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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-1675**

State of Minnesota,
Respondent,

vs.

Jordan Hunter Cole Vos,
Appellant.

**Filed September 21, 2026
Affirmed
Beane, Judge**

Chisago County District Court
File No. 13-CR-23-210

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

Janet Reiter, Chisago County Attorney, Chris Anderson, Assistant County Attorney,
Center City, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, John Patrick Monnens, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Ross, Presiding Judge; Larson, Judge; and Beane, Judge.

NONPRECEDENTIAL OPINION

BEANE, Judge

Appellant Jordan Hunter Cole Vos challenges his conviction of second-degree criminal sexual conduct, arguing that the district court abused its discretion by admitting

(1) evidence of his prior conviction of electronic communication describing sexual conduct with a minor, and (2) the victim's forensic interview. We affirm.

FACTS

In early 2023, M. disclosed at school that Vos had sexually assaulted her on two occasions in January 2022, when she was 12 years old and Vos was 23 years old.¹ A police investigator (the investigator) went to M.'s middle school to speak with her. M. told the investigator that Vos was a friend of her older brother and that Vos assaulted her on the weekend of January 14-16, 2022, and again on the weekend of January 29-30, 2022. The investigator arranged for a forensic interview.

During the video-recorded forensic interview, M. said that the first time Vos assaulted her, Vos had been socializing with her family. She went to bed and awoke to find her clothes displaced and Vos's penis inside her vagina. She was in shock and did not know what to do, so she just closed her eyes. The assault ended with him "finishing" on her chest. Vos got one of M.'s sweatshirts from the floor and wiped her off. She went back to bed and, in the following days, tried to act like nothing had happened. The second time, the

¹ In describing the facts of this case, we are mindful that the district court sought to protect the minor victim's identity by designating as confidential the video and transcript of the forensic interview and the trial transcript. Despite these designations, both parties' appellate briefs discuss and quote extensively from both the forensic interview and the trial transcript. We are not constrained from disclosing information contained in the publicly filed briefs. *See Coursolle v. EMC Ins. Grp.*, 794 N.W.2d 652, 655 n.1 (Minn. App. 2011) (citing Minn. R. Pub. Access to Recs. of Jud. Branch 4), *rev. denied* (Minn. Apr. 19, 2011). Nor are we precluded "from mentioning the contents" of confidential documents when the information is "necessary and relevant to the particular issues or legal argument being addressed in the proceeding." Minn. R. Pub. Access to Recs. of Jud. Branch 4, subd. 4. Consistent with the goal to protect the minor victim, we refer to her only by her first initial and present only those facts necessary to our analysis.

same thing happened, but Vos penetrated M. twice. M. fell asleep, only to awaken to find Vos's penis inside her vagina; afterward, he again used a sweatshirt to clean up. Then Vos left and M. tried to go back to sleep, but he came back to her bedroom before she was fully asleep and did it again, except he did not "finish." M. also told the interviewer that she had been connected to Vos on social media but ended up blocking him after these incidents.

Following M.'s forensic interview, the investigator and another officer went to Vos's residence to speak with him. Vos denied any sexual contact with M. Vos also denied any kissing or fondling. But he acknowledged that he had once fallen asleep on M.'s bed while they were watching television together and awoke to find his belt buckle undone. Vos also said that, before that occurred, he had been communicating with M. over social media, maybe a few times every day or two, to help her through some mental-health challenges.

Respondent State of Minnesota charged Vos in an amended complaint with first-degree criminal sexual conduct for the first incident and second-degree criminal sexual conduct for the second incident.

Before trial, the state gave notice that it intended to offer evidence that, in 2019, Vos pleaded guilty to and was convicted of electronic sexual communication with a child in violation of Minnesota Statutes section 609.352, subdivision 2a(2) (2018). The state explained that the conviction was based on Vos having sexually explicit conversations over social media with a law-enforcement officer posing as a 14-year-old girl and then going to the apartment where Vos and the person he believed to be a 14-year-old girl had agreed to meet for sex. The state asserted that it intended to use the evidence to show "opportunity,

common scheme or plan, intent, and absence of mistake,” and asserted that the evidence poses little risk for unfair prejudice because the prior incident and the charged incidents are close in time and “remarkably similar.” Over Vos’s objection, the district court permitted the state to present evidence of the 2019 conviction to show a common scheme because both incidents involved using social media to approach minors for sex; the court ruled that the state could present the evidence through the investigator’s testimony.

