

*This opinion is nonprecedential except as provided by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
A24-1669**

State of Minnesota,
Respondent,

vs.

Djamil Vagif Abiyev,
Appellant.

**Filed August 11, 2025
Affirmed
Larson, Judge**

Hennepin County District Court
File No. 27-VB-24-7306

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

Margaret Neuville, Eden Prairie City Attorney, Steven M. Tallen, Assistant City Attorney,
Gregerson, Rosow, Johnson & Nilan, Ltd., Minneapolis, Minnesota (for respondent)

Christopher X. Nguyen, Aberrant Law, PLLC, Minneapolis, Minnesota (for appellant)

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

NONPRECEDENTIAL OPINION

LARSON, Judge

Appellant Djamil Vagif Abiyev challenges the final disposition of a petty-misdemeanor speeding violation. Abiyev asserts: (1) insufficient evidence supports the

guilty verdict; (2) evidentiary errors occurred at trial; and (3) his constitutional rights were violated. We affirm.

FACTS

On January 11, 2024, an officer issued Abiyev a citation for driving 54 miles per hour in a 35 mile-per-hour zone, under Minn. Stat. § 169.14, subd. 2(a) (2022). The district court held a bench trial for the citation in September 2024. Prior to trial, Abiyev filed a motion to dismiss under Minn. R. Crim. P. 30.02¹ on the basis that respondent State of Minnesota failed to serve Abiyev’s counsel with discovery.² The state, after looking at its records, determined that it accidentally sent the discovery materials to Abiyev directly, instead of Abiyev’s counsel. The district court denied the motion to dismiss and, instead, offered to grant a continuance to allow Abiyev’s counsel to review the discovery materials.³ But Abiyev’s counsel declined the continuance and said he was “comfortable . . . proceeding.” The district court then sought additional confirmation that Abiyev’s counsel wanted to proceed without viewing the discovery materials, and Abiyev’s counsel again said that he “would ask to proceed.”⁴

¹ Under this rule, “[t]he court may dismiss the complaint, indictment, or tab charge if the prosecutor has unnecessarily delayed bringing the defendant to trial.” Minn. R. Crim. P. 30.02.

² Abiyev’s counsel also asked to waive Abiyev’s appearance pursuant to Minn. R. Crim. P. 26.03, subd. 1(3), which the district court granted.

³ The state supported the continuance and alternatively offered to allow Abiyev’s counsel to review the discovery materials in the courtroom at that moment. The district court determined the latter option was not “very fair” because Abiyev was not at the hearing “so [Abiyev’s counsel could not] look at the stuff and discuss it with [Abiyev].”

⁴ The state specified that the discovery materials included the officer’s body-camera footage, the squad-camera footage, the handheld speed-detecting laser device (LiDAR) testing log, the LiDAR certificates of accuracy, and a copy of the citation.

During the bench trial, the state called one witness—the officer who issued Abiyev’s citation. The officer testified that he had been in law enforcement for nearly 26 years. The officer had “been trained and tested in visual estimations of speed.” He was first trained at Mankato State University and practiced visual estimations “on a daily basis,” finding his “estimates [were] reasonably accurate . . . within-a-five-mile-an-hour window.” The officer was also “trained and authorized . . . to run speed detecting radar and laser devices.”

The officer then explained that he was on duty on January 11, 2024, and offered testimony regarding the LiDAR he was using that day. At the beginning of his shift, the officer “perform[ed] external and internal calibration checks” to ensure the LiDAR was working properly. The officer explained that the LiDAR did “an internal calibration check” when he powered it on at the beginning of his shift, which “came up as a pass,” meaning the circuitry “was working properly.” The officer then completed “external calibration checks.” This included a “distance test” that “indicate[d] that the range finder [was] working properly” and a “reticle test” that confirmed the LiDAR’s “crosshair[s]” were “aimed properly” when “looking through the viewfinder.” The officer testified that he also performed these tests at the end of his shift and completed an additional “internal calibration check” during the middle of his shift. All the tests indicated that the LiDAR functioned properly during the officer’s entire shift.

