

*This opinion is nonprecedential except as provided by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
A25-0760**

State of Minnesota,
Respondent,

vs.

Alexander Lee Endres,
Appellant.

**Filed June 1, 2026
Affirmed
Wheelock, Judge**

McLeod County District Court
File No. 43-CR-22-1434

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

Ryan Hansch, McLeod County Attorney, Glencoe, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jessica Merz Godes, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Wheelock, Presiding Judge; Connolly, Judge; and Smith, Tracy M., Judge.

NONPRECEDENTIAL OPINION

WHEELOCK, Judge

Appellant seeks a new trial, arguing that he was denied his constitutional right to effective assistance of counsel because his attorney failed to comply with discovery rules,

failed to obtain a ruling on the admissibility of expert testimony that was critical to his defense, and misunderstood the district court's order as to the permissible scope of the expert's testimony. We affirm.

FACTS

In October 2022, a law enforcement officer received a report of sexual abuse of a minor victim, Child A, who stated that her mother's boyfriend, appellant Alexander Lee Endres, began sexually abusing her in August that year. Child A was 12 years old at the time of reporting.

Respondent State of Minnesota initially charged Endres with two counts of criminal sexual conduct (CSC) but later amended the complaint to charge him with (1) CSC in the first degree in violation of Minn. Stat. § 609.342, subd. 1a(e) (2022), (2) CSC in the second degree—complainant under 16, significant relationship, multiple acts—in violation of Minn. Stat. § 609.343, subd. 1a(h)(iii) (2022), and (3) CSC in the second degree—complainant under 14 and actor more than 36 months older than complainant—in violation of Minn. Stat. § 609.343, subd. 1a(e) (2022).

At the jury trial, Child A testified that she had been living in an apartment with her older siblings in August 2022 while her mother and Endres lived in the apartment below them (the lower apartment). Child A stated that she and her younger sister spent time in both apartments, including when their mother and older sister were at work and Endres was home. Child A testified that she was in the lower apartment with Endres on a weekend day when he touched her vaginal area for the first time. Child A stated that her cousin was visiting from out of town and they decided to go to the lower apartment to look for video

games. Child A went back to Endres's bedroom with Endres while her cousin stayed in the living room. Child A was lying on Endres's bed watching videos on a laptop when he placed his hand on her thigh, eventually moving his hand up and under her shorts and underwear onto her vaginal area. Child A testified that Endres's hand was "moving around" in her vaginal area and that he eventually placed his fingers inside of her vagina. Child A stated that she remembered it hurt when he did this because Endres frequently bit his nails and his fingernails were sharp.

Child A testified that Endres touched her on multiple occasions after that day and that Endres touched her breasts and her butt when she was on the couch or washing dishes in the apartments as well as during an incident when they were at a gas station. Child A estimated that the touching occurred more than ten times and recounted specific instances, including times when Endres kissed her on the lips. Child A reported that one of these specific instances occurred when she was showering in the lower apartment and Endres came into the bathroom to urinate. Child A was spitting water outside of the shower and "pretending to be a water fountain" when Endres told her to stop and then pulled back the shower curtain while his pants and underwear were around his ankles, exposing himself to Child A.

The sexual abuse continued until late September, when Child A told her older sister, A.D., who in turn informed Child A's mother. After Child A disclosed the abuse, she did not spend any more time around Endres.

In October 2022, A.D. told her boss about the abuse of Child A, and her boss encouraged her to call law enforcement to make a report. A.D. then called law enforcement

and spoke with an officer. Child A eventually participated in two forensic interviews regarding the abuse, and the state brought CSC charges against Endres.

In March 2024, the state filed a motion in limine with the district court, raising multiple evidentiary issues related to trial. One of the state's requests was that the district court exclude testimony from Endres's expert witness, Dr. Susan Revelle Phipps-Yonas, a licensed psychologist. The state argued that Endres had not disclosed what, if any, testimony Dr. Phipps-Yonas was expected to provide, that any testimony from Dr. Phipps-Yonas would not be helpful to the jury, and that the probative value of such testimony would be substantially outweighed by the danger of unfair prejudice or confusing or misleading the jury.

In May, Endres's counsel filed motions in limine requesting multiple evidentiary rulings from the district court, including the admission of evidence of Child A's prior abuse. Endres argued that evidence of prior sexual abuse would provide context for the current accusations against Endres because Child A's report of abuse by Endres was similar to her report of prior sexual abuse. Endres's counsel also argued that Dr. Phipps-Yonas's testimony was admissible because she is a qualified expert whose testimony would help the jury determine Child A's credibility and reliability.

The day after that filing, the parties appeared before the district court for a hearing on the motions. The state argued that, although it had previously filed a request for disclosure and a motion in limine, it had not received any written summary of Dr. Phipps-Yonas's proposed testimony until Endres filed his motion in limine the day before the hearing. The state argued that, because the notice failed to identify the research

upon which Dr. Phipps-Yonas's testimony would rely and the basis for the information to which she would testify, the notice of her expert testimony was inadequate. Endres argued that Dr. Phipps-Yonas's C.V. was made available and that the prosecutor was experienced enough to cross-examine the expert witness. Endres also argued that the probative value of the proposed expert testimony outweighed any prejudice because, without the testimony, Endres could not present a complete defense. The district court took the matter under advisement.

A few days later, Endres's counsel sent the prosecutor a disclosure letter from Dr. Phipps-Yonas about the potential testimony she would offer at trial. However, the letter did not redact confidential information and therefore did not comply with confidential filing requirements, so it was not filed at that time.

Later that month, the district court issued an order ruling on the motions in limine in which it determined that Endres failed to meet his obligation of disclosure with respect to the expert-witness testimony and excluded the testimony. However, the district court also stated that the parties could revisit the issue before trial if Endres subsequently made adequate disclosures.

On July 7, 2024, Endres sent an updated letter outlining Dr. Phipps-Yonas's proposed testimony that complied with the confidential filing requirements. Endres also requested a trial continuance, which the district court granted.

Later in July, the parties appeared for a hearing regarding Endres's renewed motion to allow Dr. Phipps-Yonas's proposed testimony. The state took the position that the proposed testimony from page one of the letter about forensic interviewing was likely

admissible but that any proposed testimony from page two of the letter—testimony regarding Child A’s credibility¹—was “speculation and conjecture” and was therefore not admissible at trial. Endres countered that the testimony would be helpful to the jury because Dr. Phipps-Yonas could speak in hypotheticals to the jury and talk about her experience with other children and accusations of sexual assault. Endres asserted that Dr. Phipps-Yonas’s testimony would inform the jury about “child brain development, child emotional development, how sexual assaults can affect a child, and how a previous sexual assault could inform . . . potential nightmares, fantasies, confusion, and other issues that the child could come up with that would affect her reliability . . . and her credibility” in testifying about the sexual abuse. The district court took the matter under advisement.

Shortly thereafter, the district court issued a final order ruling on the expert-testimony issues. The district court ordered that Dr. Phipps-Yonas could testify as to forensic-interview techniques and protocol, including observations of body language during videotaped interviews, skill or lack thereof of interviewers, consistency or inconsistency of the reports of the alleged victim in the forensic interviews, and the tendency or lack thereof of preteen children to lie outright about sexual abuse. The district court further ruled that Dr. Phipps-Yonas could not testify about the content described in

¹ Specifically, the second page identified proposed testimony that covered Child A’s family history, her prior experiences of abuse and how it may have affected her credibility, Dr. Phipps-Yonas’s opinion of whether Child A was telling the truth about the abuse or was “confused,” the influence of Child A’s older sister on her reporting, Child A’s emotional problems that may have contributed to a false report, and dreams or false memories that may have misidentified Endres as Child A’s abuser.

page two of the disclosure letter, including how Child A’s prior abuse may have affected her reporting in the current case.²

The district court provided additional explanation for its ruling in its memorandum to the order. It also stated that, although Endres had “failed to provide any written summary in response to the demand for disclosure” in the proceedings, he did provide “such disclosure in advance of the rescheduled August trial date.” The district court noted, “While not really excusing the Defense’s late disclosure, the reality is that the timing issue has been substantially remedied and the Court at this point therefore considers the issue on its merits rather than the basis of the late disclosure.” The district court determined that any late disclosure by Endres’s counsel was outweighed by Endres’s “fundamental right to a meaningful opportunity to present a complete defense” and therefore that Dr. Phipps-Yonas could testify to the forensic interviewing techniques and process because it would be helpful to the jury. However, because the district court also determined that the testimony identified on page two of the disclosure letter “represents essentially nothing more than speculation and no foundational reliability has been established,” it prohibited that testimony.

