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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1561**

State of Minnesota,
Respondent,

vs.

Farhan Mohamed Hassan,
Appellant.

**Filed February 17, 2026
Affirmed
Reyes, Judge**

Stearns County District Court
File No. 73-CR-22-3007

Keith Ellison, Attorney General, Peter Magnuson, Thomas Ragatz, Assistant Attorneys General, St. Paul, Minnesota; and

Janelle Kendall, Stearns County Attorney, St. Cloud, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Andrew J. Nelson, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Reyes, Presiding Judge; Larkin, Judge; and Wheelock, Judge.

NONPRECEDENTIAL OPINION

REYES, Judge

Appellant argues that several instances of prosecutorial misconduct deprived him of a fair trial on his convictions of first- and second-degree criminal sexual conduct. We affirm.

FACTS

Respondent State of Minnesota charged appellant Farhan Mohamed Hassan with three counts of first-degree criminal sexual conduct in violation of Minnesota Statutes section 609.342, subdivision 1(a) (2016), and one count of second-degree criminal sexual conduct in violation of Minnesota Statutes section 609.343, subdivision 1(a) (2016). On the first day of trial, the state successfully moved, without objection from defense, to add attempt language to one of the first-degree criminal-sexual-conduct charges.

Each count correlated with one allegation of sexual assault, made against appellant by his cousin (victim), who is 28 years younger than him. The facts below are based on evidence presented at trial, including expert testimony, witness testimony, and recordings of forensic interviews.¹

The Reported Sexual Assaults

In March 2022, then-nine-year-old victim reported to her mother that appellant had sexually assaulted her on several occasions. Victim's mother reported the allegations, and police scheduled a forensic interview at the Child Advocacy Center. The forensic interviewer at the Child Advocacy Center, T.T., conducted two forensic interviews with victim during which victim disclosed four instances of sexual assault: (1) one that occurred on a morning before victim went to school; (2) one that occurred after appellant was on the phone with his wife; (3) one that allegedly² occurred in victim's bedroom; and (4) one that

¹ The forensic interviews were admitted into evidence over appellant's objections. Appellant does not challenge these evidentiary rulings on appeal.

² This opinion uses the term "allegedly" here to reflect the jury's not-guilty verdict for the related count of criminal sexual conduct.

occurred in the basement of a relative's home. Victim stated during the forensic interview, as well as during her trial testimony, that she told her mother the morning after the sexual assault in the basement that appellant peed on her. Victim testified, "I told my mom that he peed on me, but obviously it wasn't pee. I did not understand. . . . [My mother] didn't understand what I was saying because nobody would ever pee on top of me."

Jury Trial

Before trial, appellant moved to admit testimony about his lack of reputation as a "pedophile." He argued that the testimony was relevant and that the rules of evidence permitted him to "discuss the pertinent trait of the character that [appellant] is a regular heterosexual male and not a pedophile." The district court denied the motion. The district court explained that the parties should not discuss "whether [appellant] is a pedophile or not a pedophile."

At trial, the state presented testimony from several witnesses, including: (1) victim, then 11 years old; (2) victim's father; (3) T.T., the forensic interviewer that conducted interviews with victim; and (4) another forensic interviewer, B.K.

Both forensic interviewers testified about their experiences conducting interviews and best practices for forensic interviews of child victims of sexual assault. T.T. also testified about her interviews with victim. B.K. testified about how children disclose sexual abuse, explaining that there are four types of disclosure: active, incremental, delayed, and accidental. B.K. testified, "There are many ways that sexual-abuse disclosures occur, but the most common thing is that the disclosure or the telling is delayed." She explained that children do not always share the same exact information each

time they disclose an instance of sexual abuse and that the disclosure environment influences the substance of what is disclosed.

Victim's trial testimony mentioned a fifth instance of sexual assault, which occurred in the car. Victim testified that she had not told anyone about the car assault until disclosing it unexpectedly during the prosecutor's direct examination. When asked if she knew "that it was important to tell [T.T.] the truth" during the forensic interviews, victim testified, "Yes, it's important but I didn't."

