

*This opinion is nonprecedential except as provided by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
A25-0686**

State of Minnesota,
Respondent,

vs.

Steven John Stolp-Thompson,
Appellant.

**Filed May 11, 2026
Affirmed
Halbrooks, Judge***

Nicollet County District Court
File No. 52-CR-24-105

Keith Ellison, Attorney General, Jacob Campion, Assistant Attorney General, St. Paul, Minnesota; and

Michelle Zehnder Fischer, Nicollet County Attorney, St. Peter, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Suzanne M. Senecal-Hill, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Ross, Presiding Judge; Worke, Judge; and Halbrooks, Judge.

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

NONPRECEDENTIAL OPINION

HALBROOKS, Judge

In this direct appeal from two judgments of conviction of domestic assault, appellant argues that the district court abused its discretion by admitting into evidence two victims' out-of-court statements made to law enforcement. We affirm.

FACTS

Respondent State of Minnesota charged appellant Steven John Stolp-Thompson with six counts of domestic assault and two counts of attempted domestic assault. The amended complaint alleged that Stolp-Thompson attacked his roommate, S.V. (mother), and her teenage son, P.C. (son), in their joint apartment.¹ Over the course of a three-day jury trial, the state presented testimony from mother, son, and two law-enforcement officers, and Stolp-Thompson testified in his own defense. The district court also received photo and audio exhibits. The following summarizes the evidence received at trial.

Stolp-Thompson lived with mother and son in an apartment in St. Peter. Mother testified that, around 1:30 a.m. on March 2, 2024, she and Stolp-Thompson started arguing in her bedroom about a friend she had over. The argument “escalated” when Stolp-Thompson tried to “come at” and “scare” mother. According to mother, she “purposefully fell to the ground” as a “self-defense mechanism.” Son came out of his

¹ The amended complaint alleged that Stolp-Thompson: assaulted mother and son by strangulation under Minn. Stat. § 609.2247, subd. 2 (2022); committed acts with intent to cause fear in mother and son of immediate bodily harm or death under Minn. Stat. § 609.2242, subd. 1(1) (2022); intentionally inflicted or attempted to inflict bodily harm upon mother and son under Minn. Stat. § 609.2242, subd. 1(2) (2022); and attempted to assault mother and son by strangulation under Minn. Stat. § 609.2247, subd. 2.

bedroom with a pellet gun and tried to open the door to mother's bedroom. When Stolp-Thompson opened the door, son and Stolp-Thompson "started scuffling" and son shot Stolp-Thompson with the pellet gun.² After mother told them to stop fighting, son returned to his bedroom and Stolp-Thompson was bleeding "really bad" in the bathroom.

Mother testified that son "came back out" with his pellet gun and "there was a fight that ensued again" in the bathroom. Because mother was afraid that Stolp-Thompson would "try to hurt" son, she retrieved the pellet gun and hid it. Mother got son "back to his bedroom," and found Stolp-Thompson "sobbing." According to mother, the kitchen was covered in blood and looked like a "murder scene."

Mother initially testified that Stolp-Thompson did not hit her or son during the bathroom incident. But when shown a photograph of "red marks" around her neck, mother admitted that Stolp-Thompson had choked her sometime that night. Mother testified that a law-enforcement officer knocked on the apartment door after the bathroom incident. Stolp-Thompson and son were taken to the hospital.

Mother provided an audio-recorded statement to the police. The state sought at trial to admit a redacted version of mother's recorded statement. Stolp-Thompson objected on the ground that it was inadmissible hearsay. The state countered that the statement fell within the excited-utterance exception to the hearsay rule. Following two bench conferences, the district court overruled the objection and admitted mother's recorded statement as an excited utterance; the recorded statement was published and played for the

² Son was 16 years old and weighed 116 pounds when the incident occurred. Stolp-Thompson was 32 years old and weighed about 200 pounds.

jury. The relevant portions of the state's offer of proof and mother's recorded statement are summarized and discussed in our analysis.

Two law-enforcement officers testified that they responded to a reported domestic disturbance at the apartment. The first officer testified that, when he knocked on the front door to the apartment, mother answered and "appeared to be very distraught" and was "crying." The first officer "could tell that she was very emotionally upset at the time." The first officer testified that mother told him that Stolp-Thompson had assaulted her and son. The second officer testified that he took photographs of the apartment and Stolp-Thompson's injuries.

