

*This opinion is nonprecedential except as provided by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
A24-1568**

State of Minnesota,
Respondent,

vs.

Sherrie Elizabeth Smetana,
Appellant.

**Filed August 18, 2025
Affirmed
Bentley, Judge**

Stearns County District Court
File No. 73-CR-21-6252

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

Janelle P. Kendall, Stearns County Attorney, Michael J. Lieberg, Chief Deputy County Attorney, St. Cloud, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Andrea Barts, Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

NONPRECEDENTIAL OPINION

BENTLEY, Judge

In this direct appeal from a judgment of conviction for first-degree controlled-substance possession, appellant Sherrie Elizabeth Smetana argues that she should receive a new trial because the district court abused its discretion when it denied her request to

suppress an officer's body-worn camera footage and accompanying testimony as a sanction for the state's discovery violations. In a self-represented supplemental brief, appellant presents additional arguments. Because we discern no abuse of discretion regarding the district court's admission of the challenged evidence and see no basis to disturb the conviction based on appellant's supplemental arguments, we affirm.

FACTS

The following relevant facts were elicited at a two-day court trial.

On September 1, 2021, the St. Cloud Police Department's SWAT team and investigators from the Central Minnesota Violent Offender Task Force (VOTF) jointly executed a search warrant at Smetana's house based on a confidential informant's tip that Smetana was making controlled-substance sales at that address. The team included a St. Cloud Police officer who wore a body camera during the search. The officer detained Smetana as she exited the garage, where law enforcement found a "soft-sided string bag" and a black wallet containing Smetana's driver's license near each other. Inside the bag were resealable bags containing methamphetamine, including one that contained about 68 grams of methamphetamine.

The state charged Smetana with first-degree possession of methamphetamine, in violation of Minn. Stat. § 152.021, subd. 2(a)(1) (2020). In preparation for trial, Smetana filed two demands for discovery. In the first demand, she requested that the Stearns County Attorney provide "copies of all audio and video recordings you or the arresting agency may have." Smetana's second demand requested the names of all the witnesses the state intended to call and "[a]ny and all body camera recordings from all officers involved."

On December 7, 2023, four days before the scheduled trial date, the state learned there were 26 videos from cameras worn by SWAT team members that had not been disclosed. According to the state, the SWAT team used its own file number for their body-worn camera footage and had not communicated it to VOTF. As a result, the SWAT team's footage was not connected to the case file, and the prosecutor did not learn of them until he spoke with a member of the SWAT team in preparation for trial. The next day, the prosecutor received the previously undisclosed videos and sent them to counsel for Smetana electronically and by overnight mail.

On December 10, 2023, Smetana moved to dismiss the complaint with prejudice, arguing that the state caused "unnecessary delay" in her trial. *See* Minn. R. Crim. P. 30.02 ("The court may dismiss the complaint . . . if the prosecutor has unnecessarily delayed bringing the defendant to trial."). Alternatively, Smetana asked the court to reschedule her trial, "giving due consideration to [her] need to review 26 body-camera videos for exculpatory evidence," or to "[p]rohibit[] the State from introducing any portion or still frames of the body camera video."

On December 11, 2023, the district court held a hearing and notified the parties that Smetana's trial would be continued until March 11, 2024, for reasons unrelated to her case. The district court nevertheless considered Smetana's motion to dismiss and ultimately denied it. The district court identified delays in the case leading up to the trial date that were not directly attributable to the prosecutor and stated, "I don't think it's fair to say that [the delay has] been squarely on the prosecutor." Instead of dismissing the case outright, the district court determined that the continuance would remedy the discovery violation, as

it would give Smetana and her counsel time to review the footage for any exonerating evidence.

The district court also considered Smetana's alternative motion to "[p]rohibit[] the State from introducing any portion or still frames of the body camera video due to a violation of [Minn. R. Crim. P.] 9.01." After reserving ruling on that motion, the court ultimately denied it on January 16, 2024, concluding that the late disclosure was "suboptimal" but did not reflect bad faith by the state and that the continuance cured any potential prejudice by giving Smetana time to review the evidence and prepare accordingly. On February 21, 2024, the state amended its witness list to include a SWAT team officer whose body-worn camera footage was included in the videos that were disclosed late. Smetana did not object to the inclusion of the officer on the witness list or to the officer's testimony at trial, despite the fact that this disclosure was untimely.

At the court trial, the officer testified about detaining Smetana during execution of the search warrant and identified Smetana in the courtroom. Footage from the officer's body-worn camera was admitted into evidence. Smetana testified in her own defense.

On April 3, 2024, the district court found Smetana guilty of first-degree controlled-substance possession. Smetana was sentenced to 105 months' imprisonment.

Smetana appeals.

