

*This opinion is nonprecedential except as provided by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
A25-1113**

State of Minnesota,
Respondent,

vs.

Dione Jermaine Nelson,
Appellant.

**Filed May 26, 2026
Affirmed
Smith, Tracy M., Judge**

Hennepin County District Court
File No. 27-CR-23-20413

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

Mary F. Moriarty, Hennepin County Attorney, Mark V. Griffin, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Richard Schmitz, Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

In this direct appeal from the final judgment of conviction for third-degree criminal sexual conduct, appellant Dione Jermaine Nelson argues that he is entitled to a new trial because the district court abused its discretion by excluding evidence of the victim's

alleged prior false report of sexual assault. In a pro se supplemental brief, Nelson reiterates the arguments raised in his counseled brief and, additionally, argues that the district court abused its discretion by referencing behaviors of Nelson’s family members during trial, taking a recess during cross-examination of the victim, and redacting text messages that were admitted as relationship evidence. We affirm.

FACTS

The following factual summary is drawn from Nelson’s trial and pretrial proceedings as well as from other relevant record information.

On September 19, 2023, Y.Y. went to a hospital and reported that she had been sexually assaulted that day by Nelson. She was examined by a sexual-assault nurse examiner and also made a report to law enforcement. In an interview with law enforcement, Nelson admitted having sex with Y.Y. on September 19 but claimed that it was consensual.

By amended complaint, respondent State of Minnesota charged Nelson with third-degree criminal sexual conduct—penetration—use of force, in violation of Minnesota Statutes section 609.344, subdivision 1(c) (2022), third-degree criminal sexual conduct—penetration—use of coercion, in violation of Minnesota Statutes section 609.344, subdivision 1(a) (2022), and fifth-degree criminal sexual conduct, in violation of Minnesota Statutes section 609.3451, subdivision 1 (2022). The matter proceeded to a jury trial.

Y.Y.’s Account of Events

In her trial testimony, Y.Y. provided the following account of events. Nelson and Y.Y. became friends when they worked together at a hospital. They began a sexual

relationship, through which Y.Y. became pregnant three times. Y.Y. terminated the first two pregnancies. In the summer of 2023, Y.Y. became pregnant for the third time and decided to have the baby. Y.Y. bought supplies for the baby such as baby clothes and bottles using Nelson's Amazon account, to which she had access. Y.Y. did not inform Nelson that she had purchased these items.

On September 19, Y.Y. went to Nelson's apartment to retrieve the baby items. Nelson informed Y.Y. that he had canceled the purchases, which upset Y.Y. Eventually, Nelson and Y.Y. went to a mall to do some errands, picked up carry-out food for dinner, and brought the food back to Nelson's apartment.

While they were eating at the apartment, Nelson told Y.Y. that she was eating too slowly, and he took her meal away and put it in the kitchen. Nelson told Y.Y. to sit on the couch. He then "made some sexual advances towards [her]," "grabbing" her by the arms. Y.Y. said "'no' multiple times." Nelson twisted Y.Y.'s arms behind her back, pinned her to the couch face down, removed her pants and underwear, and penetrated her vagina with his penis until he ejaculated. In the beginning, Y.Y. told Nelson to stop but then felt "defeated." Afterward, Nelson told Y.Y. to clean herself, and she took a shower. He told her to lie on the couch, and she did. Y.Y. fell asleep. After she awoke, she and Nelson discussed the baby. Nelson told Y.Y. that the baby was "none of his concerns." Y.Y. became upset by the conversation and, because she was angry, destroyed the Xbox and television that she had bought Nelson. Y.Y. left Nelson's apartment and went to the hospital because she "wanted to protect [her]self and the baby."