The first officer also testified that he audio-recorded son's statement to the police. Through the officer, the state sought at trial to admit a redacted version of son's recorded statement. Stolp-Thompson objected, again arguing that it was inadmissible hearsay. The state countered that the statement was admissible as a prior consistent statement offered to help the jury assess son's credibility.

Following a bench conference, the district court overruled the objection and admitted son's recorded statement as a prior consistent statement, and son's recorded statement was published and played for the jury. Relevant portions of son's recorded statement and trial testimony, which generally corroborate mother's testimony about the incidents, are summarized and discussed in the analysis.

Stolp-Thompson testified that he fought mother and son in self-defense because he believed that the pellet gun was a real gun. Stolp-Thompson admitted that he "slammed" son "against the wall" and that he had mother "by the throat." Stolp-Thompson explained,

“I figured the only way to stop them from shooting me, hitting me, all this stuff, was to essentially just grab their throats to keep them away from me and . . . make them not be able to attack me anymore.”

The jury found Stolp-Thompson guilty of six of the eight counts of domestic assault, acquitting him of the two strangulation-related counts against son. The district court entered judgments of conviction of domestic assault by strangulation against mother and domestic bodily-harm assault against son. With respect to the strangulation conviction, the district court imposed a 21-month prison sentence, stayed for five years. For the bodily-harm conviction, the district court sentenced Stolp-Thompson to five days in jail. The sentences were concurrent, and Stolp-Thompson received credit for time served.

This appeal follows.

DECISION

Stolp-Thompson argues that the district court abused its discretion by admitting into evidence mother’s and son’s out-of-court statements to law enforcement. Appellate courts review a district court’s evidentiary rulings for abuse of discretion. *State v. Tapper*, 993 N.W.2d 432, 437 (Minn. 2023). “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.” *Id.* (quotation omitted). The defendant bears the burden of showing both that the district court abused its discretion in admitting the evidence at issue and that they were prejudiced by the admission. *State v. Peltier*, 874 N.W.2d 792, 802 (Minn. 2016).

“‘Hearsay’ is a statement other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.” Minn. R.

Evid. 801(c). “Hearsay is not admissible except as provided by [the Minnesota Rules of Evidence] or by other rules prescribed by the Supreme Court or by the Legislature.” Minn. R. Evid. 802.

I. The district court did not abuse its discretion by admitting mother’s recorded statement under the excited-utterance exception to the hearsay rule.

One exception to the hearsay rule is a “statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.” Minn. R. Evid. 803(2). The rationale for the excited-utterance exception “stems from the belief that the excitement caused by the event eliminates the possibility of conscious fabrication and insures the trustworthiness of the statement.” Minn. R. Evid. 803(2) 1989 comm. cmt.

There are three requirements for a statement to meet the excited-utterance exception: (1) there was a startling event or condition; (2) the statement relates to the event or condition; and (3) the declarant was “under a sufficient aura of excitement caused by the event or condition to insure the trustworthiness of the statement.” *Id.*; see *Tapper*, 993 N.W.2d at 437-38 (applying the excited-utterance requirements).

There are “no strict temporal guidelines” to evaluate whether a statement qualifies as an excited utterance. *Id.* at 437-38 (quotation omitted). Instead, courts consider several factors, including “the length of time elapsed, the nature of the event, the physical condition of the declarant, and any possible motive to falsify.” *Id.* at 438 (quotation omitted). Although not required to satisfy the excited-utterance exception, “a physical manifestation of stress will often be a key indicator of an aura of excitement.” *Id.* The district court, “in

its discretion, determines whether the declarant was under the aura of excitement, and we review the determination for an abuse of discretion.” *State v. Martin*, 614 N.W.2d 214, 224 (Minn. 2000) (quotation omitted); *see also State v. Berrisford*, 361 N.W.2d 846, 850 (Minn. 1985) (deferring to the district court’s determination that the declarant was under a sufficient aura of excitement).

Stolp-Thompson concedes that an assault is a startling event and that mother’s statement related to the alleged assaults. But Stolp-Thompson contends that mother was no longer under an “aura of excitement” when she spoke with the police. We first summarize the state’s offer of proof and mother’s recorded statement, then address Stolp-Thompson’s arguments.

