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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1956**

State of Minnesota,
Respondent,

vs.

Ahmed Mohamed Hassan,
Appellant.

**Filed December 8, 2025
Affirmed; motion granted
Bentley, Judge**

Stearns County District Court
File No. 73-CR-23-3908

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

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

Rodd Tschida, Minneapolis, Minnesota (for appellant)

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

NONPRECEDENTIAL OPINION

BENTLEY, Judge

In this direct appeal from a judgment of conviction for one count of criminal sexual conduct, appellant Ahmed Mohamed Hassan argues that we should reverse because the evidence is insufficient to support his conviction. In the alternative, he argues he is entitled

to a new trial because (1) the court abused its discretion by improperly admitting prejudicial consciousness-of-guilt evidence, (2) the court plainly erred by failing to strike vouching testimony by a witness, or (3) those errors cumulatively require a new trial. We conclude that the evidence was sufficient to support the conviction and that Hassan's evidentiary challenges do not call for a new trial. We therefore affirm.

FACTS

The following facts were elicited at the jury trial, primarily from the testimony of the victim, M.M.

In May 2023, M.M. was taking a break while working at a retail store when a coworker, Hassan, approached her for help drafting an email. M.M. and Hassan went to use an employee computer in the store's personnel room—an area without cameras and where they were alone. After writing and sending the email, Hassan asked to see M.M.'s phone. M.M. declined, and a struggle ensued as Hassan tried to grab the phone out of her hands. Hassan then grabbed M.M.'s neck with one hand and began to choke her. His other hand grabbed her breast and buttocks, and he repeatedly tried to kiss her while telling her that she “want[ed] it.” M.M. resisted Hassan's advances and attempted to leave the room, but Hassan grabbed her by the neck and pulled her back into the room. After several minutes, M.M. broke free and left the room. She immediately walked to the restroom to take photos of marks left behind by the chokehold. Shortly after that, she reported the assault to her team lead, who called the police.

A Sartell police officer responded later that evening to investigate the reported assault. He took M.M.'s statement, in which she said that Hassan had grabbed her buttocks

but did not mention him grabbing her breast. Hassan told the officer that he tried to see M.M.'s phone but denied that any altercation took place. The officer also reviewed surveillance-video footage from the store that was captured at the time of the alleged incident.

Respondent State of Minnesota charged Hassan with felony fourth-degree criminal sexual conduct using force, in violation of Minn. Stat. § 609.345, subd. 1(c) (2022), and fifth-degree criminal sexual conduct—nonconsensual sexual contact, in violation of Minn. Stat. § 609.3451, subd. 1a(1) (2022). The complaint was later amended to include another charge for felony fourth-degree criminal sexual conduct with coercion, in violation of Minn. Stat. § 609.345, subd. 1(a) (2022).

Prior to trial, the state moved to introduce evidence that Hassan attempted to pay M.M. in exchange for ending the case. The motion related to two incidents in September 2023, in which Hassan allegedly communicated separately to M.M. and the team lead that he would pay M.M. to “drop the case.”¹ Hassan argued that any evidence related to those allegations must be excluded because it was unduly prejudicial and irrelevant. The district court granted the state’s motion, finding that the evidence had probative value as consciousness-of-guilt evidence.

The matter proceeded to a jury trial over two days in May 2024. M.M. and the team lead both testified about Hassan approaching them with an offer to pay M.M. to drop the case. M.M. stated that Hassan approached M.M. in person at a coffee shop and offered

¹ These incidents resulted in a separate criminal proceeding against Hassan for bribery. That case is not before this court on appeal.

money—“whatever amount it is that [M.M.] wanted”—if she “drop[ped] the case” against him. Similarly, the team lead testified that Hassan told her to “tell [M.M.] to stop the case” and that “he would pay for this case to go away.”

The responding officer also testified. At one point while discussing his initial investigation, he described the store surveillance-video footage that he had reviewed. The surveillance-video footage captured M.M. and Hassan walking to the personnel room. Only the bottom of the personnel room door is visible in the video image. Minutes later, two pairs of feet can be seen moving toward the personnel room door, as if to exit, and then moving back in. Minutes after that, the footage showed the two individuals exiting separately. The responding officer stated during his testimony that the video was “consistent” with M.M.’s recollection of being pulled back into the personnel room. The jury also viewed the surveillance-video footage.

