

*This opinion is nonprecedential except as provided by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
A25-0910**

State of Minnesota,
Respondent,

vs.

Juan Ramirez, Jr.,
Appellant.

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

Washington County District Court
File No. 82-CR-24-2247

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

Mitchell S. Sell, Woodbury City Attorney, Eckberg Lammers, Stillwater, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Davi E. Axelson, Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

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

NONPRECEDENTIAL OPINION

SEGAL, Judge

This is a direct appeal from a judgment of conviction for driving while impaired (DWI). Appellant argues that his rights under the Confrontation Clause were violated by the admission of witness testimony about a preliminary lab test result without testimony from the analyst who performed the test. He also asserts ineffective assistance of counsel in his pro se supplemental brief. Because we conclude that appellant has not demonstrated that the district court plainly erred by admitting this evidence and cannot review the ineffective-assistance claim because it is based on information that is outside the record, we affirm.

FACTS

At around 1:00 a.m. on June 9, 2024, an officer from the Woodbury Police Department was notified that a nearby car had at least one owner whose license had been canceled as inimical to public safety. The officer located the car, noticed that its left taillight was out, and initiated a stop. The officer observed that the driver, later identified as appellant Juan Ramirez, Jr., had “bloodshot, watery eyes, [and] constricted pupils” and that his speech was “slow” and “lethargic.” When asked about his destination, Ramirez responded with confusion.

Based on these factors, the officer decided to administer field sobriety tests. Before conducting the tests, the officer asked Ramirez whether he takes any prescription medications. Ramirez stated that he takes methadone, which the officer later testified does not generally result in symptoms of impairment. The field sobriety test results indicated to

the officer that Ramirez may be under the influence, and he placed Ramirez under arrest. The officer then obtained a search warrant that authorized taking a blood sample from Ramirez for testing by the Minnesota Bureau of Criminal Apprehension (BCA).

The test results showed the presence of amphetamine and methamphetamine in Ramirez's blood. Respondent State of Minnesota charged Ramirez with two counts of DWI, including operating a vehicle under the influence of a controlled substance in violation of Minn. Stat. § 169A.20, subd. 1(2) (Supp. 2023), and operating a vehicle with any amount of a schedule I or II controlled substance in the body in violation of Minn. Stat. § 169A.20, subd. 1(7) (Supp. 2023).

At trial, the state called a forensic scientist from the BCA as one of its witnesses. The scientist described the BCA's procedures for drug testing from a blood sample. She explained that a "preliminary screening test" is performed, which "helps narrow down the drug categories that might be present in the sample." If the screening test reveals the "presumptive presence" of a drug, then a "confirmatory test" is performed. Even though the witness was not the scientist who performed the preliminary screening test, she was asked by the prosecutor about the results of that test. The scientist testified that she reviewed the results of the preliminary test and that Ramirez's blood sample was presumptively positive for four substances, including fentanyl. Ramirez did not object to this testimony. The scientist then testified that she performed the confirmatory test on Ramirez's blood sample and that she only tested for amphetamine and methamphetamine; she did not test for fentanyl. The confirmatory testing showed the presence of both amphetamine and methamphetamine.

At the close of trial, the jury was instructed in connection with the second count of the complaint—operating a vehicle with any amount of a schedule I or II controlled substance in the body—that methamphetamine and amphetamine are schedule II controlled substances. The instructions made no mention of fentanyl.

During deliberations, the jury submitted the following question to the district court: “Your Honor, is count I [the under-the-influence count] based on being specifically under the influence of methamphetamine?” The district court responded by advising the jury to rely on the instructions provided. After additional deliberations, the jury returned a verdict of guilty on both counts. The district court entered judgments of conviction and sentenced Ramirez on the first count to a stayed sentence of 364 days imprisonment with credit for 36 days served.

DECISION

I.

We address first Ramirez’s argument that his rights under the Confrontation Clause were violated because the scientist testified about the results of the preliminary screening test when she did not perform the test.

Because Ramirez did not object to this testimony at trial, we analyze his arguments for plain error. *State v. Noor*, 907 N.W.2d 646, 649-50 (Minn. App. 2018), *rev. denied* (Minn. Apr. 25, 2018). “In order to meet the plain error standard, a criminal defendant must show that (1) there was an error, (2) the error was plain, and (3) the error affected the defendant’s substantial rights.” *State v. Myhre*, 875 N.W.2d 799, 804 (Minn. 2016). “The party asserting plain error has the burden of establishing all three elements.” *State v.*

Hollins, 765 N.W.2d 125, 131 (Minn. App. 2009). “If these three prongs are met, the appellate court then assesses whether it should address the error to ensure fairness and the integrity of the judicial proceedings.” *State v. Griller*, 583 N.W.2d 736, 740 (Minn. 1998).

