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STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1578

State of Minnesota,
Respondent,

vs.

Robert Lee Stahlman,
Appellant.

Filed September 15, 2025
Reversed and remanded
Ede, Judge

St. Louis County District Court
File No. 69DU-CR-23-1202

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

Kimberly Maki, St. Louis County Attorney, Duluth, Minnesota (for respondent)

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

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

NONPRECEDENTIAL OPINION

EDE, Judge

In this direct appeal from a final judgment convicting appellant of second-degree criminal sexual conduct, appellant argues that the district court prejudicially abused its discretion by admitting testimony about four different prior bad acts as Minnesota Rule of Evidence 404(b). Because we conclude that the district court did not act within its discretion by allowing the state to introduce the challenged evidence and that there is a reasonable possibility that this evidentiary error significantly affected the verdict, we reverse and remand for a new trial.

FACTS

Underlying Charges and Prior Bad-Acts Motion

Respondent State of Minnesota charged appellant Robert Lee Stahlman with first-degree criminal sexual conduct, in violation of Minnesota Statutes section 609.342, subdivision 1(a) (2014) (Count I), and second-degree criminal sexual conduct, in violation of Minnesota Statutes section 609.343, subdivision 1(a) (2014) (Count II). The charges concerned alleged criminal sexual conduct by Stahlman against his daughter, A.S. According to the complaint, the conduct occurred between January 1, 2016, and December 31, 2016, while A.S. was sleeping in a home she shared with Stahlman and her mother, R.D. At the time, A.S. was about five years old.

Before trial, the state moved to admit *Spreigl* evidence[1] of four different prior bad acts, asserting that the testimony would "assist in showing [Stahlman's] motive, intent, absence of mistake, and opportunity to commit the crime in [the victim's] case." Stahlman opposed the state's motion, contending that "the state . . . failed to establish that the

[1] Minnesota Rule of Evidence 404(b)(1) provides that "[e]vidence of another crime, wrong, or act is not admissible to prove the character of a person in order to show action in conformity therewith." But such evidence may be admissible "for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident." Minn. R. Evid. 404(b)(1). Evidence offered for one of these other purposes is called *Spreigl* evidence. *State v. McLeod*, 705 N.W.2d 776, 780 n.1 (Minn. 2005) (citing *State v. Spreigl*, 139 N.W.2d 167, 173 (Minn. 1965)) (other citation omitted).

proffered *Spreigl* evidence [was] relevant and material to a permissible purpose or that its probative value outweigh[ed] its potential for prejudice." The district court granted the state's motion over Stahlman's objection, determining that evidence of all four incidents were admissible at trial to prove Stahlman's motive, intent, and opportunity.[2]

Jury Trial and* Spreigl *Evidence

The matter proceeded to a jury trial. The pertinent trial evidence is described below.

A.S. testified about the charged conduct as follows. One night in 2016—when she was five years old—she was sleeping alone in her bedroom when she woke to find Stahlman on top of her, pinning her arms to the bed. Stahlman had pushed her nightgown above her waist and was rubbing his penis up and down her legs, from her knee up to her thigh. After she woke up, Stahlman stopped and instructed her to not speak of the incident again, to never tell her mother, to go back to sleep, and that he would do it again if she ever told anyone. The incident ended when Stahlman got up and left the room.[3]

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[2] We discuss the district court's rationale for admitting the evidence in more detail in our analysis, below.

[3] After A.S. testified, the parties agreed to redact certain statements that A.S. had made during a forensic interview and that Stahlman had made during an interview with law enforcement. These statements concerned allegations by A.S. that Stahlman had sexually penetrated her. The state introduced the redacted recordings of each interview into evidence and played them for the jury. And the state later dismissed the first-degree criminal sexual conduct charged in Count I, which required proof of sexual penetration, Minn. Stat. § 609.342, subd. 1(a), or "intentional touching of the complainant's bare genitals or anal opening by the actor's bare genitals or anal opening with sexual or aggressive intent or the touching by the complainant's bare genitals or anal opening of the actor's or another's bare genitals or anal opening with sexual or aggressive intent," Minn. Stat. § 609.341, subd. 11(c) (2014).

Three individuals who had lived in Stahlman's house at various times testified about the four prior bad acts the state had moved to admit before trial. These individuals were: T.M., who is R.D.'s daughter from a previous relationship; T.B., who is the daughter of R.D.'s acquaintance, S.B.; and S.B., who is T.B.'s father. Each time the state presented such evidence, the district court provided a cautionary instruction, which included the admonition that the "evidence [was] being offered for the limited purpose of assisting [the jury] in determining motive, intent, or opportunity by the defendant with regard to this case."[4]

The following summarizes the relevant testimony about the four incidents:

- In the early hours of an August 2012 morning, fourteen-year-old T.M. was sleeping on a couch in Stahlman's house. She woke to find Stahlman's hand under her clothes, touching her vaginal area. T.M. ran out of the house and called her father.

- One night between January and March 2018, sixteen-year-old T.B., T.M., and Stahlman were watching a movie in the basement. After T.M. went upstairs, T.B. realized that Stahlman was kissing her neck. She pretended to be asleep as Stahlman unzipped her pants and penetrated her vagina with his fingers. T.B. tried to roll away, but Stahlman rolled her back and put a blanket over her head.

- Sometime in the summer of 2018, twenty-year-old T.M. had "a couple beers." After she went to bed on a couch in Stahlman's house, T.M. woke to find Stahlman penetrating her vagina with his penis and hands.

- On an evening in October 2019, S.B. found Stahlman in his underwear "crouched down" over eight-year-old A.S., who was sleeping on the floor in Stahlman's house. Stahlman was startled by S.B.'s presence, and as Stahlman stood up, S.B. saw that Stahlman "was aroused." After S.B. asked Stahlman "what the hell he was doing," Stahlman claimed that he was "tucking [A.S.] in." S.B. responded that A.S. had "been tucked in for hours" and told Stahlman to go downstairs.

[4] Because other witnesses also referenced the prior bad acts evidence, the district court also provided cautionary instructions during testimony by A.S., a forensic interviewer, and an investigator. And the district court repeated the cautionary instruction before closing arguments.

After S.B. testified and while the jury was excused for a recess, Stahlman's counsel made a record about T.B.'s and T.M.'s demeanors while testifying. Stahlman's counsel stated that T.B. was "highly emotional," "hesitant to answer some questions about the *Spreigl* incident," and "started to cry when talking about the *Spreigl* incident." In addition, Stahlman's counsel said: "As [T.B.] left the courtroom, she was audibly crying. You could hear her crying all the way into the hallway. She very clearly presented as somebody who had been damaged by Mr. Stahlman." As to T.M., Stahlman's counsel described that she "was less emotional than [T.B.], but she was very visibly shaking during the entire testimony and paused . . . before answering questions about the *Spreigl* incidents that she described. She also presented as someone who had been . . . very clearly damaged by Mr. Stahlman." The state and the district court agreed that these descriptions were accurate.