At appellant's request, the district court gave a cautionary jury instruction, explaining that the jury should consider the evidence only "for the limited purpose of demonstrating the nature and extent of the relationship" between appellant and victim, rather than as a separate basis on which to convict appellant.

On cross-examination of victim, defense counsel highlighted inconsistencies between victim's forensic interview statements and trial testimony. At times, in response to defense counsel's cross-examination questions, victim testified that she "maybe" lied or that she was not sure that a sexual assault truly occurred. Defense counsel also asked several times what age victim was when the sexual assaults occurred, noting the differences between her testimony and her statements in the forensic interviews.

On redirect examination, the prosecutor explored victim's truthfulness at the forensic interviews. Victim testified that she "maybe" lied to T.T. once, but when asked what she lied about, victim testified, "I don't remember what I lied about, but I probably did lie about something." The testimony continued:

PROSECUTOR: Okay. And why do you think that? Is that because [defense counsel] was telling you that you said other things?

VICTIM: Yes.

PROSECUTOR: Okay. So I guess sitting here today did you—looking back, did you ever intentionally lie to [T.T.]?

VICTIM: No.

PROSECUTOR: You tried to answer her questions truthfully?

VICTIM: Yes.

On recross-examination, victim testified that she “maybe” lied to T.T. twice.

The state’s closing argument explained that victim “is telling the truth to the best of her ability at this moment.” The state argued that any inconsistencies in victim’s testimony could be explained. In support, it referenced forensic interviewers’ testimony about child-victim disclosure as well as the manner in which defense counsel cross-examined victim. Appellant’s closing argument emphasized the inconsistencies in victim’s testimony. Appellant argued that “[t]his is a story about a little girl who tells tall tales to deflect, to avoid the wrath of [her] mother for watching pornography.” Appellant brought up the newly disclosed instance of sexual assault in the car as an example of victim’s story “continu[ing] to morph even into this trial.”

The jury found appellant guilty on two counts of first-degree and one count of second-degree criminal sexual conduct. It found appellant not guilty on one count of attempted first-degree criminal sexual conduct. Appellant filed a motion for a new trial, which the district court denied. The district court convicted appellant of the three counts

and sentenced him to concurrent sentences of 144, 70, and 234 months, respectively, with lifetime conditional release.

This appeal follows.

DECISION

Appellant argues that the prosecutor engaged in seven instances of prosecutorial misconduct. Appellant concedes that he did not object to any of these at trial.

“When a defendant fails to object to alleged prosecutorial misconduct at trial, . . . [appellate courts] apply the modified plain-error test of *State v. Ramey*, 721 N.W.2d 294, 299-300 (Minn. 2006), under which the defendant [must show] that the misconduct constitutes (1) error, (2) that was plain.” *State v. Westrom*, 6 N.W.3d 145, 157 (Minn. 2024) (quotation omitted). “An error is plain if it was clear or obvious,” usually when “the error contravenes case law, a rule, or a standard of conduct.” *Ramey*, 721 N.W.2d at 302 (quotation omitted).

“If plain error is established, the burden then shifts to the State to demonstrate that the error did not affect the defendant’s substantial rights.” *State v. Peltier*, 874 N.W.2d 792, 803 (Minn. 2016). If the state fails to carry that burden, this court “determine[s] whether the error should be addressed to ensure fairness and the integrity of the judicial proceedings.” *Westrom*, 6 N.W.3d at 157 (quotation omitted).

Appellant contends that the prosecutor committed misconduct by: (1) disparaging defense counsel; (2) failing to adequately prepare victim and victim’s father to testify; (3) violating his right to confront witnesses by encouraging the jury to disregard testimony appellant elicited from victim during cross-examination; (4) commenting on appellant’s

failure to contradict the testimony of T.T., the forensic interviewer that interviewed victim; (5) referring to appellant's "sexual fantasies"; and (6) vouching for victim's credibility.

We address each argument in turn.

I. The prosecutor did not commit plain error regarding appellant's claims that the prosecutor personally disparaged defense counsel.

