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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-0752**

State of Minnesota,
Respondent,

vs.

Sylvester Jones,
Appellant.

**Filed April 27, 2026
Affirmed
Jesson, Judge***

Hennepin County District Court
File No. 27-CR-19-31853

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

Mary F. Moriarty, Hennepin County Attorney, Elizabeth Scoggin, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Peter H. Dahlquist, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Ede, Presiding Judge; Harris, Judge; and Jesson, Judge.

NONPRECEDENTIAL OPINION

JESSON, Judge

Appellant seeks reversal of his convictions for third-degree criminal sexual conduct and felony domestic assault arising from an incident on Halloween evening 2019, when

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

the mother of two of appellant's children reported that appellant beat and raped her after she returned from trick-or-treating with her children. Appellant argues that the district court (1) clearly erred by overruling his objection to the state's peremptory challenge to a prospective juror of color; (2) abused its discretion by allowing a detective to offer expert testimony about the typical behaviors of victims of domestic violence; and (3) abused its discretion by permitting a witness to testify about a prior statement the victim made about appellant raping her. Because we discern no clear error or abuse of discretion in the district court's rulings, we affirm.

FACTS

On November 5, 2019, victim A.L.K. reported that appellant Sylvester Jones, the father of two of her children, beat and raped her on the night of October 31, 2019. Respondent State of Minnesota charged Jones with two counts of criminal sexual conduct in the third degree while using force or coercion,¹ and one count of felony domestic assault.² The charges were later amended to include an additional count of criminal sexual conduct in the first degree.³

Jones pleaded guilty to one count of third-degree criminal sexual conduct. He appealed his conviction, and we affirmed. *State v. Jones*, No. A21-1713, 2023 WL 125857 (Minn. App. Jan. 9, 2023). The Minnesota Supreme Court granted Jones' petition for

¹ Minn. Stat. § 609.344, subd. 1(c) (2018).

² Minn. Stat. § 609.2242, subd. 4 (2018).

³ Minn. Stat. § 609.342, subd. 1(e)(i) (2018).

review and subsequently reversed his conviction. *State v. Jones*, 7 N.W.3d 391 (Minn. 2024). On remand, the district court allowed Jones to withdraw his guilty plea.

In a subsequent five-day jury trial on the three charges of criminal sexual conduct and one charge of domestic assault, A.L.K.’s credibility was a central issue. Only A.L.K. testified firsthand about the physical and sexual assault that occurred on Halloween. A.L.K. and Jones share two children, and they were in a loving, though high-conflict, relationship for numerous years, which was “on and off” due to issues such as money and infidelity. In the days following the Halloween assault, A.L.K. and Jones continued to live together, and while Jones was later incarcerated, he and A.L.K. communicated frequently. Jones alleged that A.L.K. had lied about the assault out of anger and jealousy—emphasizing her behavior after the assault—placing A.L.K.’s credibility at the center of his defense.

Jury Selection

When conducting voir dire, Jones’ counsel asked how each potential juror would weigh the testimony if they only heard from “one side.” Juror 18 raised the concept of “actual proof,” stating that “[t]here has to be some sort of evidence to back up what [a witness is] saying.” The state followed up on this line of questioning, asking Juror 18 “what kind of evidence” he was talking about. Juror 18 responded that, while he does not necessarily expect physical evidence, he expects there to be “something to back up what [a witness is] saying. It’s not just [a witness] say[s] it is true, there is something there.” The state then asked Juror 18—supposing there was no evidence beyond witness testimony—whether he would be “willing to follow the judge’s rules and say [he could] use just this

testimony to come up with a decision and believe something happened,” or whether he would still need “some corroborating evidence.” Juror 18 responded:

No, to be honest, like, so—as I said when we were asking about what we do, I’m a big-time poker player. So occasionally people tell you a story that you don’t get proof of and you have to believe it. There is—driving to insanity whether to believe it or not believe it and think about it in your head, so you just have to take that proof of evidence you have in front of you and take it for what it is.

Like I said, there will be more than just one person’s testimony I will take. I guess it won’t be one person against another, it’s going to be more than just evidence of one person saying something and you have to decide on one person. So it’s a combination of all the evidence together that will help me come to that decision, especially if it’s only testimony and there is no physical evidence.

The state exercised one of its three peremptory strikes to excuse Juror 18.