Evidence of Y.Y.'s Previous Sexual Conduct

Before trial, Nelson moved to introduce evidence of Y.Y.'s past sexual conduct pursuant to Minnesota Rule of Evidence 412. Nelson sought to introduce evidence of a previous, allegedly false accusation of sexual assault via testimony from Y.Y.'s ex-husband, as well as evidence of Y.Y.'s previous consensual sexual conduct with Nelson via direct and cross-examination. At a hearing on the motion, Y.Y.'s ex-husband, K.T., testified. He said that, during an order for protection (OFP) hearing related to his and Y.Y.'s divorce proceedings some five years earlier, Y.Y. had falsely accused K.T. of sexual assault. K.T. testified that he had never sexually assaulted Y.Y., that the OFP hearing was the first time that the allegation was raised, and that no police report or other court filings had ever been made in connection with Y.Y.'s allegation. K.T. testified that Y.Y. "likes to manipulate people. You know, have power over people," would use sex for manipulation in their relationship, and is generally "retaliatory." A transcript of the OFP hearing was also provided to the district court here, though it is not in the record on appeal. Nelson's counsel argued that K.T. should be allowed to testify at trial because his testimony illustrates a common scheme or plan of similar sexual conduct.

The district court filed an order denying Nelson's motion to admit K.T.'s testimony, ruling that the offered testimony did not meet the standards for admissibility articulated in Minnesota Rules of Evidence 412 and 404. But the district court allowed Nelson to introduce evidence of the prior consensual relationship between Nelson and Y.Y.

Trial Evidence

At trial, Y.Y. testified as described above, and she was cross-examined about making unauthorized purchases on Nelson's Amazon account, about details of the incident that she did not report to police or the sexual-assault nurse examiner, and about an instance in which she posted a photo of Nelson's penis on Facebook. The nurse who conducted Y.Y.'s sexual-assault examination testified, and photos from the examination were introduced. The defense called a medical expert who testified that Y.Y.'s injuries were not consistent with her sexual-assault allegations.

The jury found Nelson guilty on all three counts. The district court adjudicated Nelson guilty of criminal sexual conduct in the third degree and sentenced him to 41 months in prison.

This appeal follows.

DECISION

I. The district court did not abuse its discretion by excluding evidence of Y.Y.'s prior sexual-assault allegation.

Nelson argues that the district court violated his constitutional right to present a complete defense when the district court excluded K.T.'s testimony about Y.Y.'s prior accusation of sexual assault.

Appellate courts "afford the district court broad discretion when ruling on evidentiary matters, and . . . will not reverse the district court absent an abuse of that discretion." *Doe 136 v. Liebsch*, 872 N.W.2d 875, 879 (Minn. 2015). "But the erroneous exclusion of evidence is grounds for a new trial unless the exclusion was harmless." *Id.* "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).

The United States and Minnesota Constitutions confer upon criminal defendants the right to present a complete defense. *State v. Foster*, 20 N.W.3d 6, 17 (Minn. 2025). This right “is comprised, at a minimum, of the right to examine the witnesses against the defendant, to offer testimony, and to be represented by counsel.” *Id.* at 18 (quotation omitted). “To vindicate [this right], district courts must allow defendants to present evidence that is material and favorable to their theory of the case.” *State v. Crims*, 540 N.W.2d 860, 866 (Minn. App. 1995), *rev. denied* (Minn. Jan. 23, 1996). But “[t]he right to present a complete defense is subject to rules of evidence designed to exclude unfairly prejudicial, confusing, or misleading evidence.” *Foster*, 20 N.W.3d at 19 (quotation omitted).

Relevant evidence—evidence that has a tendency to make a fact of consequence to the determination more or less probable—is generally admissible. Minn. R. Evid. 401, 402. But Minnesota Rule of Evidence 403 provides that relevant evidence “may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.”

