

*This opinion is nonprecedential except as provided by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
A25-1611**

In the Matter of the Welfare of: S. W. A., Child.

**Filed June 1, 2026
Affirmed
Ede, Judge**

Dodge County District Court
File No. 20-JV-24-199

Cathryn Middlebrook, Chief Appellate Public Defender, Laura G. Heinrich, Assistant Public Defender, St. Paul, Minnesota (for appellant S.W.A.)

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

Paul Kiltinen, Dodge County Attorney, Kailee Thompson, Crysta L. Parkin, Assistant County Attorneys, Mantorville, Minnesota (for respondent State of Minnesota)

Considered and decided by Bentley, Presiding Judge; Ede, Judge; and Beane, Judge.

NONPRECEDENTIAL OPINION

EDE, Judge

This direct appeal arises from a court trial in a juvenile-delinquency proceeding. Appellant challenges the district court's finding of guilt on a charge of fifth-degree criminal sexual conduct. He argues that he is entitled to a new trial because the district court prejudicially abused its discretion by prohibiting him from introducing certain prior inconsistent statements by the victim to attack her credibility. We affirm.

FACTS

Respondent State of Minnesota filed a juvenile-delinquency petition charging appellant S.W.A. with one count of third-degree criminal sexual conduct, in violation of Minnesota Statutes section 609.344, subdivision 1(c) (2022). The state later amended the petition to charge S.W.A. with one count of fifth-degree criminal sexual conduct, in violation of Minnesota Statutes section 609.3451, subdivision 1 (2022). The amended petition alleges that S.W.A. engaged in nonconsensual sexual penetration of the victim. The matter proceeded to a court trial. The factual summary below stems from the trial evidence, which included testimony from S.W.A., the victim, and an investigator. The district court also received two video exhibits that depict the victim taking Plan B emergency contraception on the day of the charged assault.

Underlying Incident

S.W.A. and the victim were close friends who grew up together. In July 2023, S.W.A. and the victim spent the day with mutual friends at the county fair. At the time, S.W.A. was 16 and the victim was 15. In the evening, S.W.A. and the victim decided to spend more time together. S.W.A. picked the victim up from her house around 12:30 a.m., and the victim expected that they would drive around and get food. After S.W.A. picked her up, the victim realized that S.W.A. was driving to his house. The victim had never been to S.W.A.'s house and was hesitant about going inside, but did so anyway.

Once inside, the two youths went to S.W.A.'s bedroom. The victim lay down on S.W.A.'s bed, faced the wall, and began looking at her phone. She was tired and asked S.W.A. to take her home, but he refused. S.W.A. pressed his body against the victim in a

“spooning” position. S.W.A. took off the victim’s shorts and threw them into the corner of the room. The victim asked, “What are you doing?” S.W.A. responded by telling her, “Shut up, turn around, and be quiet.” He penetrated the victim’s vagina with his penis. The victim said nothing, was scared, and tensed up.

After about five minutes, S.W.A. got up and went to his parents’ room. When he came back, he had a condom and said, “B-tch, give me a round two or you’re not getting a ride home.”¹ S.W.A. and the victim began arguing; as this occurred, S.W.A. kept pushing the victim down onto the bed.

S.W.A. eventually agreed to bring the victim home because, if he did not, the victim’s parents would be upset. On the drive to the victim’s house, S.W.A. said: “Don’t tell anybody about this, not even [our best friend],” and “don’t even say this is rape.” The victim arrived home around 3:30 a.m. S.W.A. later sent her a message saying something like, “Tonight was a good night; like, we should do that again sometime.” That same day, the victim recorded a video of herself taking Plan B emergency contraception because of what had happened with S.W.A.

Disclosures by the Victim

After the incident, the victim disclosed what happened to a girl for whom the victim had nannied. In early 2024, the victim also reported the incident to her mother after her mother accused her of having sex with S.W.A. The victim told her mother that she “never

¹ On this point, the investigator separately testified that, during an interview with S.W.A. about the charged incident, S.W.A. reported telling the victim “in a joking manner, ‘Okay, b-tch, you ain’t got a ride home then.’”

wanted to.” After her mother “kept yelling and saying she knew [the victim] did have sex with [S.W.A.],” the victim “left the house crying” and “refused to come back home.” Shortly thereafter, the victim further disclosed “bits and pieces” of what happened to her doctor at a routine checkup unrelated to the incident. In response to a question from the doctor about the victim’s home life, the victim told the doctor that something had happened with S.W.A. but denied that any penetration had occurred. The victim “was scared to come to this point” and “never wanted . . . [S.W.A.] to get in trouble because he was [her] best friend.”