Stahlman testified that he never sexually assaulted A.S. and that he did not know why she would make such an allegation.[5] In addition, Stahlman presented the testimony of his cousin, C.M. She testified that, in the summer of 2020, A.S. was living with C.M.'s brother rather than Stahlman because of the allegations T.B. had made about Stahlman. C.M. stated that, during that time, she "wanted to open a door for [A.S.], so if she needed someone to talk to, she knew she could talk to somebody." Thus, C.M. asked A.S. "directly if anything had ever happened with [her] cousin Robert [Stahlman] or anybody else." And C.M. reported that A.S. replied: "My dad would never do that to me. We're buddies."

[5] In his testimony, Stahlman also confirmed the truth of everything he told to law enforcement during a recorded interview that the state introduced into evidence and played for the jury. In the recorded interview, Stahlman denied the allegations.

During closing arguments, the state summarized the testimony about the four prior bad acts, which the state asserted was presented "to explain . . . why a father would want to sexually assault his daughter . . . and to explain why he took the opportunity to do so." After describing each of the four incidents, the state repeated that the evidence was "meant to help [the jury] understand why . . . Stahlman took that specific opportunity to [sexually assault his daughter] while she was sleeping in her bunk bed."

The jury found Stahlman guilty of Count II, second-degree criminal sexual conduct. Stahlman moved for a new trial. Citing the "highly emotional" testimony about the four incidents and the state's closing arguments as to that evidence, Stahlman argued, among other things, that "the presentation [of] prior bad act evidence unduly prejudiced [him] in this case and deprived him of a fair trial." The district court denied Stahlman's motion, confirming that it had admitted the challenged evidence to prove "motive and opportunity and that the prejudicial effect was outweighed by the probative value." And the district court sentenced Stahlman to 84 months' imprisonment. This appeal follows.

DECISION

Stahlman argues that the four prior bad acts were not relevant to prove motive, intent, and opportunity under Minnesota Rule of Evidence 404(b)(1) and that the only relevance of that evidence was to prove "that Stahlman [was] an opportunistic sex offender who, consistent with his character, [would] sexually assault young girls—including his own child—whenever the opportunity [arose]." And Stahlman contends that he is entitled to a new trial because there is a reasonable possibility that the challenged evidence significantly affected the verdict. We address each argument in turn.

I. The district court abused its discretion in admitting evidence of the four incidents.

Appellate courts review a district court's decision to admit *Spreigl* evidence for an abuse of discretion. *State v. Griffin*, 887 N.W.2d 257, 261 (Minn. 2016). And appellate courts "review whether the rationale cited by the district court provides a proper basis upon which to admit the evidence." *State v. Rossberg*, 851 N.W.2d 609, 615–16 (Minn. 2014) (quotation omitted). The appellant bears the burden of showing that the district court abused its discretion in admitting the evidence and that such evidentiary error resulted in prejudice. *Griffin*, 887 N.W.2d at 261.

As noted above, although Minnesota Rule of Evidence 404(b)(1) prohibits "[e]vidence of another crime, wrong, or act . . . to prove the character of a person in order to show action in conformity therewith[,]" *Spreigl* evidence is admissible to prove "motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident." Minn. R. Evid. 404(b)(1); *see also McLeod*, 705 N.W.2d at 780 n.1. "To qualify for rule 404(b) admissibility, other-acts evidence must legitimately serve a relevant purpose other than to show propensity or character." *State v. Smith*, 749 N.W.2d 88, 92 (Minn. App. 2008). In other words, "rule 404(b) permits only strictly non-character uses of evidence." *Id.* at 93.

The state must satisfy five requirements to establish the admissibility of *Spreigl* evidence:

> (1) provide notice of its intent to use the evidence; (2) clearly state what the evidence is being offered to prove; (3) present clear and convincing evidence that the defendant participated in the prior act; (4) establish that the evidence is relevant and

> material to the State's case; and (5) demonstrate that the probative value of the evidence is not outweighed by its potential prejudice to the defendant.

State v. Smith, 9 N.W.3d 543, 561 (Minn. 2024). As to the fourth requirement, evidence is relevant if it has "any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Minn. R. Evid. 401. "[T]he closer the relationship between the other acts and the charged offense, in terms of time, place, or modus operandi, the greater the relevance and probative value of the other-acts evidence and the lesser the likelihood that the evidence will be used for an improper purpose." *State v. Ness*, 707 N.W.2d 676, 688 (Minn. 2006). "In assessing the probative value and need for the evidence, the district court must identify the precise disputed fact to which the *Spreigl* evidence would be relevant." *Id.* at 686 (quotation omitted). "This entails isolating the consequential fact for which the evidence is offered, and then determining the relationship of the offered evidence to that fact and the relationship of the consequential fact to the disputed issues in the case." *Id.* (citing Minn. R. Evid. 401) (other citation omitted). "If the admission of evidence of other crimes or misconduct is a close call, it should be excluded." *Id.* at 685.

Here, the state filed a pretrial motion for the admission of the challenged evidence under the theory that it was relevant to prove Stahlman's motive, absence of mistake, intent, and opportunity. And the district court—while rejecting absence of mistake as a basis for admissibility—received the evidence at trial for the limited purposes of showing motive, intent, and opportunity.

In defending the district court's decision on appeal, the state notably does not rely on motive, intent, and opportunity—which were three of the purposes for which the state sought to admit the evidence in the district court and were the only purposes expressly cited by the court in its order granting the state's motion. Nor does the state assert, as it did in its motion before the district court, that the evidence was admissible to prove absence of mistake. Instead, the state maintains that the four incidents were admissible as *Spreigl* evidence to prove Stahlman's modus operandi.[6] In the alternative, the state contends that the other-acts evidence was admissible under Minnesota Statutes section 634.20 (2024).[7] The state makes both these arguments for the first time on appeal. Stahlman counters that the evidence was neither admissible nor admitted by the district court for a modus-operandi *Spreigl* purpose, that the state forfeited its section 634.20 argument by failing to raise it in the district court, and that no exception to the forfeiture rule applies.

