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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-0621**

State of Minnesota,
Respondent,

vs.

Justin Duane Larson,
Appellant.

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

Wright County District Court
File No. 86-CR-23-4170

Keith Ellison, Attorney General, Timothy C. Rank, Assistant Attorney General, St. Paul, Minnesota; and

Brian Lutes, Wright County Attorney, Buffalo, Minnesota (for respondent)

Paul Engh, Minneapolis, Minnesota (for appellant)

Considered and decided by Cochran, Presiding Judge; Bratvold, Judge; and Schmidt, Judge.

NONPRECEDENTIAL OPINION

BRATVOLD, Judge

In this direct appeal, appellant challenges his judgment of conviction for first-degree criminal sexual conduct. Appellant argues that he is entitled to reversal because the district court abused its discretion in (1) denying his motion to strike alleged recovered-memory

testimony from the victim; (2) denying his mistrial motion, which was based on a state witness's testimony about Larson's rights to counsel and to remain silent; and (3) refusing to admit testimony from a defense witness via video conference. Appellant also contends that the evidence is insufficient to sustain his conviction. Because we conclude that appellant is not entitled to relief on any of these bases, we affirm.

FACTS

Respondent State of Minnesota charged appellant Justin Duane Larson with first-degree criminal sexual conduct under Minn. Stat. § 609.342, subd. 1(h)(iii) (2016) (count one), and second-degree criminal sexual conduct under Minn. Stat. § 609.343, subd. 1(h)(iii) (2016) (count two). The amended complaint alleged that Larson sexually abused his daughter, who was nine years old when the abuse began, between January 2018 and December 2022. Both counts alleged that Larson had a significant relationship with daughter, who was under 16 years old, and that the sexual abuse involved multiple acts committed over an extended period of time. Count one alleged sexual penetration, and count two alleged sexual contact.

In October 2024, the district court conducted Larson's jury trial. The following summarizes the evidence presented at trial. Larson married A.L. (mother) in 2006, and they had two children—daughter and a son. Larson and mother dissolved their marriage in 2016. Daughter lived with mother and son in Monticello.

Daughter testified that, when she was 13 years old, she “texted a suicide hotline number.” In the text messages, which were received at trial, daughter stated, “I’ve had this secret for five years. My dad sexually assaulted me many times, and I was too scared to

talk to anyone about it at the time it happened.” The suicide hotline notified law enforcement about daughter’s disclosure of sexual abuse. Daughter testified that, on the next day, June 21, 2023, mother received a phone call. Mother told daughter, “[Larson] got reported for doing something, and they didn’t tell me what.” Daughter “broke down” and told mother that Larson touched her and that she thought he “raped” her.

On June 22, 2023, a social worker interviewed daughter twice, following the CornerHouse protocol. During the first interview, daughter reported Larson’s sexual contact with her but did not disclose penetration. On February 23, 2024, the social worker interviewed daughter a second time. Daughter provided more details about the sexual abuse and disclosed several instances of penetration.

Daughter testified that Larson first abused her in January 2018 when she was nine years old. They were on a pheasant-hunting trip at a family friend’s cabin in South Dakota. While son and daughter were sleeping in a room, Larson “got in [daughter’s] bed” and touched her “back and the upper part of [her] body in the front” for about fifteen minutes. During her testimony, daughter explained what she meant by “upper” and “lower” part using marked diagrams. Daughter identified the “above” part of a female as the breasts, the “lower part” of a female as the genitals, and the “lower part” of a male as the penis. Daughter told no one about the incident in South Dakota because she “didn’t think . . . much of it.”

Larson assaulted daughter at his house in Delano. Larson, daughter, and son were all lying on Larson’s bed watching a movie. After son fell asleep, Larson “turned over to

face” daughter and touched her “lower front” and “upper front.” Daughter “kept pushing his hand away and telling him to stop,” but Larson’s “hands went in [her].”