The state also moved to present the video of M.’s forensic interview as a prior consistent statement. The district court deferred ruling on the admissibility of the forensic interview until after M. testified.

At trial, M. was the state’s principal witness. M. testified that Vos was her brother’s friend. She had thought of Vos as an older brother and communicated with him regularly over social media. M. said that on the weekend of January 14-16, 2022, Vos was visiting her family. She went to bed and fell asleep but awoke to Vos on top of her, with his penis in her vagina. He ejaculated on her chest, on her sweatshirt, and then left. Then, on the weekend of January 29, Vos was again visiting her family overnight and did the same thing. She was in bed and awoke to find his penis inside her vagina; he ejaculated on her lower stomach, on her sweatshirt, and then left her room. She changed and tried to go back to sleep. But he came back to her room and again penetrated her, with his penis in her vagina. He ejaculated again and “smirked” at her as he left. On cross-examination, defense counsel challenged M. about inconsistencies between her testimony and her prior statements, including her forensic interview, regarding what she had been wearing to bed on particular

days, whether Vos fully removed items of clothing or just pushed them out of the way, whether and where Vos ejaculated, and when he “smirked” at her.

Once M.’s testimony had concluded, the district court ruled that the state could present the video of the forensic interview as a prior consistent statement. The forensic interviewer testified about the process for conducting such interviews and reasons why a sexual-assault victim might delay reporting, and then the state played the forensic-interview video for the jury.

M.’s father and brother also testified. They each described Vos’s history with the family and his behavior toward M., including Vos communicating with M. by text message and social media. Her father testified about an instance when he saw Vos lying on M.’s bed with his belt undone. And M.’s father and brother each said that, starting in early 2022, they noticed changes in M.’s attitude toward Vos and in her behavior generally, including her twice attempting suicide. At some point, they suspected something inappropriate happened between Vos and M., and they confronted Vos.

The investigator testified about his investigation, including his conversation with Vos at Vos’s residence, and body-worn-camera footage of that conversation was admitted as evidence and played for the jury. The investigator also testified that Vos pleaded guilty and was convicted in 2019 of engaging in electronic sexual communication with a child. The investigator described the incident as a sting operation in which law enforcement communicated as a 14-year-old girl, and Vos engaged in sexual conversations and agreed to meet up for sex.

Vos elected to testify in his own defense. He described talking with M. about her mental-health challenges and acknowledged exchanging text and social-media messages with her. He said that on the first weekend in question, he went to M.'s bedroom to watch a movie with her and fell asleep on her bed but noticed in the morning that his belt was loose. He denied having sex with M. or touching her inappropriately. He said that on the second weekend in question, he was again watching a movie in M.'s room and she tried kissing him, but he rebuffed her and left the room. He again denied that sex or inappropriate touching occurred. On cross-examination, Vos acknowledged that he had told the investigator that there was no kissing between him and M. and that this was a lie.

Vos also testified about the incident that led to the 2019 conviction. He said that he was 20 years old at the time and using dating apps that required users to be at least 18 years old. He got a message from a user who, after some conversation, said they were 14 years old. He testified that he believed it was just friends "mess[ing] around with" him and made plans to meet up. When he went to the place she identified as her apartment, he was arrested. He said that he knew he "messed up pretty big," took "full responsibility" and pleaded guilty, and completed his probation. On cross-examination, Vos acknowledged that the other person initially said they were almost 15 years old and Vos wanted them to clarify that they were only 14, even exchanging photographs. Vos also acknowledged that he gave a statement to law enforcement in which he said it was his "intention to have sex with a 14-year-old girl."

The jury found Vos not guilty of first-degree criminal sexual conduct (the first incident) and found Vos guilty of second-degree criminal sexual conduct (the second

incident). The district court convicted Vos of the second-degree offense and sentenced him to 180 months' imprisonment.

Vos appeals.