In light of the district court's rationale and the parties' arguments on appeal, we next consider the fourth and fifth requirements for the state to establish that the four prior bad

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[6] Modus operandi is defined as: "A method of operating or a manner of procedure; esp., a pattern of criminal behavior so distinctive that investigators attribute it to the work of the same person <staging a fight at the train station was part of the pickpocket's modus operandi>." *Black's Law Dictionary* 1201 (12th ed. 2024); *see also Griffin*, 887 N.W.2d at 267 (Stras, J., concurring) (explaining that "modus operandi[] is a signature that allows the jury to infer that the same person committed two separate crimes by virtue of the unique manner in which the crimes were committed" (citing *State v. Bowser*, 234 N.W.2d 890, 892–93 (Minn. 1975)).

[7] Minnesota Statutes section 634.20 governs the admissibility of evidence related to domestic conduct by the accused against the victim or other family or household members. The statute allows district courts to admit such evidence unless its probative value is substantially outweighed by the danger of unfair prejudice. Minn. Stat. § 634.20.

acts were properly admitted as *Spreigl* evidence. *See Smith*, 9 N.W.3d at 561.[8] More specifically, we analyze whether the district court abused its discretion in determining that the four incidents were relevant and material to prove (A) motive, (B) intent, (C) opportunity, and (D) modus operandi.[9] We also address (E) whether the probative value of the challenged evidence was outweighed by its potential for unfair prejudice. And because the state alternatively argues (F) that the challenged evidence was admissible under section 634.20, we also consider whether that appellate argument presents a viable basis for affirming Stahlman's conviction.

A. Motive

We first consider whether the other-acts evidence was relevant and material to prove motive. In *Ness*, the Minnesota Supreme Court reviewed the admission of a prior incident of sexual misconduct at a bench trial concerning a charge of second-degree criminal sexual conduct. 707 N.W.2d at 679–80. In considering the permissible purposes for which the prior bad act could have been admitted as *Spreigl* evidence, the supreme court explained that "[m]otive is not an element of most crimes, but the state is usually entitled to prove

[8] Although our analysis below discusses the state's obligation to clearly state what the evidence was being offered to prove, the parties' arguments and district court's rationale do not otherwise require our review of the first, second, and third requirements for *Spreigl* admissibility. *See id.*

[9] Despite our consideration of whether the four prior bad acts were relevant and material to prove motive, intent, and opportunity in reviewing the rationale cited by the district court, *see Rossberg*, 851 N.W.2d 609, 615–16, the state has waived any appellate arguments that the evidence was probative for those purposes by failing to advance such contentions in its brief. *State v. Robinette*, 964 N.W.2d 143, 147 n.6 (Minn. 2021) ("[I]ssues not argued in the briefs are deemed waived on appeal." (quotation omitted)).

motive because motive explains the reason for an act and can be important to a required state of mind." *Id.* at 687 (quotation omitted). The supreme court reasoned that, while the prior incident of sexual misconduct at issue "supported the argument that sexual gratification was [the defendant's] motive for touching [the victim,] . . . motive concerns external facts that create a desire in someone to do something, whereas intent is a state of mind in which an act is done consciously, with purpose." *Id.* Given that "[t]he state conflated the issues of motive, which is not an element of second-degree criminal sexual conduct, and intent, which is[,]" the supreme court held that "[t]he contention that the evidence was needed to show motive [was] the most easily dismissed." *Id.* (citing Minn. Stat. § 609.341, subd. 11 (2004) (defining "sexual contact" as acts "committed with sexual or aggressive intent")).

Here, the district court allowed the state to introduce testimony about the 2012 incident involving T.M., the 2018 incident involving T.M., and the 2018 incident involving T.B. to prove motive because the court determined that the evidence showed that Stahlman was "seek[ing] sexual gratification from underage girls who are sleeping" and that "Stahlman took advantage of a sleeping girl in a particular way."[10] As in *Ness*, the district court's reasoning for admitting the prior-bad acts evidence "conflated the issues of motive, which is not an element of second-degree criminal sexual conduct, and intent, which is." *Id.*; *see also* Minn. Stat. § 609.341, subd. 11(a) (2014) (defining "sexual contact" for

[10] The district court did not cite motive as a basis for the admissibility of the 2019 incident involving A.S. that S.B. witnessed. Instead, the district court determined that the 2019 incident was relevant to prove opportunity and intent, which we address below.

purposes of the 2014 version of second-degree criminal sexual conduct at issue as acts "committed with sexual or aggressive intent"). And the record does not establish any of the four incidents as "external facts that create[d] a desire in [Stahlman] to do something" to A.S. *Ness*, 707 N.W.2d at 687.

The facts before us are not analogous to a case in which, for example, the Minnesota Supreme Court held that evidence of gang graffiti in a defendant's bedroom was admissible to prove the defendant's gang affiliation as motive to kill a rival gang member in a gang-related murder prosecution. *See State v. Ferguson*, 581 N.W.2d 824, 830–31, 834 (Minn. 1998); *see also State v. Black,* 291 N.W.2d 208, 215 (Minn. 1980) (upholding the admission of *Spreigl* evidence to show that the defendant's motive to commit murder was to silence a witness to outstanding robbery charges against the defendant). Indeed, outside of impermissible propensity purposes, none of the alleged conduct by Stahlman in the respective 2012 and 2018 incidents involving T.M. and T.B.—or, for that matter, the 2019 incident involving A.S. and S.B.—is relevant or material to prove Stahlman's specific motivation to sexually assault A.S. in 2016.

We therefore conclude that the district court abused its discretion in determining that the 2012 incident involving T.M., the 2018 incident involving T.M., and the 2018 incident involving T.B. were relevant and material as *Spreigl* evidence to prove motive.[11]

[11] For the reasons discussed above, even if the district court were to have determined that the 2019 incident involving A.S. that S.B. witnessed was admissible as *Spreigl* evidence to prove motive, we would conclude that the evidence is not relevant and admissible for that purpose.

B. Intent

In *Ness*, the supreme court also analyzed whether the prior incident of sexual misconduct at issue was admissible to prove intent. 707 N.W.2d at 687. Reasoning that the admissibility of *Spreigl* evidence to prove intent "requires an analysis of the kind of intent required and the extent to which it is a disputed issue in the case," the supreme court ruled that, if the defendant had engaged in the alleged act, the defendant's "sexual or aggressive intent [could] readily be inferred from the contacts themselves" because "there could be no other reason for [the defendant] to touch [the victim's] intimate parts." *Id.* (footnote omitted). The supreme court concluded that the challenged evidence was only "marginally admissible at best on the issue of intent" because "the real issue was not [the defendant's] intent, but whether or not [the defendant] touched [the victim's] intimate parts." *Id.* And the supreme court ultimately held that "the evidence was not relevant." *Id.* at 689.

In this case, the district court determined that the four incidents were relevant to prove Stahlman's "intent . . . to seek sexual gratification from underage girls who are sleeping," to "watch[] his daughter sleep" while having an erection, and to take "advantage of a sleeping girl in a particular way."[12] But this reasoning, as with motive, evinces little more than a propensity purpose for the challenged evidence because—given that Stahlman expressly disavowed the charged crime—intent was not a disputed issue in this case. *See*

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[12] The district court applied the same reasoning coextensively to the four prior bad acts in explaining its bases for determining that the evidence was relevant to prove intent and opportunity.

id. Instead, as in *Ness*, "the real issue was not [Stahlman's] intent, but whether or not [Stahlman] touched [A.S.]" in 2016 as alleged. *Id.*

Thus, we conclude that the district court abused its discretion in determining that the four prior bad acts were relevant and material as *Spreigl* evidence to prove intent.

C. Opportunity

As to opportunity, the district court determined that the four incidents were admissible for that purpose because "the state's allegations are that [Stahlman] wait[ed] for the girls to be asleep," because "the opportunity argument the state [was] making [went] to the issue of whether . . . Stahlman created an opportunity by waiting for the nighttime, when his alleged victims might be asleep, rather than whether they simply lived in the same house," and because "Stahlman took advantage of a sleeping girl in a particular way."

The Minnesota Supreme Court's decision in *State v. Campbell* is instructive as to this issue. 367 N.W.2d 454 (Minn. 1985). In *Campbell*, the supreme court addressed an appeal from the defendant's convictions of second-degree murder and conspiracy to commit first-degree murder. 367 N.W.2d at 455–56. The evidence against the defendant included a recorded confession by the co-defendant that the defendant had "knocked on [the victim's] door and sprayed mace on [the victim's] face, allowing [the co-defendant] to enter [the victim's] apartment and stab her to death." *Id.* at 457. At trial, the defendant testified and denied participating in the murder, claiming "that she was not involved but was merely a witness." *Id.* at 458.

On appeal, the defendant challenged, among other things, the district court's decision to admit evidence of an assault charge that was pending against her. *Id.* at 456.

That pending assault case was based on allegations that the defendant had maced a bouncer at a bar five days before the charged murder. *Id.* at 459–60. The supreme court affirmed the defendant's convictions, holding that "the [district] court had ample reason to admit evidence of the most recent macing incident." *Id.* at 460. In particular, the supreme court reasoned that "[t]he extent of [the] defendant's involvement in the murder, including whether she maced the victim, was at issue, and that she had used mace to disable an individual 5 days before was significant." *Id.* And the supreme court concluded that the other-acts evidence "showed that [the] defendant . . . had the opportunity to use mace since the can in her purse was probably still in good working order at the time of the murder." *Id.* In other words, the *Spreigl* evidence in *Campbell* was relevant and material to prove opportunity because it showed that the defendant had possession of and ready access to mace just five days before the charged murder, in which she was alleged to have used mace to commit the offenses of conviction.

By contrast to *Campbell*, the record before us does not establish that the four incidents were relevant and material to prove that Stahlman had the opportunity to commit the charged crime. Unlike the factual dispute about the defendant's opportunity to use mace that was at issue in *Campbell*, there was no dispute that Stahlman had the opportunity to sexually assault A.S. in 2016 because the uncontroverted evidence demonstrated that Stahlman and A.S. lived together and slept in the same house at the time of the alleged crime. And unlike the state's evidence in *Campbell*—which showed that the defendant had the opportunity to use mace on the victim during the charged murder because mace had been present in the defendant's purse and she had been able to use it on a bouncer at a bar just five days earlier—there was no showing by the state or explanation by the district court of how the four prior bad acts in 2012, 2018, and 2019 were relevant to prove that Stahlman had the opportunity in 2016 to commit the specific act of criminal sexual conduct underlying Stahlman's conviction. Thus, just as intent was not a disputed issue in *Ness* because the "real issue" was whether the defendant had touched the victim, 707 N.W.2d at 687, opportunity was not a disputed issue here because the real issue was whether Stahlman sexually assaulted A.S. in 2016. Indeed, given that Stahlman's presence in the home with A.S. while she slept was undisputed, his opportunity to commit the charged crime could "readily be inferred." *Id.*

We therefore conclude that the district court abused its discretion in determining that the four prior bad acts were relevant and material as *Spreigl* evidence to prove opportunity.[13]

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[13] In reaching this conclusion, we reiterate that the state has waived any appellate argument that the other-acts evidence was relevant and material to prove opportunity by failing to advance such a contention in its brief. *See Robinette*, 964 N.W.2d at 147 n.6. Moreover, in the district court and despite its pretrial assertions, the state did not use the four incidents in closing to explain to the jury how that evidence showed that Stahlman had the opportunity to commit the charged crime. Instead, the state told the jury that the four prior bad acts answered the question "why a father would want to sexually assault his daughter" by "explain[ing] why he took the opportunity to do so." This was the state's characterization of the real purpose for which it had offered the challenged evidence. And the answers to the rhetorical questions posed by the state to the jury went only to Stahlman's propensity to commit sexual assault rather than to a valid, non-character purpose, as required by Minnesota Rule of Evidence 404(b). *See Smith*, 749 N.W.2d 92–93. In *Ness*, the supreme court instructed that district courts "should follow the clear wording of Rule 404(b) and look to the real purpose for which the evidence is offered, and ensure that that purpose is one of the permitted exceptions to the rule's general exclusion of other-acts evidence." 707 N.W.2d at 686 (quotation omitted). The state's closing arguments and the record as a whole reveal that the real purpose for which the state offered the four prior bad acts was to prove that the charged criminal sexual conduct was action in

D. Modus Operandi

As mentioned above, rather than argue that the challenged evidence was admissible to prove motive, intent, and opportunity—which were purposes for which the state sought to admit the evidence in the district court and were the only purposes for which the district court admitted the evidence at trial—the state contends for the first time on appeal that the evidence of the four incidents was relevant to prove modus operandi. In support of this argument, the state cites *State v. Wermerskirchen*, 497 N.W.2d 235 (Minn. 1993). In *Wermerskirchen*, the Minnesota Supreme Court upheld the admission of trial testimony from three witnesses who described prior bad acts of sexual misconduct by the defendant as *Spreigl* evidence in a prosecution of second-degree criminal sexual conduct. 497 N.W.2d at 236–38. The supreme court concluded that "[t]he evidence was highly relevant in that it showed an ongoing pattern of opportunistic fondling of young girls within the family context and, therefore, tended to disprove the defense that [the victim] was fabricating or imagining the occurrence of sexual contact." *Id.* at 242 (footnote omitted).

But unlike the present matter, the district court in *Wermerskirchen* expressly "admitted the evidence to show 'intent' and 'common scheme or plan.'" *Id.* at 240. And in *Ness*, after summarizing its holding in *Wermerskirchen*, the supreme court observed that

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conformity with Stahlman's character—which is not within the permitted exceptions to the general exclusion of other-acts evidence required by rule 404(b). And after the state provided its characterization of the real purpose for which it had offered the four incidents in its summation, Stahlman moved for a new trial based on, among other things, the state's closing arguments about the other-acts evidence. But the district court denied Stahlman's motion, restating that it had admitted the challenged evidence as relevant and material to prove "motive and opportunity."

"[t]he common scheme or plan exception may have been applied more broadly than it should be" and clarified that, "in determining whether a bad act is admissible under the common scheme or plan exception, it must have a marked similarity in modus operandi to the charged offense." *Ness*, 707 N.W.2d at 688.

Here, we have already concluded based on the supreme court's post-*Wermerskirchen* decision in *Ness* that the challenged evidence was not relevant to prove Stahlman's intent. And modus operandi and common scheme or plan were not purposes for which the state sought to introduce the four prior bad acts, despite the requirement that the state "clearly state what the evidence [was] being offered to prove." *Smith*, 9 N.W.3d at 561.[14] Nor were those purposes "the rationale cited by the district court" in admitting the evidence, which frames the scope of our review. *Rossberg*, 851 N.W.2d at 616 (quotation omitted); *see also Ness*, 707 N.W.2d at 686 (explaining that, "[i]n assessing the probative value and need for the evidence, the district court must identify the precise disputed fact to which the *Spreigl* evidence would be relevant" by "isolating the consequential fact for which the evidence is offered, and then determining the relationship

[14] At the hearing during which the district court considered the state's motion to admit the four prior bad acts, the district court commented that the state's argument suggested that it "want[ed] to use [the challenged evidence] to show there's motive and opportunity," but the court "hear[d the state] arguing kind of MO [(i.e., modus operandi)]; that is, all these other[] [incidents] happened while the girls [were] sleeping and therefore this [was] a continuation of that." In response, Stahlman specifically asserted that the state "didn't notice modus operandi," that "[t]he three things that were noticed were motive, intent, and opportunity," and that the district court should not "look at modus operandi without it being noticed." The district court took Stahlman's argument to be "that if this [was] modus operandi, then proper notice wasn't given," and the court later stated that "the *Ness* factors say motive and opportunity, and . . . sometimes modus operandi just sounds close but is a distinct legal concept."

of the offered evidence to that fact and the relationship of the consequential fact to the disputed issues in the case" (quotation and citations omitted)). Nor did any of the district court's cautionary instructions to the jury advise that modus operandi or common plan or scheme were among the limited purposes for which the jury could consider the four prior bad acts.

We are mindful that, in addressing the admissibility of the 2012 incident involving T.M., the district court stated that "there is a very similar modus operandi – specifically, coming at night to a place where a girl is sleeping, engaging in alleged sexual contact and then breaking the contact when the victim awakens." But immediately after that sentence, the district court explained that it found "this to be relevant to [Stahlman's] intent, which [was] an element of the crimes being charged in this case." The district court did not otherwise refer to modus operandi or common scheme or plan as purposes for which it admitted any of the four incidents.

In *Ness*, the supreme court observed that "the closer the relationship between the other acts and the charged offense, in terms of time, place, or modus operandi, the greater the relevance and probative value of the other-acts evidence and the lesser the likelihood that the evidence will be used for an improper purpose." 707 N.W.2d at 688. The district court's reference to modus operandi in analyzing the relevance of the 2012 incident involving T.M. for purposes of proving Stahlman's intent aligns with that observation. But in the district court's order granting the state's motion and its oral ruling denying Stahlman's motion for a new trial, the court cited only motive, intent, and opportunity as the purposes for which it admitted the challenged evidence—and that is the rationale that we review on appeal. *See Rossberg*, 851 N.W.2d at 615–16. Because the district court did not receive the other-acts evidence for purposes of proving modus operandi or common scheme or plan, we reject the state's contention on appeal that the court's use of the phrase "modus operandi" in finding that the 2012 incident involving T.M. was relevant to Stahlman's intent amounted to the court's admission of all four prior bad acts as relevant and material to prove those purposes.

Thus, we conclude that the state's appellate invocation of modus operandi does not obviate the district court's abuse of discretion in determining that the challenged testimony was relevant and material as *Spreigl* evidence for purposes of proving motive, intent, and opportunity.

E. Probative Value Versus Potential for Unfair Prejudice

Because the state must satisfy all five requirements to establish the admissibility of *Spreigl* evidence, we need not consider the fifth requirement—i.e., whether the probative value of the four prior bad acts was not outweighed by its potential prejudice to Stahlman—based on our conclusion that the state has not established the fourth requirement—i.e., whether the challenged evidence was relevant and material to the state's case for the purposes of proving motive, intent, and opportunity. *See Smith*, 9 N.W.3d at 561. We nonetheless address the fifth requirement in the interest of completeness, given the district court's rationale in admitting the challenged evidence and the parties' arguments on appeal. *See Ness*, 707 N.W.2d at 689–91 (analyzing whether the probative value of the prior incident of sexual misconduct was outweighed by its potential for unfair prejudice after concluding that the evidence was not relevant and material for valid *Spreigl* purposes).

The Minnesota Supreme Court has explained that, to determine "whether [the] probative value [of other-acts evidence] outweighs its potential for unfair prejudice," appellate courts "balance the relevance of the other offenses, the risk of the evidence being used as propensity evidence, and the State's need to strengthen weak or inadequate proof in the case." *State v. Fardan*, 773 N.W.2d 303, 319 (Minn. 2009).

The district court ruled: "that the probative value of the [T.M.] 2012 allegations . . . outweigh[ed] the risk of unfair prejudice because they allow[ed] the jury to determine issues like motive, intent, and opportunity"; that, as to the 2018 incident involving T.M., "like the other incidents, . . . the probative value outweigh[ed] any unfair prejudice"; that "[t]he probative value of the [2018] incident [involving T.B. was] not outweighed by the risk of unfair prejudice"; and "that the probative value of [the] evidence [of the 2019 incident involving A.S. that S.B. witnessed] outweigh[ed] the risk of unfair prejudice, as it allow[ed] the jury to consider intent outside the context of other chargeable offenses."

As we concluded above, the four incidents were neither relevant nor had any probative value to prove motive, intent, and opportunity. And because we have rejected the state's appellate argument that the district court properly admitted the challenged evidence to prove common scheme or plan, the state's reliance on the supreme court's comment in *Ness* that "[t]he use of *Spreigl* evidence to show a common scheme or plan has been endorsed repeatedly, despite the particular risk it poses for unfair prejudice[,]" is unavailing. 707 N.W.2d at 687. Indeed, as in *Ness*, "because the evidence was not relevant, the inherently prejudicial nature of additional allegations of child sexual abuse could only have worked to [Stahlman's] prejudice." *Id.* at 689.

The prejudicial risk of the evidence being used for propensity was high, particularly given the number of prior bad acts that had allegedly occurred over seven years and the undisputedly emotional and dramatic nature of the testimony by T.B. and T.M. In *Fardan*, the supreme court cited with approval "[c]ommentators [that] have recognized that evidence of criminal sexual conduct can be highly prejudicial." 773 N.W.2d at 319 (citing 1 Christopher B. Mueller & Laird C. Kirkpatrick, *Federal Evidence* § 4:30, at 776 (3d ed. 2007)). The state asserts that *Fardan* is distinguishable because that case involved the admission of prior bad-acts evidence—i.e., that the defendant had previously sexually assaulted a woman twice—during the defendant's trial on unrelated charges of first-degree felony murder, second-degree felony murder, and first-degree aggravated robbery. *See id.* at 308–09, 319. But the supreme court's quotation in *Fardan* of *Federal Evidence* for the proposition that "crimes of a sexual nature are likely 'to strike raw nerves and bring high risks of prejudice *in any kind of prosecution*'"—as well as the extremely emotional other-acts testimony in this case—defeats the state's argument here that the prejudicial risk of the challenged evidence being used for propensity was not high. *Id.* at 319 (emphasis added) (quoting Mueller & Kirkpatrick, *supra,* § 4:30, at 776).

Although the state claims that the potential for the jury to use the four incidents for improper purposes was mitigated by the district court's cautionary instructions,[15] each of

[15] *See State v. Smith*, 932 N.W.2d 257, 268 (Minn. 2019) (declining to reverse a conviction on the basis of claimed *Spreigl* error in part because "the district court gave a proper limiting instruction before" the evidence was admitted and "again at the end of trial," and because the state told the jury in closing arguments that it could not convict the defendant because of what he did during the *Spreigl* incidents, but could use the information to understand the parties' roles, who was in charge, and the modus operandi).

the cautionary instructions informed the jury that it could consider the evidence to determine motive, intent, and opportunity—all purposes for which we have concluded the evidence had neither relevance nor probative value. The same is true of the state's reference to the district court's cautionary instructions in closing arguments,[16] which the state contends on appeal "reinforced the judge's instruction about the limited use of that evidence." This argument lacks merit. Not only was the state's citation of the cautionary instructions in its summation ineffective as mitigation for the reason just mentioned, but the state's argument immediately afterward also explicitly invited the jury to use the evidence for prohibited propensity purposes:

> Now, it is absolutely true that just because someone commits, say, 35 burglaries, it does not make them guilty of the 36th. That is absolutely true. The incidents that you heard from [T.M.], [T.B.], and [S.B.] are strictly meant to help you understand . . . Stahlman's motive and intent to sexually assault his daughter. *And it is meant to help you understand why . . . Stahlman took that specific opportunity to do so while she was sleeping in her bunk bed.*

(Emphasis added.). By suggesting to the jury that the charged conduct was action in conformity with Stahlman's character, the state's last comment compounded its assertions just before it described each of the four incidents during its closing arguments—that it had presented the evidence "to explain . . . why a father would want to sexually assault his daughter . . . and to explain why he took the opportunity to do so." Thus, we conclude that neither the cautionary instructions nor the state's discussion of them during its summation mitigated the risk of the challenged evidence being used for propensity. *See Fardan*, 773

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[16] *See id.*

N.W.2d at 312, 319 (despite a limiting instruction by the district court, concluding "that the minimal probative value of the criminal sexual conduct evidence was outweighed by its potential for unfair prejudice").[17]

As to the state's need to strengthen inadequate proof in its case, the state argued in its pretrial motion to the district court that, without evidence about the four incidents, its case was weak. But on appeal, the state maintains that it "had a relatively strong case," acknowledging in its harmless-error analysis that "this case lacked . . . corroborating evidence" yet asserting that "A.S. gave the jury a first-hand account of the sexual abuse that was straightforward." In *Ness*, the supreme court instructed that "courts should address the need for *Spreigl* evidence in the context of balancing the probative value of the evidence against its potential for unfair prejudice" and that, "[i]f the admission of evidence of other crimes or misconduct is a close call, it should be excluded." *Ness*, 707 N.W.2d at 685. Considering the state's need for the evidence of the four prior bad acts in the context of balancing the nonexistent probative value of that evidence against its high potential for unfair prejudice—especially given the supreme court's admonition that even close calls

[17] *See also State v. Caldwell*, 322 N.W.2d 574, 590 (Minn. 1982) (reasoning that "[t]he prosecutor's remarks implying that evidence had been falsified and his comment regarding the failure of appellant to explain his absence were absolutely inappropriate and impermissible," and concluding that "it is questionable whether, under the circumstances of this case, the [district] court's cautionary instructions could have prevented the jury from reaching conclusions that were unduly prejudicial to appellant"); *State v. Reardon*, 73 N.W.2d 192, 195 (Minn. 1955) (explaining that, "[w]here . . . the impact of [a] prejudicial remark may be such as to impart to the minds of the jury substantial prejudicial evidence not properly a part of the case, it is taking too much for granted to say its effect can be removed by an instruction from the court[,]" and that "[t]he naive assumption that prejudicial effects can be overcome by instructions to the jury, all practicing lawyers know to be unmitigated fiction" (quotation omitted)).

require exclusion—we conclude that the probative value of the challenged evidence is outweighed by its potential prejudice to Stahlman. *See id.*

Under these circumstances, the district court abused its discretion in admitting testimony about the four prior bad acts as *Spreigl* evidence.

F. Minnesota Statutes section 634.20

Citing two nonprecedential decisions of this court, the state maintains for the first time on appeal and contrary to the reasoning of the district court that, even if the four incidents are inadmissible as *Spreigl* evidence, they are still admissible under Minnesota Statutes section 634.20 as evidence of domestic conduct. *See State v. Mejia-Bonilla*, No. A22-0770, 2023 WL 2359428 (Minn. App. Mar. 6, 2023), *rev. denied* (Minn. June 20, 2023), and *State v. Dalton*, No. A09-1747, 2010 WL 3958427 (Minn. App. Oct. 12, 2010), *rev. denied* (Minn. Dec. 22, 2010). Stahlman counters that the state forfeited this argument by failing to make it in the district court and that this case "does not fall within the narrow exception to the forfeiture rule." We agree with Stahlman.