Jones challenged the state’s use of a strike on Juror 18 as racially discriminatory, stating: “Jones is African American. There were only two African American men on our jury panel, Juror Number 18 is one of those African Americans.” The state responded that Jones had not made a prima facie showing that the strike was racially discriminatory, as Jones had merely asserted that Juror 18 was a racial minority, and there were at least four jurors who identified as racial minorities on the jury. Without stopping for the district court to rule on whether Jones had made a prima facie showing of racial discrimination, the state further noted that it had a race-neutral reason for striking Juror 18, stating that Juror 18 indicated “he needed more people saying something happened, more witnesses,” and while other jurors had clearly indicated that they would follow the law, Juror 18 did not.

The district court determined that Jones failed to make a prima facie showing that the state exercised a peremptory challenge on the basis of race “by the striking of one African American juror when there are four minority jurors and two African American jurors, both males on the jury.”

While the district court expressly determined that Jones had failed to establish a prima facie case of racial discrimination, it allowed Jones to be heard on whether the state’s proffered race-neutral reason for striking Juror 18 was pretextual. Jones argued that Juror 10—a white juror—offered similar answers to Juror 18, asserting that “if Juror 10 isn’t being struck, then it insinuates that the only reason Juror 18 is being struck is because of the race-based reason.” The district court stated it did “not find purposeful racial discrimination” and denied Jones’ challenge.

Expert Testimony

Prior to trial, Jones moved for an order prohibiting the state from offering expert testimony on victim behaviors in cases involving domestic or sexual abuse, arguing that such testimony would not be helpful to the jury. The district court addressed this matter on the first day of trial.

In anticipation of testimony that A.L.K, despite Jones’ violent actions towards her, continued to be in a relationship with him and communicated with him while he was incarcerated, the state sought to introduce the expert testimony of Detective C.G. The state explained that A.L.K.’s actions were “counterintuitive behavior that the State would like the expert to explain, that this is not an uncommon situation.” Detective C.G., the state proposed, would testify about the “dynamics of domestic violence,” namely that victims

“may not always report violent incidents” and often “return to the people who have been violent to them.”

Jones objected, noting that the authority the state was relying upon, *State v. Obeta*, 796 N.W.2d 282 (Minn. 2011), was decided about 14 years earlier. The “culture has changed in the last ten to 15 years as far as the general public’s understanding of sexual violence, the general public’s understanding of domestic violence, when we see things like the MeToo movement taking root in the late like 2018, 2017 years,” Jones asserted. The district court disagreed “that the general public has a better understanding these days than they did in 2011 about counterintuitive victim behaviors.” It then concluded that it would allow Detective C.G.’s expert testimony.

Jones then argued that, even if the testimony would be helpful to the jury, Detective C.G. was not qualified to testify as an expert because she lacked formal education as a psychiatrist or therapist, her experience was “one-sided” and “bias[ed]” in responding to calls involving reports of domestic and/or sexual abuse, and she had “minimal” hours of training in domestic violence. The district court stated that it would not change its ruling allowing Detective C.G. to testify, noting that “[w]hat she does not have in formal education, she has gained through training and experience.”

Detective C.G. testified that she had over 30 years of experience in law enforcement, during which time she has responded to “hundreds” of domestic-violence calls and has become familiar with common issues related to domestic violence. In her experience, it is “very common” for people to delay reporting sexual assaults or never make a report. She

also testified that victims of domestic violence will frequently stay with their abusers out of embarrassment or a hope that the person might change.

A.L.K.'s Testimony

At trial, A.L.K. testified that, on October 31, 2019, she took her kids trick-or-treating in the evening and then returned to her apartment. When she returned to the apartment, Jones started “picking with” her one-year-old son until he “woke up and started crying.” Jones and A.L.K. started arguing, and Jones “got angry” and “started yelling.” This argument led to A.L.K. and Jones “arguing about cheating,” and A.L.K. ultimately asked Jones to leave the apartment. A.L.K. testified that Jones told her he “wasn’t going anywhere,” and at some point, the argument turned physical. Jones “got on top of” A.L.K. and “start[ed] punching” her on her chest and her arms.