DECISION

We review a district court's decision to admit evidence for an abuse of discretion. *State v. Nunn*, 561 N.W.2d 902, 906 (Minn. 1997). A district court abuses its discretion in admitting evidence "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). But the mere possibility "that another district court, in the proper exercise of its discretion," might have excluded the evidence, is insufficient to show an abuse of discretion. *State v. Blom*, 682 N.W.2d 578, 613 (Minn. 2004). An appellant challenging the admission of evidence bears the burden of showing both error and resulting prejudice. *Holt v. State*, 772 N.W.2d 470, 483 (Minn. 2009).

Vos argues that the district court abused its discretion by admitting (1) evidence of his 2019 conviction, and (2) the forensic-interview video. We address each of these evidentiary rulings in turn.

I.

We first consider Vos's argument that the district court abused its discretion by allowing the investigator to testify regarding Vos's 2019 conviction of engaging in electronic sexual communication with a child. "Evidence of another crime, wrong, or act is not admissible to prove the character of a person in order to show action in conformity therewith." Minn. R. Evid. 404(b)(1). But it may be admissible for other purposes, "such

as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.” *Id.* Evidence offered for one of these purposes, known as *Spreigl* evidence, is admissible if five conditions are satisfied: (1) the state must give notice that it intends to use the evidence; (2) the state must indicate what the evidence is being offered to prove; (3) clear and convincing evidence must establish that the defendant participated in the other act; (4) the evidence must be relevant and material; and (5) the probative value of the evidence must not be outweighed by its potential for unfair prejudice. *State v. Smith*, 932 N.W.2d 257, 266-67 (Minn. 2019) (citing *State v. Spreigl*, 139 N.W.2d 167 (Minn. 1965), and *State v. Ness*, 707 N.W.2d 676, 686 (Minn. 2006)); *see also* Minn. R. Evid. 404(b)(2).

Vos principally argues that the district court abused its discretion when it admitted the evidence of his 2019 conviction as *Spreigl* evidence. Alternatively, he argues that the district court abused its discretion when it permitted the state to offer evidence of the 2019 conviction through the investigator’s testimony because that testimony was based on inadmissible hearsay.

A.

Regarding the decision to admit evidence of the 2019 conviction as *Spreigl* evidence, Vos first argues that the evidence is not relevant to any common scheme or plan. For evidence of a prior act to be admissible under the “common scheme or plan exception,” the prior act “must have a marked similarity in modus operandi to the charged offense.” *State v. Welle*, 870 N.W.2d 360, 365 (Minn. 2015) (quotation omitted). In cases involving charges of criminal sexual conduct, *Spreigl* evidence may be introduced to rebut a claim

of fabrication and show, by evidence of a common scheme or plan, that a sexual act occurred. *State v. Clark*, 738 N.W.2d 316, 346 (Minn. 2007); *see also State v. Kennedy*, 585 N.W.2d 385, 391 (Minn. 1998) (affirming the admission of *Spreigl* evidence to “refute defendant’s contention that the victim’s testimony was a fabrication”). The closer the relationship between the past conduct and the charged offense, “in terms of time, place, or modus operandi, the greater the relevance and probative value of the *Spreigl* evidence.” *Clark*, 738 N.W.2d at 346 (quotation omitted).

The district court admitted the evidence of the 2019 conviction and explained that it is relevant to a common scheme or plan:

The *Spreigl* evidence involves—even though he’s responding to solicitation, it does involve the defendant soliciting an underaged person for sex via social media. In the incident case, the allegation is that the defendant befriended an underaged person. That friendship started through social media. It evolved into something else for the purpose of having sex with that underaged person. So I do find there’s a common scheme or plan.

The district court added: “Here, although mistake of age is not a defense, here I think the State is using the *Spreigl* evidence to show that Mr. Vos was aware of the minor’s age.” And when the state later sought to confirm its understanding of the district court’s ruling, the court reaffirmed that it found a common scheme or plan because both incidents involved Vos “befriend[ing] an underaged girl” using social media and the victims were “similar” in age.

