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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-0835**

State of Minnesota,
Respondent,

vs.

Thomas Michael Everson,
Appellant.

**Filed April 20, 2026
Affirmed
Cochran, Judge**

Hennepin County District Court
File No. 27-CR-24-12175

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

Mary F. Moriarty, Hennepin County Attorney, Robert I. Yount, Assistant County Attorney,
Minneapolis, Minnesota (for respondent)

Barry S. Edwards, Max A. Keller, Keller Law Offices, Minneapolis, Minnesota (for
appellant)

Considered and decided by Larkin, Presiding Judge; Cochran, Judge; and Segal,
Judge.*

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

NONPRECEDENTIAL OPINION

COCHRAN, Judge

Appellant challenges his conviction of second-degree criminal sexual conduct, arguing that the evidence at trial was insufficient to support the conviction because the victim's testimony was unreliable and not corroborated. Alternatively, appellant seeks a new trial on the ground that the district court plainly erred by admitting a recording of the victim's statement to police. Because the evidence is sufficient to support the conviction and the district court did not plainly err by admitting the evidence, we affirm.

FACTS

In 2024, respondent State of Minnesota charged appellant Thomas Michael Everson with one count of second-degree criminal sexual conduct in violation of Minnesota Statutes section 609.343, subdivision 1(a) (2014), following a report to law enforcement in 2023. The complaint alleged that Everson engaged in sexual contact with his girlfriend's daughter, A.L.T., when she was approximately seven years old.

The case proceeded to a jury trial. At the time of trial, A.L.T. was 16 years old. A.L.T. testified at trial, as did several other witnesses, including Everson. The following summarizes the testimony and other evidence at trial.

A.L.T. was born in 2008. Her parents divorced when she was around three or four years old. A.L.T.'s parents were granted joint custody. A.L.T. stayed part-time with her mother and part-time with her father.

In late 2014, A.L.T.'s mother began dating Everson, whom she met at an outpatient treatment program. In November 2015, Everson moved into mother's townhouse. A.L.T.

was around seven years old at the time. Everson moved out of mother's home around November 2017 after his relationship with A.L.T.'s mother ended.

According to A.L.T., one day while she was at her mother's town home, mother left A.L.T. and Everson alone together while mother went out. Everson and A.L.T. were sitting on the couch watching a movie when Everson grabbed A.L.T.'s favorite stuffed animal blanket and "waved it . . . above his head." A.L.T. climbed over Everson to get the blanket back, thinking the two were playing. But Everson then dropped the stuffed animal blanket and guided A.L.T. on top of him, touching her buttocks and hips. According to A.L.T., he then pulled her shorts and underwear down, and he touched her "vagina" with "[h]is hands, his fingers." A.L.T. further testified that Everson was "feeling and rubbing" with his fingers and "then it felt like it hurt and, like, pressure." A.L.T. also testified that she felt Everson's penis because of how he placed her on top of him. She explained that she believed that the act was intentional on Everson's part because "everybody knows the difference between [an] accident and what was intentional, and the fact that [my clothes] were pulled down and then he started touching makes me believe that it was on purpose." At trial, she estimated that the "touching" lasted about five minutes. After the incident, she went to her room for the rest of the night. A.L.T. testified that she did not report the incident when it happened because she "didn't realize in that moment that it was a wrong thing."

In December of 2016, A.L.T.'s father petitioned for and was granted full physical and legal custody of A.L.T. At that point, she lived exclusively with her father. A.L.T. never saw Everson again after December 2016, when her father was granted full custody. A.L.T.'s father recalled A.L.T. having night terrors in the months leading up to

December 2016, testifying that she would “wake up shaking and crying.” Her father stated that this happened “at least half a dozen times.” He also testified that the night terrors ended when A.L.T. moved in full-time.

