

*This opinion is nonprecedential except as provided by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
A25-0192**

State of Minnesota,
Respondent,

vs.

Tremaine Tavion Williams,
Appellant.

**Filed February 2, 2026
Affirmed
Slieter, Judge**

Hennepin County District Court
File No. 27-CR-24-14997

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

Mary F. Moriarty, Hennepin County Attorney, Britta Nicholson, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jennifer Workman Jesness, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Slieter, Presiding Judge; Smith, Tracy M., Judge; and Harris, Judge.

NONPRECEDENTIAL OPINION

SLIETER, Judge

In this direct appeal from a judgment of conviction for unlawful possession of a firearm and fifth-degree controlled-substance possession, appellant Tremaine Tavion Williams argues that the district court abused its discretion by permitting testimony about

drug sales and gang activity. Williams additionally contends that he received ineffective assistance of counsel because his trial counsel implicitly conceded his guilt during closing argument without Williams' acquiescence. Because the district court acted within its discretion in its evidentiary rulings and Williams' trial counsel did not concede guilt, we affirm.

FACTS

Following a pursuit of Williams on foot, during which law enforcement recovered a firearm and fentanyl, respondent State of Minnesota charged Williams by amended complaint with one count of unlawful possession of ammunition or a firearm in violation of Minn. Stat. § 624.713, subd. 1(2) (Supp. 2023), and one count of fifth-degree controlled-substance possession in violation of Minn. Stat. § 152.025, subd. 2(1) (Supp. 2023).

The district court held a three-day jury trial. Relevant to the issues on appeal, one of the state's law-enforcement witnesses testified that the area in which Williams was found is "controlled by a gang that goes by the [name] 10oz." Additionally, several law-enforcement witnesses offered testimony about the drug investigation and local crime.

We draw the following facts from evidence presented during Williams' jury trial. In July 2024, an officer was monitoring the intersection of Chicago Avenue and Franklin Avenue in Minneapolis via city-owned surveillance cameras, an area described by several witnesses as having significant drug and gang activity. This officer observed Williams interacting with other individuals whom the officer knew to have a history of illegal-drug and firearm possession. In addition, an unidentified individual showed Williams a small

object from his pocket. Williams and three others eventually entered a parked vehicle. Over the course of about one-and-a-half hours of surveillance, the officer observed multiple people approach this same parked vehicle and engage in what appeared to be drug transactions.

The officer requested assistance from other officers to detain the individuals and investigate the purported illegal drug activity. As multiple law-enforcement vehicles approached the parked vehicle, Williams and the other occupants exited and fled on foot. While in pursuit of Williams, officers observed him throw a firearm and other objects. Law enforcement took Williams into custody and recovered a substance from his pocket that was later confirmed to be fentanyl. During an interview after he had been informed of his rights under *Miranda v. Arizona*, 384 U.S. 436, 444-45 (1966), a summary of which was presented to the jury through law-enforcement testimony, Williams admitted that he had fentanyl in his pocket and that he uses fentanyl. The officer testified that, during the interview, Williams indicated that he may have touched the firearm, but he declined to admit that he possessed it.

Williams filed a pretrial motion to exclude evidence of drug sales and other criminal activity. At the pretrial hearing, Williams argued that the reasons for the initial investigation are irrelevant to the elements of the charged offenses. The district court, in denying Williams' motion, determined that it was appropriate to present evidence of the underlying investigation, explaining that the background of the investigation is "part of this narrative." Separately, the parties stipulated that Williams is ineligible to possess a firearm

and that the substance which was found in Williams' possession is a mixture containing fentanyl weighing 0.338 grams.

The jury found Williams guilty on both counts. The district court entered convictions on both counts and imposed executed prison sentences of 60 months to be served concurrently.

Williams appeals.

DECISION

I. The district court acted within its discretion in its evidentiary rulings.

Williams challenges the admission of two types of evidence: testimony regarding purported drug sales that law enforcement observed while conducting surveillance and testimony about the area being controlled by a gang. He argues that the evidence was inadmissible under Minnesota Rule of Evidence 403 and that the erroneous admission of the evidence significantly impacted the verdict. Accordingly, he contends, this error requires reversal of his convictions.

Appellate courts “will not reverse an evidentiary ruling absent a clear abuse of discretion.” *State v. Ali*, 855 N.W.2d 235, 249 (Minn. 2014). An abuse of discretion occurs when a district court “misapplies the law, makes findings unsupported by the record, or resolves discretionary questions in a manner that is contrary to logic and the facts on record.” *State v. Johnson*, 979 N.W.2d 483, 502 (Minn. App. 2022), *aff'd*, 995 N.W.2d 155 (Minn. 2023).

In challenging the admission of the evidence under Minnesota Rule of Evidence 401, Williams argues that the evidence was irrelevant “because it did little to make a fact

of consequence more or less probable.” He adds that, even if all of the challenged evidence was relevant, it confused and misled the jurors and it was unduly prejudicial such that the district court should have excluded it under Minnesota Rule of Evidence 403.