Larson assaulted daughter at his brother’s house in Pequot Lakes when daughter was about 11 years old. Daughter was sleeping in the same bed as her younger cousin. Larson “came into the bed” with daughter and cousin and “took his clothes off.” Larson “started touching [daughter] again in the same places as usual” until son “walked in.” Larson “shut the door and locked it” and told son he was tucking daughter in. Daughter “kept moving down the bed until the point where [she] was off the bed and fully unclothed.” Larson “moved to the floor,” “rolled [daughter] on [her] side away from him,” “turned toward [daughter], fully unclothed,” and his “lower part” touched daughter’s “lower part.” Larson’s “lower part” “[s]tarted off outside . . . [t]hen in.”

Larson also assaulted daughter at his grandparents’ house in Pequot Lakes. During one assault, daughter was staying in the “pink room.” Larson’s “hands” and “lower part” would touch daughter’s “lower part”; Larson would touch both the “inside” and “outside” “[d]epending on the time.” Another assault occurred while daughter was sleeping on a pullout couch; Larson touched daughter’s “lower and upper” parts with his hands and his “lower” part, and “it” went both “inside” and “outside.” Daughter was 13 years old at the time of the assault on the pullout couch.

The state also offered testimony from mother, son, a school resource officer, a law-enforcement detective, and the social worker who conducted the two interviews of daughter. During daughter’s testimony, she agreed that she did not “tell” the social worker “everything” in her first interview because she “couldn’t stand being in that room” and she

“felt sick.” The social worker testified that, after the first interview, daughter “indicated that she had more details to share that she did not share during the first interview.” After daughter testified and during the social worker’s testimony, the district court admitted into evidence the video recordings of both interviews. The recordings were played for the jury, and daughter’s recorded statements generally aligned with her testimony. The record and testimony relevant to the issues on appeal is further summarized below.

Larson testified and called six witnesses. The jury found Larson guilty of both charges. The district court entered a judgment of conviction on count one and sentenced Larson to 144 months in prison.

Larson appeals.

DECISION

I. The district court did not abuse its discretion in denying Larson’s motion to strike daughter’s testimony.

Appellate courts review a district court’s evidentiary rulings for abuse of discretion. *State v. Ali*, 855 N.W.2d 235, 249 (Minn. 2014). The defendant bears the burden to establish that the district court abused its discretion and that they were prejudiced as a result. *State v. Amos*, 658 N.W.2d 201, 203 (Minn. 2003).

A. The Social Worker’s Testimony and Larson’s Motion to Strike

As detailed above, daughter’s testimony described sexual contact and penetration by Larson. Larson argues that daughter’s testimony on penetration was described in the second interview and is improper “recovered memory” evidence, relying on the social

worker's testimony during direct and cross-examination. This opinion includes the relevant questions and answers, italicizing the remarks that Larson emphasizes in his brief.

Q: And have you received training in different types of memory?

A: Yes.

Q: Can you explain that?

A: Yes. So I attended a recent training done by CornerHouse. It was called "Recognizing Barriers to Disclosure." And in that they talk about the different types of memory. There is script memory, episodic memory, recognition memory, and recall memory. Script memory is overall events that occur over time, and they tend to blend together at times as well. When it comes to episodic memory, that is where it's one single event. Recognition memory is where, it's more common at the preschool age, and so they explain it as flashcards or understanding shapes and colors. *And then with recall memory, this was a more complex memory, and they described this one as taking the memory, storing it in a lock box in the back of the brain, throwing the key away, and so recalling that memory is a lot more complex.*

....

Q: Recalled memory is you—is memory that was, I think my note is correct, *stored in a box in the brain*, right? Am I right about that?

A: Correct. More complex.

Q: It's complex because it's stored someplace in the brain, as you understand it?

A: Correct.

Q: And then it's recalled or recovered by the person who remembers things; is that right?

A: Correct.

Q: So is it fair to say that the recalled memory that you're describing here, and I want you to help me with this, was forgotten, but then remembered?

A: Possibly, yes.

Q: Okay. So what we have here is [daughter] who comes to see you again . . . for the second time, and she's remembered things that she hadn't told you before; is that correct?

A: Correct.

. . . .

Q: Now she's coming back a year later or thereabouts and telling you that she has new memories of additional abuse; is that correct?

A: Correct.

Q: That have come out of the box in her brain as you understand it; is that right?

A: Yes.

Q: *And from those recalled or recovered memories, she's describing new instances to you?*

A: Correct.