Jones got off A.L.K. at some point and tried to force A.L.K. to have sex with him. A.L.K. testified that Jones “tried to force his penis into [her] mouth” by grabbing her neck and “forc[ing] [her] head down onto his penis.” A.L.K. resisted, and Jones “started punching [her] in [the] head.” Jones then told A.L.K. to “turn around” so he could penetrate her. She testified that she was “afraid,” “in pain,” and “upset,” and she ultimately turned around because she was “tired of him hitting [her].” Jones proceeded to penetrate A.L.K., which A.L.K. testified she did not want him to do and did not tell him he could do. A.L.K. further testified that she “just wanted it to be over.”

The next day, A.L.K. saw she was bruised in multiple places and took pictures of her injuries. Several days later, A.L.K. reported the physical and sexual assault to police.

A.L.K. continued to communicate with Jones despite the Halloween assault. She testified that she “still loved him at the time,” and that, because they had two children together, she wanted “to make the relationship work.”

Prior Consistent Statement

After A.L.K. testified, Jones objected to the state calling P.T.,⁴ A.L.K.’s friend, to provide evidence that A.L.K. had told P.T. about the rape. Jones argued that A.L.K.’s prior statement to P.T. was hearsay and did not meet an exception allowing for the introduction of a prior consistent statement. Jones alleged that there were inconsistencies in A.L.K.’s prior statement to P.T. and A.L.K.’s trial testimony, and that it was possible P.T. may be talking about an alleged sexual assault from mid-October, as opposed to the assault that occurred on Halloween.

After speaking with P.T. off the record, the state clarified on the record that P.T. was aware of the alleged mid-October assault, and she would be testifying about what A.L.K. had told her about the Halloween assault. Based on this representation, the district court allowed P.T. to offer limited testimony that A.L.K. “stated that she had been raped by Mr. Jones and when that happened,” as this was consistent with A.L.K.’s trial testimony. The district court found that P.T.’s testimony was helpful to the jury, as it could bolster A.L.K.’s credibility in that she also disclosed the assault to a friend.

P.T. testified that, about five days after Halloween, A.L.K. called P.T. and told her that she and Jones had “got into it,” that something “happened on Facebook [and Jones]

⁴ The transcript identifies the witness’s initials as “P.S.” However, as both parties refer to this witness as “P.T.,” we refer to the witness as P.T.

confronted her about it.” A.L.K. told P.T. that Jones had “raped her.” A.L.K. was emotional and broke down crying when she made this disclosure, according to P.T.

The jury found Jones not guilty of count one, criminal sexual conduct in the first degree, and found him guilty on all remaining counts. The district court imposed concurrent executed sentences of 27 months for felony domestic assault, 90 months for attempted criminal sexual conduct in the third degree (fellatio), and 180 months for criminal sexual conduct in the third degree (penetration).

Jones appeals.

DECISION

I. The district court did not clearly err in determining that Jones failed to make a prima facie showing that the state’s peremptory challenge to Juror 18 was racially discriminatory.

Jones first argues that the district court committed clear error during jury selection when it overruled his objection to the state’s peremptory challenge to prospective Juror 18, an African American man.

The use of peremptory challenges to exclude potential jurors is subject to the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. *Batson v. Kentucky*, 476 U.S. 79, 89 (1986). If a peremptory challenge is used against a prospective juror because of their race, both the prospective juror and the defendant are denied equal protection, as the prospective juror is denied their right to participate in jury service, and the defendant is denied their right “to be tried by a jury made up of members selected by nondiscriminatory criteria.” *State v. Harvey*, 932 N.W.2d 792, 810-11 (Minn. 2019) (quotation omitted). To determine whether a peremptory challenge is motivated by

racial discrimination, the United States Supreme Court established a three-step framework in *Batson*. 476 U.S. at 96-98.⁵

The first step of the *Batson* analysis requires the party objecting to the use of a peremptory challenge to establish a prima facie case of racial discrimination. *Harvey*, 932 N.W.2d at 811. To do so, the objecting party must show “(1) that a member of a protected racial group has been peremptorily excluded from the jury and (2) that circumstances of the case raise an inference that the exclusion was based on race.” *State v. Blanche*, 696 N.W.2d 351, 365 (Minn. 2005).

