

*This opinion is nonprecedential except as provided by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
A25-1296**

State of Minnesota,
Respondent,

vs.

Joseph Javonta Washington,
Appellant.

**Filed August 24, 2026
Affirmed
Harris, Judge**

Dakota County District Court
File No. 19HA-CR-20-2956

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

Kathryn M. Keena, Dakota County Attorney, Cheri A. Townsend, Assistant County Attorney, Hastings, Minnesota (for respondent)

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

Considered and decided by Harris, Presiding Judge; Frisch, Chief Judge; and Larson, Judge.

NONPRECEDENTIAL OPINION

HARRIS, Judge

In this direct appeal from the judgment of conviction for first-degree criminal sexual conduct, kidnapping, and second-degree assault, appellant argues that the state committed prosecutorial misconduct by repeatedly stating during closing arguments that appellant had

used drugs on the date of, and was high while committing, the charged offenses, when such conclusions were not supported by the evidence and intended only to prejudice the jury against appellant. Appellant raises additional arguments in a pro se supplemental brief. Because appellant did not demonstrate that the prosecutor committed any error during closing argument, and appellant's other assertions in his pro se supplemental brief do not merit reversal, we affirm.

FACTS

Respondent State of Minnesota charged appellant Joseph Javonta Washington with three counts of first-degree criminal sexual conduct, in violation of Minnesota Statutes section 609.342, subdivision 1(c), (d), (e)(i) (2020); one count of kidnapping, in violation of Minnesota Statutes section 609.25, subdivision 1(2) (2020); and one count of second-degree assault with a dangerous weapon, in violation of Minnesota Statutes section 609.222, subdivision 1 (2020).

The matter proceeded to a jury trial. The victim, J.W., testified that she had been employed in the addiction and mental-health field for about five years. She met Washington while he was in treatment and “was trying to help him get sober and stay sober.” Washington and J.W. were in an on-again off-again relationship, with Washington living at J.W.'s apartment for periods of time. J.W. explained that Washington's drug use was one of the things that the couple would argue about, and recalled certain occasions where she believed that Washington was under the influence of a controlled substance. She also testified that she believed Washington was under the influence of controlled substances during these instances because of “the way he was acting,” and how he looked.

J.W. said that “[Washington] was just acting bizarre, just doing different, like, weird things at the time that didn’t make sense to [his] normal character.”

On the night of the assault, J.W. went to church with her parents and brought dinner back to her apartment. Washington was at the shared apartment, came out of the bathroom, and told J.W. that there was a snake in the bathtub. J.W. ran outside because she is afraid of snakes but then went back into the apartment because she forgot her phone on the counter. When J.W. went back inside, Washington punched her in the left eye, causing her to fall backwards and hit her head on the TV stand. Washington then pulled J.W. into the bathroom, slammed the door shut, and prevented her from leaving by putting a kitchen knife against her throat. He made J.W. remove her clothes, enter the bathtub, and then turned the shower on. J.W. testified that Washington forced her to perform fellatio and that Washington recorded videos of the interaction using J.W.’s cell phone. Washington also threatened to kill J.W.

Washington, wearing only socks, forced J.W., who was now in a bathrobe, to drive from her residence in Lakeville to St. Paul. Washington told J.W. that he would kill her if she stopped or crashed. While she drove, he held onto her right arm, slapped her, refused to let her wear a seatbelt, and forced her to drive at least 100 miles per hour. The car crashed, and Washington got out and ran away. A bystander helped J.W., the police arrived at the scene, and J.W. was transported to the hospital. A sexual assault nurse examiner (SANE) examined J.W. at the hospital. The SANE’s report and photographs were admitted into evidence.

Washington waived his right to testify. During closing arguments, the state argued that J.W. was credible and that Washington had used drugs on the day of the offense and “was high, he was scared, and he used his power to regain control. He sucker-punched her in the face, he broke her orbital bone, he held a knife to her neck, and he forced her to perform oral sex while he continued to threaten her.” The jury found Washington guilty of all charges. The district court sentenced Washington to 360 months’ imprisonment for one count of first-degree criminal sexual conduct, 57 months’ imprisonment for kidnapping (to run consecutively), and 71 months’ imprisonment for second-degree assault (to run concurrently).

Washington appeals.

DECISION

I. Washington did not establish that the state committed plain-error prosecutorial misconduct during closing arguments.

Washington contends that the prosecutor committed serious misconduct during closing arguments by arguing to the jury that Washington had been using drugs on the day of, and was high while committing, the alleged offenses. We begin with the standard of review and then turn to the merits of Washington’s argument.