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. Among other reasons, relevant “evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury.” Minn. R. Evid. 403.

Relevance

We first address the relevance of the evidence. The bar for relevancy is not high as “Rule 401 adopts a minimal relevancy approach.” *State v. Ture*, 632 N.W.2d 621, 631 (Minn. 2001) (quotation omitted); *see also State v. Harris*, 521 N.W.2d 348, 351 (Minn. 1994) (“Generally, evidence is relevant if in some degree it advances the inquiry and thus has probative value.” (quotation omitted)).

In addressing the relevance of the challenged evidence, the district court explained that the background of the investigation is “part of [the] narrative,” presumably referring to the events leading to Williams’ arrest. We agree that the evidence is relevant. To be convicted of fifth-degree drug possession, the state needed to prove that Williams “unlawfully possess[ed] one or more mixtures containing a controlled substance classified in Schedule I, II, III, or IV.” Minn. Stat. § 152.025, subd. 2(1). The state presented testimony that Williams was present in an area known as an “open-air drug market,” he was with people known to have engaged in drug transactions, and he was in a vehicle where

drug transactions purportedly occurred. And although this testimony did not unequivocally show that Williams himself engaged in a drug transaction, his presence in proximity to drug sales advances the likelihood that he unlawfully possessed drugs. Additionally, the testimony gives context for Williams’ decision to flee after being approached by law enforcement, and “evidence of flight suggests consciousness of guilt.” *State v. Bias*, 419 N.W.2d 480, 485 (Minn. 1988).¹ And regarding the gang evidence—which consisted solely of an officer testifying that this area is known to be controlled by a certain gang—we note that, although it does not directly relate to an element of one of the charged offenses, it has at least some probative value because it gives context for the underlying investigation. *See Ali*, 855 N.W.2d at 249 (“[E]vidence is generally admissible to give jurors the context for an investigation.”).

Rule 403 Balancing

We next address whether, under rule 403, the relevant evidence is “substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury.” Williams argues that the evidence was unfairly prejudicial and confused and misled the jurors. We address each argument in turn.

Williams argues that the evidence about drug sales and gang activity was unfairly prejudicial because it “sought to persuade through illegitimate inferences and character assassination.” More specifically, Williams maintains that the evidence invites a

¹ In contesting relevance, Williams also argues that the drug-sale evidence is irrelevant to firearm possession. This argument, however, does not address its relevance for drug possession.

prohibited inference of guilt by association and that descriptions of the “crime-ridden nature of the neighborhood” invite a prohibited “where-there’s-smoke-there’s-fire” inference.

“Unfair prejudice under rule 403 is not merely damaging evidence, even severely damaging evidence; rather, unfair prejudice is evidence that persuades by illegitimate means, giving one party an unfair advantage.” *State v. Schulz*, 691 N.W.2d 474, 478 (Minn. 2005). In *State v. Cogshell*, for example, the district court received evidence of a similar drug offense committed by the defendant 15 months prior to the underlying offense that the state offered as proof of identity under Minnesota Rule of Evidence 404(b). 538 N.W.2d 120, 124 (Minn. 1995). Although characterized as a close call, the supreme court held that rule 403 did not require exclusion of this evidence as unduly prejudicial. *Id.*

Here, the district court, in denying Williams’ motion to exclude the challenged evidence, stated:

Is it quite possible that the testimony that we hear, some of it anyway, is going to be prejudicial? Absolutely. But that’s not the test. The test is, you know, is the probative value going to tip the scale in favor of admission even though there’s some prejudice. The prejudice won’t be outweighed, in other words.

The district court was correct. Although there may have been some risk of prejudice by the submission of this evidence, there is no indication that the risk of unfair prejudice was “substantially outweighed” by the probative value of the evidence, especially when considering the district court’s broad discretion in making evidentiary rulings. *See* Minn. R. Evid. 403; *Ali*, 855 N.W.2d at 249. Indeed, as the state notes, the district court did prohibit the admission of certain evidence related to the broader investigation, including

through its ruling prohibiting the state from asking a question about the manner in which marijuana found in the parked vehicle was packaged. And as stated above, “evidence is generally admissible to give jurors the context for an investigation.” *Ali*, 855 N.W.2d at 249. Here, evidence of the nearby gang activity and crime provides such contextual information. Because the record supports the district court’s decision to allow the challenged testimony, it acted within its discretion in its evidentiary ruling.

Williams additionally contends that the drug-sale evidence confused and misled the jury. In making this argument, Williams argues that the “copious amounts of evidence about narcotics sales” could have misled and confused the jury about “what crime he was charged with and whether [he] could be guilty of constructively possessing the drugs other people sold.”