Hassan was found guilty of all three counts. The district court convicted Hassan of the count of fourth-degree criminal sexual conduct using force, Minn. Stat. § 609.345, subd. 1(c), and imposed a sentence on that count. The district court did not adjudicate the other two counts. *See* Minn. Stat. § 609.04.

Hassan appeals the conviction.

DECISION

Hassan argues that the evidence was insufficient to convict him of criminal sexual conduct, such that his conviction must be reversed.² Alternatively, he argues that the

² Hassan argues that the evidence was insufficient with respect to all three charged counts, but the district court adjudicated Hassan under only the count for fourth-degree

district court made evidentiary errors that either independently or cumulatively require a new trial. We address each argument in turn.

I

Hassan first argues that his conviction must be reversed because the evidence was insufficient to prove he committed criminal sexual conduct. Specifically, he argues that it could reasonably be inferred that he did not engage in “sexual contact”—an element the state must prove beyond a reasonable doubt in order to convict under Minnesota Statutes section 609.345, subdivision 1. Specifically, to prove that a defendant made sexual contact, the state must prove that the defendant intentionally touched another’s intimate parts with “sexual or aggressive intent.” Minn. Stat. § 609.341, subd. 11(a)(i) (2022). “Intimate parts” include the “primary genital area, groin, inner thigh, buttocks, or breast.” Minn. Stat. § 609.341, subd. 5 (2022). Hassan asserts that the state’s evidence is insufficient to prove he had the “sexual or aggressive intent” necessary to commit sexual contact because one could reasonably infer that Hassan touched M.M.’s intimate parts unintentionally.

To evaluate the sufficiency of the evidence underlying a conviction, we “carefully examine the record to determine whether the facts and the legitimate inferences drawn from them would permit the jury to reasonably conclude that the defendant was guilty

criminal sexual contact using force, Minn. Stat. § 609.345, subd. 1(c). Reviewing courts may not consider sufficiency arguments on unadjudicated counts. *See State v. Ashland*, 287 N.W.2d 649, 650 (Minn. 1979) (declining to address sufficiency arguments on charges for which the jury returned guilty verdicts but that were not adjudicated and sentenced). We therefore consider Hassan’s sufficiency argument with regard to only the adjudicated conviction.

beyond a reasonable doubt.” *State v. Griffin*, 887 N.W.2d 257, 263 (Minn. 2016) (quotation omitted). The evidence is viewed in the light most favorable to the verdict. *Id.* We assume that the jury “disbelieved any testimony conflicting with that verdict.” *State v. Palmer*, 803 N.W.2d 727, 733 (Minn. 2011) (quotation omitted).

The parties agree that the state sought to prove the “sexual or aggressive intent” element with circumstantial evidence. *See State v. McAllister*, 862 N.W.2d 49, 53 (Minn. 2015) (stating that it is “rare” to prove intent through direct evidence and it may be inferred through circumstantial evidence). A reviewing court applies a two-step analysis when analyzing the sufficiency of circumstantial evidence. *State v. Silvernail*, 831 N.W.2d 594, 598 (Minn. 2013). At step one, we identify the circumstances proved. *Id.* “In identifying the circumstances proved, we defer to the jury’s acceptance of the proof of these circumstances and rejection of evidence in the record that conflicted with the circumstances proved by the State.” *Id.* at 598-99 (quotation omitted). At step two, we determine “whether the circumstances proved are consistent with guilt and inconsistent with any rational hypothesis except that of guilt.” *Id.* at 599 (quotation omitted).

