

*This opinion is nonprecedential except as provided by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
A25-0979**

State of Minnesota,
Respondent,

vs.

Richard Alan Quarles,
Appellant.

**Filed June 8, 2026
Affirmed in part, reversed in part, and remanded
Larson, Judge**

Hennepin County District Court
File No. 27-CR-24-22377

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

Mary F. Moriarty, Hennepin County Attorney, Britta Nicholson, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

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

Considered and decided by Schmidt, Presiding Judge; Johnson, Judge; and Larson, Judge.

NONPRECEDENTIAL OPINION

LARSON, Judge

Following a jury trial, appellant Richard Alan Quarles was convicted of first-degree criminal sexual conduct, third-degree criminal sexual conduct, second-degree assault, and domestic assault by strangulation. On direct appeal, Quarles challenges his convictions, arguing the district court: (1) abused its discretion when it allowed the state to admit audio recordings of certain 911 calls; (2) abused its discretion when it allowed the state to admit an audio recording from a cell phone; and (3) erred when it entered a conviction for third-degree criminal sexual conduct because it was a lesser-included offense of first-degree criminal sexual conduct. Quarles also challenges his sentence on the bases that the district court improperly imposed multiple sentences and the warrant of commitment does not reflect the district court's orally pronounced sentence. Because we conclude the district court erred when it entered a conviction for third-degree criminal sexual conduct and the warrant of commitment does not reflect the district court's orally pronounced sentence, we reverse and remand. We otherwise affirm.

FACTS

The following facts were elicited from evidence presented at a jury trial and sentencing hearing. Quarles moved into E.K.'s (victim) residence, a duplex, shortly after they started dating. The pair lived in the bottom portion of the duplex, which included a basement. Within months, Quarles exhibited violent behavior towards victim. Victim testified that, on one occasion, Quarles punched her in the face twice for touching his belongings—causing a black eye and bloody nose. After the assault, Quarles verbally

threatened to harm victim and her children if she called for help. In another incident, Quarles beat victim with a belt, leaving welts, after she looked through his phone. Victim did not report the incidents to law enforcement because she was afraid, but she told her mother she might need help escaping in the future.

On September 25, 2024, Quarles and victim had a violent altercation in the basement of the duplex. Quarles strangled victim from behind, and victim feared that she was dying. Victim “lost feeling in [her] legs and feet,” and her breathing was “cut off.” Quarles briefly released victim and, before strangling her a second time, he told her she would never see her children again.

After twice strangling victim, Quarles told her to leave the duplex with his mother. Quarles kept victim’s phone. While with Quarles’s mother, victim was near her parents’ house but was afraid to go there. Upon returning to the duplex, Quarles returned victim’s phone. Victim was then briefly alone in the basement with her phone. There, she texted her children’s father: “If I’m dead, he killed me.”

Quarles joined victim in the basement. Victim described Quarles’s demeanor as “sinister.” Quarles punched victim in the face, breaking her lip open and giving her a black eye. Quarles then ordered victim to take a shower. After she showered, Quarles picked up his loaded gun, pointed it at victim, and talked about killing her. These comments scared victim. Quarles then put the gun on a nearby dresser, approached victim, and exposed his erect penis. Victim performed oral sex on Quarles because she was “in fear for [her] life.” Quarles shoved his penis down victim’s throat to the point that she almost threw up. After

several minutes, Quarles ejaculated, pulled up his pants, and picked up the gun. Later that evening, victim took a benzodiazepine, cleaned the basement, and fell asleep.

Victim awoke between 2:00 a.m. and 3:00 a.m. on September 26, 2024, with Quarles putting his gun to her back. Quarles apologized to victim and then talked about killing them both. During the conversation, Quarles fired the gun toward the basement floor. After firing the gun, Quarles told victim that no one could hear her, and no one was coming to help her. Victim acknowledged that she understood; then, both fell asleep.

Later that morning, victim left the duplex while Quarles slept. Victim met her mother, and they took photographs of her injuries. Victim called 911 around 2:00 p.m. and was advised to make a report in person. While at the police station, staff told victim to return to the duplex to meet with a police officer. When she returned to the duplex, victim noticed emergency vehicles parked outside.¹ Victim then called 911 a second time, and she was advised to leave the duplex and call 911 again to meet with a police officer to provide a full statement.

On September 28, 2024, victim called 911 again because she wanted to get her belongings from the duplex. Law enforcement responded and spoke with victim. Victim explained to law enforcement that Quarles choked her, punched her, threatened her with a gun, and sexually assaulted her. On September 30, 2024, victim provided a formal statement to an investigator.