After the social worker's testimony concluded, Larson moved "to strike the testimony of [daughter] for reasons that it's based upon recovered memory." The district court denied Larson's motion to strike, reasoning:

I'm not going to strike the testimony that was [the social worker's] characterization based on her CornerHouse training. We also have her testimony that [daughter] said, "I don't know," [and] didn't remember things because she did not want to talk about them in that first interview. So I'm not going to strike that testimony at this time.

B. Analysis

Larson argues that daughter's memories of penetration in the second interview "lack foundational reliability" because "they were recovered." Larson maintains that the social worker's testimony "was not a mere characterization" because the social worker "agreed that, based upon her training and experiences, [daughter's] allegations were recovered, or recalled, from a box in her brain." The state counters that "[t]here is absolutely nothing in

[daughter's] interview or her testimony that would suggest in any way" that the details she included in her second interview were from "repressed and recovered memories."

Larson relies on *Doe 76C v. Archdiocese of St. Paul & Minneapolis*, 817 N.W.2d 150 (Minn. 2012). In *Doe 76C*, the supreme court addressed the exclusion of expert testimony on recovered memories. There, Doe argued that the statute of limitations for his civil claims should be tolled because he had repressed, but later recovered, his memory of sexual abuse that occurred over 20 years before he filed his complaint. *Doe 76C*, 817 N.W.2d at 154-55. The supreme court concluded that "the district court did not abuse its discretion when it excluded Doe's expert testimony" because Doe sought "to prove the existence of repressed and recovered memory [that] lacked foundational reliability." *Id.* at 169-70.

Doe 76C does not support Larson's motion to strike daughter's testimony about the sexual abuse. Unlike Doe, who offered expert testimony on recovered memory, the state did not argue that daughter's memory was recovered. And daughter did not testify that she recovered memories; instead, daughter testified that she did not "tell" the social worker "everything" in her first interview because she "couldn't stand being in that room" and she "felt sick." Daughter "dreaded going back" for the second interview but "knew that nothing would change if . . . [she] didn't speak up." Daughter's testimony about the abuse was detailed and included drawings to show where Larson touched her.

Finally, the social worker's testimony did not define "recovered" memory; she described "recalled" memory, among other types of memory. Larson's counsel interjected the term "recovered" memory without defining it. In response to leading questions, the

social worker agreed that daughter described “recalled or recovered memory.” Thus, the record does not support Larson’s claim that daughter testified about “recovered” memories, as that term was used in *Doe* 76.

Because the record does not show that daughter testified to any recovered memory, the district court did not abuse its discretion by denying Larson’s motion to strike daughter’s testimony.

II. The district court did not abuse its discretion by denying Larson’s mistrial motion.

Appellate courts review the denial of a mistrial motion for an abuse of discretion because “[t]he trial judge is in the best position to determine whether an error is sufficiently prejudicial to require a mistrial or whether another remedy is appropriate.” *State v. Griffin*, 887 N.W.2d 257, 262 (Minn. 2016).

A. The Detective’s Testimony and Larson’s Mistrial Motion

On direct examination by the prosecuting attorney, the detective testified about his observations during daughter’s second interview. Then the following exchange occurred:

Prosecuting Attorney: And after that interview, what steps did you take next?

Detective: I don’t believe we did much else. Justin Larson had retained an attorney, so I was unable to talk to him.

Larson’s Attorney: Objection. Wait a second, I object to that. May I approach?

The Court: You may.

(Bench conference off the record.)

The Court: All right. We're going to sustain a defendant's objection. So members of the jury, I am instructing you to disregard the last statement of the witness.

Later and outside the presence of the jury, Larson made a record of the bench conference. Larson noted that he moved for a mistrial and argued that the detective improperly referenced "an assertion of [Larson's] right to remain silent" and made a "pejorative inference that because [Larson] has a lawyer, he's going to be silent." Larson maintained that the district court's decision to strike the detective's testimony was "not enough" because the testimony was "memorable" and "hard to forget." After making these arguments, Larson renewed his mistrial motion. The state opposed Larson's motion, arguing that the prosecuting attorney did not try "to elicit testimony that [Larson] refused to testify or give a statement" and that any error was not prejudicial. The district court took the matter under advisement.