To support the officer’s testimony regarding the performance of the LiDAR on January 11, 2024, the state introduced two “certificate[s] of accuracy” (collectively, the LiDAR certificates), one dated May 16, 2023 (first certificate), and the other dated June 26, 2024 (second certificate). The officer testified that the LiDAR certificates are “kept in the

normal course of business” and reflect testing completed by “an outside company” that certifies the LiDAR “once a year.” The officer also noted that this particular LiDAR device had been dropped, causing the display screen to crack. So, the police department “had to send it out for repair. And the company that does repairs then recertifie[d] it.” Abiyev objected to the state introducing the LiDAR certificates, and the district court received the exhibits over his objection.

The officer then testified regarding the events that resulted in Abiyev receiving a speeding citation. The officer testified that he stopped his vehicle at a crossroad for less than ten seconds. While stopped, he observed two vehicles approaching his squad car; the front vehicle “was going faster than the rear one” at a visual estimate of “[a]t least 50 miles per hour” in the 35 mile-per-hour zone. The officer then used the LiDAR to obtain multiple consecutive readings of the front vehicle’s speed. The officer testified that he was “certain” the readings reflected the front vehicle’s speed. The readings showed two 54 mile-per-hour readings and one 53 mile-per-hour reading as the front vehicle approached the squad car. Thereafter, the officer initiated a traffic stop and identified the driver of the front vehicle as Abiyev. Abiyev told the officer he thought he was going “45 or less,” and the officer issued the speeding citation.

Following the officer’s testimony, Abiyev declined to put anything additional into the record and moved for a judgment of acquittal, raising questions about the officer’s training on the LiDAR equipment, the LiDAR certificates, and the officer’s testimony about the LiDAR’s final speed reading based on the “standards of evidence.” The district

court found Abiyev's arguments unpersuasive.⁵ Then, considering all the evidence, the district court explicitly found the officer's testimony credible, determined the state proved Abiyev's guilt "beyond a reasonable doubt," and issued Abiyev a "standard fine" of \$138 (\$60 fine plus \$78 surcharge).

Abiyev appeals.

DECISION

On direct appeal, Abiyev challenges his conviction on numerous grounds. Broadly, Abiyev argues: (1) insufficient evidence supported his conviction; (2) multiple evidentiary errors occurred; and (3) his constitutional rights were violated. We address each category of challenges in turn below.

I.

Abiyev first argues the state presented insufficient evidence to sustain the guilty verdict. To prove Abiyev's guilt for petty-misdemeanor speeding, the state must prove that (1) Abiyev drove a vehicle in an area where there was a posted speed limit and (2) the speed of Abiyev's vehicle exceeded the posted speed limit. *See* Minn. Stat. § 169.14, subd. 2(a). Here, Abiyev only challenges the second element.

We must first determine whether the state used direct or circumstantial evidence to prove the second element. *See State v. Horst*, 880 N.W.2d 24, 39 (Minn. 2016). Direct evidence is "based on personal knowledge or observation and . . . if true, proves a fact without inference or presumption." *State v. Harris*, 895 N.W.2d 592, 599 (Minn. 2017)

⁵ The district court did not specifically rule on Abiyev's motion.

(quotation omitted). Circumstantial evidence is “evidence from which the factfinder can infer whether the facts in dispute existed or did not exist.” *Id.* (quotation omitted).

Here, the state relied on direct evidence—the officer’s personal knowledge and observation—to prove the second element. Thus, we apply “the traditional standard for evaluating the sufficiency of the evidence.” *State v. Jones*, 4 N.W.3d 495, 501 (Minn. 2024). To do so, we “carefully examine the record to determine whether the facts and the legitimate inferences drawn from them would permit the [factfinder] to reasonably conclude that the defendant was guilty beyond a reasonable doubt.” *State v. Griffin*, 887 N.W.2d 257, 263 (Minn. 2016) (quotation omitted). When applying the “traditional standard,” we view the evidence in the light most favorable to the verdict, and we assume the factfinder believed the state’s witnesses and disbelieved any contrary evidence. *State v. Olson*, 982 N.W.2d 491, 495 (Minn. App. 2022).

We conclude the direct evidence is sufficient to support that Abiyev was driving at a speed that exceeded the posted 35 mile-per-hour speed limit. The officer visually estimated that Abiyev’s vehicle was traveling at least 50 miles per hour. The LiDAR detected Abiyev’s vehicle’s speed twice at 54 miles per hour and once at 53 miles per hour. And Abiyev admitted to the officer that he was going “45 or less.”

