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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-0428**

State of Minnesota,
Respondent,

vs.

Zachariah Christopher Whitehead,
Appellant.

**Filed March 9, 2026
Affirmed
Larson, Judge**

Scott County District Court
File No. 70-CR-23-849

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

Ronald Hovevar, Scott County Attorney, Elisabeth M. Johnson, Assistant County Attorney, Shakopee, Minnesota (for respondent)

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

Paul J. Maravigli, Special Assistant Public Defender, Minneapolis, Minnesota (for appellant)

Considered and decided by Ede, Presiding Judge; Larson, Judge; and Halbrooks, Judge.*

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

NONPRECEDENTIAL OPINION

LARSON, Judge

Appellant Zachariah Christopher Whitehead challenges his kidnapping and deprivation-of-custodial-rights convictions after he violated a 72-hour hold and removed his biological child (child) from a relative placement. Whitehead argues in his principal brief that the district court abused its discretion when it did not offer a specific instruction on the meaning of the phrases “legal custodian” or “lawful custodian,” and that the state presented insufficient evidence to sustain his convictions. Whitehead also raises several issues in his self-represented supplemental briefs. We affirm.

FACTS

The following facts were elicited at a jury trial. On January 12, 2023, Scott County Health and Human Services (SCHHS) received a report involving Whitehead’s then seven-week-old child. The report noted that child had been admitted to the hospital with a broken arm and physical abuse was the suspected cause of the injury. A SCHHS child-protection investigator (the investigator) partnered with a local police officer (the officer) to investigate the report. Based on the investigation and a medical professional’s report suggesting the injury was not accidental, the investigator discussed a safety plan with child’s parents, Whitehead and his wife Amanda Wamack (collectively, parents).

After parents refused to consent to a “voluntary placement,”¹ on January 13, 2023, the officer took custody of child via a non-voluntary 72-hour hold under Minn. Stat.

¹ Under Minn. Stat. § 260C.227(a) (2024), the responsible social-services agency and the child’s parents may enter a voluntary agreement to place a child in foster care.

§ 260C.175, subd. 1(2)(ii) (2024).² That statute allows a peace officer to take a child into “immediate custody” if the child “is found in surroundings or conditions which endanger the child’s health or welfare or which such peace officer reasonably believes will endanger the child’s health or welfare.” Minn. Stat. § 260C.175, subd. 1(2)(ii). Parents identified child’s paternal grandmother (grandmother) as a relative placement.³ The investigator informed parents that grandmother could not remove the 72-hour hold or return child to parents’ care during the 72-hour hold.

After the officer placed child with grandmother, on January 15, 2023, grandmother purported to rescind her responsibilities during the 72-hour hold, writing “Rescission” across the 72-hour-hold paperwork and mailing it to SCHHS. But the parties agree that neither the officer nor SCHHS released child from the 72-hour hold. The next day, parents took child from the relative placement and drove with child to Kentucky. On January 17, 2023, law enforcement in Kentucky located child with parents, took child into custody, and brought child to a local hospital. Child was then returned to Minnesota.

² There have been no material modifications to the civil statutes cited in this case since 2022. Therefore, we apply the 2024 version of the civil statutes. *See Interstate Power Co. v. Nobles Cnty. Bd. of Comm’rs*, 617 N.W.2d 566, 575 (Minn. 2000) (stating in the context of a civil statute, appellate courts generally “apply the law as it exists at the time they rule on a case”).

³ When a peace officer takes a child into custody via a 72-hour hold, the child must be placed “in the least restrictive setting consistent with the child’s health and welfare and in closest proximity to the child’s family as possible. Placement may be with a child’s relative.” Minn. Stat. § 260C.181, subd. 2 (2024); *see also* Minn. Stat. § 260C.175, subd. 2(a) (2024) (noting that if a peace officer takes a child into custody via the 72-hour hold statute, “under section 260C.181, subdivision 2, the parent . . . may request to place the child with a relative”).

In an amended complaint, respondent State of Minnesota charged Whitehead with one count of kidnapping with the purpose to commit a felony under Minn. Stat. § 609.25, subd. 1(2) (2022), and one count of deprivation of custodial rights under Minn. Stat. § 609.26, subd. 1(6) (2022). In March 2023, Whitehead submitted a document titled “demand for dismissal” challenging the government’s standing based upon a sovereign-citizen jurisdictional defense.