A. Standard of Review

Our standard of review depends on whether Washington objected to the instances of alleged prosecutorial misconduct. For objected-to prosecutorial misconduct, “we have utilized a harmless-error test, the application of which varies based on the severity of the misconduct.” *State v. Carridine*, 812 N.W.2d 130, 146 (Minn. 2012). Under that test, if

the defendant establishes prosecutorial misconduct, we consider whether the misconduct was harmless beyond a reasonable doubt, for serious misconduct, or “whether the misconduct likely played a substantial part in influencing the jury to convict[,]” for less serious misconduct. *Id.* at 150.

In the absence of an objection, we review the allegations of prosecutorial misconduct under a modified plain-error standard. *State v. Ramey*, 721 N.W.2d 294, 302 (Minn. 2006). Under this standard, the defendant has the initial burden to establish error that is plain. *Id.* An error is plain if it is clear or obvious, which generally means that the error “contravenes case law, a rule, or a standard of conduct.” *Id.* If a defendant establishes plain error, the burden shifts to the state to show that “the plain error *did not* affect the defendant’s substantial rights.” *State v. Epps*, 964 N.W.2d 419, 423 (Minn. 2021) (emphasis added). If the state is successful, we then determine “whether the error should be addressed to ensure fairness and the integrity of the judicial proceedings.” *State v. Portillo*, 998 N.W.2d 242, 248 (Minn. 2023).

Washington points to four instances of alleged prosecutorial misconduct during closing arguments. One instance occurred during the state’s initial closing, and the other three instances were during rebuttal. Washington maintains that he objected to the first instance. But the state argues that we should apply the standard for unobjected-to prosecutorial misconduct because the record does not clearly attribute Washington’s objection to the prosecutor’s comments that Washington “had used drugs” and “was high.”

The prosecutor stated:

[J.W.] is credible. On November 28th of 2020, at a time where [J.W.] had just finished going to church with her loving parents, defendant was waiting for her. He had used drugs, there was a relationship where she was simply allowing him a place to stay as the relationship was on again and off again, and leaning towards off.

He was high, he was scared, and he used his power to regain control. He sucker-punched her in the face, he broke her orbital bone, he held a knife to her neck, and he forced her to perform oral sex while he continued to threaten her, and then he posted that video on Facebook live.

Defense counsel objected. After a bench conference, the district court overruled the objection. No record of the bench conference was made. From this limited record, we are unable to discern whether Washington's attorney objected to a particular statement, such as the statement that Washington had "used drugs," or whether Washington's attorney objected to the comments collectively. The objection was also not renewed during rebuttal when the prosecutor made the three additional statements.¹ During rebuttal, the prosecutor argued: "That punch to [J.W.'s] face, that punch that was hard enough to cause those injuries, to cause a broken eye socket, was the first step that Mr. Washington took, which he was high on drugs, to force her to submit." And "you heard [J.W.] testify that that night he was exhibiting symptoms of being under the influence of a controlled substance." Lastly, the prosecutor stated, "High on drugs, he brought her into her car, forced her to

¹ We acknowledge that if Washington's initial objection related to the comments about drug use, Washington may not have been required to renew his objection during rebuttal. Minn. R. Evid. 103(a) ("Once the court makes a definitive ruling on the record admitting or excluding evidence, either at or before trial, a party need not renew an objection or offer of proof to preserve a claim of error.").

drive at 100 miles an hour, and crashed the car, to the point that the responding officer from the St. Paul PD said was completely inoperable.” Because the record does not demonstrate that Washington objected to the alleged instances of prosecutorial misconduct, we apply the modified plain-error standard of review.² See *State v. Bustos*, 861 N.W.2d 655, 660-61 (Minn. 2015) (applying the modified-plain error standard of review to the district court’s restriction of the defendant’s closing argument because it was “not entirely clear” from the district court record whether the defendant objected at trial).

B. Error

Washington argues that the prosecutor’s statements about drug use during closing argument were unsupported by the evidence and were only intended to prejudice the jury against him. We disagree.

“The State has a right to vigorously argue its case, including during closing arguments” and its argument “need not be colorless.” *State v. Davis*, 982 N.W.2d 716, 726 (Minn. 2022) (citation and quotations omitted). The state may make “all legitimate arguments on the evidence and all proper inferences that can be drawn from that evidence.” *State v. Westrom*, 6 N.W.3d 145, 157 (Minn. 2024) (quoting *State v. Pearson*, 775 N.W.2d 155, 163 (Minn. 2009)). But in doing so, the state “must avoid inflaming the jury’s passions and prejudices against the defendant,” especially “where credibility is a central issue.” *State v. Porter*, 526 N.W.2d 359, 363 (Minn. 1995) (citation omitted).