The circumstances proved follow. Hassan and M.M. entered the personnel room together. Hassan attempted to take M.M.’s phone from her. When M.M. struggled with Hassan to keep her cell phone, Hassan grabbed her neck and choked her. During M.M.’s struggle to get away, Hassan grabbed M.M.’s buttocks and breast³ over her clothes with

³ Hassan argues that M.M.’s recollection was inconsistent with regards to whether her breast, buttocks, or both were grabbed, and he maintains that inconsistency is a significant factor in our sufficiency analysis. We do not have to resolve that inconsistency, however, because on a sufficiency review, we assume the jury believed the state’s witnesses and we

one hand while still holding her in a chokehold with the other. Hassan also attempted to kiss M.M. on her face and neck, she resisted, and he said that she “want[ed] it.” M.M. described the contact as “forceful[]” and said that it “wasn’t an accident.” She repeatedly tried to get away and told Hassan to stop. After several minutes, M.M. broke free and attempted to leave the room, but Hassan “grabbed [her] by the neck and pulled [her] back towards him” and then continued to hold her in a chokehold while trying to kiss her. After several more minutes, M.M. exited the personnel room and went to the bathroom to take photos of her neck. Months later, Hassan approached M.M. and offered to pay her to drop the case. Hassan also texted the team lead and asked her to contact M.M. about dropping the case.

Having determined the circumstances proved, we next consider whether these circumstances are consistent with guilt and inconsistent with any rational hypothesis other than guilt. *Silvernail*, 831 N.W.2d at 599. The circumstances proved support an inference that Hassan had the requisite intent to support his convictions, i.e., that he touched M.M.’s intimate parts with “sexual or aggressive intent.” Minn. Stat. § 609.341, subd. 11(a)(i). These circumstances show at least aggressive intent—considering that he held M.M. in a chokehold, which was strong enough to leave red marks, that he “grab[bed]” her buttocks and breast, that she resisted and told him to stop, and that he used force to pull her back by her neck into the personnel room as she struggled to leave. Aggressive intent alone,

construe facts in favor of the verdict. *See Silvernail*, 831 N.W.2d at 598-99. M.M. testified at trial that Hassan grabbed both her buttocks and breast. Under a sufficiency-of-the-evidence review, we therefore assume the jury believed M.M.’s testimony and include this fact among the circumstances proved.

when paired with intentional touching of an intimate part, is sufficient to convict. *See State v. Ahmed*, 782 N.W.2d 253, 261-62 (Minn. App. 2010) (stating that solely aggressive intent is sufficient to satisfy the statutory definition of sexual contact).

Hassan argues that other rational inferences inconsistent with guilt may be drawn from these circumstances. Specifically, he argues these circumstances could rationally show a fight over the cellphone or a rejected kiss, resulting in incidental contact with intimate parts. Because sexual contact requires intentional touching, he maintains that such incidental contact would not support a conviction under any of the three charges. Minn. Stat. § 609.3451, subd. 1a.

We are not persuaded that Hassan’s alternative theories are reasonable. First, under a sufficiency-of-the-evidence analysis, we must view facts in the light most favorable to the verdict. *Griffin*, 887 N.W.2d at 263. As the state argued in its brief, M.M. testified that Hassan “grab[bed]” her breast and buttocks during the incident, not that the contact was a mere brush. She also testified that it “wasn’t an accident” and that she resisted and asked him to stop, and he did not. Viewing this evidence in the light most favorable to the guilty verdict, the circumstances proved are not consistent with a reasonable inference that Hassan made only incidental contact. The circumstances proved lead to only one reasonable inference—that Hassan intentionally grabbed M.M.’s intimate parts.

Second, because the contact with M.M.’s intimate parts was intentional and not incidental, the alternative theories Hassan presents would still be consistent with guilt. If a fight over a cellphone took place between Hassan and M.M., the intentional grabbing of M.M.’s intimate parts while trying to wrestle away her phone would be sufficient to

establish aggressive intent. And, if Hassan was acting in relation to an attempted and rejected kiss, the intentional grabbing would be sufficient to establish sexual or aggressive intent. *See State v. Austin*, 788 N.W.2d 788, 792 (Minn. App. 2010) (“In common usage, an act is committed with sexual intent when the actor perceives himself to be acting based on sexual desire or in pursuit of sexual gratification.”). Under either of Hassan’s alternative hypotheses, the inferences still point toward guilt.