Prior to trial, the parties submitted proposed jury instructions that closely followed the pattern jury instructions. *See 10 Minnesota Practice*, CRIMJIG 10.04 (2022) (kidnapping). None of the proposed jury instructions defined the phrases “legal custodian” or “lawful custodian,” as those terms are used in the applicable statutes, despite the district court discussing the meaning of the terms with the parties.

In November 2024, the jury trial began.⁴ Over the four-day trial, law enforcement from Minnesota and Kentucky—including the officer—testified, along with the investigator and a SCHHS supervisor. Whitehead testified in his own defense.

The day before closing arguments, the state requested that the jury instructions use the term “lawful custodian” for both crimes, rather than using “lawful custodian” in the instructions for one crime and “legal custodian” in the instructions for the other crime. Whitehead objected, stating “I will have a real problem with that as [section 609.25, subdivision 1] says ‘parent or legal custodian,’” and “it would be actually erroneous for a

⁴ Whitehead and Wamack were tried together after the district court granted their motion for joinder. This opinion is being released simultaneously with our decision in *State v. Wamack*, No. A25-0430 (Minn. App. Mar. 9, 2026) (order op.).

jury instruction to . . . materially misstate the applicable law.” The district court ruled: “I think I have to follow the jury instruction. I think . . . the central issue here is whether or not at that moment the legal custodian superseded the parents’ right. So, we are going to leave it. That is the difficulty.”

During its instructions, the district court told the jurors that, if the district court did not define a term, “[they] should just apply the common, ordinary meaning of that word or phrase.” Then, the district court used the pattern jury instructions without defining “legal custodian” or “lawful custodian.” The jury returned guilty verdicts on both counts. The district court entered convictions on both counts and sentenced Whitehead to a 48-month prison term on the kidnapping count. *See* Minn. Stat. § 609.035, subd. 1 (2022) (“[I]f a person’s conduct constitutes more than one offense under the laws of this state, the person may be punished for only one of the offenses.”).

Whitehead appeals.

DECISION

On appeal, Whitehead makes several arguments. First, he argues he is entitled to a new trial because the district court abused its discretion when it failed to define the phrases “legal custodian” and “lawful custodian” in the jury instructions. Second, he argues the state presented insufficient evidence to sustain his kidnapping conviction under Minn. Stat. §§ 609.25, subd. 1(2), .26, subd. 1(6). Last, he raises several issues in his self-represented supplemental briefs. We address Whitehead’s arguments in turn.

I.

Whitehead argues the district court abused its discretion when it declined to define “legal custodian” and “lawful custodian” in the jury instructions. “A district court’s jury instructions are reviewed for an abuse of discretion,⁵ with the district court ‘enjoy[ing] considerable latitude in selecting jury instructions, including the specific language of those instructions.’” *State v. Schmeichel*, __ N.W.3d __, __, 2026 WL 290433, at *3 (Minn. Feb. 4, 2026) (quoting *State v. Peltier*, 874 N.W.2d 792, 797 (Minn. 2016)). “If the instructions, when read as a whole, ‘correctly state[] the law in language that can be understood by the jury, there is no reversible error.’” *Id.* (quoting *State v. Peou*, 579 N.W.2d 471, 475 (Minn. 1998)). “[T]he elements of the crime should be explained, but detailed definitions of the elements to the crime need not be given in the jury instructions if the instructions do not mislead the jury or allow it to speculate over the meaning of the elements.” *Id.* (quoting *Peterson v. State*, 282 N.W.2d 878, 881 (Minn. 1979)).

As relevant here, a defendant is guilty of kidnapping if, with the purpose “to facilitate the commission of any felony,” the defendant “removes from one place to another,” a person under the age of 16 years “without the consent of the person’s parents or *other legal custodian*.” Minn. Stat. § 609.25, subd. 1(2) (emphasis added). The

⁵ On appeal, the parties dispute the appropriate standard of review. The state contends the plain-error standard applies because Whitehead did not object to the jury instructions, while Whitehead applies an abuse-of-discretion standard. Here, we conclude Whitehead adequately raised the issue to the district court, and the district court had the ability to rule on the matter. Thus, Whitehead preserved the right to seek review, and we apply the abuse-of-discretion standard. *See State v. Kuhnau*, 622 N.W.2d 552, 555 (Minn. 2001) (stating that although the defendant did not clearly articulate his objection to the jury instruction at trial, his claim was preserved because it “was embodied in his objection at trial”).

predicate felony the state alleged was depriving another of custodial or parental rights, which requires the state to prove the defendant intentionally “refuse[d] to return a minor child to a parent or *lawful custodian*.” Minn. Stat. § 609.26, subd. 1(6) (emphasis added).