Vos disputes this description, saying that the earlier offense and the charged offenses are different in terms of the duration of interaction, whether there was any agreement to sexual conduct, and whether any sexual conduct actually occurred. He is correct that these are points of distinction. But Vos does not dispute the accuracy of the three key facts identified by the district court as points of similarity: (1) Vos communicated with both victims over social media, (2) the victims were similar in age, and (3) Vos knew the victims' ages. Vos asserts that the last of these, his knowledge, is irrelevant because M.'s age was not disputed and mistake of age is not a defense. But Vos cites no authority for the proposition that similarities between a *Spreigl* incident and a charged offense are relevant only if the similarities pertain to disputed facts or the elements of the charged offense. Moreover, the passage of only three years between the 2019 conviction and the incidents involving M. bolsters the relevance of the *Spreigl* evidence, even though the district court did not emphasize that factor in its analysis. *See Smith*, 932 N.W.2d at 267 (stating that greater temporal proximity lessens the need to show a similar modus operandi). Thus, although another district court might have excluded the evidence of the 2019 conviction, we cannot conclude that the district court abused its discretion by determining that evidence of Vos using social media to knowingly engage with another minor female in pursuit of sex was indicative of a common scheme or plan.

Vos also contends that the district court failed to sufficiently consider whether the potential for unfair prejudice from the evidence of the 2019 conviction outweighed its probative value. *See Minn. R. Evid. 404(b)(2); Smith*, 932 N.W.2d at 267. This aspect of the *Spreigl* analysis involves balancing “the relevance of the other offense[], the risk of the

evidence being used as propensity evidence, and the State’s need to strengthen weak or inadequate proof in the case.” *State v. Fardan*, 773 N.W.2d 303, 319 (Minn. 2009); *see also State v. Washington*, 693 N.W.2d 195, 200-01 (Minn. 2005) (noting that the “overarching concern” regarding *Spreigl* evidence is its potential use for an improper purpose, such as suggesting that the defendant has a propensity to commit crimes). Vos asserts that the district court failed to thoroughly consider unfair prejudice because its finding on the issue—“I find that the probative value is not outweighed for unfair prejudice”—was brief and contained no explanation. But while caselaw calls for balancing various factors, Vos does not present any authority requiring a district court to expressly articulate findings as to those factors in determining that potential for unfair prejudice does not outweigh probative value.

Moreover, the record supports the district court’s finding on this issue. The 2019 conviction had strong probative value because the similarities in the ages of Vos’s victims and how he targeted them for sex show a common scheme or plan that tends to confirm the veracity of M.’s account and rebut Vos’s fabrication defense. And the district court reduced the risk of the evidence being used as propensity evidence by endorsing the state’s proposal to present only brief testimony on the issue and by providing the jury a limiting instruction. *See Washington*, 693 N.W.2d at 203 (stating that district court minimized the risk of unfair prejudice by limiting the amount of *Spreigl* evidence); *Kennedy*, 585 N.W.2d at 392 (stating that district court’s limiting instruction reduced the probability that jurors would give *Spreigl* evidence “undue weight”). On this record, the district court acted within its

discretion in determining that the risk for unfair prejudice did not outweigh the probative value of the 2019 conviction.

Finally, even if the district court had abused its discretion in admitting the *Spreigl* evidence, Vos is not entitled to reversal unless he demonstrates that the error was prejudicial. *See State v. Bonnell*, 31 N.W.3d 527, 549 (Minn. 2026). To show prejudice, “a defendant must show that there is a reasonable possibility that the wrongfully admitted evidence significantly affected the verdict.” *Id.* (quoting *State v. Bigbear*, 10 N.W.3d 48, 54 (Minn. 2024)). To determine whether the defendant has carried this burden, we consider several factors: “(1) the manner in which the party presented the evidence, (2) whether the evidence was highly persuasive, (3) whether the party who offered the evidence used it in closing argument, and (4) whether the defense effectively countered the evidence.” *Id.* (quotation omitted) (noting that this list is nonexclusive).

The only factor consistent with prejudice is that the evidence likely was fairly persuasive, given that it involved a prior conviction and credibility was central to this case. But other factors show the minimal impact of the evidence. As noted above, the district court gave a limiting instruction before the evidence was presented. The evidence played an insignificant role in the state’s case, amounting to less than two transcript pages of testimony.² Likewise, the state made only one brief reference to the *Spreigl* evidence

² Vos emphasizes that there was significantly greater discussion of the 2019 incident during his own testimony, and that the state elicited greater detail about the incident during his cross-examination. But he identifies no authority for concluding that evidence the district court permitted the state to offer was prejudicial because the defendant chose to offer more evidence on the subject. And after Vos testified about the incident, the state’s cross-

during closing argument. Vos had an opportunity to and sought to counter the evidence, including asserting that he had pleaded guilty to the earlier offense because he actually committed that offense but was standing trial on the charges related to M. because he “didn’t do anything wrong.” On balance, these factors weigh against a determination that Vos was prejudiced by the admission of the *Spreigl* evidence.