Because the inferences drawn from the circumstances proved are consistent with guilt and inconsistent with any rational hypothesis other than guilt, we conclude that there was sufficient circumstantial evidence to support Hassan’s conviction.

II

We next turn to Hassan’s alternative argument that he is entitled to a new trial. First, we consider Hassan’s challenge to the district court’s admission of consciousness-of-guilt evidence. Second, we address whether the district court plainly erred in allowing vouching testimony at trial. And third, we consider whether any cumulative errors call for a new trial.

A

Hassan maintains that the district court abused its discretion when it allowed the government to elicit testimony from M.M. and the team lead about Hassan’s offer to pay M.M. money to drop the case as consciousness-of-guilt evidence. Because Hassan objected to this evidence, we review the district court’s decision for an abuse of discretion. *State v. Smith*, 940 N.W.2d 497, 505 (Minn. 2020). “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. Guzman*, 892 N.W.2d 801, 810 (Minn. 2017).

Evidence offered to show a person’s character and prove that the person acted in conformity with that character is inadmissible. Minn. R. Evid. 404(a). Evidence of other crimes committed by the defendant, also known as *Spreigl* evidence, is generally inadmissible as improper character evidence. *See State v. Spreigl*, 139 N.W.2d 167, 169 (Minn. 1965). But evidence of a different offense committed by the defendant which is “necessarily, but incidentally, part of the substantive proof” of the offense at issue “is not considered *Spreigl* evidence.” *State v. Roy*, 408 N.W.2d 168, 171 (Minn. App. 1987). Relevant here, “character evidence can be properly admitted to show consciousness of guilt.” *State v. Witucki*, 420 N.W.2d 217, 221 (Minn. App. 1988). Such evidence must be probative and directly tied to the charged crime. *Id.* at 222. It is probative if it “complete[s] the picture of [the defendant’s] extensive efforts to cover up the offense.” *Roy*, 408 N.W.2d at 171.

Hassan makes two overarching arguments as to why the district court abused its discretion. First, he maintains that evidence of his conversations with M.M. and the team lead was not properly identified as consciousness-of-guilt evidence and, because the parties agreed that the state would not admit *Spreigl* evidence, the evidence therefore constituted improper character evidence. Second, he argues that, even if the evidence could be considered consciousness-of-guilt evidence, any probative value of the evidence was outweighed by unfair prejudice.

With respect to whether the evidence was properly characterized as consciousness-of-guilt evidence, Hassan attempts to distinguish cases where we have recognized the admissibility of such evidence. For example, he points to cases involving threats to potential witnesses, *State v. Mayhorn*, 720 N.W.2d 776, 782-83 (Minn. 2006), pre-arrest flight from officers, *State v. McDaniel*, 777 N.W.2d 739, 745-47 (Minn. 2010), and intentional destruction of a crime scene, *Roy*, 408 N.W.2d at 171.

We are not persuaded that our caselaw is limited to those precise circumstances. More generally, these and other cases explain that evidence showing that a defendant tried to improperly influence a criminal investigation or prosecution—such as by inducing an individual to not participate—may be probative of consciousness of guilt. *See Mayhorn*, 720 N.W.2d at 783 (“A defendant’s attempt to prevent a person from participating in a police investigation may be relevant to show consciousness of guilt.”). For example, in *Witucki*, the defendant sought to exclude evidence showing that he tried to convince two witnesses to change their testimony at trial. 420 N.W.2d at 221-22. We concluded that the evidence was admissible as consciousness-of-guilt evidence because it was “probative as circumstantial evidence of Witucki’s guilt, and [was] tied directly to the crime.” *Id.* at 222. Hassan argues that his circumstances differ from *Witucki* because he did not ask M.M. to change her testimony—he asked her to “drop the case.” We are not convinced. Both circumstances involve a defendant attempting to induce noncooperation with a case. *Id.* at 221-22. Whether through securing false testimony or offering payment to a victim to drop charges, both actions show a desire to circumvent the proper channels used to determine guilt or innocence. These attempts to influence a criminal case are probative of guilt.