The district court instructed the jury on the pertinent issue as follows:

Count I – Kidnapping. . . . [W]hoever removes from one place to another any person under the age of 16 without the consent of that person’s parent or *legal guardian* for the purpose of facilitating the commission of deprivation of parental or custodial rights or the flight thereafter is guilty of a crime.

. . . .

Now, the elements of Depriving Another of Parental or Custodial Rights are as follows:

The Defendant was at least 18 years of age. The Defendant was more than 24 months older than [child]. The Defendant intentionally refused to return [child] to [child’s] parent or *lawful custodian*.

(Emphasis added.)

Whitehead argues the district court abused its discretion when it declined to define the phrase “legal custodian” in the kidnapping statute and “lawful custodian” in the deprivation-of-custodial-rights statute. According to Whitehead, the district court should have imported the definition of “custodian” from a Minnesota civil statute—chapter 260C, the chapter permitting a 72-hour hold. He asserts that this was the correct definition in this context because the state relied on the circumstances surrounding the 72-hour hold to prove its case. We are not persuaded.

When reviewing jury instructions, “[t]he question for us is not whether the district court should have defined” a particular word or phrase. *Schmeichel*, 2026 WL 290433, at *4. Instead, we must assess “whether the given instruction correctly stated the law in language that could be understood by the jury.” *Id.*

“Legal custodian” and “lawful custodian” are not defined in the criminal statutes. *See* Minn. Stat. § 609.02 (2022). Because these terms lack a statutory definition, we must look to the common understanding of the phrases. *Compare State v. Moore*, 10 N.W.3d 676, 680-82 (Minn. 2024) (reviewing the common understanding of the phrase “within immediate reach” when undefined in statute), *with State v. Moore*, 863 N.W.2d 111, 121 (Minn. App. 2015) (concluding a district court plainly erred when they did not instruct the jury on the statutory definition of “force,” in part, because the statutory definition was different from “the most-common lay definition of the word”). And, as the parties’ briefs acknowledge, a person who is acting as a child’s “legal custodian” or “lawful custodian” is wholly dependent on the circumstances of the case. *See Moore*, 10 N.W.3d at 682 (declining to further define the phrase “within immediate reach” because it was a “question of fact” and leaving “it to juries and fact finders to apply that phrase to the specific circumstances of future cases”). Thus, the district court did not need to further define the phrases “because to do so would simply replace one common understandable term with another.” *See Schmeichel*, 2026 WL 290433, at *4. Accordingly, we discern no abuse of discretion because the district court correctly stated the law in a manner that could be understood by the jury.

Whitehead disagrees, arguing it would have been better for the district court to “make some minimal attempt” to define “legal custodian” and “lawful custodian” as it applies to the specific facts in this case—i.e., provide a definition specific to the 72-hour-hold statute. For support, Whitehead cites *State v. Williams*. 451 N.W.2d 886 (Minn. App. 1990). But from our review, the district court complied with our decision in *Williams*. There, the district court used a pattern jury instruction that provided guidance on an undefined statutory term. *Id.* at 890. We affirmed the district court’s use of the pattern jury instruction on the basis that the instruction provided general factors, *and* the district court instructed the jurors to use “good judgment and common sense” to determine the meaning of the undefined term. *Id.* at 890-91. Unlike what Whitehead suggests, *Williams* does not require that the district court provide general guidance for an undefined term. Here, the district court used a pattern jury instruction, and it instructed the jurors to “just apply the common, ordinary meaning of that word or phrase” when a term was undefined. Thus, we are not persuaded that *Williams* supports Whitehead’s argument that the district court abused its discretion.

Whitehead also relies on *State v. LaForge*, to support his argument that the district court abused its discretion when it did not define the phrases “legal custodian” and “lawful custodian.” 347 N.W.2d 247 (Minn. 1984). But there, the undefined phrase was “prima facie,” which the supreme court described as “a legal term of art that no juror can be expected to understand . . . unless the trial judge carefully defines the term.” *Id.* at 253. “Legal custodian” and “lawful custodian” are not similar legal terms of art. Instead, as noted above, who is a child’s “legal custodian” or “lawful custodian” is a factual

determination that depends on the circumstances. Thus, we do not discern that the district court abused its discretion when it did not define the term and, instead, instructed the jurors to “apply the common, ordinary meaning” of the phrases.