²Because we conclude that Washington did not demonstrate error, our result would be the same under either standard of review.

Washington maintains that the prosecutor's statements were unsupported by the evidence because while J.W. testified about previous instances of when she observed Washington under the influence of controlled substances, she did not testify about "Washington using drugs or being under the influence of drugs on the day of the alleged offenses." To support this argument, Washington relies on *State v. Young*, which concluded that a prosecutor's reference to an incorrect date during closing argument was plain error, noting "absent the incorrect date, the prosecutor's argument becomes implausible." 710 N.W.2d 272, 281 (Minn. 2006).

Young is distinguishable from this case. While J.W. did not directly testify that Washington was high and used drugs on the day of the offense, this argument was a reasonable inference from the evidence. The SANE's report was direct evidence supporting the prosecutor's statements. The report mentioned that J.W. told the SANE: "[Washington] did mention when I first got in the tub that he was high on wellies, which is like Wellbutrin. He used to use coke, he just started using meth. I don't know what he was high on tonight."

In addition, J.W.'s testimony about her employment and relationship with Washington added context to her statement to the SANE. J.W. testified that she had been employed in the addiction and mental-health field for about five years. She met Washington while he was in treatment and "was trying to help him get sober and stay sober." J.W. explained that Washington's drug use was one of the things they would argue about, and recalled instances where she believed that Washington was under the influence of a controlled substance. And she testified that she believed Washington was under the

influence of controlled substances during these instances because of “the way he was acting,” and how he looked. J.W. said “[Washington] was just acting bizarre, just doing different, like, weird things at the time that didn’t make sense to [his] normal character.” These statements explain how J.W. would have known that Washington had used drugs and was high on the day of the offense, adding credibility to her report to the SANE and, in turn, adding legitimacy to the prosecutor’s argument. And although Washington argues that the only reason for the prosecutor’s arguments about drug use was to prejudice the jury against him, J.W.’s testimony also supports the prosecutor mentioning evidence of Washington’s drug use to establish motive and to add context to the assault. We therefore conclude that Washington did not establish any error in the prosecutor’s statements to constitute prosecutorial misconduct.³

II. The arguments raised in Washington’s pro se supplemental brief do not merit reversal.

Washington also seeks reversal based on several arguments made in his pro se supplemental brief. He argues that: (1) the state violated his due-process rights and *Brady v. Maryland*, 373 U.S. 83 (1963), when it failed to test the knife found at the scene for DNA and fingerprints; (2) the prosecutor committed serious reversible misconduct by misquoting evidence and presenting false testimony, in violation of *Napue v. Illinois*, 360 U.S. 264, 269 (1959); (3) a witness, J.W.’s father, tampered with the crime scene before law enforcement arrived, in violation of *Brady*; (4) his trial attorney rendered ineffective

³ Having concluded that Washinton has not established plain error with respect to the alleged misconduct, we need not address the remaining prongs of the plain-error test.

assistance of counsel by not objecting, not impeaching a witness with a police report, not producing evidence, and not seeking a new *Franks* hearing⁴; (5) his due-process rights were violated because his attorney was not equipped for representation and he should not have been convicted of second-degree assault as he was not in possession of “any knife”; (6) the state engaged in prosecutorial misconduct by presenting testimony from biased witnesses, J.W.’s parents; and (7) the district court prevented him from presenting a complete defense when it denied his motion to retrieve St. Paul police reports.

Washington does not support these assertions with sufficiently detailed arguments or citations to legal authority. “Claims in a pro se supplemental brief that are unsupported by either arguments or citation to legal authority are forfeited. Such arguments will not [be] considered unless prejudicial error is obvious on mere inspection.” *State v. Montano*, 956 N.W.2d 643, 650-51 (Minn. 2021) (quotation and citation omitted). After carefully reviewing the record and considering Washington’s assertions of error, we conclude that Washington has not identified a basis for reversal. *See State v. Waiters*, 929 N.W.2d. 895, 902 (Minn. 2019) (stating that the reviewing court need not include detailed discussion of self-represented claims that lack merit).

Affirmed.

⁴ A *Franks* hearing is a proceeding in which a defendant may seek to declare a warrant invalid because it was based on “intentional or reckless misrepresentations of fact material to the findings of probable cause.” *State v. Moore*, 438 N.W.2d 101, 105 (Minn. 1989) (discussing and applying the two-prong test developed in *Franks v. Delaware*, 438 U.S. 154, 171-72 (1978), and *State v. Causey*, 257 N.W.2d 288, 291-92 (Minn. 1977)).