In 2023, A.L.T.’s friend disclosed to A.L.T. that she had been sexually assaulted as a child. Sometime later in 2023, A.L.T. told her friend that she had also been sexually assaulted as a child. A.L.T. then told her boyfriend about the “details” of what happened to her as a child. “Not long” after, A.L.T. told her father about the incident, though she did not “tell him all the details.” Eventually, she told her mother about what happened, though she admitted feeling “some hesitation” because her mother had dated Everson. A few weeks later, A.L.T. went to the local police department with her parents and a friend. An officer took a statement from A.L.T. about the incident in which Everson touched her vagina. A.L.T.’s friend was present when she gave the statement. After investigating the matter, the state filed a complaint against Everson.

A four-day jury trial was held in November 2024. The state called A.L.T., A.L.T.’s mother and father, A.L.T.’s friend, A.L.T.’s boyfriend, the police officer who interviewed A.L.T. at the police station, and a forensic interviewer as witnesses. A.L.T.’s friend, boyfriend, and mother each testified that A.L.T. told them about the incident when Everson touched her and described what she told them. The district court also admitted, without objection, the video recording of the officer’s interview of A.L.T.

Everson testified on his own behalf. At trial, Everson denied that any inappropriate touching ever occurred or that he and A.L.T. were ever left alone in the house together.

The jury found Everson guilty of second-degree criminal sexual conduct based on Everson engaging in sexual contact with a victim under thirteen years of age. The district court sentenced Everson to the presumptive sentence of 36 months' imprisonment, stayed for four years with 90 days to be served in jail and placed Everson on probation. Following his conviction, Everson moved for a judgment of acquittal notwithstanding the verdict, or, alternatively, a new trial. The district court denied the motion.

Everson appeals.

DECISION

Everson raises two arguments on appeal. First, he contends that there was insufficient evidence to sustain his conviction. Second, he argues that the district court's admission of a video recording of law enforcement's interview of A.L.T. constitutes plain error and requires a new trial. We address each argument in turn.

I. The state provided sufficient evidence to support Everson's conviction.

Everson contends that the evidence at trial was not sufficient to sustain his conviction because A.L.T.'s testimony was too inconsistent to prove beyond a reasonable doubt that he engaged in second-degree criminal sexual conduct and her testimony was not corroborated at trial. We are not persuaded.

The Due Process Clauses of the United States and Minnesota Constitutions require the state to prove each element of a crime beyond a reasonable doubt. *State v. Beganovic*, 991 N.W.2d 638, 654 (Minn. 2023); *see* U.S. Const. amend. XIV; Minn. Const. art. I, § 7. Everson was convicted of second-degree criminal sexual conduct in violation of Minnesota Statutes section 609.343, subdivision 1(a). To convict Everson of this offense, the state

was required to prove beyond a reasonable doubt that (1) Everson engaged in sexual contact, (2) with a person under the age of 13, (3) by an actor who is more than 36 months older than the victim. Minn. Stat. § 609.343, subd. 1(a); *see also Wocelka v. State*, 9 N.W.3d 390, 392 (Minn. 2024) (noting that the statute “criminalizes sexual contact of a complainant under 13 years old by an actor who is more than 36 months older than the complainant”).¹ “Sexual contact” includes “the intentional touching by the actor of the complainant’s intimate parts” without the complainant’s consent, except in cases where consent is not a defense, and with sexual or aggressive intent. Minn. Stat. § 609.341, subd. 11(a)(i) (2014). “Intimate parts” is defined to include in relevant part “the primary genital area.” *Id.*, subd. 5 (2014).

Everson does not dispute that A.L.T. was under the age of 13 at the time of the alleged incident or that he was more than 36 months older than A.L.T. at that time. He focuses his argument on whether the evidence at trial was sufficient to prove that he engaged in sexual contact with A.L.T.

