

*This opinion is nonprecedential except as provided by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
A25-1106**

State of Minnesota,
Respondent,

vs.

Thomas Wayne Ward,
Appellant.

**Filed May 18, 2026
Affirmed
Smith, John, Judge ***

Ramsey County District Court
File No. 62-CR-23-3434

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

John Choi, Ramsey County Attorney, Peter R. Marker, Assistant County Attorney, St. Paul, Minnesota (for respondent)

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

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

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

NONPRECEDENTIAL OPINION

SMITH, JOHN, Judge

We affirm appellant's convictions for third-degree assault and felony domestic assault, concluding that any prosecutorial misconduct was harmless and did not affect the jury verdict.

FACTS

In October 2022, the Saint Paul Fire Department was called to a motel after employees found a woman passed out in her room. When paramedics arrived, they noted that the woman appeared to be intoxicated. Paramedics also observed small amounts of blood on some papers and on the bed. The woman was later identified as P.P. P.P. told paramedics that her wrist was injured but could not recall what happened. P.P. was transported to the hospital and was diagnosed with a wrist fracture.

Police officers arrived at the hospital later that evening to interview P.P. P.P. told the officers that appellant Thomas Wayne Ward had repeatedly assaulted her while they were staying at the motel. She stated that Ward punched her, "threw her to the ground, causing her to bump her head," and "grabbed, twisted, and pulled on her arm." In a follow-up interview, she explained that she and Ward had a week-long "fling" at the motel and that they had been drinking heavily throughout the week. P.P. stated that, on their last day together, Ward pushed her so hard that her head hit the floor, resulting in a concussion. She also told police that Ward broke her wrist by "grabbing [her] hand and yanking it, so hard he cracked it."

Respondent State of Minnesota charged Ward with one count of third-degree assault under Minnesota Statutes section 609.223, subdivision 1 (2022) and one count of felony domestic assault under Minnesota Statutes section 609.2242, subdivision 4 (2022).

At trial, the jury heard testimony from P.P., a police officer, a sergeant, a paramedic, and a physician who treated P.P.'s broken wrist. P.P. testified that she and Ward met five months prior to the incident. The pair would occasionally meet for lunch or drinks, and eventually their relationship became intimate. A week before the incident, Ward and P.P. decided to get a motel room. P.P. stated that they spent the week "[d]rinking [and] walking to get our meals at the . . . gas station." P.P. also testified that she and Ward drank "big gallon jugs" of alcohol every day. On their last day, they were walking back from the gas station when P.P. said "hi" to someone on the street. P.P. testified that this made Ward "really angry." When they got back to their motel room, Ward "threw [her] across the room," causing her to hit her head. When she stood up, Ward took her hand and "yanked on it so hard." When P.P. cried out, Ward told her to "shut up" and to "quit being a baby." Ward then smashed P.P.'s cellphone and left the motel room.

A police officer who interviewed P.P. at the hospital observed various bruises on her body and recalled P.P. having a cast on her arm. During the interview, P.P. told the officer that Ward caused her injuries. The officer stated that he did not consider any other suspects based on her statements, which conveyed that Ward was the only other person in the motel room.

P.P.'s treating physician testified that P.P. suffered a distal radial fracture to her left wrist. P.P. reported to the physician that she had been assaulted. The physician also

testified that P.P. had been in an altercation with a man who “shoved her,” causing her to hit her head.

The jury also heard testimony from a police sergeant who interviewed P.P. one month after the assault. The sergeant stated she reviewed the initial police report and learned that P.P. was “a victim of domestic violence” and that Ward had assaulted her. During the interview, P.P. told the sergeant that she “met this guy and that they were at the motel for seven days straight, drinking. The last day, the seventh day, it got violent[,] and he put his hands on her.” When asked about P.P.’s concussion, the sergeant testified that P.P. was “pushed hard in the chest to where she was knocked back approximately five feet[,] where she ended up landing on the ground hitting her head.” And when asked about P.P.’s broken wrist, the sergeant recalled P.P. telling her that Ward “pulled so hard on her hand that it made [P.P.]’s wrist crack.”

At closing argument, the prosecutor stated, in relevant part, “P.P. was consistent about what happened to her. She told you the truth even when it was embarrassing. She told you the truth even when nothing about this situation made her look good None of it makes her look good, and she was honest about all of it.” The jury found Ward guilty of third-degree assault and felony domestic assault.

Ward appeals.

DECISION

Ward argues that the prosecutor committed misconduct by vouching for the victim’s credibility, eliciting improper vouching testimony, and misstating the evidence. Ward did not object to the alleged errors at trial.

We review a claim of unobjected-to trial error under a modified plain-error standard. *State v. Ramey*, 721 N.W.2d 294, 302 (Minn. 2006). Under this standard, the appellant must first show that an error occurred and that it was plain. *Id.* An error is plain if it “contravenes case law, a rule, or a standard of conduct.” *Id.* When the appellant establishes plain error, the burden shifts to the state to show that the misconduct did not affect the appellant’s substantial rights. *Id.* The state must show that “there is no reasonable likelihood” that the misconduct would have a significant effect on the jury verdict. *Id.* (quotation omitted). When deciding whether an alleged plain error affected a defendant’s substantial rights, “we consider the strength of the evidence against the defendant, the pervasiveness of the improper suggestions, and whether the defendant had an opportunity to (or made efforts to) rebut the improper suggestions.” *State v. Davis*, 735 N.W.2d 674, 682 (Minn. 2007).