Abiyev’s argument to the contrary focuses on the officer’s LiDAR training and the LiDAR results. We are unpersuaded for two reasons. First, the district court specifically found the officer’s testimony regarding the LiDAR credible, and we defer to the district court’s credibility determinations. *State v. Franks*, 765 N.W.2d 68, 73 (Minn. 2009); *State v. Watkins*, 650 N.W.2d 738, 741 (Minn. App. 2002). Second, even if we exclude the

LiDAR evidence, there is still sufficient evidence to support the conclusion that Abiyev's vehicle's speed exceeded the posted 35 mile-per-hour speed limit because the officer testified that he visually estimated Abiyev's speed at 50 miles per hour, which the district court found credible, and Abiyev admitted to the officer that he was going "45 or less."

We conclude the state presented sufficient direct evidence to support Abiyev's guilt.

II.

Abiyev next argues the district court made a number of evidentiary errors that entitle him to a new trial. Specifically, Abiyev argues the district court erroneously admitted the officer's LiDAR testimony and the LiDAR certificates and that the cumulative evidentiary errors warrant reversal and remand for a new trial. We address each argument in turn.

A. Officer Testimony

Abiyev first argues the district court erroneously admitted the officer's LiDAR testimony because it lacked foundation. Abiyev did not object to the officer's testimony at trial, so we review this issue for plain error. *See State v. Myhre*, 875 N.W.2d 799, 804 (Minn. 2016). To meet the plain-error standard, Abiyev must show that "(1) there was an error, (2) the error was plain, and (3) the error affected the defendant's substantial rights." *Id.* (citing *State v. Griller*, 583 N.W.2d 736, 740 (Minn. 1998)). Even when a defendant satisfies these prongs, we will not exercise our discretion to grant relief unless the "failure to do so will cause the public to seriously question the fairness and integrity of our judicial system." *Pulczynski v. State*, 972 N.W.2d 347, 359 (Minn. 2022).

Under Minn. Stat. § 169.14, subd. 10(a) (2024), evidence of the speed of a motor vehicle measured by a LiDAR device is admissible when

- (1) the officer or traffic enforcement agent under section 169.147 operating the device has sufficient training to properly operate the equipment;
- (2) the officer or traffic enforcement agent testifies as to the manner in which the device was set up and operated;
- (3) the device was operated with minimal distortion or interference from outside sources; and
- (4) the device was tested by an accurate and reliable external mechanism, method, or system at the time it was set up.⁶

See also State v. Ali, 679 N.W.2d 359, 365 (Minn. App. 2004) (concluding that “existing caselaw concerning the admissibility of radar evidence is analogous” for determining “admissibility of evidence from a laser-based speed-measuring device”).

We conclude the district court did not plainly err when it allowed the officer’s LiDAR testimony. “An error is plain if it is clear or obvious, which is typically established if the error contravenes case law, a rule, or a standard of conduct.” *State v. Webster*, 894 N.W.2d 782, 787 (Minn. 2017) (quotation omitted). Here, the record shows the officer testified to all four elements required to establish foundation. Therefore, it was not an error, let alone a plain error, for the district court to allow the officer to testify regarding the LiDAR’s speed measurement. *See* Minn. Stat. § 169.14, subd. 10(a); *see also State v. Ojo*, No. A19-2070, 2020 WL 4578984, at *2 (Minn. App. Aug. 10, 2020) (reaching a similar conclusion).⁷

⁶ “[F]or purposes of applying the plain-error doctrine the court examines the law in existence at the time of appellate review, not the law in existence at the time of the district court’s error, to determine whether an error is plain.” *State v. Kelley*, 855 N.W.2d 269, 277 (Minn. 2014).

⁷ We note this opinion is nonprecedential and, therefore, not binding. To the extent we cite nonprecedential opinions, we do so only for their persuasive value. *See* Minn. R. Civ. App. P. 136.01, subd. 1(c).

B. LiDAR Certificates

Abiyev next raises a number of evidentiary challenges to the admission of the LiDAR certificates. Specifically, he argues the LiDAR certificates were irrelevant, lacked foundation, and were inadmissible hearsay. Because Abiyev objected to the admission of the LiDAR certificates, we apply the abuse-of-discretion standard of review. *See State v. Ali*, 855 N.W.2d 235, 249 (Minn. 2014). “A district court abuses its discretion when its decision is based on an erroneous view of the law or is against logic and the facts in the record.” *State v. Hallmark*, 927 N.W.2d 281, 291 (Minn. 2019) (quotation omitted).