In March 2024, the victim discussed the incident with a school counselor after it had become difficult for her to attend classes because she would see S.W.A. and he had “told everybody that [they] had sex.” During her testimony about this discussion with the school counselor, the victim could not recall several details. The victim explained that she “was so upset” during the conversation. She could testify only that she had spoken with the school counselor about what had happened but did not remember what she said.

The investigator testified about his review of a report by the school counselor that described the counselor’s conversation with the victim. During cross-examination, defense counsel asked the investigator if it was correct that, “in the report from [the school counselor], [the victim] . . . said that [S.W.A.] continued to penetrate her over and over again until about 3:30 a.m.” The investigator responded that he “would have to reference the report filed by [the school] counselor for more details on that” and confirmed that reviewing the report would refresh his recollection. After defense counsel requested to approach the investigator with the report, the district court asked the prosecutor to respond.

The prosecutor asserted that refreshing the investigator's recollection with the school counselor's report would be "inappropriate" because the report was not "a document that was created by [the investigator]" and instead was "an email that was sent from a witness who [was] not testifying about another witness who [had not] testified."

Considering this objection, the district court asked defense counsel, "Wouldn't that be hearsay[?]" Defense counsel responded:

Your Honor, it's not hearsay under 801(d). It's not hearsay because it's not for the truth of the matter asserted. This is going towards [the victim's] credibility; specifically, she has given multiple statements. And additionally, she was confronted with this particular statement when she testified. And so at this point it's not hearsay because, (a) she was confronted with it; (b) it's not going to the truth of the matter asserted; rather it's going towards her credibility.

When asked by the district court to respond further, the prosecutor maintained that the state's "argument remain[ed] the same." The district court sustained the prosecutor's objection.

Although the district court did not admit the substance of the school counselor's report, the investigator ultimately testified on cross-examination that the victim's statements both to the school counselor and the doctor did not align with the statements that the victim had provided the investigator:

DEFENSE COUNSEL: [Investigator], when you made the report regarding the incident, you did note that [the victim's] previous statements had not matched with the statement she gave you; correct?

INVESTIGATOR: The previous statement she gave to the counselor?

DEFENSE COUNSEL: She made previous statements that did not match the statement she gave you; correct?

INVESTIGATOR: She made previous statements to the counselor that did not match the information she provided to me, yes.

DEFENSE COUNSEL: Okay. And she made previous statements to a doctor that did not match what she gave you; correct?

INVESTIGATOR: Correct.

S.W.A.'s Testimony

S.W.A. described a consensual encounter during his testimony. He said that he and the victim had watched a movie in his room, although he could not recall the name of the film. S.W.A. stated that he and the victim began “cuddling” and “making out.” He reported that, when the victim asked to stop making out, he said, “Okay.” S.W.A. admitted that, when the victim started “pushing up against [him] a little bit,” he “slowly pulled her pants down a little bit.” But contrary to the victim’s testimony, S.W.A. testified that it was the victim who “ended up taking [her pants] off.” S.W.A. also said that he inserted his penis in the victim’s vagina, but he denied telling the victim, “Shut up, turn around, and be quiet.” He stated that he had sex with the victim for “about five minutes.” S.W.A. testified that he believed the victim consented to having sex with him because of her “facial expression and body suggestions.”

Consistent with the victim’s testimony, S.W.A. reported that he went to his parents’ room to get a condom afterward. While S.W.A. acknowledged that he had told the victim he would not give her a ride home after she refused his attempt to initiate another sexual encounter, he claimed that he did so “in a joking manner.” And contrary to the

investigator’s testimony that S.W.A. had admitted telling the victim, “Okay, b-tch, you ain’t got a ride home,” S.W.A. stated that he did not recall making such an admission to the investigator. S.W.A. said that he eventually took the victim home, and he denied saying anything to her while he drove her back to her house.