The Confrontation Clause of the United States and Minnesota Constitutions provides defendants with the right to confront the witnesses against them. U.S. Const. amend. VI; Minn. Const. art. I, § 6. In *Crawford v. Washington*, the United States Supreme Court held that it is a violation of the Confrontation Clause to admit hearsay statements in a criminal trial that are “testimonial,” unless the declarant is unavailable for trial and the defendant had a prior opportunity to cross-examine the declarant. 541 U.S. 36, 68 (2004); accord *Andersen v. State*, 830 N.W.2d 1, 9 (Minn. 2013). Subsequent cases have made clear that the Confrontation Clause applies to testimony about laboratory test reports. See, e.g., *State v. Caulfield*, 722 N.W.2d 304, 307, 310 (Minn. 2006) (holding that a BCA lab report, offered at trial to prove that a substance seized from the defendant was cocaine, is testimonial, implicating the defendant’s confrontation rights under *Crawford*).

There are “three prerequisites” to establishing a violation of the Confrontation Clause under *Crawford*: (1) “the statement in question was testimonial,” (2) “the statement was admitted for the truth of the matter asserted,” and (3) “the defendant was unable to cross-examine the declarant.” *Andersen*, 830 N.W.2d at 9. Applying this three-part test here, we are unpersuaded that the scientist’s testimony about the preliminary screening test results was offered for the truth of the matter asserted—that Ramirez had (or “presumptively” had) fentanyl in his system. Whether or not Ramirez had fentanyl in his system is not relevant to the state’s case, which was based exclusively on the presence of

amphetamine and methamphetamine. Instead, the state argues that the testimony was provided for the purpose of providing background concerning the procedures typically followed for drug testing and for selecting the drugs to be tested in the confirmatory test. It was this confirmatory test, which was performed by the testifying scientist, that was offered for the truth of the matter asserted—that Ramirez’s blood sample tested positive for amphetamine and methamphetamine.

Nevertheless, even if we were to assume that Ramirez’s rights of confrontation were violated by the testimony and that the error in allowing the testimony was plain, we are not persuaded that Ramirez has established the third prong of the plain-error test—that the admission of the testimony affected his substantial rights. “With respect to the substantial-rights requirement, [the defendant] bears the burden of establishing that there is a reasonable likelihood that the absence of the error would have had a significant effect on the jury’s verdict.” *State v. Horst*, 880 N.W.2d 24, 38 (Minn. 2016) (quotation omitted); *see also Griller*, 583 N.W.2d at 741 (describing defendant’s burden as a “heavy” one). To determine whether an error had a significant effect on the jury, courts may consider “the strength of the state’s case, the pervasiveness of the error, and whether the defendant had an opportunity to respond.” *Noor*, 907 N.W.2d at 657; *see also State v. Weaver*, 733 N.W.2d 793, 801 (Minn. App. 2007) (articulating these and other considerations), *rev. denied* (Minn. Sept. 18, 2007).

Here, the state had a strong case against Ramirez for both DWI counts, including: (1) the uncontested confirmatory lab test results that showed the presence of amphetamine and methamphetamine, which are both schedule II controlled substances, supported by the

testimony of the scientist who performed the test; (2) the testimony of the officer who conducted the traffic stop related to his observations of signs of impairment exhibited by Ramirez and the results of the field sobriety tests; and (3) the video of the traffic stop and field sobriety tests that was admitted into evidence, which supported the officer's testimony.

In addition, the state's only mention of fentanyl was in a single sentence of the scientist's testimony. Fentanyl was not referenced by the state at any other point during the trial, including during the state's closing argument. *See Weaver*, 733 N.W.2d at 801 (stating that one substantial-rights consideration is whether the error is mentioned during closing argument). The alleged "error" was thus not pervasive.

Ramirez also had the opportunity to respond to the testimony. Ramirez's trial counsel cross-examined the scientist about her testimony. And Ramirez, who testified after the scientist, chose to describe his previous fentanyl addiction, and he explained that fentanyl might have been present in the blood sample because he was unknowingly administered fentanyl as a sedative during a medical procedure that occurred about a week before the traffic stop.

Finally, Ramirez argues that the question the jury submitted to the district court during deliberations "suggests it was focused on the fentanyl . . . because the jury asked if a drug other than methamphetamine could justify Ramirez's [impairment]." But the jury's question was whether "count 1[, the under-the-influence count, was] based on being specifically under the influence of methamphetamine." As the state notes, because the jury was also instructed on amphetamine, the jury could have been asking about that drug. But

regardless, the jury's intent in asking the question is at best ambiguous and is not sufficient to overcome the factors discussed above.

We therefore conclude that, even if the admission of the testimony about the preliminary screening test was in error, it did not have a significant effect on the jury's verdict. Ramirez has thus failed to establish the existence of a reversible plain error.

II.

Ramirez argues in his pro se supplemental brief that the judgment of conviction should be reversed because of ineffective assistance of counsel. Ramirez, however, provides us with no record upon which to review this argument. His argument relies on discussions he had with his trial counsel that are outside the record. We therefore decline to consider it, but the argument is preserved if Ramirez chooses to seek review of this issue through timely postconviction proceedings. *See* Minn. R. Crim. P. 28.02, subd. 8 (“The record on appeal consists of the documents filed in the district court, the offered exhibits, and the transcript of the proceedings, if any.”).

Affirmed.