

*This opinion is nonprecedential except as provided by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
A25-1059**

State of Minnesota,
Respondent,

vs.

Nicholas Richard Speten,
Appellant.

**Filed April 27, 2026
Affirmed
Frisch, Chief Judge**

Anoka County District Court
File No. 02-CR-24-7120

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

Brad Johnson, Anoka County Attorney, Kelsey R. Kelley, Assistant County Attorney,
Anoka, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Charles F. Clippert, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Schmidt, Presiding Judge; Frisch, Chief Judge; and
Johnson, Judge.

NONPRECEDENTIAL OPINION

FRISCH, Chief Judge

Appellant Nicholas Richard Speten appeals his convictions following a jury trial for seven counts of violating a domestic-abuse no-contact order (DANCO). He argues that he

is entitled to a new trial because the district court abused its discretion in admitting a register of actions (ROA) as evidence that he was served with the DANCO because the ROA is hearsay, not reliable, and violates his constitutional right to confront witnesses. Because on this record we conclude that the district court did not abuse its discretion in admitting the ROA, and the admission of the ROA did not violate appellant’s constitutional right to confrontation, we affirm.

FACTS

On October 28, 2024, respondent State of Minnesota charged Speten with seven counts of violating a DANCO. *See* Minn. Stat. § 629.75, subd. 2(d)(1) (2024) (providing that person is guilty of felony for violating DANCO “within ten years of the first of two or more previous qualified domestic violence-related offense convictions”). The complaint alleged that in September 2024, Speten violated a DANCO issued in August 2024 seven times.

Before trial began, the state disclosed that it intended to offer a certified copy of an ROA¹ to prove that Speten was served with the DANCO on August 1, 2024, during a court proceeding in a different matter. Defense counsel objected on the grounds that the ROA is inadmissible hearsay, lacks foundation, and is unreliable. The state responded that a certified copy of the ROA falls within the public-records exception to the hearsay rule and

¹ A register of actions, which is prepared and maintained by the district court administrator, is a list of the events occurring and documents filed in a pending court case. *See* Minn. Stat. § 485.07(1) (2024).

is a self-authenticating document. *See* Minn. R. Evid. 902(4). The district court reserved a ruling on the objection at that time.

Later that day, the district court revisited the admissibility of the ROA. The district court ruled that the ROA is admissible pursuant to the public-records exception to the hearsay rule, reasoning that “the [ROA] is an official record of the clerk of court,” which the clerk is “required to keep.” The district court also rejected defense counsel’s argument that the ROA lacked reliability, reasoning that “[t]here’s been nothing in this case to indicate there’s any errors in [the ROA].”

Trial commenced. Both the investigating detective and the individual protected by the DANCO (individual) testified. The individual, with whom Speten shares a child, testified that in September 2024, Speten called her from the Anoka County jail. The detective testified that, after receiving a tip regarding a possible violation of the DANCO, the detective reviewed the DANCO and discovered that it was issued on August 1, 2024. The ROA denotes “deft served in court” at the August 1, 2024 hearing. The state offered a certified copy of the ROA as an exhibit, and defense counsel renewed the previously asserted objections. The district court overruled the objections and received the ROA into evidence. The detective testified that she reviewed the phone calls from the Anoka County jail to the protected individual. The jury heard recordings from seven separate phone calls.

During its closing argument, the state urged the jury to rely on the ROA and the detective’s testimony to prove that Speten knew of the DANCO when he called the individual seven times in September 2024.

The jury found Speten guilty on all seven counts. Speten appeals.

DECISION

I. The district court did not abuse its discretion in admitting the ROA under the public-records exception to the hearsay rule.

Speten argues that the district court erred in admitting the ROA over his objection because the ROA is not a public record within the meaning of the public-records exception to the hearsay rule. *See* Minn. R. Evid. 803(8) (providing that “public records and reports,” as defined in the rule, are not excluded by the rule against hearsay). Speten further argues that, even if the ROA meets the public-records exception, it contains hearsay within the document that is also inadmissible pursuant to the rule against double hearsay. *See* Minn. R. Evid. 805 (stating that hearsay within hearsay is not admissible unless “each part of the combined statements conforms with an exception to the hearsay rule”). The state maintains that the district court did not abuse its discretion in admitting the ROA because the ROA is a public record within the meaning of Minn. R. Evid. 803(8).

We generally review the district court’s evidentiary rulings for an abuse of discretion. *State v. Hallmark*, 927 N.W.2d 281, 291 (Minn. 2019). “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. Guzman*, 892 N.W.2d 801, 810 (Minn. 2017). If a district court admits evidence over an objection in error, we determine whether the error requires reversal under the harmless-error standard. *State v. Smith*, 940 N.W.2d 497, 505 (Minn. 2020). To obtain reversal of a conviction based on such errors, the appellant must show that there is “a reasonable possibility that the wrongfully admitted evidence significantly affected the verdict.” *Id.* (quotation omitted).

