

*This opinion is nonprecedential except as provided by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
A25-0691**

State of Minnesota,
Respondent,

vs.

Benjamin Edward Meat, Sr.,
Appellant.

**Filed May 26, 2026
Affirmed
Connolly, Judge**

Beltrami County District Court
File No. 04-CR-20-1091

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

David L. Hanson, Beltrami County Attorney, Alex Hanson, Assistant County Attorney,
Bemidji, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Roy G. Spurbeck, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Worke, Presiding Judge; Connolly, Judge; and Cleary,
Judge.*

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

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

On direct appeal from his conviction of third-degree assault, appellant argues that the district court abused its discretion by excluding evidence of specific prior incidents of violence between appellant and the victim and by limiting the testimony appellant could have given if he had been recalled. We affirm.

FACTS

On the night of April 10-11, 2020, police responded to a domestic-assault call. S.M. told them that appellant Benjamin Edward Meat, Sr., had assaulted her after they had a food fight in their kitchen. A few hours after S.M.'s call, appellant called the police to report the incident. He spoke to Officer S. on the phone (the phone call), and their conversation was recorded. Appellant was charged with third-degree assault (Count I) and domestic assault by strangulation (Count II). He gave notice that he would argue self-defense.

After a trial in July 2022, the jury found appellant guilty on Count I and not guilty on Count II. He appealed, and this court reversed and remanded for a new trial based on the district court's failure to instruct the jury on self-defense. *State v. Meat*, No. A22-1627, 2023 WL 7292810, at *6 (Minn. App. Nov. 6, 2023). We did not address any specific evidentiary issues but instructed the district court, on remand, to "evaluate the admissibility of evidence in light of this appeal." *Id.* at *6.

On remand, the district court's order regarding evidentiary issues provided, in relevant part, that appellant's "testimony about his prior violent relationship with S.M.

[would] be allowed, coupled with the video/audio files relating to the prior incidents.” In November 2024, a second jury trial on Count I was declared a mistrial because the jury could not agree on a verdict.

At a third jury trial on Count I, appellant took the stand. The district court revised its ruling during the second trial and ruled that appellant could not testify about the previous incidents with S.M. in connection with which he claimed that law enforcement had not responded. The jury found appellant guilty, and the district court sentenced him to a stayed term of 12 months and one day in prison, and placed him on probation. This appeal follows.

DECISION

Appellant argues that the district court abused its discretion when it excluded as hearsay appellant’s testimony on S.M.’s previous assaults of appellant during the phone call and when it decided that, if appellant were recalled, he could not testify as to specific incidents of violence during his relationship with S.M.

“Evidentiary rulings rest within the sound discretion of the district court, and we will not reverse an evidentiary ruling absent a clear abuse of discretion.” *State v. Ali*, 855 N.W.2d 235, 249 (Minn. 2014). “‘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). “A statement is not hearsay if . . . [t]he declarant testifies at the trial or hearing and is subject to cross-examination concerning the statement, and the statement is . . . consistent with the declarant’s testimony and helpful to the trier of fact in evaluating the declarant’s credibility as a witness. . . .” Minn. R. Evid. 801(d)(1)(B).

Amended Rule 801(d)(1)(B) only applies to prior statements that are consistent with the declarant's trial testimony and that are helpful in evaluating the credibility of the declarant as a witness. Thus, when a witness' 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 under this rule.

Minn. R. Evid. 801(d)(1) 1989 comm. cmt.

During the third trial and after appellant had concluded his testimony, appellant's attorney offered as evidence for the jury the recording of appellant's entire phone call with Officer S. The state's attorney agreed that the first ten minutes of the phone call could provide the jury with "a prior consistent statement to help establish any credibility. . . . It's consistent with what [appellant] testified on the stand." However, the state's attorney objected to the rest of the phone call on the ground that "after 10 minutes, [appellant] goes on to talk about prior events between the two parties going back in time that won't be prior consistent statements and should not be allowed as any sort of exclusion or exception would not be found" and that "assertions about events that have not been described by the witness in the trial testimony . . . are not helpful in supporting the credibility of the witness and are not admissible."

Appellant's attorney replied that:

I think that the entire [phone call] should come in. . . .

. . . [I]t shows the effect and the response from law enforcement and the way that they responded to [appellant's] side of this account. And it seems that they are clearly skeptical about [appellant's] accounting of what happened. And I think that that goes to the way that they investigated the occurrence. . . .

. . . [A] defendant's prior statements potentially being self-serving hearsay would be coming in from somebody else. And they may not have the strength o[r] reliability that a police body-worn camera that's literally capturing the entire phone call from law enforcement with [appellant]. I think that that carries an extreme amount of reliability under these circumstances.

The district court asked what appellant was describing in the latter portion of the phone call, and his attorney answered, "I believe he's describing his attempts to contact law enforcement" as well as "the lack of response from law enforcement under those circumstances." After the state's attorney reiterated that the events about which appellant had not previously testified should not be admitted, appellant's attorney said that he thought "there's allegations of prior incidents related to the two [appellant and S.M.]. I understand the state's objection that [appellant] did not specifically have any testimony specific to those prior incidents." The attorney then offered to recall appellant and question him about "whether or not he's contacted law enforcement in the past and whether there's been any response from law enforcement." The district court responded that it would "allow the defense to recall [appellant], if you want to flush out that issue [i.e. appellant's delay in calling law enforcement]."

The following exchange also occurred among the district court (D.C.), (the state's attorney (S.A.), and appellant's attorney (A.A.).

D.C.: [A]re there specific incidents that [appellant] is reporting during [the later portion of the phone call]?

A.A.: I think [appellant] does say something about [S.M. attempting to run him over with a car

S.A.: And [appellant] did testify, [S.M. has] done this before And he also said law enforcement doesn't do anything. So, . . . he's got that in, but the specific conduct incidents that he wants to try to reference now I think are inadmissible through [the phone call].

A.A.: But I'm not trying to get into specific incidents. I think it's relevant to what he said about [law enforcement].

S.A.: But that's unfair. I can't cross-examine him about those now.

D.C.: Right. And it is raising a specific incident

A.A.: There is one. Yeah, that's true.

D.C. I'm going to say that nothing comes in after the 10-minute mark

. . . .

A.A.: . . . [T]hen we're not able to play the remainder of [the phone call] where he is talking about that [incident]?

D.C.: Correct. . . .

. . . .

D.C.: [T]he specific acts can't show who the aggressor was. You can introduce it to talk about a victim's reputation, but again, that's relevant to whether [appellant] recently was in fear of serious bodily harm. . . . [Y]ou can't bring up the prior specific acts because even if they are admissible . . . the court's going to find that's very confusing to the jury. So, it is outweighed by the prejudice for that.

Appellant argues that not letting the jury hear the part of the phone call that dealt with specific previous incidents between himself and S.M. deprived him of his constitutional right to present a complete defense because “[e]vidence that S.M. committed

prior acts of violence, when known to [a]ppellant, is relevant in a self-defense case to prove that [a]ppellant honestly believed he was in danger of harm.” But the issue is not the relevance of the evidence; it is the fact that appellant had not testified to the acts previously and had not been cross-examined about them. *See* Minn. R. Evid 403 (“Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice . . .”).

Moreover, appellant had the option of being recalled to present further evidence provided he did not testify as to specific incidents with S.M., and he chose not to be recalled. Appellant’s attorney stated, “I would just recall [appellant] briefly,” adding “[i]f that’s what he wants to do, it’s up to him.” The district court paused the trial so appellant and his attorney could discuss the matter. Following their discussion, appellant’s attorney told the district court, “we’re not going to recall [appellant],” but did not explain why appellant was not being recalled. In his brief, appellant implies that the district court’s decision to “curtail” his “ability to testify about ‘prior specific acts’” was responsible for appellant’s decision not to be recalled and concedes that “recalling [a]ppellant would seemingly [have] solve[d] that problem to whatever degree his testimony expanded to include those topics covered.”

Appellant also argues that the district court’s pre-trial order permitting appellant to testify as to his violent relationship with S.M. provides a reason for reversing the district court’s decision not to allow playing the entire phone call. But the transcript of the district court’s explanation of why it did not allow the entire phone call to be played indicates that the district court’s concern was not substantive, i.e., the admissibility or relevance of the

evidence, but a procedural concern about admitting hearsay testimony. Specifically, the latter part of the phone call did not meet the Minn. R. Evid. 801(d)(1)(B) requirement that only testimony concerning matters about which the declarant has previously provided consistent testimony is admissible and is not hearsay because such testimony reflects on the declarant's credibility. Moreover, the comment to that rule explains that prior statements about events not previously testified to by the declarant are not exceptions because they cannot reflect on the declarant's credibility. *See* Minn. R. Evid. 801(d) 1989 comm. cmt.

The district court's decision that events about which appellant had not previously testified and could not be cross-examined should not be presented to the jury was in accord with Minn. R. Evid. 801(d)(1)(B), and none of appellant's arguments provides a basis for reversing it. Moreover, permitting appellant to testify about S.M.'s alleged prior violent acts when the state had no opportunity to cross-examine him about those acts made it likely that the jury would not understand that the testimony was being presented only to show that the police had not responded effectively to appellant's complaints, not to indicate anything about S.M. *See* Minn. R. Evid 403.

Appellant focuses on the relevance of the evidence, but the rule that "[a]ll relevant evidence is admissible" and "[e]vidence which is not relevant is not admissible," Minn. R. Evid. 402, does not equate to a rule that all relevant evidence must be admitted. Relevant evidence may be excluded if its "probative value is substantially outweighed by the danger of unfair prejudice," Minn. R. Evid. 403, and if context and background can be established without admitting the hearsay, *State v. Litzau*, 650 N.W.2d 177, 183 (Minn. 2002). Here,

the context and background of appellant's assault of S.M. could be established without admitting evidence of S.M.'s prior violent acts.

The district court did not abuse its discretion by not admitting the remainder of the phone call or by not permitting appellant to testify about specific events he had not previously mentioned.

Affirmed.