The jury trial was held in August 2025. A number of witnesses testified at trial, including the law enforcement officer who initially responded to the report of abuse, A.D.’s boss who encouraged her to report the abuse, Child A, Child A’s mother, A.D., both of the

² In its order, the district court reiterated its finding that Child A’s prior abuse falls under the rape-shield rule, Minn. R. Evid. 412, and is therefore admissible “in a very limited fashion, i.e. that of the complaint and the sentencing order only.”

forensic interviewers, Dr. Phipps-Yonas, and Endres. The jury also viewed body-worn-camera (BWC) footage of an officer interviewing Endres about the reported abuse,³ recordings of both of Child A’s forensic interviews, and a video of Child A and Endres at a gas station that corroborated the date on which Child A said that they were there. One of the forensic interviewers testified that, during Child A’s second forensic interview, she seemed to be struggling with talking about the abuse, so the interviewer allowed Child A to write down her experience. Those written statements were also admitted into evidence.

Child A’s mother testified about the weekend Endres exposed himself to Child A in the shower. Child A’s mother confirmed that Child A was taking a shower in the lower apartment that evening and that Endres went downstairs to use the bathroom. Child A’s mother also acknowledged that Child A does not have a reputation for truthfulness.

During Dr. Phipps-Yonas’s testimony, she discussed Child A’s forensic interviews that she observed via video recording, how memories are different in children because they are “more susceptible to having distorted memories,” general knowledge in the field of the tendency or not of preteen girls to lie outright about sexual abuse, and the lack of grooming

³ In the BWC footage of Endres’s interview admitted at trial, Endres confirmed several details Child A previously reported to officers concerning dates and logistics of the alleged abuse but denied that any sexual contact ever occurred. These details included that Endres chews his nails—which, the officer testified, Child A had reported as the reason why it hurt when Endres put his fingers inside of her vagina—that Endres used the bathroom while Child A was in the shower, and that she had spit water on him from inside the shower. He also stated to the officer that Child A was a “pretty honest kid.” In that footage, Endres also told the officer that he accidentally touched Child A’s chest once but that was the only inappropriate contact between them.

evidence in this case. On cross-examination, Dr. Phipps-Yonas agreed that it is not typical for preteen children to lie outright about having been sexually abused and that it is more common for children not to report sexual abuse.

After deliberation, the jury came back with guilty verdicts for CSC in the second degree in violation of Minn. Stat. § 609.343, subd. 1a(h)(iii) (count 2), and CSC in the second degree in violation of Minn. Stat. § 609.343, subd. 1a(e) (count 3).⁴ The district court imposed a sentence of 90 months' imprisonment with a conditional-release term of ten years on count 2 and entered a finding of guilt with no adjudication on count 3 on the warrant of commitment.

Endres appeals.

DECISION

“The Sixth Amendment to the United States Constitution and Article I, section 6, of the Minnesota Constitution guarantee a criminal defendant ‘the right to the effective assistance of counsel.’” *Taylor v. State*, 887 N.W.2d 821, 823 (Minn. 2016) (quoting *Strickland v. Washington*, 466 U.S. 668, 686 (1984)). Generally, an ineffective-assistance claim should be raised in a postconviction petition for relief rather than on direct appeal because an evidentiary hearing, if granted, provides the district court with additional facts to explain an attorney’s decisions. *State v. Gustafson*, 610 N.W.2d 314, 321 (Minn. 2000). But “[w]hen a claim of ineffective assistance of trial counsel can be determined on the

⁴ The jury could not reach a unanimous verdict on count 1.

basis of the trial record, the claim must be brought on direct appeal.” *Andersen v. State*, 830 N.W.2d 1, 10 (Minn. 2013).

To determine whether counsel was ineffective, Minnesota has adopted the Supreme Court’s two-prong test set forth in *Strickland*, 466 U.S. at 687-88, 694. *See State v. Vang*, 847 N.W.2d 248, 266 (Minn. 2014) (applying the *Strickland* test in a Minnesota criminal case); *State v. Ellis-Strong*, 899 N.W.2d 531, 535 (Minn. App. 2017) (applying the two-prong test and not an abuse-of-discretion standard when an ineffective-assistance-of-counsel claim was brought on direct appeal). This test requires an appellant to show that (1) counsel’s performance “fell below an objective standard of reasonableness” and (2) but for counsel’s unreasonable performance, there is a reasonable probability that the result of the proceeding would have been different. *Vang*, 847 N.W.2d at 266. If an appellant cannot establish one of the *Strickland* prongs, the claim fails and an appellate court need not address the other prong. *Id.* Because we conclude that Endres’s counsel’s performance fell below an objective standard of reasonableness but it did not prejudice the outcome of Endres’s trial, we affirm.