To convince us otherwise, Vos asserts that the *Spreigl* evidence must have affected the jury because the jury expressed concerns about a possible deadlock and ultimately rendered a split verdict. But the jury’s expression of concern about a possible deadlock, coming on a Friday afternoon only hours after deliberations began, affords no insight into the effect of the *Spreigl* evidence on the jury’s deliberations. And we decline to speculate about the reasons why the jury returned a split verdict when it finished deliberating the following Monday morning. Thus, we see no basis to conclude that there is a reasonable possibility that the *Spreigl* evidence significantly affected the verdict.

B.

Vos also argues that, even if evidence of the 2019 conviction was admissible under *Spreigl*, the investigator’s testimony about the 2019 conviction was inadmissible because the investigator’s knowledge of that offense was based solely on hearsay. Vos specifically focuses on testimony about his underlying conduct. He acknowledges that the state could have admitted a certified record of his conviction under an exception to the hearsay rule (although it chose not to do so), but he contends that the investigator’s testimony about his

examination on the subject was brief, spanning only about two transcript pages, and focused on specific inaccuracies in Vos’s description of the incident.

conduct was inadmissible hearsay because the investigator’s knowledge of the conduct was solely based on the investigator’s review of the complaint and other documents associated with that case. After careful review of the record, we conclude that Vos did not preserve his hearsay argument by presenting it to the district court.

An 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.” *State v. Vasquez*, 912 N.W.2d 642, 649 (Minn. 2018). Vos objected to the investigator testifying about the 2019 conviction, but not on the ground of hearsay. Vos objected to lack of foundation, arguing that the investigator could not establish the appropriate foundation to testify about the offense because he was not involved in the investigation. And he repeatedly disclaimed a hearsay objection, saying that a certified copy of the judgment of conviction would address a hearsay objection regarding the conviction itself. Although Vos’s arguments distinguished between the fact of the conviction and the underlying conduct, Vos never argued to the district court that any testimony from the investigator about Vos’s conduct was inadmissible hearsay.

Failure to present an evidentiary issue to the district court results in forfeiture of that issue for appellate review. *Id.* We may review forfeited arguments for plain error. *State v. Nelson*, 35 N.W.3d 156, 160 (Minn. 2026). Under the plain-error standard, a defendant must show (1) an error; (2) that is plain, in the sense that it is “clear or obvious”; and (3) that affected the defendant’s substantial rights. *Id.* But Vos does not assert plain error, and we discern none.

The rule against hearsay generally precludes offering out-of-court statements to prove the truth of what was said. Minn. R. Evid. 801(c), 802. But there are numerous exceptions for particular circumstances or types of statements, *see* Minn. R. Evid. 803-804, and a residual exception for statements with sufficient “circumstantial guarantees of trustworthiness,” *see* Minn. R. Evid. 807. “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). Given this complex landscape and the specific out-of-court statements that the investigator relied on in testifying about the offense—the complaint charging Vos with the 2019 offense, Vos’s petition to plead guilty as charged, and the certified record of his conviction—we cannot conclude that admission of the investigator’s testimony was a clear or obvious violation of the rule against hearsay.

II.

We next address the district court’s decision to admit the video of M.’s forensic interview as a prior consistent statement. As noted above, an out-of-court statement offered to prove the truth of the matter asserted is hearsay, which is generally inadmissible. Minn. R. Evid. 801, 802. But a prior statement by a witness that is consistent with their trial testimony and helpful in evaluating their credibility is not hearsay. Minn. R. Evid. 801(d)(1)(B). This rule authorizes the admission of prior statements “to enhance the credibility of a witness and as substantive evidence if the court determines the statements would be helpful in evaluating credibility.” *State v. Farrah*, 735 N.W.2d 336, 344 (Minn. 2007) (quotation omitted). A statement is admissible under this rule only if the witness’s

credibility has been challenged. *Nunn*, 561 N.W.2d at 909. