

*This opinion is nonprecedential except as provided by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
A24-1645**

State of Minnesota,
Respondent,

vs.

Thomas Arrandell Weeks,
Appellant.

**Filed September 4, 2025
Affirmed
Reilly, Judge***

Hennepin County District Court
File No. 27-CR-23-12175

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

Mary F. Moriarty, Hennepin County Attorney, Mark V. Griffin, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, St. Paul, Minnesota; and

Andrew C. Wilson, Special Assistant Public Defender, Wilson & Clas, Minneapolis, Minnesota (for appellant)

Considered and decided by Worke, Presiding Judge; Reyes, Judge; and Reilly, Judge.

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

REILLY, Judge

Appellant Thomas Arrandell Weeks challenges his conviction for third-degree criminal sexual conduct, arguing that the district court abused its discretion by admitting two exhibits at trial and by denying his motion for a mistrial after a witness left the courtroom during her testimony without permission to do so. We affirm.

FACTS

The jury heard the following testimony during trial. In June 2023, J.A. visited appellant at his home in Bloomington. J.A. fell asleep while watching a movie in the living room around 1:00 a.m. She remembered appellant carrying her to his bed. When J.A. woke up a short time later, she found her phone and dialed 911. Law enforcement quickly arrived at appellant's home. J.A. informed them that she woke up to appellant raping her and that he had ejaculated inside her.

J.A. was taken by ambulance to a hospital where she underwent a physical examination. During the examination, a forensic nurse examiner took vaginal swabs and submitted them to law enforcement for testing. The test results revealed the presence of DNA matching appellant's.

The state charged appellant with one count of third-degree criminal sexual conduct, in violation of Minn. Stat. § 609.344, subd. 1(b) (2022) (victim physically helpless), and one count of third-degree criminal sexual conduct in violation of Minn. Stat. § 609.344, subd. 1(a) (2022) (coercion).

The district court held a jury trial. The jury heard testimony from five witnesses: J.A., a forensic DNA analyst, a responding officer, the 911 dispatcher, and the forensic nurse examiner. During her testimony, J.A. became upset and left the courtroom without permission to do so. At that time, appellant moved for a mistrial, and in the alternative, for a dismissal of the charges. The district court denied both motions on the ground that J.A. returned to the courtroom and was able to sit for cross-examination. The jury also considered several exhibits, including Exhibit 2, a body-worn camera video of J.A. speaking with responding law enforcement officers when they first arrived at appellant's home, and Exhibit 4, a body-worn camera video taken while law enforcement spoke with J.A. in the back of the ambulance. Appellant objected to the admission of both Exhibits 2 and 4.

The jury found appellant guilty of one count of third-degree criminal sexual conduct (victim physically helpless) and not guilty of third-degree criminal sexual conduct (coercion). This appeal followed.

DECISION

I. The district did not abuse its discretion by admitting Exhibit 2 as substantive evidence.

Appellant contends that the district court abused its discretion by allowing the state to introduce Exhibit 2. Appellant asserts that Exhibit 2 is hearsay that does not meet the hearsay exception for a prior inconsistent statement because J.A. had not yet testified at trial that penetration occurred. Minn. R. Evid. 801(d)(1)(A). This court reviews evidentiary determinations for an abuse of discretion. *State v. King*, 990 N.W.2d 406, 414

(Minn. 2023). The appellant bears the burden of showing that the district court abused its discretion. *Id.*

Hearsay is an out-of-court statement offered to prove the truth of the matter asserted. Minn. R. Evid. 801(c). Absent an exception, hearsay is not admissible. Minn. R. Evid. 802. A prior inconsistent statement is not hearsay and is thus admissible as substantive evidence when it is “inconsistent with the declarant’s testimony” and the earlier statement “was given under oath subject to the penalty of perjury at a trial, hearing, or other proceeding, or in a deposition.” Minn. R. Evid. 801(d)(1)(A); *see also State v. Thames*, 599 N.W.2d 122, 125 (Minn. 1999). If the prior inconsistent statement was not given under oath, it “is not admissible substantively, but may be admitted under Rule 607 for impeachment purposes.” *Id.*; Minn. R. Evid. 607.

Exhibit 2 recorded the initial interaction between J.A. and the law enforcement officers that responded to her 911 call. In her 911 call, J.A. told the dispatcher that she “thought he was [her] friend” and that she “woke up to him raping [her].” The jury heard the recording of J.A.’s 911 call before hearing Exhibit 2.

In Exhibit 2, J.A. restates portions of her 911 call to the responding law enforcement officers, telling the officers that she “woke up to [appellant] raping [her],” that she “thought he was [her] friend.” She also informed the officers that, when she woke up, “[h]is d[-]ck [was] in me and my leg up and it hurts,” and that appellant ejaculated inside her. Neither J.A.’s statement to the 911 dispatcher nor to the responding law enforcement officers were given under oath.

To lay foundation for the admission of Exhibit 2, the state questioned J.A. regarding the incident. J.A. declined to substantively answer the state's questions, saying that the details were "on the [police] report." The state moved for the admission of Exhibit 2. The district court first asked counsel to approach the bench and addressed an off-record objection by appellant, then received the exhibit over appellant's objection but did not specify why or for what purpose it was being admitted. Appellant's counsel later stated on the record that they had objected to the admission of Exhibit 2 on the ground that J.A. had not "given a statement [at trial] about what sexual acts did or did not occur that night," and appellant's counsel understood the exhibit was admitted "as a prior inconsistent statement." The state characterized Exhibit 2 as "evidence [that] came in substantively. . . to the extent of her excited utterance initially to the law enforcement."

Appellant's argument fails because the record does not establish that the district court admitted Exhibit 2 as a prior inconsistent statement. First, although appellant's trial counsel expressed their understanding that the exhibit had been admitted under this exception, neither the state nor the district court endorsed that conclusion. Indeed, it appears to have been the state's understanding that the district court had admitted the exhibit as an excited utterance. Second, although the district court did not expressly indicate the basis on which it admitted Exhibit 2 as substantive evidence, it would be unreasonable to infer from the existing record that it did so as a prior inconsistent statement.

There is no dispute that J.A.'s statements in Exhibit 2 were not given under oath, which appellant states was the basis for his objection in district court and which would have categorically exempted those statements from admission as substantive evidence as

prior inconsistent statements. *See Thames*, 599 N.W.2d at 125; Minn. R. Evid. 801(d)(1)(A). Moreover, the district court clearly indicated that the statements had, in fact, been admitted as substantive evidence and not merely for impeachment purposes.¹ And J.A.’s statements in Exhibit 2 were also not inconsistent with her trial testimony but rather included more detail and provided greater context for J.A.’s testimony and recording of the 911 call. Given the patent inapplicability of the prior-inconsistent-statement exception to the statements in Exhibit 2, we perceive no rational basis on which to presume that the district court admitted the exhibit for that reason and decline to reach that conclusion on this record.

Appellant only challenges the district court’s decision to admit Exhibit 2 as a prior inconsistent statement, and appellant makes no other argument for reversal or remand. Because appellant has not demonstrated that the district court admitted Exhibit 2 as a prior inconsistent statement, he has not met his burden to show that the district court abused its discretion by admitting it.

¹ In addition to the district court’s statements that Exhibit 2 was admitted as substantive evidence, the court’s treatment of Exhibit 2 also shows that it was admitted as substantive evidence rather than only for impeachment purposes. For example, the district court did not give special instructions informing the jury of the limited purpose for the evidence before playing Exhibit 2. During jury deliberations, the district court provided the jury with a laptop that could play Exhibit 2 as often as they felt necessary.

In contrast, the district court later admitted Exhibit 4 as impeachment evidence only and provided repeated limiting instructions, including that it was “admitted only for the light it may cast on the truth of [J.A.]’s testimony at this trial. You must not consider the statement as evidence of the facts referred to in the statement.” The district court did not allow the jury to re-listen to Exhibit 4 in the jury room during deliberations, as it did not “want [jurors] to place an overemphasis on Exhibit 4 as evidence” because of the “danger that [jurors] will consider it as substantive evidence if they have to listen over and over again on their own.”

II. The district court did not abuse its discretion by admitting Exhibit 4 as a prior inconsistent statement for impeachment purposes.

Appellant next argues that the district court abused its discretion by admitting Exhibit 4 as impeachment evidence on the ground that it violated the *Dexter* rule, which prevents evidence that is not substantively admissible from being presented to the jury “in the guise of impeachment.” *See State v. Dexter*, 269 N.W.2d 721, 721-22 (Minn. 1978). Exhibit 4 contained a body-worn camera video recording of law enforcement’s interview with J.A. in the ambulance. It was recorded about 30 minutes after law enforcement responded to the scene.

We review a district court’s evidentiary rulings for an abuse of discretion, *State v. Matthews*, 779 N.W.2d 543, 553 (Minn. 2010), and we reverse only if “the admission of the evidence was erroneous and prejudicial.” *See State v. Loving*, 775 N.W.2d 872, 879 (Minn. 2009). An erroneous evidentiary ruling is prejudicial if it “substantially influenced the jury’s decision.” *Id.*

A party may use extrinsic evidence of a witness’s prior inconsistent statement for impeachment purposes if “the witness is afforded a prior opportunity to explain or deny the same and the opposite party is afforded an opportunity to interrogate the witness thereon, or the interests of justice otherwise require.” Minn. R. Evid. 613(b); *see also State v. Caine*, 746 N.W.2d 339, 352 (Minn. 2008).

Despite rule 613, a party may not introduce evidence under “the guise of impeachment” if the evidence is otherwise inadmissible as substantive evidence. *Dexter*, 269 N.W.2d at 721-22. The supreme court described this situation in *State v. Ortlepp*:

[T]he problem arises when a prosecutor calls a witness who has given a prior statement implicating the defendant, but that witness has since retracted the statement and signified an intent to testify in defendant's favor if called by the prosecutor. If the prosecutor is permitted to call this witness and use the prior statement for impeachment purposes, there is a large risk that the jury, even if properly instructed, will consider the prior statement as substantive evidence.

363 N.W.2d 39, 42-43 (Minn. 1985).

At trial, the state asked J.A., “[W]hat does the word ‘rape’ mean to you?” J.A. answered that she “shouldn’t have used that word because he was on top of me trying to stop me. So, I just shouldn’t have used that word.” The state then asked the district court to admit Exhibit 4 as “a prior inconsistent statement with regard to the context in which [J.A.] was being held.” The state argued that J.A. had testified “that she was simply held down separate and apart from the sex act for the purposes of preventing her from leaving,” but that “Exhibit 4 is the context of being held down during penile penetration.” Appellant objected on the ground that J.A. had not substantively testified to the actual criminal sexual conduct.

The district court admitted Exhibit 4 as impeachment evidence only. It stated on the record that Exhibit 4 “qualifies as a prior inconsistent statement” based on J.A.’s testimony at trial that “she probably shouldn’t have used the word ‘rape’ because [appellant] just held her down for her own benefit to keep her from going out.” But Exhibit 4 includes statements by J.A. about appellant holding her down, penetrating her without her consent, and asking her not to call the police. Therefore, the district court did not abuse

its discretion by concluding that Exhibit 4 constituted a prior inconsistent statement and thus was admissible at trial for impeachment purposes but not as substantive evidence.

Appellant also argues that the district court's instructions regarding Exhibit 4 were impermissibly confusing to the jury and put the jury at risk of "consider[ing] the prior statement as substantive evidence." *See Ortlepp*, 363 N.W.2d at 43. He specifically asserts that the instructions told the jury "to disregard the substance of J.A.'s statements in Exhibit 4 as they were only admissible for purposes of impeachment," but to "consider [her] 'emotional state' as substantive evidence of guilt." The record shows that three times the district court instructed the jury that Exhibit 4 is "admitted only for the light it may cast on the truth of [J.A.]'s testimony at . . . trial," and that they "must not consider the statement as evidence of the facts referred to in the statement." Contrary to appellant's argument, the district court never instructed the jury that it could use Exhibit 4 as substantive evidence of J.A.'s emotional state. And this court assumes that a jury follows the district court's instructions. *See State v. Ferguson*, 581 N.W.2d 824, 835 (Minn. 1998).

The record does not support appellant's assertion that the district court provided confusing or inadequate instructions to the jury. Appellant's arguments to the contrary lack merit.

III. The district court did not abuse its discretion by denying appellant's motion for a mistrial.

Appellant argues that the district court abused its discretion by denying his motion for a mistrial after J.A. exited the courtroom during her testimony because her exit was unfairly prejudicial to his defense.