DECISION

Smetana argues that she is entitled to a new trial because the district court should have suppressed the officer's body-worn camera footage and disallowed the officer from

testifying as sanctions for the state’s discovery violations.¹ We address Smetana’s challenges to the admission of the officer’s body-worn camera footage and the decision to allow him to testify separately and in that order, because she only objected to the body-worn camera footage. Then, we turn to the points raised in Smetana’s self-represented supplemental brief.

I

We begin with Smetana’s challenge to the denial of her motion to exclude the body-worn camera footage as a sanction for the state’s late disclosure of the footage. If a party fails to comply with a discovery rule or order, including by failing to timely disclose evidence, the district court “may . . . grant a continuance, or enter any order it deems just in the circumstances.” Minn. R. Crim. P. 9.03, subd. 8. In determining the appropriate remedy, a district court “should take into account: (1) the reason why disclosure was not made; (2) the extent of prejudice to the opposing party; (3) the feasibility of rectifying that prejudice by a continuance; and (4) any other relevant factors.” *State v. Cruz*, 997 N.W.2d 537, 547 (Minn. 2023) (quoting *State v. Lindsey*, 284 N.W.2d 368, 373 (Minn. 1979)). “To establish prejudice[,], a defendant must show that a reasonable probability exists that the outcome of the trial would have been different if the disputed evidence had been produced” in a timely manner. *State v. Boldman*, 813 N.W.2d 102, 109 (Minn. 2012).

A consideration of those factors and a determination of whether to impose a sanction for a discovery violation are matters “particularly suited to the judgment and discretion of

¹ The state concedes that it committed a discovery violation by making a delayed disclosure of the evidence at issue, in violation of Minn. R. Crim. P. 9.01, subd. 1(3).

the [district] court.” *Cruz*, 997 N.W.2d at 547 (quoting *Lindsey*, 284 N.W.2d at 373). We will not reverse a district court’s decision on sanctions for discovery violations absent “a clear abuse of discretion.” *Id.* (quoting *Lindsey*, 284 N.W.2d at 373).

Considering the reason for the delay, the prosecutor explained that law enforcement’s use of different report numbers prevented him from learning of the 26 videos from the SWAT team’s body-worn cameras until he was preparing for trial. Smetana did not challenge that justification, and her counsel stated at the motion hearing that he was “not attributing [the delayed disclosure] to any kind of sleight of hand on [the prosecutor’s] part.” Although we do not condone the late disclosure here, the district court accurately noted that the record does not “suggest this was an attempt to surprise [Smetana].”

With respect to prejudice, the district court determined that Smetana may have been prejudiced if her trial went forward as scheduled, just days after the state disclosed the video evidence. But the district court also determined that the three-month continuance would rectify any prejudice because it gave Smetana enough time to review the footage and adjust her trial strategy accordingly. To be sure, the footage itself may have been damaging to her case, but the key issue for the district court was whether the delayed disclosure prejudiced Smetana and not whether the evidence itself was incriminating. And because Smetana has not established that “a reasonable probability exists that the outcome of the trial would have been different” without the delayed disclosure, *Boldman*, 813 N.W.2d at 109, the district court was within its discretion in determining that a continuance was an appropriate remedy to address any prejudice that Smetana would experience as a result of the discovery violation, *see State v. Palubicki*, 700 N.W.2d 476, 489 (Minn. 2005)

(“Generally, without a showing of prejudice to the defendant, the state’s violation of a discovery rule will not result in a new trial.”).

In sum, we conclude that the district court did not abuse its discretion by denying Smetana’s motion to exclude the body-worn camera footage.

II

Next, we turn to Smetana’s argument the district court should have disallowed the officer from testifying as a sanction for the state’s late disclosure of the officer as a trial witness. We note that, in her brief, Smetana addresses this issue together with her argument that the district court should have excluded the body-worn camera footage. But the amendment to the witness list took place after the district court issued its decision on sanctions relating to the body-worn camera footage, and Smetana did not object in the district court to the officer appearing as a trial witness. We therefore review that part of her argument for plain error. *State v. Griller*, 583 N.W.2d 736, 740 (Minn. 1998). To establish that relief is appropriate under the plain-error test, “there must be (1) error; (2) that is plain; and (3) the error must affect substantial rights.” *Id.* If those first three prongs are met, we will “then assess[] whether [we] should address the error to ensure fairness and the integrity of the judicial proceedings.” *Id.*

In its brief, the state focuses on the third prong, so we do as well. An error affects substantial rights if it was “prejudicial and affected the outcome of the case.” *Id.* at 741. Here, even assuming without deciding that it was plain error to permit the officer’s testimony, we conclude that Smetana has not shown that any such error affected the

outcome of the case. We therefore “need not consider the other factors” of the plain-error test. *State v. Goelz*, 743 N.W.2d 249, 258 (Minn. 2007).