A. The state’s offer of proof and mother’s recorded statement.

As an offer of proof that mother was still under an aura of excitement at the time of her recorded statement, the state had mother testify about her interaction with police after the bathroom incident. Mother stated that, when officers arrived, she was “all bloody,” “obviously distressed,” and had “red marks” on her neck. Mother testified that she was “very” emotional and felt “confused,” “overwhelmed,” and “hurt” at the time. She described the apartment, which was covered in blood. With respect to timing, mother stated that she did not give her statement “right” when officers arrived, but clarified that “it wasn’t like 30 minutes later either.” Mother stated that she was experiencing “anxiety, like adrenaline, confusion, and mainly hurt” during her statement. And mother confirmed that she was emotional for “the time following even [her] interaction with law enforcement.”

The district court credited this testimony in ruling that mother's recorded statement was admissible as an excited utterance, stating that "given the description of the events that occurred, [and] the temporal proximity of the statement . . . it appears to me that the statement was given under the aura of that excitement."

In her recorded statement, mother told police that Stolp-Thompson choked her with both hands in her bedroom. She said that she "started blacking out" and that son heard her "gasping for air." When son tried to break down mother's bedroom door, Stolp-Thompson "charged" and "physically pushed" son to the ground. Son "pistol whipped" and shot Stolp-Thompson with the pellet gun "in self-defense." After the bedroom incident, son saw Stolp-Thompson "backhand" mother, which caused the second fight in the bathroom. Stolp-Thompson cornered son in the bathroom and again attempted to grab the pellet gun. Mother grabbed Stolp-Thompson and pulled his hair during the bathroom incident so that he could not hurt son.³

B. Mother was still under an aura of excitement at the time of her recorded statement.

Stolp-Thompson argues that mother was no longer under an aura of excitement for three reasons. First, he contends that law enforcement "provided no testimony about [mother's] demeanor at the time of the statement." Second, according to Stolp-Thompson, the incident had "been over for at least 30 minutes" and he—the alleged aggressor—"had

³ At trial, mother testified that portions of her recorded statement were not accurate, including that Stolp-Thompson choked her and that she saw the "scuffle" between Stolp-Thompson and son. Mother stated on cross-examination that she contacted the prosecuting attorney to recant her recorded statement because it was inaccurate.

already been taken away by ambulance.” Finally, Stolp-Thompson argues that mother had “strong motivation” to cast him “as an out-of-control aggressor,” namely, “to protect [son] from getting into legal trouble.” The state responds that the evidence showed mother “was still in a ‘heightened state’” when she gave her recorded statement.

The record and caselaw support the state’s position. Even assuming that mother gave her statement 30 minutes after officers arrived at the apartment, that is still within a short time after the alleged assaults. *See Berrisford*, 361 N.W.2d at 850 (affirming admission of a statement made “just 90 minutes after the murder”); *State v. Daniels*, 380 N.W.2d 777, 783-84 (Minn. 1986) (affirming admission of statements made “within an hour” of a fire). And this event was particularly traumatic. Mother was engaged in a physical fight with her roommate that sent her child to the hospital; she was bloody and bruised; and she remained in an apartment that resembled a “murder scene.” *See State v. Hogetvedt*, 623 N.W.2d 909, 913 (Minn. App. 2001) (ruling that it was “reasonable to conclude that [the victim] was still under stress from the incident” three hours after an assault occurred given the extent of her injuries and the nature of the assault), *rev. denied* (Minn. May 29, 2001).

On appeal, Stolp-Thompson relies in part on the sound of mother’s voice in her recorded statement. He maintains that mother “sounded calm, tempered, and clear-headed.” But Stolp-Thompson did not ask the district court to review mother’s recorded statement for purposes of its evidentiary decision, and the district court did not review the audio recording before its admission.

Stolp-Thompson also did not argue that mother had a motive to fabricate the recorded statement at trial. He instead asks this court to make factual findings about the content of the recorded statement and mother’s credibility, which we cannot do. *Lumpkin v. N. Cent. Airlines, Inc.*, 209 N.W.2d 397, 401 (Minn. 1973) (stating that “an appellate court is not empowered to make or modify findings of fact”). Because these arguments were not presented to or considered by the district court, we decline to address them. *See Thiele v. Stich*, 425 N.W.2d 580, 582-83 (Minn. 1988) (“An appellate court may not base its decision on matters outside the record on appeal and may not consider matters not produced and received in evidence below.”).