After a lunch break, the district court denied Larson's mistrial motion. The district court explained:

Defendant cites *Doyle v. Ohio*. I did review that case as well and the applicable Minnesota appellate cases, I noted that there are exceptions to *Doyle*, and not all violations of *Doyle* are deemed prejudicial, so I'm not considering that black-letter law that a mistrial must be granted.

The answer given by [the detective] did not imply defendant's guilt. It did not comment on any lawyerly advice, and it did not say the defendant refused to give any further statement. [The detective's] answer regarding defendant retaining [an] attorney was given sua sponte, as noted by defense counsel in arguments, and it was not specifically elicited by the question asked by the state.

I'd note for the record that the preliminary and final instructions that the Court gives the jury also contain directives to the jury to disregard any questions or answers to which an objection is sustained. And I find that the curative instruction given when the objection was sustained, as well as the instructions included in the preliminary and final instructions, can mitigate any potential prejudice.

The statement was a brief portion of an answer. I don't believe it's difficult for the jury members to disregard that statement. Caselaw notes that when a jury is instructed to disregard a statement, it is presumed that the jury follows that instruction. So I do not find the statement was overly prejudicial to the defense. I'm going to deny the motion for the mistrial.

B. Analysis

The United States and Minnesota Constitutions guarantee a criminal defendant's right to counsel and right to remain silent. U.S. Const. amend. V; Minn. Const. art. I, § 7. At trial, a prosecuting attorney generally "may not refer to or elicit testimony about" a defendant exercising their right to silence or counsel because it violates due process. *State v. Dobbins*, 725 N.W.2d 492, 509 (Minn. 2006); *State v. Dunkel*, 466 N.W.2d 425, 428 (Minn. App. 1991) (concluding that evidence of a defendant's counseled, prearrest silence in the state's case-in-chief is an error).

Larson contends that the detective's testimony "'called attention' to [his] silence, raising an undeniable inference of guilt." Larson argues that the "juxtaposition of [the detective] describing [daughter's] detailed allegations, that in doing so she was 'very distraught,' and comparing then Mr. Larson's silence, his failure to address what was said, remains troubling, and contributed to the unfairness of the trial." Larson also maintains that

the detective’s “error was intentional” because he had “eighteen years of law enforcement training and experience.”¹

The state concedes that the detective’s comment “was improper.” The state maintains, however, that the district court did not abuse its discretion by denying the mistrial motion because (1) the comment “was brief and undramatic”; (2) the comment “was not in any way elicited by the prosecutor”; and (3) the district court “gave an immediate curative instruction, directing the jury to disregard the statement.”

We agree that it was improper for the detective to testify that he was “unable to talk” to Larson after Larson retained an attorney. We assume, without deciding, that the testimony implicated Larson’s constitutional rights. When an error implicates a constitutional right, appellate courts “employ a heightened standard and ask whether the error was harmless beyond a reasonable doubt.” *State v. McNeilly*, 6 N.W.3d 161, 189 (Minn. 2024). “An error is harmless beyond a reasonable doubt only if the verdict was surely unattributable to the error.” *State v. Zielinski*, 10 N.W.3d 1, 13 (Minn. 2024) (quotation omitted). “When deciding whether the error is prejudicial, this court must look to the record as a whole.” *Dunkel*, 466 N.W.2d at 429.

Larson relies on *Doyle v. Ohio*, 426 U.S. 610 (1976). In *Doyle*, two defendants were given *Miranda* warnings after being arrested in connection with a drug sale. 426 U.S. at

¹ In his reply brief, Larson states that this court “considers whether the errors, when taken cumulatively, had the effect of denying appellant a fair trial.” (Quotation omitted.) Generally, issues not raised or argued in an appellant’s principal brief cannot be raised in a reply brief. *State v. Yang*, 774 N.W.2d 539, 558 (Minn. 2009). Because Larson raises cumulative error for the first time in his reply brief, we decline to address it.

612. At trial, each defendant took the stand and testified to events that they had not related to law enforcement when questioned after their arrest. *Id.* at 612-13. The prosecuting attorney impeached each defendant by asking them why they did not tell the police about the events conveyed in their testimony. *Id.* at 613-14. On appeal, the United States Supreme Court reversed the convictions and held that impeaching a defendant with their post-*Miranda* silence violates the defendant's right to due process. *Id.* at 611.