A. Endres’s counsel’s conduct was objectively unreasonable.

In applying an “objective standard of reasonableness,” we “judge the reasonableness of counsel’s challenged conduct on the facts viewed as of the time of counsel’s conduct.” *Id.* at 266-67 (quotations omitted). We will generally not review an ineffective-assistance claim if it is based on counsel’s trial strategy, *id.* at 267, because matters of trial strategy “lie within the discretion of trial counsel,” *Leake v. State*, 737 N.W.2d 531, 536 (Minn. 2007). The burden of proof on this prong rests with the appellant, who must overcome the

“strong presumption that counsel’s performance fell within a wide range of reasonable assistance.” *Gail v. State*, 732 N.W.2d 243, 248 (Minn. 2007); *see Strickland*, 466 U.S. at 689 (noting that judicial review should be highly deferential to counsel’s performance).

Endres argues that his counsel’s conduct was objectively unreasonable for three reasons, including that his counsel (1) failed to obtain a ruling from the district court on the admissibility of proposed expert testimony, (2) failed to properly understand the district court’s ruling about the permissible scope of proposed expert testimony, and (3) failed to comply with discovery rules by not properly providing disclosures regarding the proposed expert testimony. We consider each of Endres’s contentions in the order presented.

First, Endres argues that, because Dr. Phipps-Yonas’s disclosure letter did not address testimony about child brain development, child emotional development, and how prior sexual abuse may affect a child and influence later accusations, his counsel erred by not disclosing potential testimony on those issues at a later date or requesting a ruling on said testimony from the district court. The disclosure letter Endres’s counsel offered outlining Dr. Phipps-Yonas’s proposed testimony includes how prior abuse could have affected Child A’s accusation and memory and caused false memories of Endres and dreams that misidentified Endres as her previous abuser. Endres seems to suggest in his brief that the testimony his counsel *should* have proposed and elicited was how prior abuse could have affected a child “in general” and not specifically Child A because it would have been helpful to the jury in assessing Child A’s credibility.

In its first order granting the state’s motion to exclude Dr. Phipps-Yonas’s testimony, the district court stated that the only information about the content of

Dr. Phipps-Yonas's testimony that Endres had disclosed up to that point was in Endres's motion in limine. Endres's motion stated that Dr. Phipps-Yonas's testimony would cover forensic interviewing and "behaviors and memories of children" that included the following:

how children can confuse dreams or imagination and reality; how children can be particularly suggestible; what a child understands or doesn't understand about the meaning of their accusations, etc. She would also explain how trauma can affect the developing child brain and project fears and imagined abuse onto unrelated adults . . . and will provide the jury with evidence that will help them weigh the credibility and reliability of [Child A]'s allegations.

At the second hearing on the motions in limine, Endres's counsel again raised the issue of admission of all the testimony as described in Endres's motion. Nevertheless, in its final order on the motions, the district court did not rule specifically on introducing general knowledge about how prior sexual abuse affects children. Endres's counsel did not raise the issue again before trial.

Decisions about what evidence to present at trial are questions of trial strategy that rest soundly in the discretion of counsel. *Leake*, 737 N.W.2d at 536; *see also Francis v. State*, 781 N.W.2d 892, 898 (Minn. 2010) (noting that whether to call an expert witness and whether to cross-examine on a certain topic were matters of trial strategy); *Opsahl v. State*, 677 N.W.2d 414, 421 (Minn. 2004) (holding that counsel's decision to pursue certain evidence and not other evidence fell within the realm of defense strategy); *Cooper v. State*, 565 N.W.2d 27, 33 (Minn. App. 1997) (holding that appellant's allegations that counsel failed to obtain expert testimony "involved the exercise of tactical judgment and will not

support a claim of ineffective assistance of counsel”), *rev. denied* (Minn. Aug. 5, 1997). Endres’s counsel’s choice not to raise for a third time the admissibility of testimony from Dr. Phipps-Yonas regarding child brain development, child emotional development, and how prior sexual abuse may affect a child falls well within trial strategy and is not reviewable by this court.

Second, Endres argues that the record suggests his counsel misunderstood the district court’s order, that his counsel was *not* prohibited from eliciting testimony regarding how previous trauma can affect a child’s mind, and that, therefore, her failure to elicit such expert testimony was unreasonable. However, at trial, Endres’s counsel attempted multiple times to ask Dr. Phipps-Yonas questions about the effects of prior abuse on children, but each time she began to ask a question on this topic, the state objected and the district court sustained the objection. In addition, her decision whether to elicit such expert testimony falls within trial strategy and is thus not reviewable by this court. *See Cooper*, 565 N.W.2d at 33.