Minnesota Statutes section 609.347 (2024) and Minnesota Rule of Evidence 412 govern the admissibility of evidence of a victim’s past conduct in criminal-sexual-conduct

cases.¹ Rule 412, also known as the rape-shield rule, provides that evidence of the victim's previous sexual conduct is generally inadmissible. The rule allows evidence of a victim's previous sexual conduct to be admitted "only if the probative value of the evidence is not substantially outweighed by its inflammatory or prejudicial nature" and only in the circumstances enumerated in the rule. Minn. R. Evid. 412(1). One such circumstance is "when consent of the victim is a defense." Minn. R. Evid. 412(1)(A). In that circumstance, the following evidence may be admissible:

- (i) evidence of the victim's previous sexual conduct tending to establish a common scheme or plan of similar sexual conduct under circumstances similar to the case at issue, relevant and material to the issue of consent;
- (ii) evidence of the victim's previous sexual conduct with the accused.

Id. Accordingly, for K.T.'s testimony to be admissible under rule 412, the probative value of the testimony must not be substantially outweighed by its inflammatory or prejudicial nature and the testimony must tend to establish a common scheme or plan of similar sexual conduct under circumstances similar to this case.

Probative Value Versus Prejudice

Nelson argues that Y.Y.'s alleged previous false accusation of sexual assault is more probative than prejudicial. Relatedly, Nelson argues that, because the other evidence admitted at trial was highly inflammatory, K.T.'s testimony is not prejudicial relative to that other evidence. The state counters that K.T.'s testimony is substantially more

¹ Minnesota Statutes section 609.347, subdivision 3, and Minnesota Rule of Evidence 412 are nearly identical. The district court relied on rule 412, and, accordingly, this opinion references the rule.

prejudicial than probative, especially considering the inadmissible character evidence about Y.Y. and K.T.'s contentious divorce that the state contends would accompany K.T.'s testimony.

The district court determined that the evidence was inadmissible under rule 412. The district court explained, "Both [K.T.'s] testimony and the [OFP hearing] transcript couch the supposed false allegation in a host of inadmissible evidence and the evidentiary thicket associated with a contested marriage dissolution. In this Court's view, relevance itself is doubtful." The district court also relied on rule 403, citing concerns that K.T.'s testimony would "bring confusion of the issues, waste of time, or other danger of misleading of the jury." It explained that the testimony would result in a "trial within a trial" regarding the truth of the previous accusation and that, "[g]iven the drama associated with the charged case," it was "disinclined to try two such matters."

The record supports the district court's determination that the probative value of K.T.'s testimony is substantially outweighed by its inflammatory or prejudicial nature. As for probative value, K.T.'s testimony has some probative value because a history of making false reports and using such reports to manipulate her partner would bolster Nelson's defense that Y.Y. fabricated a sexual-assault claim against him. But the probative value is limited because the two situations are not analogous—the previous report consisted of one comment during an OFP proceeding during dissolution proceedings, compared to reporting an assault to the police in this case.

As for prejudice, K.T.'s testimony would likely have been unfairly prejudicial and inflammatory. As the district court observed, K.T.'s testimony at the motion hearing

included what the district court observed to be “a host of inadmissible character evidence.” For example, K.T. testified about Y.Y.’s contemplation of abortion in a previous pregnancy, K.T.’s fears that Y.Y. would make it more difficult to him to see his children, and his view that Y.Y. “likes to manipulate people.”

And we are not persuaded by Nelson’s argument that, because the evidence admitted at the trial was already generally inflammatory and dramatic, K.T.’s testimony would not be inflammatory or prejudicial in comparison. The standard articulated in rule 412 requires comparison of the probative value with the prejudicial and inflammatory nature of that piece of evidence, not in comparison to all the evidence in the case. And, although the context of the trial and its subject matter may inform whether offered evidence is potentially inflammatory, Nelson does not provide any authority that requires comparison between the various pieces of evidence offered. Moreover, the district court also relied on rule 403, which provides an additional basis for excluding the evidence due to the likelihood that a dispute about an alleged incident in a different relationship raised in a different proceeding would confuse or mislead the jury in this proceeding.

In sum, we see no abuse of discretion in the determination that the prejudicial or inflammatory nature of the evidence substantially outweighs its probative value.