¹ Emergency vehicles were responding to an unrelated assault on Quarles.

In an amended complaint, the state charged Quarles with (1) first-degree criminal sexual conduct—penetration—fear of great bodily harm (count I), under Minn. Stat. § 609.342, subd. 1(a) (2024); (2) first-degree criminal sexual conduct—penetration—use of force (count II), under Minn. Stat. § 609.342, subd. 1(b) (2024); (3) third-degree criminal sexual conduct—penetration—use of coercion (count III), under Minn. Stat. § 609.344, subd. 1(a) (2024); (4) second-degree assault—dangerous weapon (count IV), under Minn. Stat. § 609.222, subd. 1 (2024); and (5) domestic assault by strangulation (count V), under Minn. Stat. § 609.2247, subd. 2 (2024). Before trial, the state moved to admit “relationship evidence” under Minn. Stat. § 634.20 (2024). *See State v. Zinski*, 927 N.W.2d 272, 273 (Minn. 2019) (noting that evidence offered under section 634.20 is known as “relationship evidence”). As relevant here, the state sought to admit a five-minute audio recording captured on victim’s cell phone (the audio recording). Victim made the audio recording after a previous altercation where Quarles punched and verbally abused her. Quarles objected to the admission of the audio recording. The district court acknowledged that the audio recording was inflammatory but ruled that the probative value of the audio recording was not substantially outweighed by unfair prejudice, and the risk of prejudice could be mitigated through cautionary instructions.

During the five-day jury trial, victim testified that she called 911 on September 26, 2024, the same day she left the duplex. The record from the investigation did not include a 911 call from September 26, 2024. After victim’s testimony, the prosecutor emailed the 911 records department, seeking victim’s prior 911 calls. The 911 records department produced audio recordings from two 911 calls that occurred on September 26, 2024 (the

911 calls from September 26), and the prosecutor emailed them to Quarles's defense counsel.

On the fourth day of trial, the state disclosed the 911 calls from September 26 on the record. Quarles objected to the state admitting the evidence, arguing the district court should suppress the evidence due to the late disclosure. The district court ruled that the 911 calls from September 26 were admissible and offered Quarles a one-day continuance as a remedy. Ultimately, the state moved to admit the 911 calls from September 26, which the district court granted.

After deliberation, the jury returned a not guilty verdict on count II but returned guilty verdicts on the other four counts. The district court entered convictions on all four counts. It then imposed concurrent sentences on three counts: a 27-month prison term for count V, a 57-month prison term for count IV, and a 306-month prison term for count I.² The warrant of commitment listed a 309-month prison term for count I.

Quarles appeals.

DECISION

Quarles raises several challenges to his convictions and sentences. First, he challenges two evidentiary decisions at trial: (1) the decision to admit the 911 calls from September 26; and (2) the decision to admit the audio recording. Second, he asserts the district court erred when it imposed multiple sentences for count I, count IV, and count V. Finally, Quarles and the state contend that (1) the district court erred when it entered a

² The district court did not impose a sentence on count III.

conviction for count III because it is a lesser-included offense of count I and (2) the warrant of commitment incorrectly reflects a 309-month prison term when the district court orally pronounced a 306-month prison term. We address these challenges in turn.

I.

We first address Quarles’s evidentiary challenges, which we review for an abuse of discretion. *See State v. Lindsey*, 284 N.W.2d 368, 373 (Minn. 1979) (discovery violation); *see also State v. McCoy*, 682 N.W.2d 153, 161 (Minn. 2004) (relationship evidence). “A district court abuses its discretion when its decision is based on an erroneous view of the law or is against logic and the facts in the record.” *State v. Hallmark*, 927 N.W.2d 281, 291 (Minn. 2019) (quotation omitted). “[W]e largely defer to the [district] court’s exercise of discretion in evidentiary matters and will not lightly overturn a [district] court’s evidentiary ruling.” *Dolo v. State*, 942 N.W.2d 357, 362 (Minn. 2020) (quotation omitted). Quarles bears the burden to establish that the district court abused its discretion and that he was prejudiced as a result. *See State v. Amos*, 658 N.W.2d 201, 203 (Minn. 2003).

Here, Quarles argues the district court abused its discretion when it allowed the state to admit the 911 calls from September 26 and the audio recording.