“Appellate courts review a district court’s denial of a motion for a mistrial for an abuse of discretion.” *State v. Boswell*, 20 N.W.3d 640, 654 (Minn. App. 2025), *rev. denied* (Minn. June 25, 2025). “[A] mistrial should not be granted unless there is a reasonable probability that the outcome of the trial would be different if the event that prompted the motion had not occurred.” *State v. Manthey*, 711 N.W.2d 498, 506 (Minn. 2006) (alteration in original) (quotation omitted).

In this case, the district court denied appellant’s motion for a mistrial on the record:

The defense’s motions are denied. I do not believe that certainly we’ve gotten to the level of a mistrial. As the [s]tate indicated, [J.A.] is here. She has returned. You know, it is certainly not unusual for a—an alleged victim to become upset. Frankly, my last trial, I think we took three or four breaks during the victim’s testimony because she became upset during questioning. So, it’s not an unusual occurrence. The fact that she’s back does allow for the trial to continue and for her to be subject to cross-examination.

As I indicated briefly in chambers, obviously the [calculus] changes if this happens and she doesn’t make herself available anymore for cross-examination, we may be dealing with a different issue.

The transcript makes clear that J.A. was struggling to provide testimony from the start and that it was difficult for her to talk about the incident. When asked if she could recall the events of June 10, 2023, she stated, “I really don’t want to.” She twice responded, “No comment,” to the prosecutor’s questions, testified that none of the testimony was easy for her, stated that she “just want[ed] this to be over with,” refused to allow the prosecutor to refresh her recollection, informed the court that she was “getting really irritated,” and repeatedly stated that she would not be answering any more questions. A short time later,

she fled the courtroom and vomited, apparently because of the stress of her testimony.² J.A.’s discomfort is reflected in the record before her untimely exit from the courtroom, and there is no indication in the record that the jury interpreted her actions in a way that was unfairly prejudicial to appellant. Indeed, although the jury found appellant guilty on one of the two counts, it acquitted him on the other.

Appellant relies on *State v. Cox* to argue that the district court should have considered four factors—“the nature and source of the prejudicial matter, the number of jurors exposed to the influence, the weight of evidence properly before the jury, and the likelihood that curative measures were effective in reducing the prejudice”—before it denied his motion for a mistrial. 322 N.W.2d 555, 559 (Minn. 1982). In *Cox*, a bailiff made inappropriate remarks within the hearing of the jury regarding the defendant’s guilt. *Id.* at 557-58. The supreme court affirmed the district court’s decision to deny the appellant’s motion for a mistrial and noted that there was a low “likelihood of a tainted verdict.” *Id.* at 559.

The *Cox* analysis does not apply here. First, there is no improper statement by a court official, which factually distinguishes this case from *Cox* and does not give rise to a “presumption of prejudice” here. *See id.* at 558. Second, appellant cites no relevant caselaw that requires a district court to analyze the four *Cox* factors in circumstances like these—a witness fleeing the courtroom. Third, *Cox* points to constitutional problems with “potentially prejudicial material” when “it deprives a defendant of the right to . . . confront

² Query whether it would have been more prejudicial for J.A. to vomit while on the witness stand in front of the jury.

and cross-examine the source of the material.” *Id.* In this case, J.A. re-entered the courtroom and sat through her cross-examination that same day. Finally, there is no indication in the record or argument on appeal that J.A.’s exit was “error” that brought in “extrinsic material” that should not be considered by the jury, as discussed in *Cox. Id.*; *see also Boswell*, 20 N.W.3d at 655 (analyzing challenge to improper testimony); *Manthey*, 711 N.W.2d at 506 (same); *State v. McCurry*, 770 N.W.2d 553, 558 (Minn. App. 2009) (same), *rev. denied* (Minn. Oct. 28, 2009).

Appellant does not describe how he believes he was prejudiced by J.A.’s exit. He does not argue that the jury was more likely to convict him after J.A.’s exit than before her exit. He asserts that the state’s questioning conduct “reflects [its] priority was winning at any cost,” but does not connect that argument to J.A.’s abrupt exit or explain how he was prejudiced by either the questioning or the exit. And there is no indication in the record that J.A.’s exit was more prejudicial to appellant than it was to the state. There is not a reasonable probability that the outcome of the trial would be different had J.A. not exited in the midst of her testimony, particularly in light of the conclusive DNA evidence, the 911 call, and her statements to law enforcement in Exhibit 2.

Therefore, the district court did not abuse its discretion by denying appellant’s motion for a mistrial on the ground that J.A. exited the courtroom during her testimony.

Affirmed.