In sum, because the state’s offer of proof supports a determination that mother was still under an aura of excitement at the time of her recorded statement, the district court did not abuse its discretion by admitting the statement under the excited-utterance exception.⁴

II. The district court did not commit reversible error by admitting son’s recorded statement as a prior consistent statement.

A prior out-of-court statement is not hearsay if (1) the declarant “testifies at the trial . . . and is subject to cross-examination concerning the statement”; (2) the statement is “consistent with the declarant’s testimony”; and (3) the statement is “helpful to the trier of fact in evaluating the declarant’s credibility as a witness.” Minn. R. Evid. 801(d)(1)(B).

⁴ The state also argues that mother’s recorded statement was admissible as a prior consistent statement under Minn. R. Evid. 801(d)(1)(B). The district court, however, did not hear arguments regarding the admissibility of mother’s recorded statement as a prior consistent statement. Because this argument is raised for the first time on appeal, we decline to consider it. *See Thiele*, 425 N.W.2d at 582-83 (Minn. 1988) (stating that appellate courts generally do not consider arguments that were not presented to or considered by the district court).

But such a statement is not admissible unless the witness's credibility has been challenged and the statement will "bolster the witness' credibility with respect to that aspect of the witness' credibility that was challenged." *State v. Nunn*, 561 N.W.2d 902, 909 (Minn. 1997).

Stolp-Thompson contends that the district court abused its discretion by admitting son's recorded statement as a prior consistent statement because (1) he "had not challenged [son's] credibility" and (2) son's testimony "was not consistent with" his recorded statement. We address each argument in turn.

A. Stolp-Thompson challenged son's credibility at trial.

The district court must "make a threshold determination of whether there has been a challenge to the witness's credibility" before admitting a prior consistent statement. *State v. Bakken*, 604 N.W.2d 106, 109 (Minn. App. 2000), *rev. denied* (Minn. Feb. 24, 2000). Witness credibility may be attacked during opening statements. *State v. Grecinger*, 569 N.W.2d 189, 193 (Minn. 1997).

Here, in his opening statement, Stolp-Thompson's attorney said that "this is a case that's rife with uncertainties, inconsistent statements, and a lack of a single police officer witnessing anything that happened." Stolp-Thompson maintains that his attorney's opening statement "merely informed the jury that the case involved uncertainties and inconsistencies that could not be clarified by any independent witness." The state counters that Stolp-Thompson "directly attacked [son's] credibility multiple times" in his opening statement and on cross-examination. The state emphasizes that, because Stolp-Thompson's theory was self-defense, son's "credibility was unquestionably an issue at trial."

The state's argument is persuasive. In his opening statement, Stolp-Thompson's attorney told the jury that it would be faced with "uncertainties" and "inconsistent statements" regarding the events that took place on March 2. He stated that "any story that comes out really placing guilt on Mr. Stolp-Thompson was probably at that time more so to protect [son] and make sure that he doesn't get in trouble." And Stolp-Thompson's attorney concluded his opening statement by stating:

Mr. Stolp-Thompson was shot in the eye, blinded, scuffled for the gun to get it out of [son's] control and the police showed up and nobody was fighting anymore. That's a story of self-defense and that's a story that you'll find through the testimony. Thank you.

During son's cross-examination, Stolp-Thompson's attorney implied that son was "mistaken" about the incident:

Q: And when that happened, that you went with the pellet gun because the arguing you were hearing it was making you scared?

A: Yes.

Q: And you said that you thought you heard her gasping for air?

A: Yes.

Q: Is it possible that maybe because you were scared and because you were worried about what happened and because you couldn't see what was happening, maybe you got that mistaken?

A: No.

Q: Okay. So still your belief she was gasping for air in the room?

A: Yes.

Given these defense theories of fabrication, self-defense, and mistake, the district court could reasonably determine that Stolp-Thompson challenged son's credibility as a witness.

B. Son's prior statement that Stolp-Thompson slammed mother against the kitchen wall was not reasonably consistent with son's testimony.

To be admissible under rule 801(d)(1)(B), a witness's "trial testimony and the prior statement need not be verbatim," *Bakken*, 604 N.W.2d at 109, so long as they are "reasonably consistent," *In re Welfare of K.A.S.*, 585 N.W.2d 71, 76 (Minn. App. 1998). But when a prior statement "contains assertions about events that have not been described by the witness in trial testimony, those assertions are not helpful in supporting the credibility of the witness and are not admissible" as a prior consistent statement. *State v. Farrah*, 735 N.W.2d 336, 344 (Minn. 2007).