Hassan also argues that his conversations with M.M. and the team lead were too remote in time to be directly tied to the crime. Specifically, he points to language in some cases saying the consciousness-of-guilt evidence must be part of the “immediate episode” of the crime. We are mindful that some of our consciousness-of-guilt cases consider the closeness in time between the crime and the evidence in determining whether the evidence was admissible as relevant to consciousness of guilt. *See, e.g., Roy*, 408 N.W.2d at 171 (concluding that the defendant’s intentional destruction of a crime scene within a week of a crime was probative of consciousness of guilt). But other cases involve a wider gap in time and still resulted in the admission of evidence as relevant to consciousness of guilt. *See, e.g., State v. Atkinson*, 774 N.W.2d 584, 593-94 (Minn. 2009) (holding that rap lyrics written by a defendant while he was incarcerated and awaiting trial were properly admitted as consciousness-of-guilt evidence). The takeaway from these cases is that a district court may consider a gap in time in determining whether evidence is relevant to consciousness of guilt, but a gap in time does not, in itself, render the evidence inadmissible.

Here, the district court did not abuse its discretion in determining that the evidence was probative of Hassan’s consciousness of guilt and directly tied to the offenses. Hassan’s attempts to pay M.M. to drop the case against him are probative of guilt because they reflect an intent to sidestep the criminal proceedings and influence the case outcome. The seriousness of Hassan’s offer is apparent, as he not only communicated directly with M.M. but also made a separate contact with a third party to reiterate his offer to pay M.M. to drop the case. The actions are also directly tied to the offenses, as they reflect an intent to influence the testimony and cooperation of the victim. Under these circumstances, the

district court acted within its discretion in determining that the evidence of Hassan's conduct was relevant to the issue of consciousness of guilt and was not inadmissible character evidence.⁴

We next turn to Hassan's second argument that, even if the evidence could be construed as consciousness-of-guilt evidence, it was nevertheless inadmissible because its prejudicial effect substantially outweighed its probative value. *See* Minn. R. Evid. 403 (“[E]vidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice.”).

As an initial point, we note that, even if the challenged evidence was damaging to Hassan's case, that alone does not make it unfairly prejudicial. *State v. Bell*, 719 N.W.2d 635, 641 (Minn. 2006) (noting that unfairly prejudicial evidence is “not merely damaging evidence,” but instead, “evidence that persuades by illegitimate means, giving one party an unfair advantage” (quotation omitted)). And limiting instructions may be used by the district court to reduce the danger of unfair prejudice. *Witucki*, 420 N.W.2d at 222. Here,

⁴ For the first time on appeal, Hassan also argues that the evidence reflects a settlement negotiation rather than consciousness of guilt and is inadmissible under Minnesota Rule of Evidence 408. Minn. R. Evid. 408 (“Evidence of . . . furnishing or offering . . . a valuable consideration in compromising or attempting to compromise a claim . . . is not admissible to prove liability for or invalidity of the claim or its amount.”). Specifically, he argues that negotiations with private individuals should be excluded from evidence in a criminal proceeding when the defendant's conduct at issue may lead to potential civil liability. We question whether rule 408 applies in this context, given that the rule states that it “does not require exclusion when the evidence is offered for [a] purpose” other than “to prove liability for or invalidity of [a] claim or its amount.” *Id.* In any event, we need not consider issues that were not raised before the district court. *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (“A reviewing court must generally consider only those issues that the record shows were presented and considered by the trial court in deciding the matter before it.” (quotation omitted)).

the consciousness-of-guilt evidence was accompanied by a limiting instruction each time it was admitted at trial and a limiting instruction was included in the final jury instructions. “We presume that juries follow instructions given by the court.” *State v. Matthews*, 779 N.W.2d 543, 550 (Minn. 2010). Any risk of undue prejudice was mitigated by the limiting instructions.

In sum, the district court did not abuse its discretion in admitting the consciousness-of-guilt evidence.