If the objecting party establishes a prima facie case of racial discrimination, the second step of the *Batson* analysis requires the striking party to provide “a race-neutral explanation.” *Harvey*, 932 N.W.2d at 811 (quoting *Blanche*, 696 N.W.2d at 364). If a race-neutral explanation is provided, the third step of the *Batson* analysis requires the district court to “determine whether the objecting party proved purposeful discrimination.” *Id.*

On review, we accord a district court’s ruling on a *Batson* challenge “great deference.” *Id.* (quotation omitted). After all, the district court is in a “unique position” to determine whether the circumstances of the case raise an inference that the challenge was based upon race, *State v. White*, 684 N.W.2d 500, 506 (Minn. 2004), and “the record may

⁵ We note that there are recent amendments to the Minnesota Rules of Criminal Procedure relating to objections to peremptory challenges. The prior version of Minn. R. Crim. P. 26.02, subd. 7, is consistent with the *Batson* three-step framework. Because the amended rule did not become effective until March 1, 2025, and therefore was not in effect at the time of Jones’ trial, we apply the *Batson* framework to this challenge.

not reflect all of the relevant circumstances that the court may consider.” *State v. Pendleton*, 725 N.W.2d 717, 724 (Minn. 2007). Ordinarily, we will not reverse a district court’s determination on a *Batson* challenge unless it is clearly erroneous. *Harvey*, 932 N.W.2d at 811.

Here, the district court expressly found that Jones failed to establish a prima facie case of racial discrimination “by the striking of one African American juror when there are four minority jurors and two African American jurors, both males on the jury.”

The district court did not clearly err in making this determination. The sole proffered support for Jones’ prima facie case was that Juror 18, like Jones, is an African American man. “It is well-settled that mere removal of a member of a racial minority does not necessarily establish a prima facie case of discrimination.” *State v. Onyelobi*, 879 N.W.2d 334, 345 (Minn. 2016) (quotation omitted). And, as the district court considered here, “[t]he fact that an African-American was seated on the jury [is] a proper consideration at step one of the *Batson* analysis.” *Harvey*, 932 N.W.2d at 815. Jones’ challenge merely established that a member of a racial minority was peremptorily excluded from the jury, but failed to show circumstances that raise an inference that the exclusion was based on race.

To persuade us otherwise, Jones argues that we should not review the district court’s determination as to whether Jones established a prima facie showing of racial discrimination. This first step of the *Batson* analysis is moot in this case, he asserts, because the district court “proceeded past step one and appeared to somewhat address step three of the *Batson* challenge.”

We agree that, where a district court proceeds to steps two and three of the *Batson* analysis, step one is moot. *See State v. Lufkins*, 963 N.W.2d 205, 210 (Minn. 2021) (“[T]he question as to step one is moot on appeal because the district court proceeded to steps two and three of the analysis.”). We disagree, however, that the district court here proceeded past step one. While the district court allowed Jones to be heard on step two and three *after* directly addressing step one of the *Batson* analysis, this decision does not moot the district court’s express finding that Jones’ *Batson* challenge failed at step one. *See Onyelobi*, 879 N.W.2d at 347-48 (concluding that the district court did not clearly err in ruling that appellant failed at step one despite the district court also making findings on steps two and three of the *Batson* analysis); *Harvey*, 932 N.W.2d at 816 (concluding that the district court did not clearly err in ruling that appellant failed at step one despite the district court allowing the state to be heard on steps two and three before expressly stating its determination as to whether appellant had satisfied step one).⁶

Jones further argues that the district court clearly erred by failing to fully state its findings on steps two and three of the *Batson* analysis. And he contends, related to steps two and three, that the state’s proffered reason for striking Juror 18—that Juror 18 stated he needed “actual proof” beyond a witness’s testimony and did not clearly indicate he would comply with the law—was pretextual, as shown by the state not using peremptory

⁶ Because Jones contends that step one is moot, he makes no argument that the district court clearly erred in determining that he failed to carry his burden in establishing a prima facie case of racial discrimination.

challenges on two jurors with allegedly similar answers to Juror 18.⁷ But the district court was not required to have reached steps two and three if it properly determined that Jones did not make a prima facie showing that the strike was motivated by discrimination. *Harvey*, 932 N.W.2d at 817 n.18. Because we conclude that the district court did not commit clear error when it determined that Jones did not meet his burden at step one, the court thus also did not commit clear error by not making express findings about steps two and three. *See id.*

Because the district court's determination is entitled to "great deference," and the district court here relied on considerations our law has recognized as proper, we conclude that it did not clearly err when it determined that Jones failed to make a prima facie showing of racial discrimination. *See id.* at 811 (quotation omitted). As a result, the district court did not commit clear error in overruling Jones' objection to the state's peremptory challenge of prospective Juror 18.

II. The district court did not abuse its discretion when it permitted an experienced detective to offer limited expert testimony about the typical behaviors of victims of domestic violence.

The district court ruled that Detective C.G. was qualified to testify as an expert witness on typical victim behaviors in situations involving domestic violence based on her training and experience. The court noted "counterintuitive victim behaviors" remain

⁷ We note that Jones only argued at trial that the state's proffered race-neutral reason for striking Juror 18 was pretextual because Juror 18's answers were similar to those of one other juror, Juror 10. Generally, we do not analyze issues not raised before the district court. *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988); *State v. Bakken*, 871 N.W.2d 418, 422 (Minn. App. 2015).

outside the understanding of the ordinary jury, and it stated that “this limited type of expert witness testimony has consistently been allowed” under Minnesota law.

A district court’s decision, like this one, to admit expert testimony consistent with rule 702 of the Minnesota Rules of Evidence falls within its wide discretion. *State v. Valentine*, 787 N.W.2d 630, 638 (Minn. App. 2010), *rev. denied* (Minn. Nov. 16, 2010). Under rule 702, if specialized knowledge will assist the trier of fact, a witness qualified as an expert by knowledge, skill, experience, training or education may testify in the form of an opinion. Minn. R. Evid. 702. Once a witness is qualified as an expert, their testimony is admissible if it has foundational reliability and it is helpful to the jury. *Id.*; *Obeta*, 796 N.W.2d at 289. Expert testimony can be helpful “if it explains a behavioral phenomenon not within the understanding of an ordinary lay jury.” *State v. Ritt*, 599 N.W.2d 802, 811 (Minn. 1999). And on appeal, the appellant has the burden of showing (1) the district court abused its discretion by admitting the challenged testimony, and (2) that the error prejudiced the appellant. *Valentine*, 787 N.W.2d at 638; *see also State v. Thao*, 875 N.W.2d 834, 840-41 (Minn. 2016) (reviewing admission of expert testimony).

Here, Jones contends that the district court abused its discretion by admitting Detective C.G.’s expert testimony because she was not qualified to offer this testimony and her testimony did not help the jury understand the evidence or resolve fact disputes. We address each argument in turn.

Turning first to the qualification issue, Jones contends that Detective C.G.’s lack of formal education or specialized training in domestic violence rendered her unqualified as

an expert. We are not persuaded. Under rule 702, a witness can qualify “as an expert by knowledge, skill, experience, training, *or* education.” Minn. R. Evid. 702 (emphasis added). Detective C.G.’s resume reflects her approximately 30 years of law-enforcement experience, which involved responding to “hundreds of domestic violence calls,” as well as the “several domestic violence-related trainings” she had completed throughout her career. And “Minnesota appellate courts have permitted police officers to provide expert testimony concerning subjects that fall within the ambit of their expertise in law enforcement.” *State v. Carillo*, 623 N.W.2d 922, 926 (Minn. App. 2001) (compiling cases in which police officers were allowed to testify as experts despite a lack of formal training, including in fingerprint identification, intoxication, and accident reconstruction), *rev. denied* (Minn. June 19, 2001); *see also Valentine*, 787 N.W.2d at 639 (discerning no abuse of discretion in district court’s determination that police officer with 13 years of experience and a bachelor’s degree in criminal justice and corrections, who completed trainings relating to domestic violence and cycles of domestic abuse and “frequently dealt with domestic-violence issues” throughout her career, was qualified to testify as an expert on battered-woman syndrome). Given Detective C.G.’s ample experience and training in cases involving domestic violence, we discern no abuse of discretion in the district court’s determination that Detective C.G. was qualified to testify as an expert about counterintuitive victim behaviors in situations involving domestic violence.

But Jones further contends that admitting Detective C.G.’s expert testimony was not helpful to the jury and amounted to “improper vouching” for A.L.K.’s credibility. He summarily asserts that the “Me Too movement served to educate lay jurors about the

counterintuitive behaviors of the victims of domestic violence,” and therefore the jury could assess A.L.K.’s credibility and behavior without Detective C.G.’s testimony. We are not persuaded.