The standard of review for evaluating the sufficiency of the evidence depends on whether direct or circumstantial evidence supports the conviction. *State v. Jones*, 4 N.W.3d 495, 500 (Minn. 2024). “Direct evidence is evidence that is based on personal knowledge or observation and that, if true, proves a fact without inference or presumption.” *Id.* at 501 (quotation omitted). A criminal-sexual-conduct victim’s testimony can

¹ *Wocelka* cites to the 2020 version of the statute, which contains the same language as the 2014 version of the statute with respect to this offense. *Wocelka*, 9 N.W.3d at 392; *compare* Minn. Stat. § 609.343, subd. 1(a) (2020), *with* Minn. Stat. § 609.343, subd. 1(a) (2014).

constitute direct evidence. *See State v. Coley*, 468 N.W.2d 552, 555 (Minn. App. 1991) (“The victim’s uncontradicted testimony constituted direct evidence of [the] crimes.”). The parties agree that A.L.T.’s testimony provides direct evidence of the challenged elements and therefore the direct evidence standard of review applies.

Under the direct evidence standard of review, an appellate court’s review is limited “to a painstaking analysis of the record to determine whether the evidence, when viewed in a light most favorable to the conviction, was sufficient to permit the jurors to reach the verdict [that] they did.” *State v. Horst*, 880 N.W.2d 24, 40 (Minn. 2016) (quotation omitted). We assume the jury believed the state’s witnesses and disbelieved any contrary evidence. *State v. Olhausen*, 681 N.W.2d 21, 25 (Minn. 2004). We defer to the jury’s credibility determinations and will not reweigh the evidence on appeal. *State v. Franks*, 765 N.W.2d 68, 73 (Minn. 2009). “The verdict will not be overturned if the fact-finder, upon application of the presumption of innocence and the State’s burden of proving an offense beyond a reasonable doubt, could reasonably have found the defendant guilty of the charged offense.” *State v. Griffin*, 887 N.W.2d 257, 263 (Minn. 2016).

“Generally, ‘a conviction can rest on the uncorroborated testimony of a single credible witness.’” *State v. Balsley*, 999 N.W.2d 880, 886 (Minn. App. 2023) (quoting *State v. Foreman*, 680 N.W.2d 536, 539 (Minn. 2004)), *aff’d*, 10 N.W.3d 671 (Minn. 2024). And, in prosecutions for the criminal-sexual-conduct offenses, the legislature has specified that “the testimony of a victim need not be corroborated.” Minn. Stat. § 609.347, subd. 1 (2024).

Here, A.L.T.’s testimony is sufficient by itself to prove beyond a reasonable doubt that Everson engaged in sexual contact with A.L.T. At trial, she testified that Everson “touched [her] vagina” with “[h]is hands, his fingers.” While she acknowledged later in her testimony that she was not certain whether Everson penetrated her vagina after first touching it, evidence of penetration is not necessary to establish “sexual contact.” For purposes of the offense at issue, “sexual contact” includes “the intentional touching by the actor of the complainant’s intimate parts” and “[i]ntimate parts’ includes the primary genital area.” Minn. Stat. § 609.341, subds. 5, 11(a)(i). And A.L.T. testified that Everson engaged in this conduct intentionally. She stated he touched her vagina for approximately five minutes.² Based on this evidence, the jury could reasonably conclude the state proved beyond a reasonable doubt that Everson engaged in sexual contact with A.L.T. and that he did so with sexual intent. A.L.T.’s testimony was clear in this regard.

To persuade us otherwise, Everson points to alleged inconsistencies in A.L.T.’s testimony on details *other than* whether Everson engaged in sexual contact. On this basis, Everson argues that A.L.T.’s testimony was not sufficiently reliable to support the verdict. We disagree. We reiterate here that we assume the jury believed A.L.T.’s testimony in support of the verdict and disbelieved any contrary evidence. *Olhausen*, 681 N.W.2d at 25. We defer to the jury’s credibility determinations and refrain from reweighing the

² We acknowledge here that intent is often proven by circumstantial evidence. *See, e.g., State v. Firkus*, 31 N.W.3d 468, 490 (Minn. 2026) (applying a “two-step test to determine whether the circumstantial evidence proves that” appellant acted with premeditation and intent). But because the parties do not dispute that the direct-evidence standard applies, and because we independently conclude that A.L.T.’s testimony is sufficient as direct evidence of Everson’s intent, we need not apply the circumstantial-evidence standard.

evidence on appeal. *Franks*, 765 N.W.2d at 73. In light of these standards, we conclude that the alleged inconsistencies are easily explained through the passage of time, imprecise questioning, or are otherwise not substantial.