Finding of Guilt and Continuance Without Adjudication

The district court issued a written order finding S.W.A. guilty of fifth-degree criminal sexual conduct. In the order, the district court explained that it found the victim’s testimony credible, noting that the victim “was visibly upset and distraught when testifying about not wanting to report this incident because she did not want [S.W.A.] to get in trouble.” The district court also found that S.W.A.’s testimony was not credible, observing that “[i]t was particularly concerning . . . that [S.W.A.] told [the victim] he would not give her a ride home after [she] refused [his] request to have sex again.” Moreover, the district court noted that, “while [S.W.A.] testified that [the victim’s] body language and actions made him believe [she] was consenting to sexual intercourse, [he] also testified that [she] told [him] she did not want to make out anymore.”

At the disposition hearing that followed, the district court continued the case without adjudication for 180 days and ordered S.W.A. to complete probation on certain terms and conditions, including sex-offender treatment.²

² “A juvenile court may, without the consent of the prosecution, continue a case without adjudication—without determining that the juvenile is delinquent. To do so, a court must find that the charged allegations have been proved, and place the juvenile under probationary supervision with conditions prescribed by the court.” *In re Welfare of C.S.N.*, 917 N.W.2d 427, 430 n.4 (Minn. App. 2018) (citations omitted); see Minn. Stat. § 260B.198, subd. 7(a) (2022). “If the juvenile complies with the probation conditions, he

This appeal follows.

DECISION

S.W.A. challenges the district court’s finding of guilt on the charge of fifth-degree criminal sexual conduct. He argues that he is entitled to a new trial because the district court prejudicially abused its discretion by prohibiting him from introducing the substance of the victim’s prior inconsistent statements to the school counselor. According to S.W.A., those statements are relevant to the victim’s credibility and admissible for impeachment purposes under Minnesota Rules of Evidence 607 and 613(b).

Appellate courts “review a district court’s evidentiary determinations for an abuse of discretion.” *State v. King*, 990 N.W.2d 406, 414 (Minn. 2023); *see also State v. Martin*, 614 N.W.2d 214, 224 (Minn. 2000) (reviewing the appellant’s argument that extrinsic evidence of a prior inconsistent statement was admissible under rule 613(b) for an abuse of discretion, notwithstanding that the argument was not presented to the district court). “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.” *King*, 990 N.W.2d at 414 (quotation omitted).

“Reversal is warranted only when the ruling result[s] in prejudice.” *State v. Graham*, 764 N.W.2d 340, 351 (Minn. 2009). And “when the ruling results in the erroneous exclusion of defense evidence in violation of the defendant’s constitutional rights, the

or she can avoid a delinquency finding altogether. But if the juvenile violates the terms of his or her probation, the juvenile can be adjudicated delinquent.” *C.S.N.*, 917 N.W.2d at 430 n.4.

verdict must be reversed if there is a reasonable possibility that the verdict might have been different if the evidence had been admitted.” *Id.* (quotation omitted); *see also State v. Carbo*, 6 N.W.3d 114, 123 (Minn. 2024) (explaining that, “if a [district] court’s evidentiary ruling is determined to be erroneous, and the error reaches the level of a constitutional error, such as denying the defendant the right to present a defense, [the] standard of review is whether the exclusion of evidence was harmless beyond a reasonable doubt” (quotation omitted)); *State v. Post*, 512 N.W.2d 99, 102 (Minn. 1994) (instructing that an error is harmless beyond a reasonable doubt when “the reviewing court . . . [is] satisfied beyond a reasonable doubt that[,] if the evidence had been admitted and the damaging potential of the evidence fully realized, an average jury (*i.e.*, a reasonable jury) would have reached the same verdict” (footnote omitted)). S.W.A. “has the burden to establish both that the [district] court abused its discretion and that he was prejudiced by the abuse of discretion.” *King*, 990 N.W.2d at 414.