Ward first argues that the prosecutor improperly expressed his opinion on P.P.’s credibility in his closing argument. Ward challenges the following statements:

[P.P.] told you the truth even when it was embarrassing.

....

She told you the truth even when nothing about the situation made her look good.

....

None of it makes her look good, and she was honest about all of it.

....

She was honest about the fact that even after this defendant had pushed her, had fractured her wrist, she watched him walk out the door.

....

She told you exactly what happened.

A prosecutor “may not express a personal opinion regarding witness credibility.” *State v. Smith*, 825 N.W.2d 131, 139 (Minn. App. 2012). “A prosecutor’s statements in closing argument becomes improper vouching when the prosecutor implies a guarantee of a witness’s truthfulness, refers to facts outside the record, or expresses a personal opinion as to a witness’s credibility.” *Id.* (quoting *State v. Patterson*, 577 N.W.2d 494, 497 (Minn. 1998)). But this rule “is not designed to prevent the prosecutor from arguing that particular witnesses were or were not credible.” *State v. Leutschaft*, 759 N.W.2d 414, 425 (Minn. App. 2009) (quotation omitted); *see also State v. Jackson*, 773 N.W.2d 111, 123 (Minn. 2009) (“While a prosecutor must not personally endorse a witness’s credibility, the State may, in closing argument, argue that a witness was or was not credible.”). We analyze a prosecutor’s statements in the context of the closing argument as a whole. *State v. Powers*, 654 N.W.2d 667, 679 (Minn.2003).

Here, the prosecutor’s statements about P.P.’s honesty did not constitute plain error. She did not express her personal opinion or suggest any particular knowledge of P.P.’s truthfulness. The prosecutor merely argued that P.P. was credible despite private aspects of her personal life being publicized at trial. *See Leutschaft*, 759 N.W.2d at 425 (holding that prosecutor’s statement about a witness being “very honest on the stand” did not constitute improper vouching for the witness’s credibility).

By contrast, the prosecutor’s statement, “She told you the truth,” did constitute impermissible vouching. *State v. Hobbs*, 713 N.W.2d 884, 889 (Minn. App. 2006), *remanded mem.* (Minn. Aug. 15, 2006) (concerning other grounds), *aff’d* (Minn. App. May 1, 2007) (holding that the statement “she told you the truth” was improper and constituted

prosecutorial misconduct). But given the strength of the state’s evidence against Ward, the limited nature of the misconduct, and Ward’s opportunity to rebut the improper suggestions, there is no reasonable likelihood that the remark significantly affected the verdict. Thus, any error was harmless.

Ward next argues that the prosecutor improperly elicited testimony from the sergeant who interviewed P.P. and purportedly vouched for her credibility. Ward challenges the following exchange:

PROSECUTOR: So, before you spoke with [P.P.], what sort of information did you have about the incident that you were going to be talking to her about?

WITNESS: That she was a victim of domestic violence, that it happened at a Motel 6 off Old Hudson Road, and it was with Mr. Ward.

PROSECUTOR: And where did you get this information from?

WITNESS: I obtained it from the original police officer’s reports.

Ward contends that the sergeant improperly vouched for P.P.’s testimony by referring to her as a “victim of domestic violence.” Ward argues that the testimony “implies” that the sergeant believed P.P. was telling the truth about the assault.

Improper vouching occurs when a witness testifies that another witness is telling the truth or is more believable than another witness. *See State v. Ferguson*, 581 N.W.2d 824, 835 (Minn. 1998). Vouching is improper because “the credibility of a witness is for the jury to decide, not [another] witness.” *State v. Koskela*, 536 N.W.2d 625, 630 (Minn. 1995). But vouching typically occurs when a witness makes an explicit statement about

the credibility of another witness. *Id.*; see also *Van Buren v. State*, 556 N.W.2d 548, 550-52 (Minn. 1996) (holding that eliciting testimony of witnesses saying they believed the victim constituted improper vouching).

Here, the challenged testimony does not reference the sergeant's personal opinions about the veracity of P.P.'s testimony. Nor did the sergeant make an explicit statement about P.P.'s credibility. The sergeant's testimony was based on information she obtained from the police report, which indicated that a domestic assault occurred at the motel. Therefore, the prosecutor did not clearly elicit vouching testimony from the sergeant.

Finally, Ward argues that the prosecutor misstated the evidence during closing argument. "The state may present all legitimate arguments on the evidence and all proper inferences that can be drawn from that evidence in closing argument." *State v. Peltier*, 874 N.W.2d 792, 804 (Minn. 2016) (quotation omitted). "However, a lawyer may not speculate without a factual basis." *Id.* It is misconduct for the prosecutor to "intentionally misstate the evidence or mislead the jury as to the inferences it may draw." *State v. Smith*, 876 N.W.2d 310, 335 (Minn. 2016) (quotation omitted). "When assessing alleged prosecutorial misconduct during a closing argument, we look to the closing argument as a whole, rather than to selected phrases and remarks." *State v. Graham*, 764 N.W.2d 340, 356 (Minn. 2009) (quotation omitted).

Ward argues that the prosecutor misstated the evidence during her closing argument by stating that P.P.'s testimony was "consistent." After a review of the trial transcript, we observe that the prosecutor's unobjected-to statement was part of her overall argument that the jury should find P.P.'s testimony credible. Furthermore, evidence in the record

demonstrates that P.P. reported the same version of events to multiple witnesses, including the police officer, sergeant, and physician treating her wrist fracture. The prosecutor merely expressed a proper inference from that evidence that P.P.'s testimony was consistent. Thus, the prosecutor did not commit misconduct.

Affirmed.