A prior consistent statement "should not be the means to prove new points not covered in the testimony of the speaker." *Id.* (quotation omitted). Otherwise, "a few consistent statements in a multi-statement interview may be used to bootstrap into evidence inconsistent statements that do not qualify under the rule." *Bakken*, 604 N.W.2d at 109; *see State v. Bigbear*, 10 N.W.3d 48, 57 (Minn. 2024) ("We expect prosecutors, when seeking admission of a prior consistent statement—and district courts when admitting such evidence—to be vigilant in excising unfairly prejudicial extraneous material before it is played for the jury.").

Stolp-Thompson contends that son's "prior statement was not consistent with his trial testimony." We first summarize son's trial testimony and recorded statement, then turn to the parties' arguments.

Son's Trial Testimony

Son testified that he was in his bedroom when he heard an argument between Stolp-Thompson and mother. Son heard "wrestling," so he grabbed his "pellet CO₂ pistol" and walked out into the hallway. When son heard mother "choking" and "gasping for air," he tried to open mother's bedroom door to stop the argument. The door "opened," and son told Stolp-Thompson to stop. When Stolp-Thompson told son to get out and started walking toward him, son shot Stolp-Thompson in the eye. Stolp-Thompson "tackled" son and tried pinning him to the floor. Son hit Stolp-Thompson in the head with the pellet gun and shot him again. Stolp-Thompson then got off son, and son returned to his bedroom.

When asked if Stolp-Thompson hit him during the bedroom incident, son responded:

I think so. I don't know. Honestly, it was kind of a blur, but I know he had or. I don't know if it was intentional or not, but I know he was like, had his arm, like, on my neck area-ish. It was kind of hard to breathe. . . . But I don't think it was intentional or anything.

Shortly after the bedroom incident, son heard another argument between Stolp-Thompson and mother. Son saw Stolp-Thompson "standing over" mother in a corner of the kitchen. Son was afraid of someone "losing their life or even worse," and shot Stolp-Thompson in the back "two more times" with the pellet gun. Then son, mother, and Stolp-Thompson "all started fighting" and "wrestling" for the pellet gun in the bathroom.

Stolp-Thompson “started slamming” son’s head onto the radiator in the bathroom. The second fight “settled down” after mother retrieved the pellet gun.

Son testified that law enforcement “came around three minutes” after the bathroom incident and confirmed that he gave a statement to police. Son sustained bruising on his right lung, two ribs, back, and arm.

The State’s Offer of Proof and Son’s Recorded Statement

When the prosecuting attorney moved to admit son’s recorded statement, the district court cautioned that it did not know “what exactly” was in the statement.⁵ After hearing an offer of proof from the prosecuting attorney about the consistency of the recorded statement with son’s testimony and argument from Stolp-Thompson about alleged inconsistencies, the district court acknowledged “that there are probably some facts or content of the recorded statement [that] do contain some information that may not be consistent.”

But the district court noted that rule 801(d)(1)(B) does not require “100% agreement on the versions here” and that, based on its “review of the summary” of the recorded statement, “most of what’s in that statement does appear to be consistent.” When Stolp-Thompson’s attorney asked the district court “to limit the statement to things [son] actually testified to that are going to enhance his credibility as opposed to things that have never been testified to” at trial, the district court responded, “No. The statement’s going to be played in its entirety here.”

⁵ The district court noted that it had not “actually heard” son’s recorded statement and that there was “no transcript” of the statement.

In his recorded statement, son told officers that he heard Stolp-Thompson and mother “fighting” and “wrestling” in mother’s bedroom. Son heard mother say “quit f-cking choking me” and heard her “gasping for air.” Son took his pellet gun to mother’s bedroom and repeatedly told Stolp-Thompson, “stop hitting my mom.” When Stolp-Thompson tried to take the pellet gun, son shot him “in the eye.” Stolp-Thompson then “charged” son, “threw” him on a pile of clothes, and “started choking” him. Son “pistol whipped” Stolp-Thompson and “shot him again.” Son “backed up” and said, “get the f-ck off me.” Mother and son went into another bedroom and mother told him to stay there. She then left the room.

Son told police that he came back out of the bedroom with the pellet gun after he “heard [his] mom scream.” Son saw Stolp-Thompson “attacking [mother] in the kitchen.” Stolp-Thompson “literally grabbed [mother] and he slammed her against the wall.” Son shot Stolp-Thompson “two more times” when he saw Stolp-Thompson “attack” mother.