Beginning with relevancy, Abiyev argues the district court abused its discretion when it admitted the LiDAR certificates because “there is no nexus of time between the certification[s] of the device and the date of Abiyev’s alleged offense.”⁸ Under Minn. R. Evid. 401, “[r]elevant evidence’ means evidence having 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.” The supreme court has explained that

[t]he threshold determination of relevance turns on whether the evidence logically or reasonably tends to prove or disprove a material fact in issue, or tends to make such a fact more or less probable, or affords the basis for or supports a reasonable

⁸ At trial, Abiyev did not raise a relevancy objection to the first certificate, thus, plain-error review applies to that specific argument on appeal. *See State v. Martens*, 18 N.W.3d 752, 757 (Minn. 2025) (“If a defendant does object to the admission of evidence, such an objection preserves review only for the stated basis for the objection” (quotation omitted)). But because Abiyev objected to the relevancy of the second certificate, and we would reach the same outcome under either standard, we analyze the claim under the abuse-of-discretion standard.

inference or presumption regarding the existence of a material fact.

State v. Horning, 535 N.W.2d 296, 298 (Minn. 1995).

The district court did not abuse its discretion when it concluded the LiDAR certificates were relevant. The documents were presented to support the state's case that the LiDAR was working properly and accurately on January 11, 2024. And the officer testified that these tests occur annually, which accounts for the dates on the LiDAR certificates.

Moving to foundation, Abiyev argues the district court abused its discretion when it allowed the officer to lay the foundation for the LiDAR certificates. Under Minn. Stat. § 169.14, subd. 10(b) (2024), “[r]ecords of tests made of such devices and kept in the regular course of operations of any law enforcement agency are admissible in evidence without further foundation as to the results of the tests.”

Again, we conclude the district court did not abuse its discretion when it allowed the officer to lay the foundation for the admission of the LiDAR certificates. As the statute requires, the officer testified that the LiDAR certificates were “kept in the normal course of business,” which was sufficient to lay the appropriate foundation. *See* Minn. Stat. § 169.14, subd. 10(b); *see also Ojo*, 2020 WL 4578984, at *1-2; *State v. Anderson*, No. A07-2245, 2009 WL 173155, at *2 (Minn. App. Jan. 27, 2009).

Finally, Abiyev argues the district court abused its discretion when it admitted the LiDAR certificates because they contain inadmissible hearsay. Specifically, Abiyev asserts that the business-records exception to the hearsay rule does not apply. “‘Hearsay’

is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.” Minn. R. Evid. 801(c). Hearsay is not admissible unless it falls into an exception. Minn. R. Evid. 802. One exception is for records “kept in the course of a regularly conducted business activity.” Minn. R. Evid. 803(6).

As discussed above, Minn. Stat. § 169.14, subd. 10(b), specifically contemplates that when records like the LiDAR certificates are “kept in the regular course of operations of any law enforcement agency” they “are admissible in evidence without further foundation as to the results of the tests.” In *Ali*, we concluded that a “district court did not abuse its discretion by admitting [a] Certificate of Testing and Accuracy into evidence under the business-records exception where the record demonstrate[d] that the certificate was reliable and was not prepared solely for litigation purposes.” 679 N.W.2d at 361. Here, the officer testified that the LiDAR certificates were created annually and kept in the regular course of business to ensure the LiDAR was working properly. Under our existing caselaw, this testimony was sufficient to allow the admission of the LiDAR certificates under the business-records exception to the hearsay rule. *See id.*

For these reasons, we conclude the district court did not abuse its discretion when it admitted the LiDAR certificates.

C. Cumulative Error

Finally, Abiyev argues that cumulative evidentiary errors warrant reversal and remand for a new trial. Because we conclude the district court did not commit any

evidentiary errors, there is no cumulative error. *See State v. Williams*, 908 N.W.2d 362, 366 (Minn. 2018).

III.