As the district court acknowledged, Minnesota appellate courts have deemed expert testimony about the typical behaviors of victims of rape and sexual assault to be helpful to the jury and admissible. For example, in *Obeta*, the supreme court recognized that expert opinion testimony on “typical rape-victim behaviors” and “the typical behaviors of victims of similar crimes” may be helpful to the jury. 796 N.W.2d at 291. The supreme court noted that “the experiences and reactions of victims of certain crimes are outside the common knowledge of the jury,” and in these cases, “expert testimony on typical victim behavior may be helpful to assist the jury in evaluating the facts in the case.” *Id.* at 292.⁸

In this case, Jones put A.L.K.’s credibility at issue and emphasized her behavior after the assault as central to his defense, so testimony explaining counterintuitive victim behaviors was particularly relevant. And we are not persuaded that the district court abused its discretion by rejecting Jones’ unsupported assertion that the “Me Too” movement has placed the counterintuitive behaviors of victims of domestic violence within the common understanding of most jurors. Accordingly, we discern no abuse of discretion in the district

⁸ In a recent nonprecedential opinion, we applied the rationale underpinning *Obeta* and stated that “delayed reporting and counterintuitive behaviors of sexual-assault victims remain outside the common understanding of a jury.” *State v. Perez-Robles*, No. A23-1216, 2024 WL 3877492, at *6 (Minn. App. Aug. 19, 2024). We cite nonprecedential opinions only for their persuasive value. Minn. R. Civ. App. P 136.01, subd. 1(c).

court's determination that Detective C.G.'s limited testimony would be helpful to the jury in assessing A.L.K.'s behavior after the assault and her credibility.⁹

III. The district court did not abuse its discretion in admitting A.L.K.'s prior disclosure of the sexual assault to P.T.

Finally, Jones contends that the district court abused its discretion by allowing P.T. to testify that A.L.K. told P.T. that she had been raped by Jones. Jones argues that A.L.K.'s statement to P.T. "did not bolster" A.L.K.'s credibility and was "not consistent" with her trial testimony, so it did not fit the exception to the hearsay rule allowing a prior consistent statement to be admitted.

"We review a district court's evidentiary rulings for an abuse of discretion." *State v. Hallmark*, 927 N.W.2d 281, 291 (Minn. 2019) (quotation omitted). On appeal, the appellant has the burden of showing (1) the district court abused its discretion by admitting the challenged testimony, and (2) that the error prejudiced the appellant. *Holt v. State*, 772 N.W.2d 470, 483 (Minn. 2009).

We begin our review with the rules of evidence. Hearsay is generally not admissible at trial. Minn. R. Evid. 802. However, a witness's prior out-of-court statement is not hearsay and is admissible as substantive evidence if (1) the declarant testifies at trial, (2) the declarant is subject to cross-examination, (3) the statement is consistent with the declarant's testimony, and (4) 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). A prior statement is not admissible under Minn. R. Evid. 801(d)(1)(B) unless the witness's credibility has been

⁹ Because there was no abuse of discretion, we need not address the issue of prejudice.

challenged and the statement will bolster the witness's credibility. *State v. Nunn*, 561 N.W.2d 902, 909 (Minn. 1997). “[A] prior consistent statement might bolster credibility by showing a fresh complaint, obviating an improper influence or motive, providing a meaningful context, or demonstrating accuracy of memory.” *State v. Bakken*, 604 N.W.2d 106, 109 (Minn. App. 2000). But a prior statement does not need to be identical with the trial testimony to be consistent. *State v. Zulu*, 706 N.W.2d 919, 924 (Minn. App. 2005); *see also In re Welfare of K.A.S.*, 585 N.W.2d 71, 76 (Minn. App. 1998) (holding that the admission of a videotaped statement that was “reasonably consistent” with trial testimony was not reversible error).

Here, Jones does not dispute that A.L.K. testified at trial and was subject to cross-examination. Nor does Jones dispute that A.L.K.'s credibility was challenged. Our focus, therefore, is whether the district court abused its discretion when it concluded that the limited statement—that A.L.K. told P.T. that Jones raped her on October 31—was admissible as a prior consistent statement because it bolstered A.L.K.'s credibility and was consistent with her trial testimony.