Appellant argues that the prosecutor disparaged defense counsel, thereby inflaming the passions of the jury, by "repeatedly argu[ing] that all the inconsistencies that came out on [victim's] cross examination were the result of an experienced defense attorney tricking an 11-year-old girl." We disagree.

A prosecutor's closing argument "need not be colorless, [but] it must be based on the evidence produced at trial, or the reasonable inferences from that evidence." *State v. Porter*, 526 N.W.2d 359, 363 (Minn. 1995) (quotation omitted). A prosecutor "may argue that the evidence does not support particular defenses. But a prosecutor should not disparage defense counsel personally or belittle the defense." *State v. Davis*, 982 N.W.2d 716, 726 (Minn. 2022) (quotations omitted). When examining a prosecutor's closing argument for instances of prosecutorial misconduct, this court "look[s] to the closing argument as a whole, rather than to selected phrases and remarks." *Ture v. State*, 681 N.W.2d 9, 19-20 (Minn. 2004).

In *State v. McDaniel*, the Minnesota Supreme Court concluded that a prosecutor engaged in misconduct when their closing argument "crossed the line between questioning opposing counsel's substantive arguments and questioning his personal credibility." 777

N.W.2d 739, 752 (Minn. 2010). The prosecutor “transformed the argument into a personal attack when he accused defense counsel of misrepresenting the truth.” *Id.*

Conversely, in *Davis*, a prosecutor’s closing argument “predicted possible defenses that could be raised, including defense counsel pointing to a ‘fantasy’ in the form of ‘some kind of conspiracy’ among the police. During rebuttal closing argument, the prosecutor addressed how the defense had characterized the investigation and concluded by stating ‘[t]hat’s a defense attorney’s fantasy.’” 982 N.W.2d at 726. The supreme court concluded that the statements, “when viewed in context, were about the merits of potential defenses and an actual defense argument in closing argument; the statements were not about defense counsel personally.” *Id.* at 727. That court stated that the prosecutor, when referring to the defense’s possible theory as a “fantasy,” was merely referencing the evidence. *Id.*

Similar to the prosecutor in *Davis*, the prosecutor here discussed the evidence presented at trial: recordings and transcripts of victim’s forensic interviews as well as testimony from victim, victim’s father, and the forensic interviewers. *See id.* at 726-27. The prosecutor did not personally disparage defense counsel. They explained victim’s inconsistent testimony. We discern no plain error in the prosecutor’s use of the evidence and therefore need not address appellant’s substantial rights. *See Westrom*, 6 N.W.3d at 158 (declining to “proceed further” with plain-error review because prosecutor’s statements did not constitute error).

II. The prosecutor did not plainly err by inadequately preparing victim's father and victim to testify.

Appellant argues that the prosecutor failed to adequately prepare victim's father and victim to testify, thereby eliciting inadmissible evidence and inflaming the jury's passions. We are not persuaded.

“[A]ttempting to elicit or actually eliciting clearly inadmissible evidence may constitute [prosecutorial] misconduct.” *State v. Fields*, 730 N.W.2d 777, 782 (Minn. 2007). “[T]he state has an absolute duty to prepare its witnesses to ensure that they are aware of the limits of permissible testimony.” *State v. McNeil*, 658 N.W.2d 228, 232 (Minn. App. 2003). This preparation ensures witnesses “will not blurt out anything that might be inadmissible and prejudicial.” *State v. Carlson*, 264 N.W.2d 639, 641 (Minn. 1978).

Appellant argues that the testimony of victim's father was mostly irrelevant and “worked only to inflame the jury's passions.” Appellant cites to portions of the testimony in which victim's father stated that (1) the sexual assaults would make it difficult for victim to eventually marry; (2) the sexual assaults hurt the father's reputation in his community; and (3) the father was so emotional right after learning about the sexual assaults that, if he saw appellant, father could have murdered him. We are not convinced by appellant's argument. The testimony of victim's father supported victim's credibility. The prosecutor referenced it during closing arguments to draw a reasonable inference for the jury: contrary to appellant's theory of the case, victim had little incentive to report fictional sexual assaults.

