The state urges us to uphold Doan-Hanson's aggregate sentence, arguing that there is no "hard ceiling for cases involving long-term sexual abuse of a child." However, the state does not identify any cases in which an aggregate sentence based on multiple counts of first-degree criminal sexual conduct came close to 688 months. The one case the state does cite had an aggregate sentence of 537 months, which is 151 months shorter than Doan-Hanson's sentence. *See Kellogg*, 2004 WL 422703, at \*5.

We recognize that Doan Hanson's actions against L.R. were horrendous and warrant a harsh sentence. Nonetheless, the aggregate 688-month sentence imposed by the district court was excessive when compared with other similar cases and exaggerates the criminality of Doan-Hanson's conduct. Accordingly, we conclude that the district court abused its discretion when it imposed permissive consecutive sentences totaling 688 months. Thus, we reverse Doan-Hanson's sentence and remand for resentencing.

**Affirmed in part, reversed in part, and remanded; motion denied.**