Hearsay is “a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.” Minn. R. Evid. 801(c). Hearsay is not admissible unless it falls into an exception set forth in the Minnesota Rules of Evidence. Minn. R. Evid. 802. One such exception is for public records. Minn. R. Evid. 803(8). When multiple layers of hearsay are at issue, each level of hearsay must conform with an exception to the hearsay rule. Minn. R. Evid. 805.

The district court concluded that the ROA meets the public-records exception to the rule against hearsay because the ROA “is an official record of the clerk of court,” and nothing in the record indicates that the ROA lacks trustworthiness. The parties do not dispute that the ROA is hearsay. *See* Minn. R. Evid. 801(c) (defining hearsay). Thus, the question before us is whether the district court abused its discretion in admitting the ROA as a public record excepted from the rule against hearsay. To answer this question, we look to the plain language of Minn. R. Evid. 803(8).²

The public-records exception provides that “records, reports, statements, or data compilations, in any form, of public offices or agencies, setting forth (A) the activities of the office or agency, or (B) matters observed pursuant to duty imposed by law as to which matters there was a duty to report” are not excluded by the hearsay rule “[u]nless the

² On appeal, Speten argues that the ROA is not a public record within the meaning of the hearsay exception because the user acknowledgment on the Minnesota Court Records Online website states that “[t]he information available on Minnesota Court Records Online (MCRO) is provided as a service and is not the official court case record.” But the user acknowledgment is not relevant to our analysis of whether the ROA received into evidence in this case fits the criteria for the public-record exception to the hearsay rule as set forth in Minn. R. Evid. 803(8).

sources of information or other circumstances indicate lack of trustworthiness.” Minn. R. Evid. 803(8). Because the ROA admitted into evidence in this case satisfies the criteria set forth in both 803(8)(A) and 803(8)(B), the ROA meets the public-records exception to the rule against hearsay.

First, the ROA is a “record[] . . . setting forth . . . the activities” of the state court within the meaning of Minn. R. Evid. 803(8)(A) because, under Minnesota law, the ROA is a record of the proceedings that occur in a district court action. *See* Minn. Stat. § 485.07(1) (stating that every court administrator shall keep an ROA in which the administrator shall enter “all proceedings” in the action). Indeed, the ROA admitted into evidence bears the seal of the court administrator and expressly provides that the court administrator “certif[ies] that this is a true and correct copy of a computerized record of the Minnesota State Court Information System.”

Second, the ROA appears to qualify as a public record within the meaning of Minn. R. Evid. 803(8)(B), because Minnesota law imposes a duty on the court administrator to keep an ROA, “in which the court administrator shall enter the title of each action . . . a minute of each paper filed in the cause, and all proceedings in them.” Minn. Stat. § 485.07(1). Thus, the ROA appears to be a record setting forth “matters observed pursuant to duty imposed by law.” Minn. R. Evid. 803(8)(B).

Because the ROA admitted into evidence in this case fits the criteria for a public record within the public-records exception to the rule against hearsay, the district court’s decision to admit the ROA was not based on an erroneous view of the law. Thus, the district court did not abuse its discretion in admitting the ROA.

On appeal, Speten further argues that the August 1, 2024 entry on the ROA—denoting “deft served in court”—is hearsay within hearsay and that the district court therefore abused its discretion in admitting the entirety of the ROA. *See* Minn. R. Evid. 805. Speten did not make this objection to the district court. “The complexity and subtlety of the operation of the hearsay rule and its exceptions make it particularly important that a full discussion of admissibility be conducted at trial.” *State v. Manthey*, 711 N.W.2d 498, 504 (Minn. 2006); *see also State v. Vasquez*, 912 N.W.2d 642, 649 (Minn. 2018) (“A defendant’s objection to the admission of evidence preserves review only for the stated basis for the objection or a basis apparent from the context of the objection.”). In the absence of a hearsay within hearsay objection before the district court, the state did not have the opportunity to establish that the ROA entry was not hearsay within hearsay. *See Manthey*, 711 N.W.2d at 504. Because Speten did not assert this objection at trial, on this record, we are unable to conclude that the district court plainly erred. *See id.* (denying relief related to hearsay argument raised for the first time on appeal); *see also Roby v. State*, 547 N.W.2d 354, 357 (Minn. 1996) (“This court generally will not decide issues which were not raised before the district court . . .”).

II. Admission of the ROA did not violate Speten’s constitutional right to confrontation.

Speten also argues for the first time on appeal that admission of the ROA violated his constitutional right to confrontation. We review *de novo* the allegation of a violation of the constitutional right to confront witnesses. *State v. Caulfield*, 722 N.W.2d 304, 308 (Minn. 2006).