Abiyev finally raises two constitutional challenges. First, he argues the district court's decision to admit the LiDAR certificates violated the Confrontation Clause. Second, he argues the state violated the Due Process Clause when it failed to disclose that the LiDAR device used to calculate Abiyev's speed had been broken. We review these issues de novo. *State v. Caulfield*, 722 N.W.2d 304, 308 (Minn. 2006) (Confrontation Clause); *Walen v. State*, 777 N.W.2d 213, 216 (Minn. 2010) (Due Process Clause).

A. Confrontation Clause

Abiyev asserts that the admission of the LiDAR certificates violated the Confrontation Clause. The Sixth Amendment of the United States Constitution provides that “[i]n all criminal prosecutions, the accused shall enjoy the right . . . to be confronted with the witnesses against him.” U.S. Const. amend. VI. In *Crawford v. Washington*, 541 U.S. 36 (2004), the United States Supreme Court “determined that *testimonial* hearsay statements, absent a prior opportunity to cross-examine, are barred by the Confrontation Clause.” *State v. Noor*, 907 N.W.2d 646, 652 (Minn. App. 2018) (citing *Crawford*, 541 U.S. at 68-69), *rev. denied* (Minn. Apr. 25, 2018). There are three general forms of “testimonial hearsay: ex parte in-court testimony or its functional equivalent; extrajudicial statements; and ‘statements that were made under circumstances which would lead an objective witness reasonably to believe that the statement would be available for use at a later trial.’” *Id.* (quoting *Crawford*, 541 U.S. at 51-52). “[T]he critical determinative factor

in assessing whether a statement is testimonial is whether it was prepared for litigation.” *Caulfield*, 722 N.W.2d at 309.

As Abiyev acknowledges, we have binding caselaw that concludes admitting laser-device certificates of accuracy does not violate the Confrontation Clause. In *Ali*, the appellant disputed the admissibility of a testing and accuracy certificate for a laser device used to determine the appellant’s speed. 679 N.W.2d at 366. We held that admitting the certificate into evidence did not violate the Confrontation Clause because “it was not offered to prove an essential element of the crime or to directly connect [the] appellant to the commission of the crime.” *Id.* at 367. Rather, we determined that “the certification document was admitted only as collateral evidence of the reliability of the tests performed by [the officer],” and was properly admitted under the business-records exception. *Id.*

Here, the facts are similar to *Ali*, and Abiyev is contesting the LiDAR certificates on the same ground. *See id.* at 366-67. Consistent with *Ali*, we conclude that the LiDAR certificates are business records created to reflect the calibration of the LiDAR, not testimonial evidence offered to prove Abiyev’s guilt. Therefore, the admission of the LiDAR certificates did not violate the Confrontation Clause.

B. Due Process Clause

Finally, Abiyev asserts the state violated the Due Process Clause when it failed to disclose that the LiDAR device used to calculate Abiyev’s speed had been broken. In *Brady v. Maryland*, 373 U.S. 83, 87 (1963), the United States Supreme Court held that prosecutorial suppression “of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment.” The prosecutor’s

failure to provide this information, whether intentional or not, is called a *Brady* violation.

Walen, 777 N.W.2d at 216. To establish a *Brady* violation

(1) the evidence must be favorable to the defendant because it would have been either exculpatory or impeaching; (2) the evidence must have been suppressed by the prosecution, intentionally or otherwise; and (3) the evidence must be material—in other words, the absence of the evidence must have caused prejudice to the defendant.

Id. If all three elements are met and a *Brady* violation is found, a new trial is warranted.

See Pederson v. State, 692 N.W.2d 452, 460 (Minn. 2005) (citing *Giglio v. United States*, 405 U.S. 150, 154 (1972)).

Here, we conclude the evidence that the LiDAR used to calculate Abiyev's speed had been broken at some point was not material. The officer's testimony suggests that the LiDAR was dropped after Abiyev received the speeding citation, and the LiDAR was then sent out for repair. The officer indicated this was the reason for the June 2024 date on the second certificate. There is no indication in the record that the device was broken on January 11, 2024—the date of Abiyev's citation. Instead, all the evidence in the record indicates the LiDAR was working properly on that date. Therefore, the fact that the LiDAR had been broken sometime between mid-January and June 2024 was not material, and the prosecutor's failure to disclose the information was not a *Brady* violation. *See Walen*, 777 N.W.2d at 216. Accordingly, we conclude the state did not violate Abiyev's right to due process.

Affirmed.