To determine whether the evidence affected a defendant’s substantial rights, we may consider the following factors: “(1) the manner in which the party presented the evidence, (2) whether the evidence was highly persuasive, (3) whether the party who offered the evidence used it in closing argument, and (4) whether the defense effectively countered the evidence.” *State v. Bigbear*, 10 N.W.3d 48, 54 (Minn. 2024) (quotation omitted); *see also State v. Matthews*, 800 N.W.2d 629, 634 (Minn. 2010) (noting that the harmless-error analysis, which considers these factors, is “equivalent” to analysis under the third prong of the plain-error test). We also consider the strength of the evidence of the defendant’s guilt. *Biggear*, 10 N.W.3d at 59.

Manner of Presentation

As to whether a party presented evidence in a manner that is likely to affect the verdict, we examine, “among other things, the relative number of transcript pages that the evidence occupies.” *Id.* at 56. Of the two-day trial, which spans 435 transcript pages, the officer’s testimony totals 12 pages. Two of those pages are testimony about the body-worn camera footage, which we have concluded was within the district court’s discretion to admit. We conclude that this factor weighs in favor of concluding that any error did not affect Smetana’s substantial rights.

Closing Argument

We also consider “whether and how the offering party used the erroneously admitted evidence in closing argument,” including the number of times the challenged

evidence is referenced. *Id.* at 59. In the state’s written closing argument, it referenced the officer’s testimony five times. But each reference is to the same fact—that “[Smetana] was the only individual discovered in the garage,” “in close proximity to the methamphetamine,” during the search—which is also established through the body-worn camera footage. Because the state’s closing argument referenced the officer’s testimony “primarily for evidence that was also introduced by other witnesses and exhibits,” this factor supports a conclusion that the testimony did not violate Smetana’s substantial rights. *Id.*

Persuasiveness

If the challenged evidence was “highly persuasive,” *id.* at 56-57, it is more likely to have affected the defendant’s substantial rights. The officer’s testimony had some persuasive value. It contextualized the body-worn camera footage and emphasized certain relevant details, including Smetana’s proximity to the methamphetamine during the search. But it neither “elicited new information” nor “provided the *key* evidence about a material element” of the crime. *Id.* at 57 (quotations omitted). Rather, the officer was merely repeating what the district court had already seen on the body-worn camera footage. On balance, we conclude that the evidence had minimal persuasive value and that this factor also supports a conclusion that the testimony did not violate Smetana’s substantial rights.

Opportunity to Counter

Next, we consider whether the defendant “effectively counter[ed] the inadmissible evidence.” *Id.* at 59 (quotation omitted). Smetana was able to cross-examine the officer, including about the body-worn camera footage, and testified in her own defense at trial.

This factor also supports the conclusion that the officer's testimony did not violate Smetana's substantial rights.

Strength of the Evidence

Finally, "overwhelming evidence of guilt is a factor, often a very important one, in determining whether the error has no impact on the verdict." *Id.* (quotation omitted). Here, the strength of the evidence of Smetana's guilt was overwhelming. A confidential informant testified that he knew Smetana was making controlled-substance sales at her home and that he worked with law enforcement to make controlled methamphetamine purchases at Smetana's residence, including one from Smetana directly. Another law enforcement officer testified about discovering the bag containing methamphetamine near a wallet that contained Smetana's driver's license. And the admitted body-worn camera footage shows Smetana being detained as she exited the garage, where those items were found. Taken together, the evidence of Smetana's methamphetamine possession is strong and overwhelming. *See id.*

Considering all the factors, we conclude that Smetana has not satisfied the "heavy burden" of persuasion that her substantial rights were affected by any error in the admission of the officer's testimony. On this record, there is no reasonable likelihood that the disputed testimony "affected the outcome of the case." *Griller*, 583 N.W.2d at 741. Therefore, we "need not consider the other factors" in the plain error analysis. *Goelz*, 743 N.W.2d at 258.

III

Finally, in a self-represented supplemental brief, Smetana raises several factual disputes, claiming that there were "so many errors" and "lies" in her trial, and argues that

“there [was] video evidence that should have been introduced” to show that some of the incriminating evidence was unreliable.

Smetana’s points are unsupported by legal authority, and we therefore decline to consider them because we discern no prejudicial error that is obvious on mere inspection. *See State v. Andersen*, 871 N.W.2d 910, 915 (Minn. 2015) (“An assignment of error based on mere assertion and not supported by any argument or authorities in appellant’s brief is waived and will not be considered on appeal unless prejudicial error is obvious on mere inspection.” (quotation omitted)); *State v. Bartylla*, 755 N.W.2d 8, 22 (Minn. 2008) (noting that appellate courts “will not consider [self-represented] claims on appeal that are unsupported by either arguments or citations to legal authority”). We also note with respect to her factual challenges that Smetana had an opportunity to provide her version of the facts when she testified and presented evidence at trial.

Affirmed.