For example, Everson argues that A.L.T.'s timeline of disclosures is inconsistent. On direct examination, A.L.T. said that the first person she told about the assault was her friend. On cross-examination, she explained that she had a school therapist, but that she never told the therapist about the assault. Then on redirect, the following exchange took place:

Q: Okay. When did you first see any kind of therapist?

A: My freshman year, I believe, like, towards the ending of my freshman year.

Q: Was this before you had discussed this with [A.L.T.'s friend] or anybody else?

A: Yeah.

Q: Okay. Did you go to the therapist specifically to talk about this situation?

A: No.

Q: Did you talk about it with any of your therapists?

A: Yeah. I had mentioned it to one of my in-school therapists, not the outside-school therapist. But I had mentioned it to the in-school one before I told other people.

Q: Before you told other people?

A: Yeah.

Everson argues that this apparent discrepancy is "significant, particularly since a teenage student's account of having experienced sexual assault made to a school therapist should trigger a mandatory report," but no mandatory report was made here. But reading the exchange in the light most favorable to the conviction, this alleged discrepancy is easily

resolvable as either a misstatement on A.L.T.'s part or imprecise questioning. We agree with the state's contention that the transcript does not explain what "it" meant in the questioning on redirect, nor does it explain who "other people" included; "other people" may have meant people other than A.L.T.'s friend.

Similarly unpersuasive is Everson's contention that "A.L.T. seems to have told every [person] a different version of what she was wearing and how [] Everson would have reached her vagina." A.L.T. testified at trial that she was wearing shorts and Everson had pulled them down. Likewise, during her recorded interview with law enforcement (which was admitted into evidence), A.L.T. told the officer that she was wearing shorts. But, at trial, the officer recalled that A.L.T. told him Everson "stuck his hand down the front of her pants." And her mother testified that, around the time of the alleged incident, A.L.T. had a "mermaid nightie she always wore." Under the appropriate standard of review, we do not discern any meaningful inconsistency in this testimony. The terms "shorts" and "pants" can be used interchangeably. And, to the extent that there might be a difference between a nightgown and shorts or pants, this evidence does not foreclose the possibility that A.L.T. wore both a nightgown and shorts or a nightgown and pants. Any inconsistencies in the testimony at trial on these details do not render the evidence insufficient to sustain the verdict.

We also reject Everson's contention that his conviction should be reversed due to lack of corroboration. In support of his argument, Everson cites *State v. Ani*, 257 N.W.2d 699, 700 (Minn. 1977). In *Ani*, the supreme court considered whether section 609.347—which provides that the testimony of the complainant in a criminal sexual

conduct case need not be corroborated—is unconstitutional. *Id.* The supreme court rejected defendant’s argument that the statute is unconstitutional but acknowledged that “the absence of corroboration in an individual case may well call for a holding that there is insufficient evidence upon which a jury could find the defendant guilty beyond a reasonable doubt.” *Id.* (quotation omitted). The supreme court then affirmed the conviction of criminal sexual conduct in *Ani* because “the victim’s testimony was positive and not contradicted, and was strongly corroborated by other evidence.” *Id.*