We discern no abuse of discretion in this decision. With regard to A.L.K.'s credibility, the district court determined that A.L.K. disclosing the assault to a friend in addition to reporting the assault to the police would tend to bolster her credibility. Considering that Jones argued that A.L.K. was lying about being raped and simply reported Jones to the police out of anger, the district court properly exercised its discretion in

deciding that A.L.K.’s disclosure of the assault to a friend would tend to bolster A.L.K.’s credibility and, therefore, would help the jury assess A.L.K.’s veracity.¹⁰

With regard to the consistency between A.L.K.’s prior statement and her trial testimony, the district court limited P.T.’s testimony to “what really is the only consistent part[,] . . . which is that [A.L.K.] stated that she had been raped by Mr. Jones and when that happened.” P.T. testified that, about five days after Halloween, A.L.K. told P.T. that Jones had “raped her.” The district court did not abuse its discretion by concluding that this statement was consistent with A.L.K.’s testimony at trial about Jones raping her on October 31.

To persuade us otherwise, Jones raises three arguments. First, Jones contrasts A.L.K.’s detailed trial testimony with P.T.’s limited testimony about the assault itself—that A.L.K. “stated that she had been raped by [Jones].” We understand Jones to argue that this contrast demonstrates that P.T.’s statement did little to bolster A.L.K.’s credibility and that it was not consistent with A.L.K.’s trial testimony given the lack of detail. Jones does not explain how the district court abused its discretion by determining that A.L.K.’s statement to P.T. would bolster her credibility. Nor does he identify any authority supporting the proposition that a prior statement is not consistent with testimony offered at

¹⁰ Additionally, a victim’s emotional state when disclosing a sexual assault can bolster the victim’s credibility. See *State v. Gamez*, 494 N.W.2d 84, 87 (Minn. App. 1992) (noting in the context of a sufficiency-of-the-evidence challenge that a victim’s testimony regarding sexual assaults was credible when “the testimony was corroborated by her consistency in telling of the assaults, her prompt reporting of the assaults, and her emotional state when reporting the assaults”). P.T. testified about A.L.K.’s emotional state when she disclosed the sexual assault, which also bolstered A.L.K.’s credibility and helped the jury assess A.L.K.’s veracity.

trial because the testimony offered at trial is more detailed. We therefore discern no abuse of discretion in the district court's conclusion that P.T.'s limited testimony would bolster A.L.K.'s credibility and was consistent with A.L.K.'s more detailed trial testimony. *See Waters v. Fiebelkorn*, 13 N.W.2d 461, 464-65 (Minn. 1944) (“[O]n appeal error is never presumed. It must be made to appear affirmatively before there can be reversal . . . [and] the burden of showing error rests upon the one who relies upon it.”).

Second, Jones alleges that A.L.K.'s prior statement was not consistent with her trial testimony because it is possible that P.T.'s testimony was “not about the October 31, 2019 incident at all.” But Jones raised this concern at trial, and the district court specifically considered it. The state then clarified on the trial record that P.T. was aware of the alleged mid-October assault and A.L.K. had told her about the October 31 assault. Thus, the district court did not abuse its discretion by concluding that A.L.K.'s prior statement to P.T. was consistent with her testimony at trial that the assault occurred on October 31.

Finally, Jones points out that P.T.'s testimony differs from A.L.K.'s with regard to what initiated the October 31 fight between A.L.K. and Jones. A.L.K. testified that she and Jones began arguing after Jones woke up their one-year-old child and that the argument escalated to arguing about cheating. P.T. testified that A.L.K. told her that she and Jones had “got into it,” and that something “happened on Facebook [and Jones] confronted her about it.” Even assuming that this is an inconsistency between A.L.K.'s prior statement to P.T. and her trial testimony regarding what *initiated* the argument between A.L.K. and Jones, we discern no abuse of discretion in the district court's conclusion that the thrust of P.T.'s testimony—that A.L.K. and Jones got into a fight before Jones raped her—was

reasonably consistent with A.L.K's trial testimony. *See Zulu*, 706 N.W.2d at 924-25 (holding the district court did not abuse its discretion in admitting evidence as a prior consistent statement where it concluded alleged inconsistencies were not "substantial," including inconsistencies about whether a discussion began during a family meeting or in private and whether other family members were present or absent during the disclosure).

We therefore conclude that the district court did not abuse its discretion by admitting P.T.'s testimony.¹¹

Affirmed.

¹¹ Because there was no abuse of discretion, we need not address the issue of prejudice.