Third, Endres contends that his counsel “repeatedly failed to provide the required disclosure regarding Dr. Phipps-Yonas’s proposed expert testimony.” He argues that, because his counsel initially failed to disclose the expert testimony and then provided only the letter written by Dr. Phipps-Yonas that did not include a description of testimony about child brain development, child emotional development, and the effects of prior sexual abuse on children, his counsel failed to comply with discovery rules and therefore provided him with ineffective assistance.

Minnesota Rule of Criminal Procedure 9.02 requires a defendant to disclose “[r]elevant written or recorded statements of the persons the defendant intends to call at trial.” Minn. R. Crim. P. 9.02, subd. 1(4)(a). And any testifying expert witness who does not make any reports regarding the case “must provide to the defense for disclosure to the prosecutor a written summary of the subject matter of the expert’s testimony, along with any findings, opinions, or conclusions the expert will give, the basis for them, and the expert’s qualifications.” *Id.*, subd. 1(2)(b).

Endres is correct that his counsel initially failed to comply with the discovery rules for admission of expert testimony. At the first hearing on the parties’ motions in limine, Endres’s counsel had not provided any written summary or statement regarding the content of the proposed testimony from Dr. Phipps-Yonas and only presented an indication of potential subjects the day before the hearing. Endres’s counsel then sent a disclosure letter from Dr. Phipps-Yonas; however, it was not filed because it contained unredacted, confidential information, so the district court initially excluded all of Endres’s expert’s testimony.

Even though the required disclosures ultimately were provided, Endres’s counsel’s actions were objectively unreasonable and fell below the “level of skill and diligence that a reasonably competent attorney would [exercise] under the circumstances.” *Berry v. State*, 33 N.W.3d 683, 693 (Minn. 2026); *see also State v. Palodichuk*, No. A22-0070, 2022 WL 17747869, at *4 (Minn. App. Dec. 19, 2022) (concluding that trial counsel’s insufficient

notice of expert testimony was deficient performance), *rev. denied* (Minn. Mar. 14, 2023).⁵ Exclusion of evidence is a possible sanction for noncompliance with discovery requirements. *See State v. Lindsey*, 284 N.W.2d 368, 373 (Minn. 1979). And reasonable trial counsel must understand that the failure to comply with discovery requirements could result in the exclusion of evidence. *See id.*

The district court gave Endres’s counsel an opportunity to remedy the mistake, but that does not alter the fact that Endres’s counsel made a significant mistake. Because we determine that Endres established the first *Strickland* prong on this issue, we move to the second prong to determine if Endres’s counsel’s conduct prejudiced his trial.

B. The outcome of Endres’s trial was not prejudiced by his counsel’s conduct.

Endres argues that his counsel’s performance was prejudicial because, but for her “unprofessional errors,” the result of his trial would have been different. Because we have concluded that Endres’s counsel’s performance fell below the standard for reasonable conduct only with respect to counsel’s failure to comply with the discovery rules, we focus our analysis on that conduct when assessing prejudice.

To succeed under prong two of the *Strickland* test, the appellant must prove that, but for counsel’s unreasonable performance, there is a reasonable probability that the result of the proceeding would have been different. *Vang*, 847 N.W.2d at 266. This court determines prejudice “by examining whether, under the totality of the circumstances, the

⁵ Nonprecedential opinions are not binding authority but can be cited for their persuasive value. Minn. R. Civ. App. P. 136.01, subd. 1(c).

result would have been different if counsel had not erred.” *State v. Lahue*, 585 N.W.2d 785, 790 (Minn. 1998) (quotation omitted).

Based on our review of the record, there is no reasonable probability that the outcome of the trial would have been different but for Endres’s counsel’s error. The district court stated, in its final order excluding part of Dr. Phipps-Yonas’s testimony, that although Endres’s counsel initially failed to follow proper procedure, “the timing issue ha[d] been substantially remedied” and the district court was therefore deciding “the issue on its merits rather than the basis of the late disclosure.” Based on the merits, the district court still determined that part of Dr. Phipps-Yonas’s testimony was inadmissible because it was “nothing more than speculation and no foundational reliability has been established.” Therefore, the late disclosure on the part of Endres’s counsel had no bearing on the district court’s ruling.

Accordingly, Endres fails to establish the second *Strickland* prong. *See* 466 U.S. at 694.

Affirmed.