Common Scheme or Plan

Although we could affirm the district court’s exclusion of the evidence based on our conclusion that there was no abuse of discretion in determining that the prejudicial or inflammatory nature of the evidence substantially outweighed its probative value, for completeness, we also address Nelson’s argument that the district court abused its

discretion by determining that K.T.'s testimony would not establish a common scheme or plan.

Nelson argues that K.T.'s testimony mirrors his theory of the case and is thus admissible under rule 412 as evidence of a common scheme or plan. The district court found that the incident to which K.T. would testify did not establish a common scheme or plan relevant to the issue of consent.²

“[E]vidence of sexual activity with third persons cannot withstand a rule 403 weighing unless special circumstances enhance its probative value.” *Crims*, 540 N.W.2d at 868. “Such circumstances include situations in which the evidence explains a physical fact in issue at trial, suggests bias or ulterior motive, or establishes a pattern of behavior *clearly* similar to the conduct at issue.” *Id.* Rule 412 requires “a common scheme or plan of similar sexual conduct under circumstances similar to the case at issue, relevant and material to the issue of consent.”

We discern no abuse of discretion in the district court's ruling that a common scheme or plan material to the issue of consent does not exist here. The incident about which K.T. would testify occurred during an OFP proceeding related to a contentious divorce and involved a stand-alone allegation that was never reported, charged, or tried. In contrast, in this case, Y.Y. went to the hospital for a sexual-assault exam and reported her assault to law enforcement. Even if, as Nelson alleges, Y.Y. was manipulative, it is unclear

² The district court also found that the evidence could not be admitted under Minnesota Rule of Evidence 404(b) as evidence of a similar plan because proof of the other alleged bad act did not meet the clear-and-convincing standard of proof under that rule. *See* Minn. R. Evid. 404(b)(2)(b).

how these two instances constitute a common scheme or plan relevant to consent. Y.Y.’s supposed motive for falsely accusing K.T. was different in the OFP proceeding (to obtain an OFP) from her supposed motive in this case (to obtain money for an abortion or to act out of anger toward Nelson). As the district court noted, “[i]t may be that [Y.Y.] leveraged the prospect of an abortion for money. But that is substantively different than leveraging a claim of criminal sexual conduct.” Nelson’s assertion of commonality appears to essentially be an argument that Y.Y. is generally manipulative in relationships, particularly concerning sex, but this is not sufficient to establish a common scheme or plan relevant to consent under rule 412 and likely also verges on inadmissible character evidence. *See Crims*, 540 N.W.2d at 868 (affirming no clearly similar behavior relevant to consent where the victim had a history of exchanging sex for money or drugs). Accordingly, the district court did not abuse its discretion by determining that K.T.’s testimony did not meet the common-scheme-or-plan requirement under rule 412 or the “clearly similar” conduct standard that applies under rule 403. *Id.*³

³ Nelson also argues that the district court erred because it excluded Y.Y.’s previous accusation based on prejudice without first determining whether the accusation was false. He argues that, under our decision in *State v. Goldenstein*, the district court was required to first make a finding as to the reasonable probability and existence of the previous accusation’s falsity. 505 N.W.2d 332 (Minn. App. 1993), *rev. denied* (Minn. Oct. 19, 1993). The argument is unpersuasive. In *Goldenstein*, we reversed the defendants’ convictions of sexually assaulting their three foster children, ruling that the district court violated the defendants’ constitutional right to present a defense when it excluded evidence that the children had previously falsely accused a social worker of sexual abuse, even though the district court had found that the accusation was probably not true. *Id.* at 338-40. We concluded that, because the case “rested nearly exclusively on the children’s out-of-court statements,” the children’s veracity was “critical to appellants’ defense.” *Id.* at 340. Here, the district court determined that, even if K.T.’s claim of a false allegation were true, the evidence would still be inadmissible under rule 412 because the probative value of the

The district court did not abuse its discretion by excluding K.T.’s testimony.