Stolp-Thompson “charged” son, and son “shot him again.” Stolp-Thompson “started slamming [son’s] head into the radiator in the bathroom.” Stolp-Thompson also “picked up [son’s] head and started hitting it against the wall.” Son told the police that this was the first time Stolp-Thompson had hit him.

Analysis

In his brief, Stolp-Thompson identifies what he asserts are seven inconsistencies between son’s recorded statement and his trial testimony. In son’s recorded statement: (1) son heard mother say “quit f-cking choking me” in her bedroom; (2) son told Stolp-Thompson to stop hitting mother; (3) son told Stolp-Thompson to get off of him

during the bedroom incident; (4) Stolp-Thompson choked son during the bedroom incident; (5) Stolp-Thompson hit son; (6) Stolp-Thompson picked up son's head and hit it against the bathroom wall; and (7) son saw Stolp-Thompson grab mother and slam her into the kitchen wall. Stolp-Thompson argues that these statements informed the jury about numerous aggressive and physical acts that he allegedly committed against mother and son, which were not testified to at trial.

The state counters that the district court did not abuse its discretion in admitting the first six statements, because there is substantial similarity between these statements and son's testimony. But the state concedes that son's statement about Stolp-Thompson slamming mother into the kitchen wall should have been redacted. We agree.

Although the first six challenged statements are more detailed than son's testimony, they are reasonably consistent with his testimony about the assaults as summarized above. *See K.A.S.*, 585 N.W.2d at 76 (concluding that a videotaped interview was admissible even though statements made therein were more detailed than the declarant-witness's trial testimony). But son did not testify about Stolp-Thompson slamming mother into the kitchen wall. Because this statement addressed "new points not covered" in son's testimony, this portion of his recorded statement should have been excluded. *Farrah*, 735 N.W.2d at 344 (quotation omitted); *see also Bakken*, 604 N.W.2d at 110 (stating that prior statements are not admissible "where inconsistencies directly affect the elements of the criminal charge").

C. Any error in admitting son’s prior inconsistent statement was harmless.

Appellate courts “generally will not reverse a verdict even when improper evidence is presented to the jury unless there is a reasonable possibility that the wrongfully admitted evidence significantly affected the verdict.” *Bigbear*, 10 N.W.3d at 54 (quotation omitted). The defendant bears the burden to show that the error was not harmless. *State v. Smith*, 940 N.W.2d 497, 505 (Minn. 2020).

To determine whether erroneously admitted evidence significantly affected the jury’s verdict, appellate courts examine the entire record and consider the following non-exclusive factors: “(1) the manner in which the party presented the evidence, (2) whether the evidence was highly persuasive, (3) whether the party who offered the evidence used it in closing argument, and (4) whether the defense effectively countered the evidence.” *Bigbear*, 10 N.W.3d at 54 (quotation omitted). “[S]trong evidence of guilt undermines the persuasive value of wrongly admitted evidence.” *Id.* (quotation omitted). We address each factor in turn.

Manner Presented

“In analyzing the prominence of erroneously admitted evidence,” appellate courts can consider “the relative number of transcript pages that the evidence occupies.” *Id.* at 56. Appellate courts also consider “whether the evidence was used throughout the State’s case.” *Id.* Stolp-Thompson argues that son’s prior inconsistent statement was featured prominently at trial and was “not lost amidst a sea of testimony.” Stolp-Thompson notes that the prosecuting attorney played the recording of son’s prior statement during the officer’s direct testimony. The state’s brief does not address this factor.

The erroneously admitted statement spans less than three pages of the nearly 400-page trial transcript. And the prosecuting attorney did not mention that son saw Stolp-Thompson hit mother against the kitchen wall at any point during trial. Given these circumstances, the prior statement was not a prominent feature of the state's case. Thus, this factor suggests that the prior statement was harmless.

Persuasive Value

We next consider whether the prior statement was “highly persuasive.” *Id.* at 56-57 (quotation omitted). Erroneously admitted evidence can be more persuasive if it elicits new information about the circumstances of the criminal offense. *Id.* at 57.

Stolp-Thompson asserts that son's prior statement was highly persuasive because it was “detailed” and “painted a one-sided altercation with Mr. Stolp-Thompson as an out-of-control aggressor who repeatedly put his hands on” mother and son. The state argues, among other things, that son's conflicting testimony about the assault neutralized his prior statement to law enforcement.