Similarly, in this case, A.L.T.’s testimony that Everson engaged in sexual contact was positive and not contradicted except by Everson. The jury was entitled to credit A.L.T.’s testimony and disbelieve Everson. *Olhausen*, 681 N.W.2d at 25. Furthermore, contrary to Everson’s assertion, A.L.T.’s testimony was corroborated. Her father, mother, friend, and boyfriend all provided corroborating testimony. Her father testified to A.L.T.’s night terrors around the time of the assault. He also testified that A.L.T. told him that Everson “did something to [her] that wasn’t okay.” Similarly, her mother testified that A.L.T. told her that Everson “put his hands down her pants.” Both A.L.T.’s friend and boyfriend testified that A.L.T. told them Everson touched her vagina. Additionally, A.L.T.’s recorded interview with law enforcement corroborates her testimony at trial. This is not a case that “call[s] for a holding that there is insufficient evidence upon which a jury could find the defendant guilty beyond a reasonable doubt.” *Ani*, 257 N.W.2d at 700.

The other cases relied on by Everson also do not support reversal of the jury’s verdict. For instance, Everson relies heavily on *State v. Butenhoff*, 155 N.W.2d 894, 900 (Minn. 1968), for the proposition that “a conviction of a serious sexual assault of a child

should be supported by corroborative testimony.” Everson insists that this 1968 case “remains good law.” Everson is incorrect. *Butenhoff* was decided before the enactment of section 609.347, allowing for convictions of criminal sexual conduct based on a victim’s uncorroborated testimony. 1975 Minn. Laws ch. 374, § 8, at 1249.

Everson also points to *State v. Huss*, where the supreme court reversed a criminal-sexual-conduct conviction based on the case’s “unusual facts.” 506 N.W.2d 290, 293 (Minn. 1993). In *Huss*, the only direct evidence of sexual abuse was provided by a three-year-old child and in a particularly troublesome manner.³ *Id.* As the supreme court noted, “[t]he child was on the stand for almost an hour before she made any accusation of abuse, and then she said both her mother and her father had touched her in a bad way.” *Id.* at 292. But, “[w]hen she was asked repeatedly on direct examination whether she had any ‘yucky secrets,’ she answered in the negative.” *Id.* The supreme court also emphasized that evidence at trial demonstrated that the child’s testimony may have been based in part on a “suggestive book” and “suggestive and repetitive techniques” used by the therapist. *Id.* No such suggestive techniques were present in this case. And while A.L.T. was young at the time of the incident, she was a teenager when she gave her statement to law enforcement and 16 years old when she testified at trial.

³ Everson also relies on cases which consider a different underlying offense. *See, e.g., Foreman*, 680 N.W.2d at 538-39 (affirming a conviction of domestic assault); *State v. Gluff*, 172 N.W.2d 63, 65 (Minn. 1969) (involving a conviction for aggravated robbery); *State v. Langteau*, 268 N.W.2d 76, 77 (Minn. 1978) (involving a conviction for aggravated robbery). But crucially, *Gluff* and *Langteau* do not concern a conviction of criminal sexual conduct and, thus, do not consider section 609.347, subdivision 1.

In sum, A.L.T.’s testimony was sufficient for a jury to reasonably conclude that the state proved beyond a reasonable doubt that Everson committed second-degree criminal sexual conduct. A.L.T. was consistent in her testimony that Everson engaged in sexual contact by touching her vagina, and any purported inconsistencies in other details of her testimony are easily explained and not significant. While other witnesses provided corroborative evidence, that testimony was not required for the jury to convict Everson. The evidence was sufficient to support the jury’s verdict.

II. The district court did not plainly err by admitting the video recording of law enforcement’s interview with A.L.T.

Everson next argues that his conviction must be reversed because the district court’s admission of the video recording of law enforcement’s interview with A.L.T. constitutes reversible plain error. We disagree.

At trial, the state offered the video recording of the officer’s interview with A.L.T. as an exhibit. Everson’s counsel did not object, and the district court admitted the exhibit into evidence.