Here, we have very different facts from those in *Doyle* because the prosecuting attorney did not impeach Larson with his post-*Miranda* silence. This case is more analogous to *Dunkel*. 466 N.W.2d at 428. In *Dunkel*, a law-enforcement investigator testified that she verified Dunkel's name and date of birth with his attorney, but that Dunkel "declined an interview." *Id.* at 427. This court concluded that the investigator's testimony about Dunkel's counseled "pre-arrest, pre-*Miranda* silence" was error but did not mandate reversal. *Id.* at 428-29. This court explained that the testimony was harmless beyond a reasonable doubt because it was "innocuous," "brief, quiet, and undramatic"; the prosecuting attorney did not elicit the investigator's offending statement or mention it during trial; and the victim provided a detailed, contemporaneous report of the crime. *Id.*

Like the investigator's testimony in *Dunkel*, the detective's testimony about Larson's attorney and his ability to talk with Larson was brief and undramatic. The prosecuting attorney did not elicit the testimony through questioning; the detective volunteered the statement unprompted. The prosecuting attorney did not mention the detective's statement in closing arguments or otherwise. And the evidence against Larson

was strong. Daughter provided detailed testimony about Larson’s sexual abuse that was consistent with her statements in two interviews and her statements to mother.

The district court sustained Larson’s objection and struck the testimony. The district court also instructed the jury to “disregard” the detective’s offending comment. A district court “significantly reduce[s]” the prejudicial impact of improperly admitted evidence when it sustains an objection. *Dobbins*, 725 N.W.2d at 508. Error is also minimized by a curative instruction. *See State v. McCullum*, 289 N.W.2d 89, 93 (Minn. 1979) (concluding that the admission of evidence of a defendant’s silence was harmless “because the testimony was stricken and the jury cautioned to disregard it”). Appellate courts presume that the jury “followed the [district] court’s instructions” and “disregarded any question to which an objection was sustained.” *State v. Steward*, 645 N.W.2d 115, 122 (Minn. 2002). Larson concedes that a violation of *Doyle* is “ordinarily cured” by striking the erroneous testimony and instructing the jury to disregard it.

Given these facts, we conclude that the jury’s guilty verdict was “surely unattributable” to the erroneous testimony. *Zielinski*, 10 N.W.3d at 13 (quotation omitted). Thus, the testimony was harmless beyond a reasonable doubt and the district court did not abuse its discretion by denying Larson’s motion for a mistrial.

III. The district court did not abuse its discretion in denying Larson’s request that a defense witness testify remotely via video conference.

We review the district court’s evidentiary rulings for abuse of discretion. *Ali*, 855 N.W.2d at 249; *see also State v. Mems*, 708 N.W.2d 526, 533 (Minn. 2006) (stating that district courts “are vested with broad discretion in deciding matters of courtroom

procedure” (quotation omitted)). The defendant must prove that they were prejudiced by any error. *Amos*, 658 N.W.2d at 203.

A. Larson’s Request for His Witness to Testify via Video Conference

On the first day of trial, Larson requested that a defense witness from South Dakota be allowed to testify through the video-conferencing platform Zoom.

Larson’s Attorney: I had a witness who is from South Dakota. The case originates with an allegation of touching during a pheasant hunting trip in South Dakota. The fellow has been listed on our witness list . . . and he is a hunting guide out in South Dakota, is guiding a group this week that’s coming on Wednesday and cannot be here without losing his group and his livelihood with respect to that group.

He also sells insurance, and so my request of the prosecution is that we allow him to testify via Zoom. He’s a background witness who will basically say that he was present during the weekend involved, saw nothing untoward and the alleged victim here was quite happy with everything that occurred, and so that’s the point of his testimony. But he’s unavailable unless we can do Zoom. That’s my request.

The Court: All right. So request to have a witness appear by Zoom for the jury trial, [prosecuting attorney]?

Prosecuting Attorney: I defer to the Court, Your Honor.