Appellant also argues that the prosecutor did not sufficiently prepare victim because she testified about the previously undisclosed sexual assault that allegedly occurred in a car. No evidence shows that the prosecutor elicited this testimony intentionally. Further, appellant requested, and the district court granted, a cautionary jury instruction explaining that the jury may consider the testimony only as relationship evidence, not as a separate basis for conviction. Jurors are presumed to have followed jury instructions. *State v. Segura*, 2 N.W.3d 142, 167 (Minn. 2024). We discern no error, much less an error that is plain.

III. The prosecutor did not plainly err by stating that the jury should disregard information elicited by appellant on cross-examination.

Appellant argues that the prosecutor violated his constitutional right to confrontation and “deprived [him] of any benefit those cross examinations could have had on the verdict [because] the prosecutor repeatedly told the jury they should disregard the cross examinations because the form of cross examination is not reliable.” Appellant’s argument fails.

The Confrontation Clause of the United States and Minnesota Constitutions provide: “In all criminal prosecutions the accused shall enjoy the right . . . to be confronted with the witnesses against him.” U.S. Const. amend. VI; Minn. Const. art. I, § 6. This clause provides criminal defendants the right of cross-examination, which is “the principal means by which the believability of a witness and the truth of his testimony are tested.” *State v. Ferguson*, 742 N.W.2d 651, 656 (Minn. 2007) (quotation omitted).

Appellant concedes that “whether a prosecutor commits misconduct by encouraging a jury to reject an entire cross examination merely because of its form” is not yet resolved by Minnesota courts. We therefore conclude that, even if error, this cannot be plain. *See State v. Portillo*, 998 N.W.2d 242, 250 (Minn. 2023) (“An error is plain if it contravenes a principle that is conclusively resolved at the time of appeal.” (quotation omitted)); *State v. Jones*, 753 N.W.2d 677, 689 (Minn. 2008) (“Because neither this court nor the federal courts have conclusively resolved this issue, we cannot say that the prosecutor [committed an error that was plain].”).

IV. The prosecutor did not plainly err by commenting on appellant’s failure to contradict witness testimony.

Appellant argues that the prosecutor improperly commented on his “failure to contradict” the testimony of T.T., the forensic interviewer that interviewed victim. We are not convinced.

“A prosecutor may not comment on a defendant’s failure to call witnesses or to contradict testimony.” *Porter*, 526 N.W.2d at 365. These comments suggest “that defendant did not call the witnesses because he knew their testimony would be unfavorable” or that the defendant bears a burden of proof. *Id.* By contrast, “a prosecutor’s comment on the lack of evidence supporting a defense theory does not improperly shift the burden.” *McDaniel*, 777 N.W.2d at 750.

Here, while referring to a forensic interviewer’s testimony, the prosecutor stated, “[defense counsel] never asked her, cross-examined her, about the protocol she used, about

the questions she asked. There is no evidence before you today that those interviews were not forensically sound, nothing.”

The prosecutor’s comment did not suggest that appellant had a burden of proof. The prosecutor argued that appellant’s theory, that victim fabricated the sexual assaults, had less evidentiary support than the prosecutor’s theory that victim told the truth to the best of her ability. *See Fields*, 730 N.W.2d at 786 (holding permissible “statements discuss[ing] the credibility of witnesses in the context of the evidence before the court and the conclusions that can be drawn from that evidence”). We discern no plain error.

V. The prosecutor did not plainly err by referring to appellant’s “sexual fantasies.”

Appellant argues that the prosecutor violated the district court’s order not to discuss pedophilia by stating in their closing argument that “[p]eople in general hide their sexual fantasies, their desires, their preferences from their family.” We disagree.

A prosecutor commits plain error if they “violate[] . . . orders by a district court.” *State v. McCray*, 753 N.W.2d 746, 751 (Minn. 2008). Here, the district court disallowed references to pedophilia, calling the topic irrelevant because “[appellant] is charged with sexual assault and pedophilia is a different thing, not a crime that he is being charged with here.”