II. Nelson’s arguments in his pro se brief are unavailing.

Nelson raises several additional arguments in his pro se supplemental brief, none of which are convincing.

First, Nelson argues that the district court inappropriately pointed out the reactions and behaviors of family members—his mother outside of the courtroom and his brother in the courtroom.

Evidently, during the trial, Nelson’s mother yelled at Y.Y. in the hallway. The following day, when Y.Y. was on the witness stand, the prosecutor began questioning her about the incident.

Q: Prior to court yesterday, you were sitting in the hallway; is that right?

A: Correct.

Q: Did something happen while you were sitting in the hallway?

[Nelson’s counsel]: Your Honor, may we approach?

Outside the presence of the jury, the parties discussed with the district court the relevance of Y.Y.’s interaction with Nelson’s mother the previous day. The district court sustained Nelson’s objection to the testimony and instructed the jury to ignore the question: “I will note for the record that I am sustaining the objection. And I’m ordering you to disregard

evidence was outweighed by its inflammatory and prejudicial nature, and it determined that, under rule 403, the evidence would pose a danger of confusing the issues, wasting time, or misleading the jury. *Goldenstein* does not preclude a district court from assuming for purposes of argument that a previous accusation was false but still excluding evidence of that false accusation based on other applicable evidentiary principles.

the last question that was asked.” The identity of the woman who had caused the disturbance was never discussed in front of the jury. We see no error by the district court.

Also during Y.Y.’s testimony, the court cautioned the gallery:

THE COURT: Hang on. Hang on one second. Members of the gallery, let me make it very clear, I will not tolerate any – your obligation is to sit and to listen. And if I see any gestures, head nods, agreeing or disagreeing with testimony, I will send you from this courtroom. So fair warning: nothing from the gallery.

This instruction was directed only to the “members of the gallery” and did not identify anyone by name or relation to Nelson. There is nothing in the record that supports a conclusion that the district court judge pointed out Nelson’s family member’s actions to “garner additional compassion for [Y.Y.]” as Nelson alleges. Again, we discern no error by the district court.

Second, Nelson argues that a recess in the middle of Y.Y.’s cross-examination interfered with the integrity of his trial because, he alleges, Y.Y. was “coached” by the prosecutor during the recess. The recess occurred when the parties had a dispute about the admissibility of certain text messages:

THE COURT: All right. The record should reflect that the jury has left the courtroom. Counsel are present. Defendant is present. An objection has been raised. I’ll start with the State.

[COUNSEL FOR STATE]: Your Honor, the counsel was about to approach the witness to refresh her recollection with text messages. I had inquired whether these had been uploaded to MNDES.^[4] I was informed they were uploaded this morning. They were not shared with me. I was told at the bench conference that it was things that I had given to him. But I had never prior to this exact moment been told that they were going

⁴ MNDES refers to the Minnesota Digital Exhibit System.

to be offered or shown as an exhibit in this trial, despite the fact we had spent days arguing over text messages. He sat on it until right now to confront the witness with it.

The record does not reflect that this recess occurred for any reason other than a dispute about admissibility of certain text messages, and Nelson offers no support for his assertion that the recess occurred so that Y.Y. could be “coached.” Accordingly, Nelson’s argument fails.

Lastly, Nelson argues that certain text messages admitted as evidence were improperly “redacted.” The specific admitted exhibit that Nelson quotes is not redacted. Nelson’s argument appears to be that relevant portions of the text conversation were improperly excluded because they provided necessary context. But Nelson does not cite the record to clearly identify what text messages he contends were improperly excluded, nor does he cite any authority that shows that the district court abused its discretion by not admitting them. In addition, while portions of two sets of text messages introduced by Y.Y. were redacted, those messages were admitted without objection and Nelson does not cite them here. For these reasons, we conclude that Nelson has not demonstrated that the district court abused its discretion by redacting or otherwise not admitting additional text messages.

Affirmed.