In a juvenile-delinquency trial, “[t]he court shall admit only such evidence as would be admissible in a criminal trial.” Minn. R. Juv. Delinq. P. 13.04; *see also* Minn. Stat. § 260B.163, subd. 1 (2022). On appeal, S.W.A. argues for the first time that the substance of the counselor’s report was admissible for impeachment purposes under rules 607 and 613(b).³ Those rules allow the district court to admit a hearsay statement that is

³ Although the district court appears to have sustained the state’s objection to defense counsel’s attempt to refresh the investigator’s recollection with the school counselor’s report on hearsay grounds, S.W.A. does not argue on appeal that the evidence was admissible under Minnesota Rule of Evidence 801(d)(1)(A). Nor does S.W.A. contend that the substance of the school counselor’s report was not hearsay because defense counsel did not offer that evidence for the truth of the matter asserted. We therefore do not consider

inadmissible as substantive evidence for the limited purpose of challenging a witness's credibility. *See King*, 990 N.W.2d at 414 (citing Minn. R. Evid. 607). "Under Rule 613, extrinsic evidence of a prior inconsistent statement is admissible if the witness is given a chance to explain or deny the inconsistent statement, and the opposing party is given a chance to interrogate the witness about the prior inconsistent statement." *Id.* at 415 (citing Minn. R. Evid. 613(b)). "[T]o impeach a witness under Rule 613, there must be a foundation established that shows the statements are inconsistent or that the declarant does not recollect the prior statement." *Id.*

Because it does not affect our decision to affirm, we assume without deciding that the district court abused its discretion by not admitting the substance of the victim's statements to the school counselor under rule 613(b). But as explained below, we conclude that S.W.A. has not shown that the district court's evidentiary ruling resulted in prejudice. *See id.* at 414; *see also Graham*, 764 N.W.2d at 351.

S.W.A. maintains that he was prejudiced because the district court could not consider evidence showing the significant differences between the victim's statements to the school counselor and her trial testimony. He contends that the differing descriptions of the sexual encounter in each statement would have made the victim appear less credible in recalling what happened. And to support this argument, S.W.A. asserts that the district

those bases in reviewing whether the district court abused its discretion. *See State v. Foster*, 20 N.W.3d 6, 16 (Minn. 2025) (holding that arguments that were not raised before the court of appeals were forfeited); *In re Welfare of D.J.F.-D.*, 3 N.W.3d 266, 270 n.5 (Minn. 2024) (concluding that an argument that was not raised in a petition for review was forfeited); *see also State v. Morrow*, 834 N.W.2d 715, 724 n.4 (Minn. 2013) (declining to consider arguments raised at oral argument but not in the appellant's brief).

court did not acknowledge the inconsistencies in the victim's statements in its written order.

We acknowledge that the substance of the victim's statements to the school counselor may have aided S.W.A. in challenging the victim's credibility. But we conclude that there is no reasonable possibility that the district court's verdict would have been different had the statements been admitted. S.W.A. admitted to engaging in sexual penetration with the victim. In addition, the victim consistently explained that she was upset about what happened and that she did not consent.

On the issue of credibility, there is substantial evidence in the trial record—aside from the substance of the school counselor's report—showing that the victim made prior statements that were inconsistent with her testimony. For instance, the investigator admitted that the victim told him that she said “no,” which is inconsistent with the victim's trial testimony. Moreover, the investigator acknowledged that the victim had provided different statements to the doctor and counselor than what she told him. *Cf. Martin*, 614 N.W.2d at 225 (holding that the district court did not abuse its discretion in declining to admit impeachment evidence because, among other things, the district court “retains the discretion to refuse to admit additional impeachment evidence as prejudicial or cumulative”). Although the district court did not directly mention the victim's inconsistent statements in its written order, it did reference the victim's delayed reporting and still found her credible, stating that the victim was “visibly upset and distraught when testifying about not wanting to report this incident because she did not want [S.W.A.] to get in trouble.” And lastly, the district court expressly found S.W.A.'s testimony not credible based on two

distinct grounds: (1) his statement to the victim that “he would not give her a ride home after [she] refused [his] request to have sex again”; and (2) the contradiction between his statement “that [the victim’s] body language and actions made him believe [she] was consenting to sexual intercourse” and his admission that she “told [him] she did not want to make out anymore.”

We therefore conclude that S.W.A. has not met his burden to establish that he was prejudiced by any assumed abuse of discretion by the district court in declining to admit the substance of the victim’s statements to the school counselor for impeachment purposes. *See King*, 990 N.W.2d at 414. On this record, the claimed evidentiary error is harmless beyond a reasonable doubt because there is no reasonable possibility that the district court’s verdict might have been different if the subject evidence had been admitted and its damaging potential were fully realized. *See Graham*, 764 N.W.2d at 351; *see also Post*, 512 N.W.2d at 102.

Affirmed.