"Generally, a reviewing court will consider only those issues that were presented to and considered by the district court." *State v. Boswell*, 20 N.W.3d 640, 652 (Minn. App. 2025) (citing *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988)), *rev. denied* (Minn. June 25, 2025). And "[g]enerally, when an issue has not been raised before the district court, [appellate courts] consider the issue forfeited." *Steward v. State*, 950 N.W.2d 750, 756 (Minn. 2020). "A party may not 'obtain review by raising the same general issue litigated below but under a different theory.'" *State v. McMurray*, 860 N.W.2d 686, 689 n.2 (Minn. 2015) (quoting *Thiele*, 425 N.W.2d at 582). Moreover, as discussed above, appellate courts "review whether the rationale cited by the district court provides a proper basis upon which to admit the evidence." *Rossberg*, 851 N.W.2d 609, 615–16 (quotation omitted).

In both *Mejia-Bonilla* and *Dalton*, this court relied on the Minnesota Supreme Court's decision in *State v. Grunig*, 660 N.W.2d 134, 137 (Minn. 2003), to affirm the admission of prior bad-acts evidence that had been admitted under *Spreigl* by relying instead on section 634.20 as a basis for admissibility. *See Mejia-Bonilla*, 2023 WL 2359428, at *2–4; *Dalton*, 2010 WL 3958427, at *6–9. For four reasons, we conclude that *Mejia-Bonilla* and *Dalton* are not persuasive authority in the matter before us.

First, as nonprecedential opinions, neither *Mejia-Bonilla* nor *Dalton* are binding. *See* Minn. R. Civ. App. P. 136.01(c) ("Nonprecedential opinions . . . are not binding authority except as law of the case, res judicata or collateral estoppel, but nonprecedential opinions may be cited as persuasive authority.").

Second, *Mejia-Bonilla* and *Dalton* are distinguishable because it does not appear that, in either of those opinions, the defendants opposed the state's *Grunig* arguments, as Stahlman does here. In *Grunig*, the Minnesota Supreme Court held that "[a] respondent can raise alternative arguments on appeal in defense of the underlying decision when there are sufficient facts in the record for the appellate court to consider the alternative theories, there is legal support for the arguments, and the alternative grounds would not expand the relief previously granted." 660 N.W.2d at 137. In this case, Stahlman convincingly contends that, because "[t]he district court ruled the other-acts evidence admissible to prove motive, intent and opportunity and repeatedly instructed the jury to consider the evidence only as it related to these issues[,]" the state's section "634.20 argument does not defend *that ruling* but instead argues that the evidence could have been admitted for additional and entirely different purposes: to 'illuminate the history of the relationship' and to 'explain delayed reporting on the part of a victim.'" Thus, Stahlman maintains—apparently unlike the defendants *Mejia-Bonilla* and *Dalton*, given the lack of reference to such contentions in those opinions—that the state's "argument seeks to expand the relief previously granted with a ruling that the other-acts evidence could have admitted for additional and entirely different purposes than the district court's ruling allowed."

Third, Stahlman's point about the district court's specific and repeated cautionary instructions to the jury—all of which informed the jury that the "evidence [was] being offered for the limited purpose of assisting [the jury] in determining motive, intent, or opportunity by the defendant with regard to this case"—is well taken. *Mejia-Bonilla* mentions that "the district court's cautionary instruction properly limited the jury's use of the evidence in determining whether the charged conduct occurred," but does not specify whether—as here—the instruction specifically advised the jury to consider the evidence only for purposes of determining motive, intent, or opportunity. 2023 WL 2359428, at *4. And *Dalton* does not discuss whether there was a cautionary instruction at all. 2010 WL 3958427, at *1–9. The specific cautionary instructions limiting the jury's use of the evidence to motive, intent, or opportunity—not for purposes of illuminating the history of Stahlman's relationship with A.S., assessing witness credibility, or explaining A.S.'s delayed reporting, as the state maintains in support of its section 634.20 argument on appeal—meaningfully distinguish our facts from those of *Mejia-Bonilla* and *Dalton*.

Fourth, neither *Mejia-Bonilla* nor *Dalton* address the Minnesota Supreme Court's holding in *State v. Zinski*, 927 N.W.2d 272, 278 (Minn. 2019), that, "when a district court admits relationship evidence under Minn. Stat. § 634.20, over a defendant's objection that the evidence does not satisfy section 634.20, the court must sua sponte instruct the jurors on the proper use of such evidence, unless the defendant objects to the instruction by the court."[18] *See also State v. Kocurek*, ____ N.W.3d ___, ___, 2025 WL 1679811, at *4 (Minn. App. June 16, 2025) (citing *Zinski* and holding that, "if a district court admits relationship evidence over a defendant's timely objection, the district court's failure to sua sponte instruct the jury on the appropriate use of the evidence is preserved for appellate review," including "for an abuse of discretion and for harmless error"). Here, the district court instructed the jury that it could only consider the challenged evidence for the specific and limited purposes of determining motive, intent, or opportunity. But under *Zinski*, district courts must sua sponte instruct jurors on the proper use of section 634.20 evidence that is admitted over a defendant's objection, unless the defendant objects to the court's instruction. 927 N.W.2d at 278. Because the district court allowed the testimony and instructed the jury only on *Spreigl* grounds, we conclude that affirming the admission of the testimony about the four prior bad acts by relying on section 634.20 would expand the

[18] Because *Zinski* was decided almost nine years after *Dalton*, this court did not have the benefit of *Zinski* in considering whether—contrary to the limited forfeiture exception set forth in *Grunig*—it would expand the relief the district court had afforded in admitting the prior bad-acts evidence under *Spreigl* by affirming the admission of that evidence based on section 634.20. *Mejia-Bonilla*, which was decided almost three years after *Zinski*, does not discuss *Zinski*.

relief previously granted by the district court, in violation of the narrow forfeiture exception provided by *Grunig*.

In sum, the *Grunig* forfeiture exception does not apply to the state's section 634.20 claim. The state did not raise or present to the district court section 634.20 as a ground for admitting the evidence, the district court did not consider it, and the state may not obtain review by raising the same general issue litigated before the district court but under a different theory on appeal. Thus, we conclude that the state has forfeited its section 634.20 argument and decline to address it. *See Boswell*, 20 N.W.3d at 652; *Steward*, 950 N.W.2d at 756; *McMurray*, 860 N.W.2d at 689 n.2.

II. There is a reasonable possibility that the wrongfully admitted evidence significantly affected the verdict.

Stahlman asserts that he is entitled to a new trial because the district court abused its discretion in admitting the challenged evidence and because there is a reasonable possibility that the testimony about the four prior bad acts significantly affected the jury's verdict. The state responds that, even if evidence of the four incidents were improperly admitted, Stahlman is not entitled to a new trial. Stahlman's argument is persuasive.