Because Everson did not object at trial, we apply the plain-error standard of review to Everson’s challenge on appeal. *State v. Segura*, 2 N.W.3d 142, 167 (Minn. 2024) (“We review an unobjected-to admission of evidence for plain error affecting substantial rights.”). To prevail under the plain-error standard, a defendant must establish that the admission of the evidence constitutes “(1) an error, (2) that is plain, and (3) that affects [his] substantial rights.” *Pulczynski v. State*, 972 N.W.2d 347, 356 (Minn. 2022). If the defendant meets his burden to show each of these requirements, an appellate court may

reverse for a new trial only if the error “seriously affects the fairness, integrity, or public reputation of judicial proceedings.” *Id.*

We begin and end our analysis with the first two prongs of the plain-error test because those prongs are determinative. *See State v. Goelz*, 743 N.W.2d 249, 258 (Minn. 2007) (noting that where a defendant fails to establish any one factor of the plain-error test “we need not consider the other factors”). An error is plain if it is “clear or obvious,” typically by contravening caselaw, a rule, or a standard of conduct. *State v. Ramey*, 721 N.W.2d 294, 302 (Minn. 2006) (quotations omitted).

Everson argues that the admission of the recording constitutes plain error because the interviewing officer did not use CornerHouse protocol⁴ to interview A.L.T. and the officer lacked forensic-interview training, calling into question the reliability of the interview. The state responds that the evidence was properly admitted under Minnesota Rule of Evidence 801(d)(1)(B).

We agree with the state that the district court did not err by admitting the recording because the evidence was properly admitted under rule 801(d)(1)(B). This rule provides that the district court may exercise its discretion and admit a prior out-of-court statement by a witness if: (1) the declarant testifies at trial and gives testimony consistent with a prior statement; (2) the declarant is subject to cross-examination regarding the prior statement; (3) the declarant’s credibility has been challenged; and (4) the declarant’s prior statement

⁴ “CornerHouse is a private independent agency that interviews victims of alleged child abuse who are referred from child protection and law enforcement.” *State v. Goldenstein*, 505 N.W.2d 332, 337 (Minn. App. 1993), *rev. denied* (Minn. Oct. 19, 1993).

is helpful to the trier of fact in evaluating credibility with regard to the challenged aspect. Minn. R. Evid. 801(d)(1)(B); *State v. Farrah*, 735 N.W.2d 336, 344 (Minn. 2007).

All four elements were met here. First, A.L.T. was a witness at trial. Second, she was subject to vigorous cross-examination by Everson. And the officer who conducted the interview was also subject to vigorous cross-examination. Third, A.L.T.'s credibility was plainly challenged by Everson throughout the trial. Finally, A.L.T.'s prior statement in the video interview was helpful to the jury to determine whether A.L.T. testified credibly at trial. Additionally, this court has held that "[t]he trial testimony and the prior statement need not be identical to be consistent, and [the] admission of a videotaped statement that is reasonably consistent with the trial testimony is not reversible error." *State v. Zulu*, 706 N.W.2d 919, 924 (Minn. App. 2005) (quotation omitted).

Even assuming it was error for the district court to admit the recording for the reasons argued by Everson, the error was not plain. Everson cites no caselaw, rule, or standard of conduct that prohibits a district court from admitting a law-enforcement interview of a person who reports criminal sexual conduct unless the interview is conducted using CornerHouse protocol or the interviewing officer has certain training. Everson cites only one case, *State v. Ritter*, 719 N.W.2d 216 (Minn. App. 2006), in support of his argument. But *Ritter* does not address the admission of evidence. *Ritter*, 719 N.W.2d at 219-22. Rather, *Ritter* involves voir dire. *Id.* (holding that the defendant's right to an impartial jury was violated when the district court prohibited the defendant from asking prospective jurors during voir dire whether they are inclined to give more credence to the testimony of law enforcement than to testimony of lay witnesses in a criminal trial where

the only witnesses against the defendant are law enforcement personnel). Therefore, *Ritter* does not support Everson's contention that the district court plainly erred by admitting the recording.

For these reasons, we conclude that Everson has not met his burden to show the district court plainly erred by admitting the recording of law enforcement's interview with A.L.T., and the district court's admission of that evidence therefore does not necessitate a new trial.

Affirmed.