We disagree with Speten’s characterization that he objected to the admission of the ROA at trial as violative of his confrontation rights. As relevant here, an objection at trial to evidence on a ground other than a violation of the constitutional right to confront witnesses does not preserve the constitutional error unless it is “apparent from the context” that the constitutional error was the “specific ground” for the objection. *State v. Rossberg*, 851 N.W.2d 609, 617-18 (Minn. 2024) (quoting Minn. R. Evid. 103(a)(1)). Our review of the trial record shows that Speten’s trial counsel objected to the admission of the ROA on the grounds of inadequate foundation, hearsay, and lack of reliability. The record does not reflect any mention of Speten’s confrontation rights, and no constitutional challenge is apparent from the context of the objection. *See id.* at 618 (reasoning that a defendant’s “exclusive focus” at trial on the residual hearsay exception indicated that “a Confrontation Clause challenge was not apparent from the context of the objection”). We therefore apply the plain-error standard of review. *See id.*; *see also Vasquez*, 912 N.W.2d at 650 (applying plain-error standard of review to forfeited evidentiary objection). “Under the plain-error standard, relief is available only if there is (1) error, (2) that was plain, and (3) that affected the defendant’s substantial rights.” *Rossberg*, 851 N.W.2d at 618 (quotation omitted).

Speten asserts that the district court plainly erred in admitting the ROA because admission of the ROA implicated his confrontation rights. We disagree. Under the Confrontation Clauses of the United States and Minnesota Constitutions, a defendant has the right to confront witnesses against them. U.S. Const. amend. VI; Minn. Const. art. I, § 6. The Confrontation Clause requires that “testimonial” out-of-court statements be excluded at trial unless the speaker is unavailable for the trial and the defendant has had an

opportunity to cross-examine the speaker. *Crawford v. Washington*, 541 U.S. 36, 68 (2004); *see also State v. Swaney*, 787 N.W.2d 541, 552 (Minn. 2010) (describing requirements of right to confrontation as set forth in *Crawford*). “To determine whether a statement is testimonial, Minnesota courts consider whether the statement was prepared for trial, the nature and substance of the statements, and whether the statements are in the ‘core class’ of testimonial statements described in *Crawford*.” *State v. Butze*, 9 N.W.3d 582, 587 (Minn. 2024). In determining whether the evidence was testimonial, the “critical determinative factor . . . is whether it was prepared for litigation.” *Caulfield*, 722 N.W.2d at 309; *see also State v. Bobadilla*, 709 N.W.2d 243, 252 (Minn. 2006) (“[T]he key to determining whether a statement is testimonial is whether either a declarant or government questioner is acting, to a substantial degree, in order to produce a statement for trial.”). The state has the burden to prove the evidence was nontestimonial. *Caulfield*, 722 N.W.2d at 308.

The ROA is not a testimonial statement. It was not created in preparation for trial or during the investigation into Speten’s alleged violations of the DANCO. The ROA entry at issue—stating that “deft served in court”—was created on August 1, 2024, almost three months before the instant matter was initiated and one month before the events giving rise to the convictions. There is no basis in the record to conclude that the ROA was prepared, as Speten asserts, “to prove an element of the offense.” *See id.* at 309 (holding that lab report identifying substance found on defendant as cocaine was testimonial because it was created after police had seized substance and began investigation); *State v. Weaver*, 733 N.W.2d 793, 800 (Minn. App. 2007) (holding that lab results, created in the course of

homicide investigation and after appellant had been arrested as a suspect, were testimonial), *rev. denied* (Minn. Sept. 18, 2007); *State v. Johnson*, 756 N.W.2d 883, 890 (Minn. App. 2008) (holding that autopsy report created in course of homicide investigation was testimonial).³

Because the ROA is not testimonial, its admission at trial did not implicate Speten's confrontation rights, and no plain error occurred. *See State v. Noor*, 907 N.W.2d 646, 656 (Minn. App. 2018) (ending plain-error analysis at determination that Confrontation Clause was not violated because evidence was not testimonial).

Affirmed.

³ Speten's reliance on *Butze* is misplaced. In *Butze*, we concluded that a certificate of order sent, created for the purposes of litigation and introduced at appellant's trial for driving after suspension of driving privileges, violated appellant's right to confrontation. 9 N.W.3d at 589. Unlike the circumstances here, the certificate of order in *Butze* "was created for litigation for the purpose of proving an element of a crime at trial." *Id.* Namely, the document in *Butze* was created *after* the defendant was issued a citation for driving after suspension. The ROA at issue here existed *before* Speten was charged with the instant offenses, so the document is not testimonial in nature.