A. 911 Calls

Quarles contends the district court abused its discretion when it allowed the state to admit the 911 calls from September 26. Specifically, Quarles challenges the district court's decisions that the late disclosure was not a discovery violation and, if it was, the appropriate remedy was a one-day continuance rather than excluding the evidence.

Prosecutors are required to disclose “material and information in the possession or control of members of the prosecution staff and of any others who have participated in the investigation or evaluation of the case and who either regularly report, or with reference to the particular case have reported, to the prosecutor’s office.” Minn. R. Crim. P. 9.01, subd. 1a(1). When a prosecutor fails to comply with this rule, it is a discovery violation, and the district court must determine the appropriate remedy. *State v. Freeman*, 531 N.W.2d 190, 197-98 (Minn. 1995). Appropriate remedies include allowing additional discovery, granting a continuance, or entering “any order it deems just in the circumstances.” Minn. R. Crim. P. 9.03, subd. 8. When deciding the appropriate remedy, the district court must assess whether the discovery violation harmed the defendant and “the extent to which th[e] harm can be eliminated or otherwise alleviated.” *Lindsey*, 284 N.W.2d at 373. To do so, the district court should consider “(1) the reason why disclosure was not made; (2) the extent of prejudice to the opposing party; (3) the feasibility of rectifying that prejudice by a continuance; and (4) any other relevant factors.” *Id.*

Here, we assume without deciding that the late disclosure of the 911 calls from September 26 was a discovery violation because, even if it was, the district court did not abuse its discretion in its selection of the remedy. The record reflects that the district court

found: (1) the state did not act in “bad faith,” and any discovery violation was inadvertent because the state learned about the 911 calls from September 26 during victim’s trial testimony; (2) Quarles suffered minimal prejudice because victim had already testified that she made the 911 calls on September 26 and Quarles had the opportunity to effectively cross-examine victim; and (3) a one-day continuance gave Quarles the opportunity to adapt his trial strategy after the 911 calls from September 26 were disclosed. Thus, the district court properly evaluated all the relevant factors and, after reviewing those factors, determined any harm from the late disclosure could be remedied with a one-day continuance. We further note that the district court’s remedy was consistent with supreme court precedent cautioning against precluding evidence for minor discovery violations. *Id.* at 374 (“Preclusion of evidence is a severe sanction which should not be lightly invoked.”).

For these reasons, we conclude the district court did not abuse its discretion when it determined the appropriate remedy for any discovery violation related to the 911 calls from September 26 was a one-day continuance.

B. Audio Recording

Quarles argues second that the district court abused its discretion when it admitted the audio recording. The district court permitted the state to admit the audio recording as relationship evidence under section 634.20. *See Zinski*, 927 N.W.2d at 273. Relationship evidence is “[e]vidence of domestic conduct by the accused against the victim of domestic conduct.” Minn. Stat. § 634.20. Relationship evidence includes evidence that “illuminates the history of the relationship between an accused and a victim,” *McCoy*, 682 N.W.2d at 161, “and thus contextualize[s] the charged crime,” *State v. Boswell*, 20 N.W.3d 640, 651

(Minn. App. 2025), *rev. denied* (Minn. June 25, 2025). Relationship evidence is admissible “unless the probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issue, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence” (the balancing test). Minn. Stat. § 634.20.

Here, Quarles argues the district court abused its discretion when it admitted the audio recording because it did not properly apply the balancing test.³ Specifically, Quarles indicates that the audio recording was unfairly prejudicial because it contained inflammatory and racially charged language.⁴ “Unfair prejudice . . . is not merely damaging evidence, even severely damaging evidence; rather, unfair prejudice is evidence that persuades by illegitimate means, giving one party an unfair advantage.” *State v. Schulz*, 691 N.W.2d 474, 478 (Minn. 2005).

We discern no abuse of discretion in the manner in which the district court applied the balancing test. The district court determined the audio recording was highly probative because it illustrated the relationship between Quarles and victim, demonstrated why victim feared for her safety, and assisted the jury with evaluating victim’s credibility. *See*

³ The state asserts that Quarles forfeited this challenge because he did not argue that the “racially charged language in the recording” prejudiced him before the district court. We are not persuaded. Reviewing the record, we conclude that Quarles preserved the issue when he unequivocally objected to the admission of this evidence on the ground that he was prejudiced. “Parties are allowed to refine their arguments on appeal.” *State v. Lanham*, 33 N.W.3d 733, 736 n.2 (Minn. App. 2026).

⁴ During the audio recording, Quarles verbally berates victim and threatens physical violence. In some portions of the audio recording, Quarles makes comments about black women and the “ghetto.”