A defendant is entitled to a new trial when the district court erroneously admits *Spreigl* evidence if "there is a reasonable possibility that the wrongfully admitted evidence significantly affected the verdict." *State v. Bolte*, 530 N.W.2d 191, 198 (Minn. 1995) (quotation omitted); *see also State v. Post*, 512 N.W.2d 99, 102 n.2 (Minn. 1994) ("It is when dealing with a claim of erroneous *admission* of evidence that the question is whether there is a reasonable probability that the wrongfully admitted evidence significantly affected the verdict . . . ."). An error is not harmless just because sufficient evidence supports the verdict. *State v. Bigbear*, 10 N.W.3d 48, 55 (Minn. 2024). Instead, appellate courts "must consider all the evidence introduced as well as other illuminating factors . . . and ask whether there is a reasonable possibility that the error significantly affected the verdict." *Id.*

In determining whether there is a reasonable possibility that the wrongfully admitted evidence significantly affected the verdict, appellate courts consider the following nonexclusive factors: "the manner in which the evidence was presented"; "its persuasive value"; "its use in closing argument"; the defense's "counter of the evidence"; and "whether the evidence of guilt was strong." *Id.* at 55–56. And appellate courts consider the effect of any cautionary instructions given by the court. *State v. Jaros*, 932 N.W.2d 466, 474 (Minn. 2019). We address each of these factors below.

The state presented evidence of the four prior bad acts in a prominent manner. "In analyzing the prominence of erroneously admitted evidence," appellate courts can look to "the relative number of transcript pages that the evidence occupies." *Bigbear*, 10 N.W.3d at 56. Appellate courts also consider "whether the evidence was used throughout the [s]tate's case." *Id*. The challenged evidence was a prominent feature of the state's case. Along with the testimony of T.M., T.B., and S.B., A.S. testified about prior bad acts by Stahlman, as did R.D., the forensic interviewer, and the investigator. The jury also heard about Stahlman's other acts when the state played A.S.'s recorded forensic interview and Stahlman's recorded interview with law enforcement. In total, 22 trial transcript pages of direct testimony and recorded exhibits introduced by the state relate to the four incidents, which is nearly the same amount as the 25 pages of direct testimony about the charged act of criminal sexual conduct. This factor favors Stahlman.

The challenged evidence was highly persuasive. As just discussed, the jury heard testimony from seven different live witnesses about four separate prior bad acts of sexual misconduct by Stahlman that had occurred over seven years. T.B.'s and T.M.'s testimony in particular was undisputedly emotional and dramatic, including firsthand descriptions of sexual assault. The persuasive value of the challenged evidence leads us to conclude that this factor favors Stahlman.

Although the state's discussion of the four incidents comprised only 7 out of 22 transcript pages of its closing arguments, the state expressly used the evidence in its summation to invite the jury's consideration of the evidence for impermissible propensity purposes, as explained above. In particular, the state asserted that the evidence explained "why a father would want to sexually assault his daughter," "why he took the opportunity to do so," and "why . . . Stahlman took that specific opportunity to [sexually assault A.S.] while she was sleeping in her bunk bed." This factor favors Stahlman.

Stahlman did not effectively counter the challenged evidence. Even the state acknowledges on appeal that Stahlman accepted the truth of the other-acts evidence by merely attempting to persuade the jury that "(a) A.S. may have lied about the sexual assault because she was 'really, really angry at . . . Stahlman for what happened to [T.M. and T.B.]' or (b) A.S.'s memory was 'contaminate[d],' [and] as a result she may [have] 'honestly believe[d] that this happened even though it didn't.'" Because Stahlman "merely challenged the admissibility of the . . . evidence" but "did not attempt to counter the evidence before the jury[,] that fact weighs against a conclusion that the error was harmless." *State v. Heller*, 12 N.W.3d 452, 468–69 (Minn. 2024) (footnote omitted) (quoting *State v. McInnis*, 962 N.W.2d 874, 889 (Minn. 2021), for the proposition that "unrebutted evidence weighs against an error being harmless, even when 'the defendant chose to challenge admissibility and not to counter the evidence on the merits'"); *see also State v. Caulfield*, 722 N.W.2d 304, 315 (Minn. 2006) (explaining that "unrebutted evidence has greater impact" on the jury's verdict, so evidence challenged on its admissibility but not on the merits "weighs in favor of finding the error to be prejudicial"). This factor weighs in Stahlman's favor.

The state's case against Stahlman was not strong. "[O]verwhelming evidence of guilt is a factor, often a very important one, in determining whether . . . the error has no impact on the verdict." *Id*. (quoting *State v. Juarez*, 572 N.W.2d 286, 291 (Minn. 1997)). "Strong evidence of guilt undermines the persuasive value of wrongly admitted evidence." *Id.* (quotation omitted). As discussed above, the state maintained in its pretrial motion to the district court that its case without the four prior bad acts was weak, asserting: "this [was] not a case where there [was] evidence beyond [A.S.] describing what [Stahlman] did to her"; "[e]vidence that [could] establish [Stahlman's] motive, intent, absence of mistake, and opportunity to commit the crime [became] more probative because of the way the evidence [was] in [A.S.'s] particular case"; "in cases like [this,] where there [were] no third party witnesses to the touching and penetration,[[19]] and where forensic evidence [was]

[19] As noted above, A.S.'s trial testimony differed from the statements she had made about penetration during her forensic interview, which resulted in the parties' agreement to redact

nonexistent, permitting *Spreigl* evidence [would] assist in showing [Stahlman's] motive, intent, absence of mistake, and opportunity to commit the crime." The trial record confirms that there was neither corroborating witness testimony nor physical evidence to support A.S.'s allegations. And Stahlman testified that the charged conduct never happened and presented the testimony of his cousin, C.M., who said that A.S. told her Stahlman would "never do that to [A.S.] . . . [because they were] buddies." We conclude that this factor favors Stahlman.

Lastly, as discussed earlier, the district court's cautionary instructions did not mitigate the effect of the evidence about the four prior bad acts because they informed the jury that it could consider the testimony to determine motive, intent, and opportunity when none of the evidence was relevant or probative for those purposes. *Cf. Fardan*, 773 N.W.2d at 312, 319. This factor weighs in Stahlman's favor.

Because all relevant factors favor Stahlman, we conclude that "there is a reasonable possibility that the wrongfully admitted evidence significantly affected the verdict." *Bolte*, 530 N.W.2d at 198. We therefore reverse and remand for a new trial.

Reversed and remanded.

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portions of that interview and Stahlman's interview with law enforcement. And the state ultimately dismissed the first-degree criminal sexual conduct charged in Count I.