The Court: All right. I’m going to deny that request at this time. And if the defense wants to have him, I guess he’ll have to—I mean, I understand his issues with his obligations. We’ll have to work through that, and, I mean, I’m not sure timing-wise, how this trial is going to work out.

Larson’s Attorney: Well, it may well be I can’t call him then, which would be unfortunate, I think.

The Court: All right. So I’m going to deny a motion for *any* witnesses to appear by Zoom.

(Emphasis added.)

On the second day of trial, before daughter testified, Larson asked the district court to reconsider its prior ruling and made an offer of proof:

Larson's Attorney: Well, I would like the Court to reconsider the Zoom conference. I think I've got to make an offer of proof anyway. I know your ruling. I would like you to change it, obviously, but [South Dakota witness] would testify, if permitted, via Zoom, that he's an old friend of the family and a friend of [Larson], that they went on this pheasant hunting trip together. They drove out together in the diesel truck and all the kids together. He had a small house in South Dakota. [Son], [daughter], and [Larson] stayed upstairs, that they enjoyed the hunting on Saturday, that [daughter] had hives or a rash, and his wife, [South Dakota witness's] wife, took her to the hospital, and that she had a good hospital stay, and then they drove home together on Sunday so the kids could get back to school. And all those things he would testify to, and they had a wonderful time. And besides that, [daughter] and [South Dakota witness's] daughter . . . were best friends, and so that's—that's essentially his testimony.

My only additional thought is that during COVID, we had multiple hearings of witnesses who weren't here. It became a practice in some counties, perhaps not in front of Your Honor, to permit this for health concerns. But then as the pandemic went on, it got to be more and more accepted. And so it's not something radical that is new. It's something that often happens in the civil cases, I know this is a criminal case, with doctors and people who are out of town, but I would like the Court to reconsider for those reasons and that offer of proof, so I have my record.

The Court: Thank you. Anything else to add from the state regarding [South Dakota witness's] testimony possibly by Zoom?

Prosecuting Attorney: Thank you, Your Honor. We still renew our deference to the Court position. I would just note that, obviously, the trial has been set for quite some time. The state has to have their witnesses present. So I would just ask that the defense have to do the same. I think there was ample opportunity to get that taken care of if needed, so I defer to the Court, but ultimately, I don't think Zoom is appropriate.

The district court denied Larson’s request for reconsideration:

The Court: I’m hearing that [it] is going to be inconvenient for that witness to be here in person, but he is available, so for that reason, I am going to deny his remote appearance.

Larson’s Attorney: I’ll note my objection.

The Court: Very good. If you need a scheduling change or some movement in a schedule, let us know if he needs to drive here, if that’s what you choose to do, we can accommodate that, but at this time, I’m going to deny his remote appearance as a witness. This is a jury trial. It’s important that he be here.

B. Analysis

The district court “shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to (1) make the interrogation and presentation effective for the ascertainment of the truth, (2) avoid needless consumption of time, and (3) protect witnesses from harassment or undue embarrassment.” Minn. R. Evid. 611(a); *see also State v. Fernandez Sorto*, 12 N.W.3d 207, 215 (Minn. App. 2024) (“A district court has discretion to exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence.” (Quotation omitted.)), *rev. denied* (Minn. Dec. 17, 2024).²

² The supreme court has adopted the “*Craig* two-part test” to determine whether a state witness “can testify outside of a defendant’s physical presence by live, two-way, remote video conferencing without violating the defendant’s right to confrontation.” *State v. Tate*, 985 N.W.2d 291, 301 (Minn. 2023); *see also Maryland v. Craig*, 497 U.S. 836 (1990) (establishing test). The parties applied this caselaw on appeal, but we are not persuaded to do so. Larson called the South Dakota witness. Thus, Larson’s confrontation rights would not be implicated if the district court had granted Larson’s request for his own witness to testify remotely via video conference.

Larson appears to argue that the district court abused its discretion “by ruling that ‘any’ witness must necessarily appear” at trial. Larson argues that “[p]resentation of trial testimony in a child sex abuse case via two-way remote is not new” and that “[a]utocratic rulings against a defendant are not discretionary.” Larson maintains that the South Dakota witness’s “testimony would have refuted [daughter’s] claims of an adverse experience, and would have, as a non-family member, shown to the jury her father’s willingness to take [daughter] to places where he would have no incentive to abuse her, where his relationship with her was visible,” and “[w]here the sleeping arrangements were not arranged for access to [sexual abuse].”