Boswell, 20 N.W.3d at 653. And the district court concluded that, although the audio recording was inflammatory, it was not “unduly prejudicial” because it did not persuade by illegitimate means. *See Schulz*, 691 N.W.2d at 478. Further, the district court discussed cases in which other district courts allowed the admission of similar evidence under section 634.20. And the district court offered cautionary instructions to lessen the prejudicial impact of the audio recording. *See State v. Andersen*, 900 N.W.2d 438, 441-42 (Minn. App. 2017) (observing that “cautionary instructions lessened any probability that the jury would rely improperly on relationship evidence”); *see also State v. Matthews*, 779 N.W.2d 543, 550 (Minn. 2010) (noting that we presume jurors follow the district court’s instructions).

In all, the record shows that the district court carefully and explicitly considered the prejudicial effect of the audio recording and offered cautionary instructions to mitigate any prejudicial effect. Accordingly, we conclude the district court did not abuse its discretion when it allowed the state to admit the audio recording.

II.

Quarles next challenges the district court’s decision to impose multiple sentences for count I (first-degree criminal sexual conduct—penetration—fear of great bodily harm), count IV (second-degree assault—dangerous weapon), and count V (domestic assault by strangulation).⁵ He argues that it was unlawful to impose all three sentences because the crimes arose from the same behavioral incident. *See* Minn. Stat. § 609.035 (2024).

⁵ The district court sentenced Quarles in the following order: count V—27 months; count IV—57 months; and count I—306 months. In so doing, the district court used the

Under section 609.035, subdivision 1, “if a person’s conduct constitutes more than one offense under the laws of this state, the person may be punished for only one of the offenses.” The statute prohibits “multiple sentences for crimes that arise from a single behavioral incident.” *State v. Bauer*, 792 N.W.2d 825, 827 (Minn. 2011). The state bears the burden to show by a preponderance of the evidence that multiple “offenses did not occur as part of the same behavioral incident.” *State v. Williams*, 608 N.W.2d 837, 841 (Minn. 2000). Whether multiple offenses occurred during “a single behavioral incident is a mixed question of law and fact.” *State v. Bakken*, 883 N.W.2d 264, 270 (Minn. 2016). In reviewing the district court’s decision, we review its “findings of fact for clear error and its application of the law to those facts de novo.” *Id.*

But section 609.035, subdivision 6, includes an exception to this general rule: “Notwithstanding subdivision 1, a prosecution or conviction for committing a violation of sections 609.342 to 609.345 *with force or violence* is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.” (Emphasis added.)

Quarles argues the district court erred when it relied on this exception to impose multiple sentences because the state did not prove that his convictions met the “with force or violence” requirement. According to Quarles, because the jury acquitted him of count II

method set forth in *State v. Hernandez*, 311 N.W.2d 478 (Minn. 1981), to increase Quarles’s criminal-history score before sentencing the next offense. See Minn. Sent’g. Guidelines 1.B.10 (2024) (defining “*Hernandize*” as “the unofficial term for the process . . . of counting criminal history when multiple offenses are sentenced on the same day before the same court”).

(first-degree criminal sexual conduct—penetration—use of force), none of his convictions met the definition of “force.”⁶

But we concluded in *State v. Yaritz* that, in certain cases, the state can satisfy the “with force or violence” requirement if it proves first-degree criminal sexual conduct under circumstances where the victim had “a reasonable fear of imminent great bodily harm.” 791 N.W.2d 138, 149 (Minn. App. 2010), *rev. denied* (Minn. Feb. 23, 2011); *see also* Minn. Stat. § 609.342, subd. 1(a).⁷ In doing so, we noted that “the plain language of section 609.035, subdivision 6, does not limit its application to any particular charging provisions” for first-degree criminal sexual conduct. *Id.* And we noted that “none of the charging provisions [for first-degree criminal sexual conduct] . . . uses the phrase ‘force or violence.’” *Id.*

Here, the jury found Quarles guilty of count I (first-degree criminal sexual conduct—penetration—fear of great bodily harm). Thus, the state proved that the “circumstances existing at the time of the act cause[d] [victim] to have a reasonable fear of

⁶ In relevant part, Minn. Stat. § 609.341, subd. 3 (2024), defines “force” to mean either:

(1) the infliction by the actor of bodily harm; or (2) the attempted infliction, or threatened infliction by the actor of bodily harm or commission or threat of any other crime by the actor against the complainant or another, which causes the complainant to reasonably believe that the actor has the present ability to execute the threat.