The additional details from son's prior statement likely had some persuasive value. Son told the police that he saw Stolp-Thompson grab his mother and hit her into the kitchen wall after the bedroom incident. This fact would help explain why son shot Stolp-Thompson again and why the bathroom incident occurred. But at trial, son only testified that he saw Stolp-Thompson “standing over” mother “in a corner” of the kitchen and that Stolp-Thompson “didn't touch her or anything.” In closing arguments, the prosecuting attorney emphasized son's testimony that he saw Stolp-Thompson “cornering” mother in the kitchen. Son's testimony that Stolp-Thompson cornered—but did not

touch—mother diminished the persuasive value of son’s recorded statement that Stolp-Thompson hit mother into the kitchen wall. On balance, we conclude that this factor is neutral.

Use in Closing Argument

Stolp-Thompson does not address the prosecuting attorney’s use of the erroneously admitted evidence in closing argument.⁶ The state argues that neither party mentioned it in closing. And the record shows that son’s prior inconsistent statement was not discussed in closing argument. Thus, this factor supports concluding that the statement was harmless.

Effectively Countered

This factor considers “whether the defendant effectively countered the evidence.” *Id.* at 59 (quotation omitted). Stolp-Thompson argues that “there was no effective way” for him “to counter” son’s prior inconsistent statement. The state’s brief does not address this factor.

Throughout trial, Stolp-Thompson generally argued that mother’s and son’s inconsistent statements undermined their credibility as to the events of March 2. But Stolp-Thompson is correct that he likely had no effective counter to son’s prior statement about him grabbing mother and hitting her into the kitchen wall because it would have

⁶ Stolp-Thompson instead focuses on the prosecuting attorney’s use of *mother’s* recorded statement in closing argument. As to son’s recorded statement, Stolp-Thompson notes that the prosecuting attorney “reminded the jury that [son] told the police that Mr. Stolp-Thompson attacked” *son*. But Stolp-Thompson does not argue that the prosecuting attorney referenced son’s statement that Stolp-Thompson attacked *mother*.

highlighted the inadmissible evidence. Thus, this factor supports the conclusion that the prior statement was not harmless.

Strong Evidence of Guilt

Finally, we consider the strength of the state's case. "[O]verwhelming evidence of guilt is a factor, often a very important one, in determining whether the error has no impact on the verdict." *Id.* at 59 (quotation omitted). "Strong evidence of guilt undermines the persuasive value of wrongly admitted evidence." *Smith*, 940 N.W.2d at 505. The state argues that "any minimal value the statement may have had is vastly outweighed by the strength of the state's other evidence of guilt."

Stolp-Thompson urges that this court "cannot conclude that an error is harmless merely because there may be other evidence that supported the verdict." But the evidence of Stolp-Thompson's guilt is strong. Mother testified that Stolp-Thompson and son engaged in two physical fights after she and Stolp-Thompson got into an argument. Although she initially testified that Stolp-Thompson did not hit her or son, mother admitted that Stolp-Thompson had choked her before officers arrived at the apartment. And in her recorded statement, mother provided numerous details about the alleged assaults.

Son testified that he heard mother gasping for air in her bedroom and that Stolp-Thompson had tackled him and slammed his head into a radiator. The admissible portions of son's recorded statement corroborated his testimony. The testimony from the two law-enforcement officers and the photograph exhibits further support that the assaults took place. And finally, Stolp-Thompson testified that he choked mother and slammed son into a wall that night, albeit in self-defense. Given the weight of the evidence against

Stolp-Thompson, this factor suggests that the impact of son's prior inconsistent statement was harmless.

In sum, Stolp-Thompson likely could not effectively counter son's prior statement that Stolp-Thompson grabbed mother and hit her into the kitchen wall. But the way that the evidence was presented was brief and not a prominent feature of the state's case. Son's conflicting testimony and the prosecuting attorney's focus in closing argument on mother's recorded statement, and not son's, diminished the erroneously admitted evidence's persuasive value. And the strong evidence of Stolp-Thompson's guilt suggests harmless error.

We therefore conclude that the district court abused its discretion by admitting son's recorded statement in its entirety. But because there was no reasonable possibility that son's prior inconsistent statement significantly affected the verdict, any error in admitting the statement was harmless.

Affirmed.