The state counters that Larson “failed to demonstrate any substantive rationale for [the South Dakota witness’s] absence other than that he would lose money from missing work if he appeared at trial.” The state argues that this reasoning “applies to almost all lay witnesses and does not come close to demonstrating necessity.” The state contends that, even if the district court erred, Larson was not prejudiced because “every part of [South Dakota witness’s] proffered testimony came in, uncontested through other witnesses, primarily [daughter] herself.”

We conclude that the district court did not abuse its discretion by exercising reasonable control over the mode and order of witness testimony and denying Larson’s motion for a witness to testify by video conference. *See* Minn. R. Evid. 611(a); *Fernandez Sorto*, 12 N.W.3d at 215. The district court denied Larson’s motion because the South Dakota witness was available to testify but it was inconvenient for the witness to do so in person. The district court considered the issue twice, and the ruling was not categorical or

reflexive. The sole reason offered for requesting testimony via video conference was that the South Dakota witness would lose income as a hunting guide. This rationale would allow most witnesses to testify by video conference. We also conclude that the witness’s absence from trial was not prejudicial because other witnesses testified to events in South Dakota.

IV. The evidence is sufficient to sustain Larson’s conviction.

“When reviewing the sufficiency of direct evidence, [appellate courts] painstakingly review the record to determine whether that evidence, viewed in the light most favorable to the verdict, was sufficient to permit the jurors to reach the verdict that they did.” *State v. Segura*, 2 N.W.3d 142, 155 (Minn. 2024) (quotation omitted).

Larson challenges the sufficiency of the evidence that he engaged in multiple acts of sexual penetration with daughter under Minn. Stat. § 609.342, subd. 1(h)(iii). Larson does not challenge some elements of the charge—for example, that daughter was under 16 years old or that he had a significant relationship with her at the time of the alleged offenses. Instead, Larson contends that the state had to prove “multiple acts of sexual penetration” took place “in Wright County, or where [daughter] was found in Wright County.” Larson appears to argue that the state did not present sufficient evidence that Larson penetrated daughter multiple times *in Wright County*.³

³ In their briefing, the parties dispute whether venue is an element of first-degree criminal sexual conduct. *See State v. Paulson*, 22 N.W.3d 144, 149 (Minn. 2025) (affirming the validity of a defendant’s *Alford* plea and holding that the statutory venue requirement that “every criminal cause shall be tried in the county where the offense was committed” is not an element of an offense (quoting Minn. Stat. § 627.01 (2024))). We note that this court recently held in *State v. Anderson* that the statutory venue requirement under section 627.01 “is not an element of an offense” in a case that proceeds to trial. ___ N.W.3d ___, ___, No. A23-0613, slip op. at 8 (Minn. App. Mar. 2, 2026). But because we conclude

“A criminal action arising out of an incident of alleged child abuse may be prosecuted either in the county where the alleged abuse occurred or the county where the child is found.” Minn. Stat. § 627.15 (2024). This court has held that, “for the purpose of establishing venue in the limited area of child-abuse, a child can be ‘found’ in the county where the child resided either when the abuse occurred or when the abuse was discovered.” *State v. Rucker*, 752 N.W.2d 538, 547 (Minn. App. 2008), *rev. denied* (Minn. Sept. 23, 2008).

The district court instructed the jury that the state had to prove Larson’s “acts took place . . . in Wright County, or [daughter] was found in Wright County.” Daughter testified that she lived in the City of Monticello in Wright County when she reported the sexual abuse. Daughter testified that Larson engaged in multiple acts of sexual contact and penetration with her at his home in the City of Delano in Wright County. And daughter testified that Larson penetrated her in other counties. Viewing this evidence in the light most favorable to the guilty verdict, we conclude that the evidence was sufficient to prove beyond a reasonable doubt that Larson engaged in multiple acts of sexual penetration with daughter and that daughter was found—i.e., resided—in Wright County.

Affirmed.

that the state offered sufficient evidence to satisfy the venue element offered in the jury instructions, we need not address this issue.