⁷ The statutory language we analyzed in *Yaritz* is substantially similar to Minn. Stat. § 609.342, subd. 1(a). The Minnesota Legislature retained the language from Minn. Stat. § 609.342, subd. 1(c) (2008), “circumstances existing at the time of the act cause the complainant to have a reasonable fear of imminent great bodily harm,” and recodified it at Minn. Stat. § 609.342, subd. 1(a). *See* 2021 Minn. Laws ch. 11, art. 4, § 16, at 2038.

imminent great bodily harm[.]” Minn. Stat. § 609.342, subd. 1(a). Moreover, to obtain this conviction, the state proved that Quarles both strangled victim and threatened her with a firearm. Thus, under *Yaritz* and the facts of this case, we conclude the district court did not err when it applied the “with force or violence” exception in section 609.035, subdivision 6, to impose the three sentences.

III.

Finally, Quarles argues, and the state agrees, that we must reverse and remand to correct two errors. First, both parties agree that the warrant of commitment improperly reflects a 309-month prison term for count I because the district court orally pronounced a 306-month prison term. Second, both parties also agree that the district court erred when it entered a conviction on count III (third-degree criminal sexual conduct—penetration—use of coercion) because it is an included offense of count I (first-degree criminal sexual conduct—penetration—fear of great bodily harm) under Minn. Stat. § 609.04, subd. 1 (2024). We agree with the parties upon our *de novo* review of both issues. *See State v. Williams*, 771 N.W.2d 514, 520 (Minn. 2009) (sentence authorized by law); *State v. Cox*, 820 N.W.2d 540, 552 (Minn. 2012) (section 609.04, subdivision 1).

With regard to the length of Quarles’s sentence for count I, when there is a conflict between a warrant of commitment and a clear oral sentencing order, a district court’s oral pronouncement controls. *State v. Staloch*, 643 N.W.2d 329, 332 (Minn. App. 2002). “Clerical mistakes in a judgment, order, or in the record arising from oversight or omission may be corrected by the court at any time.” Minn. R. Crim. P. 27.03, subd. 10. Here, the district court clearly pronounced a 306-month prison term, and the warrant of commitment

does not reflect that clear oral pronouncement. Thus, we instruct the district court to correct the clerical error on remand.

With regard to the conviction entered on count III (third-degree criminal sexual conduct—penetration—use of coercion), “[u]pon prosecution for a crime, the actor may be convicted of either the crime charged or an included offense, but not both,” provided that the offenses are alleged to have arisen from the same alleged act. Minn. Stat. § 609.04, subd. 1; *see also State v. Saxton*, 331 N.W.2d 240, 242 (Minn. 1983) (holding that section 609.04 “prevents the state from convicting a defendant twice of the same offense or of a greater and a lesser-included offense on the basis of the same act or course of conduct”). The term “included offense” is defined to include “a lesser degree of the same crime.” *Id.*, subd. 1(1). For this reason, third-degree criminal sexual conduct is an included offense of first-degree criminal sexual conduct. *State v. O’Brien*, 369 N.W.2d 525, 526-27 (Minn. 1985).

The proper procedure for district courts “when the defendant is convicted on more than one charge for the same act is for the [district] court to adjudicate formally and impose sentence on one count only,” retaining the guilty verdicts on remaining charges, but not formally adjudicating them. *State v. LaTourelle*, 343 N.W.2d 277, 284 (Minn. 1984). “When [the] official judgment order states that a party has been convicted of or sentenced for more than one included offense,” we reverse and remand with instructions to vacate the erroneous conviction. *State v. Pflepsen*, 590 N.W.2d 759, 767 (Minn. 1999); *State v. Crockson*, 854 N.W.2d 244, 248 (Minn. App. 2014), *rev. denied* (Minn. Dec. 16, 2014).

Here, it is undisputed that the jury found Quarles guilty of count I (first-degree criminal sexual conduct—penetration—fear of great bodily harm) and count III (third-degree criminal sexual conduct—penetration—use of coercion) based upon the same act. Accordingly, count III is a lesser-included offense of count I, and we reverse and remand for the district court to vacate the conviction for count III and to issue a new warrant of commitment consistent with this opinion. *Pflepsen*, 590 N.W.2d at 767. Following *LaTourelle*, we instruct the district court to preserve the underlying guilty verdict for count III. *E.g.*, *State v. Walker*, 913 N.W.2d 463, 469 (Minn. App. 2019).

Affirmed in part, reversed in part, and remanded.