Finally, Whitehead asserts that the district court failed in its obligation to set forth adequate jury instructions because it refused to define the phrases without assistance from the parties. For this argument, Whitehead relies on *State v. Cao*, 788 N.W.2d 710 (Minn. 2010). But in *Cao*, the supreme court addressed a district court’s responsibility to *correct* an attorney’s misstatement of law—not alleged uncertainty around an undefined term. *Id.* at 715. Thus, *Cao* does not advance Whitehead’s argument that the jury instructions were inadequate.

For the foregoing reasons, we conclude the district court did not abuse its discretion when it elected not to define the phrases “legal custodian” and “lawful custodian” because the jury instructions fairly and adequately explained the law.

II.

Whitehead next challenges whether the state presented sufficient evidence to prove beyond a reasonable doubt that he removed child without consent from a “legal custodian,” Minn. Stat. § 609.25, subd. 1(2), and refused to return child to a “lawful custodian,” Minn. Stat. § 609.26, subd. 1(6). Applying the sufficiency-of-the-evidence standard, we must first determine whether the state used direct or circumstantial evidence to prove the disputed element. *See State v. Horst*, 880 N.W.2d 24, 39 (Minn. 2016). Direct evidence is evidence “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)

(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 to prove Whitehead removed child without consent from a “legal custodian” and refused to return child to a “lawful custodian.” If the state relies on direct evidence, “the traditional standard for evaluating the sufficiency of the evidence applies.” *State v. Jones*, 4 N.W.3d 495, 501 (Minn. 2024). Under this standard, “we limit our review to a painstaking analysis of the record to determine whether the evidence, when viewed in a light most favorable to the conviction, was sufficient to permit the jurors to reach the verdict which they did.” *Horst*, 880 N.W.2d at 40 (quotation omitted). When viewing the evidence in the light most favorable to the conviction, we “assume[] that the [factfinder] believed the state’s witnesses and disbelieved any contrary evidence.” *State v. Olson*, 982 N.W.2d 491, 495 (Minn. App. 2022).

At trial, the state offered direct evidence that a 72-hour hold was in effect at the time Whitehead removed child from the relative placement—grandmother’s home. The state presented the 72-hour-hold paperwork under which the officer took custody of child pursuant to Minn. Stat. § 260C.175, subd. 1(2)(ii). This paperwork, which the officer and grandmother signed, provided that child was taken into custody on January 13, 2023, and lists Whitehead as child’s parent, who the officer properly notified. In his testimony, the officer also provided the rationale behind the 72-hour hold:

The primary concern was that we had a seven-week-old child that [was] incapable of causing an event that would break its own arm. We did not have any logical cause to that, whether malicious or on accident, and because it was Friday afternoon

of a holiday weekend the safest thing to do would be to place the child on a 72-hour hold.

The 72-hour-hold paperwork also contained statutorily required information to notify Whitehead of his rights, instructions to grandmother regarding the restrictions on Whitehead's contact with child, procedures for any decisions about child, and the processes by which the 72-hour hold could be released. Trial testimony further established that no authorized party had released the 72-hour hold before Whitehead removed child from the relative placement. Further, testimony established that the investigator fully informed Whitehead of the limitations associated with the 72-hour hold and the restrictions on who could remove the 72-hour hold. Notably, while testifying, Whitehead acknowledged that he knew at the time that he took child from the relative placement that grandmother did not have the authority to release child to Whitehead without approval from law enforcement.

Based upon the direct evidence presented at trial, the state proved the officer took child "into immediate custody" under the 72-hour statute, Minn. Stat. § 260C.175, subd. 1(2)(ii); therefore, the officer was acting as a "legal custodian" and "lawful custodian" of child during the 72-hour hold.⁶ The officer then placed child into a relative placement with grandmother. *See* Minn. Stat. § 260C.175, subd. 2(a). And the trial evidence proved that, at the time he removed child from the relative placement, Whitehead

⁶ Whitehead argues that *Valentine v. Lutz* controls the outcome of this case. 512 N.W.2d 868 (Minn. 1994). There, the supreme court held that a foster family was no longer a "custodian" under a previous version of chapter 260C because the child had already been removed from the foster family's care. *Id.* at 871. Our conclusion today that the officer was a custodian during the 72-hour hold is consistent with *Valentine* because child was still under the 72-hour hold at the time Whitehead removed child from the relative placement.

knew law enforcement had not released the 72-hour hold and that grandmother did not have authority to release the 72-hour hold. We therefore conclude sufficient direct evidence was presented at trial to prove Whitehead removed child from a “legal custodian” without consent and refused to return child to a “lawful custodian.”⁷ Accordingly, the state presented sufficient evidence to sustain Whitehead’s kidnapping and deprivation-of-custodial-rights convictions.