The prosecutor did not commit plain error because they did not reference pedophilia. Additionally, when viewed in context, the prosecutor’s statement merely supported their larger argument that “seemingly good people do bad things behind closed doors all the time.”

VI. The prosecutor did not commit reversible plain error by vouching for victim's credibility.

Appellant argues that the prosecutor vouched for the truthfulness of victim by (1) “expressly stating that [victim] was telling the truth on direct examination” and (2) arguing that, because victim was 11 years old, “[she] was not sophisticated enough to make up a lie.” We agree on the second vouching claim but conclude that reversal is not warranted.

Vouching occurs “when the government implies a guarantee of a witness’s truthfulness, refers to facts outside the record, or expresses a personal opinion as to a witness’s credibility.” *State v. Patterson*, 577 N.W.2d 494, 497 (Minn. 1998) (quotation omitted). A prosecutor may not vouch for or personally endorse a witness but may identify reasons for the jury to credit a witness. *See State v. Pendleton*, 759 N.W.2d 900, 912 (Minn. 2009) (“Although prosecutors may not personally endorse witnesses, the State is free to argue that a particular witness is credible.”).

Appellant’s first argument concerns a portion of the prosecutor’s closing argument in which they stated that victim “is telling the truth to the best of her ability at this moment and [defense counsel] is sitting there telling her that all of her answers are wrong.” This statement does not amount to prosecutorial misconduct. The prosecutor made the statement to reframe victim’s inconsistency as normal and not a barrier to a finding of credibility. The prosecutor did not share an opinion. They identified reasons for the jury to believe victim’s testimony.

However, the prosecutor plainly erred by making two statements that victim was “not sophisticated enough” to lie. The statements relied on victim’s young age to guarantee her truthfulness. This court has held that similar statements, which “essentially guarantee[d] that [a] victim [could not] have testified untruthfully based on her age and consistency,” constitute improper vouching. *In re Welfare of D.D.R.*, 713 N.W.2d 891, 900 (Minn. App. 2006).

Because we conclude that the prosecutor plainly erred, the state must show that this plain error did not affect appellant’s substantial rights. “An error affects a defendant’s substantial rights only if there is a reasonable probability that the error actually impacted the verdict.” *Segura*, 2 N.W.3d at 161 (quotation omitted). In this analysis, we consider several factors: the strength of the evidence against appellant, the pervasiveness of the prosecutor’s misconduct, whether appellant had the opportunity to rebut any improper statements, and whether the jury instructions adequately offset the effect of the misconduct. *See id.* at 162-63. We analyze each of these factors below.

The first factor mentioned above, the strength of the evidence against appellant, does not weigh in favor of either party. Victim’s testimony at trial and her statements in the forensic interviews were the only direct evidence against appellant. The testimony and interview statements were, at times, inconsistent. But they were consistent when it came to notable details. For example, victim remained consistent in her story that, the morning after appellant assaulted her in a basement, she told her mother that appellant peed on her. The forensic interviewers’ testimony also explained at length why inconsistencies may exist between different occasions in which a child victim discusses an instance of sexual

assault. The testimony explained that inconsistencies did not mean that the reported sexual assaults did not occur.

Turning to the error itself, although no jury instruction addressed the error, the error was not pervasive. The prosecutor's discussion of victim's "sophistication" as related to her age took up a little more than half of one page of the trial transcript. This discussion is relatively short in light of the 28 pages of trial transcript devoted to the prosecutor's closing argument and rebuttal closing argument. Appellant also had the opportunity to, and did, rebut the prosecutor's assessment of victim's "sophistication." Appellant explained that victim admitted to lying "twice and she is sophisticated for her age." After considering these factors, we conclude that there is no reasonable probability that the plain error impacted the verdict and therefore it did not affect appellant's substantial rights.

Because the error did not affect appellant's substantial rights, we need not analyze whether the error "seriously affects the fairness, integrity, or public reputation of judicial proceedings." *See Montanaro v. State*, 802 N.W.2d 726, 732 (Minn. 2011) (stating that, if any element of plain-error standard of review "is not satisfied," appellate courts "need not address any of the others").

Affirmed.