Williams’ argument is unpersuasive. Prior to opening statements, the district court informed the jury that Williams was charged with unlawful possession of ammunition or a firearm and fifth-degree controlled-substance possession. And prior to closing statements, the district court clearly instructed the jury on the elements of each offense. Due to these clear instructions, there is no basis to determine that the brief presentation of evidence of drug sales in the vicinity as contextual information confused the jury about the charges against Williams. *See State v. Vang*, 774 N.W.2d 566, 578 (Minn. 2009) (explaining that appellate courts assume that a jury followed the district court’s instructions).²

² Williams additionally argues that the challenged evidence is inadmissible under Minnesota Rule of Evidence 404. Rule 404 places restrictions on the introduction of character evidence and evidence of other crimes, wrongs, or acts. However, although Williams initially addressed rule 404 in his pretrial motion, he indicated at a pretrial hearing

II. Williams did not receive ineffective assistance of counsel because his trial counsel did not concede guilt.

Williams argues that he received ineffective assistance of counsel because his trial counsel implicitly conceded his guilt to the drug offense without his acquiescence by only advancing arguments regarding the evidence underlying the firearm offense.

Appellate courts typically review ineffective-assistance-of-counsel claims by applying the *Strickland* test. *See, e.g., Peltier v. State*, 946 N.W.2d 369, 372 (Minn. 2020) (citing *Strickland v. Washington*, 466 U.S. 668, 694 (1984)). Under this test, the defendant must show that “counsel’s performance fell below an objective standard of reasonableness” and “that there was a reasonable probability that, but for counsel’s errors, the result of the proceedings would have been different.” *Id.* (quotations omitted).

A different standard applies, however, when a defendant argues that counsel was ineffective for conceding guilt without consent or acquiescence. “When defense counsel concedes the defendant’s guilt without consent, counsel’s performance is deficient and prejudice is presumed.” *State v. Luby*, 904 N.W.2d 453, 457 (Minn. 2017) (quotation omitted). Only the defendant can make the decision to concede guilt, and “if that decision is taken from the defendant, the defendant is entitled to a new trial, regardless of whether he would have been convicted without the admission.” *Id.* (quotation omitted). In evaluating ineffective-assistance-of-counsel claims involving an alleged unauthorized

that rule 404 was no longer at issue. Williams did not subsequently raise a rule 404 challenge at trial, nor does he raise a plain-error argument on appeal. We therefore need not consider this argument on appeal. *See Roby v. State*, 547 N.W.2d 354, 357 (Minn. 1996) (explaining that appellate courts generally do not consider issues that a party did not present to the district court).

concession of guilt, appellate courts first “review the record de novo to determine whether defense counsel made a concession of guilt.” *Id.* If counsel conceded guilt, “the defendant is entitled to a new trial unless he acquiesced in that concession.” *Id.* (quotation omitted).

We begin by addressing whether counsel conceded guilt. “A concession may be express or implied.” *Id.* Williams argues that his trial counsel implicitly conceded guilt. Appellate courts “must exercise great caution when defining an implied concession lest the semantics of every questioned word, statement or misstatement of counsel by inadvertence, negligence or perhaps cleverness . . . become an automatic ground for a new trial.” *Torres v. State*, 688 N.W.2d 569, 573 (Minn. 2004) (quotation omitted). An implied concession only occurs “where a reasonable person viewing the totality of the circumstances would conclude that counsel conceded the defendant[']s guilt.” *Id.* (quotations omitted).

Williams’ argument regarding concession focuses on his trial counsel’s statements during closing argument. He contends that his trial counsel failed to make arguments about the evidence underlying the drug offense, adding that his trial counsel only asked the jury to acquit him of the firearm offense. Williams argues that, as a result, the jury would have understood that counsel conceded his guilt for the drug offense.

Although Williams is correct that his trial counsel did not directly reference the drug offense during closing argument, when considering the totality of the circumstances, we conclude that trial counsel did not concede guilt. During closing argument, trial counsel emphasized to the jury the high bar for proving guilt beyond a reasonable doubt, indicating that this standard is “required for each element of each offense.” Trial counsel additionally stated that, “when the State charges multiple counts with multiple elements within each of

them, precision is required, and that's why you're here." Trial counsel also made arguments challenging the reliability of a post *Miranda* statement during which Williams allegedly made inculpatory statements regarding both offenses, including a purported admission to possessing fentanyl.

And as the state notes, trial counsel's statements throughout trial indicate a lack of concession of guilt. During the opening statement, trial counsel broadly stated that Williams is "not guilty" and that "[i]t's the State's job to prove its case beyond a reasonable doubt." And trial counsel asked several questions during cross-examination that implicitly appeared to be attempts to challenge the state's witnesses on facts relevant to both possession offenses.

Because the totality of the circumstances does not demonstrate that Williams' trial counsel conceded guilt, his ineffective-assistance-of-counsel claim accordingly fails.

Affirmed.