B

Hassan also argues that he is entitled to a new trial because the district court improperly allowed vouching testimony by the responding officer during the trial. The officer testified that the store surveillance-video footage was “consistent” with what M.M. described to him during the interview after the incident—that Hassan pulled her back into the personnel room. Hassan maintains that the officer vouched for M.M.’s credibility when he said the surveillance-video footage was consistent with her report.

Because there was no objection to this testimony at trial, we review for plain error. *State v. Myhre*, 875 N.W.2d 799, 804 (Minn. 2016). To show plain error, Hassan must show “(1) there was an error, (2) the error was plain, and (3) the error affected the defendant’s substantial rights.” *Id.* An error is plain if it “contravenes case law, a rule, or a standard of conduct.” *State v. Webster*, 894 N.W.2d 782, 787 (Minn. 2017). If all three prongs of the plain-error standard are met, we then consider “whether [we] should address the error to ensure fairness and the integrity of the judicial proceedings.” *Myhre*, 875 N.W.2d at 804-05.

Witness credibility is a question for the jury. *State v. Ferguson*, 581 N.W.2d 824, 835 (Minn. 1998). Vouching testimony occurs when one witness improperly speaks to the credibility of another witness, potentially influencing the jury's decisions. *See id.*

Hassan has not pointed to a case that supports his position that the district court plainly erred here in admitting the officer's testimony. Specifically, he has not identified a case, and we are aware of none, that holds that a witness's statement that surveillance-video footage is "consistent" with a victim's statement constitutes improper vouching. If anything, the caselaw suggests that vouching requires something more. In *State v. Koskela*, for example, the supreme court stated the probative value was "questionable," but it was not impermissible vouching, when a police officer testified that he "had no doubt whatsoever that [he] was taking a truthful statement." 536 N.W.2d 625, 630 (Minn. 1995). And in identifying actual vouching testimony, the supreme court in *Van Buren v. State* held that a prosecutor "intentionally elicited vouching testimony" when asking multiple witnesses, including a detective, whether they thought family members believed the alleged victim's story. 556 N.W.2d 548, 550-51 (Minn. 1996).

The officer here did not say that M.M. was "believable," "credible," or "truthful." He also was not asked directly by the state about the victim's credibility, as occurred in *Van Buren*. Rather, he was asked, "What did that video show?" The jurors were left to make their own credibility determinations by viewing the footage themselves and weighing the testimony they heard. Because the district court did not clearly contravene caselaw or rules by allowing the officer's testimony, we conclude there was no plain error and decline to consider the other prongs of the plain-error test. *See Montanaro v. State*,

802 N.W.2d 726, 732 (Minn. 2011) (“[I]f we find that any one of the [plain-error] requirements is not satisfied, we need not address any of the others.”).⁵

C

As a final matter, Hassan argues he is entitled to a new trial because of the cumulative effect of the district court’s errors. “An appellant may be entitled to a new trial in rare cases where the errors, when taken cumulatively, have the effect of denying [the] appellant a fair trial.” *State v. Fraga*, 898 N.W.2d 263, 278 (Minn. 2017) (quotation omitted). Because we conclude that the court did not err in either of the evidentiary issues raised, we also conclude that there was no cumulative effect requiring a new trial.⁶

Affirmed; motion granted.

⁵ Hassan argues in his brief that the officer’s testimony was particularly prejudicial because the state referenced the officer’s testimony during closing arguments. We do not reach this argument because we conclude there was no plain error for the reasons set forth above and because the portion of the state’s closing arguments that Hassan points to concerns the date the offense occurred, not the consistency of M.M.’s testimony. We therefore do not engage in a substantial-rights analysis in which this argument would be relevant. *See id.*

⁶ The state moved to strike Hassan’s response to the state’s citation of supplemental authorities. Parties may file a letter providing “pertinent and significant” supplemental authorities to this court “without argument.” Minn. R. Civ. App. P. 128.05. The opposing party may respond to such letters, but the response must be “similarly limited,” meaning it may not contain argument. *Id.* Hassan’s response includes argument relating to the court’s consideration of the state’s supplemental authorities, which is not a proper response under the rule. Accordingly, we grant the state’s motion to strike Hassan’s response.