III.

Finally, Whitehead raises two arguments in his self-represented supplemental briefs. First, he argues the state violated his right to procedural due process because he did not receive a fair and impartial hearing. Second, he challenges the validity of the 72-hour hold on several grounds. We review these issues de novo, *see State v. Rey*, 905 N.W.2d 490, 493 (Minn. 2018), and address each argument below.

A. Due Process

Whitehead first argues that his procedural due-process rights were violated because the district court did not provide him a fair and impartial hearing. “The Fourteenth Amendment to the United States Constitution and Article 1, Section 7 of the Minnesota Constitution entitle criminal defendants to due process. These due process rights include the fundamental right to a fair trial and a fair and impartial judge.” *State v. Duol*, 25 N.W.3d 135, 141 (Minn. 2025) (quotation omitted). Whitehead appears to raise two due-

⁷ The parties dispute whether SCHHS was also a custodian under the 72-hour-hold statute. Because we conclude the direct evidence presented at trial proved the officer was a “legal custodian” and “lawful custodian” of child during the 72-hour hold, we do not reach this issue.

process challenges: (1) the district court judge exhibited bias during the proceedings; and (2) Whitehead was denied his right to procedural due process when the case was not dismissed after he filed his March 2023 demand for dismissal.

Beginning with the judicial-bias argument, Whitehead claims the district court judge exhibited bias when they ruled against Whitehead in several instances. We presume that district court judges properly discharge all judicial duties. *Hannon v. State*, 752 N.W.2d 518, 522 (Minn. 2008). And “[p]rior adverse rulings by a judge, without more, do not constitute judicial bias.” *State v. Mems*, 708 N.W.2d 526, 533 (Minn. 2006). Here, Whitehead only points to adverse rulings. Therefore, we conclude Whitehead has not shown that the judge was biased.

Moving to the March 2023 demand for dismissal, that document relied on a sovereign-citizen jurisdictional defense whereby Whitehead attempted to renounce his citizenship. A document based upon “the sovereign-citizen jurisdictional defense has ‘no conceivable validity in American law.’” *State v. Winbush*, 912 N.W.2d 678, 686 (Minn. App. 2018) (quoting *United States v. Schneider*, 910 F.2d 1569, 1570 (7th Cir. 1990)), *rev. denied* (Minn. May 29, 2018). Therefore, Whitehead was not deprived of his right to procedural due process because he was not entitled to relief.

For these reasons, we conclude Whitehead received a fair and impartial hearing.

B. 72-Hour Hold

Whitehead challenges the validity of the 72-hour hold and argues that the application of the 72-hour-hold statute violated his constitutional rights.

First, relying on cases regarding criminal seizures, Whitehead asserts that the 72-hour hold was invalid because the officer relied on insufficient information to show there was a threat of immediate harm. *See Wong Sun v. United States*, 371 U.S. 471 (1963); *State v. Gray*, 456 N.W.2d 251 (Minn. 1990). But Whitehead’s argument is misplaced because the cited cases involve criminal seizures, not child protection. Based on child’s age and the nature of their injuries, the district court properly concluded there was an “adequate basis for a 72-hour hold.”

Second, Whitehead contends the 72-hour-hold statute violates his substantive due-process right to parent his child. But Whitehead does not cite any authority to support his argument that a child-protection statute, and the 72-hour-hold statute specifically, violates substantive due process. Because prejudicial error is not obvious from the record, this argument is forfeited. *See Scheffler v. City of Anoka*, 890 N.W.2d 437, 451 (Minn. App. 2017) (explaining that assignments of error on mere assertion are forfeited unless prejudicial error is obvious), *rev. denied* (Minn. Apr. 26, 2017); *cf. In re Child of M.E.P.*, 4 N.W.3d 152, 163 (Minn. App. 2024) (noting that a parent’s custodial rights “must be balanced against the state’s interest in ensuring child welfare”); *SooHoo v. Johnson*, 731 N.W.2d 815, 822 (Minn. 2007) (“[S]tates may intrude on parental rights in order to protect the ‘general interest in the youth’s well-being.’” (quoting *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944))); *LaChapelle v. Mitten*, 607 N.W.2d 151, 163-64 (Minn. App. 2000) (concluding the best interests of a child is a compelling state interest justifying infringement on a mother’s fundamental right to travel), *rev. denied* (Minn. May 16, 2000).

In sum, Whitehead is not entitled to any relief based on the arguments raised in his supplemental briefs.

Affirmed.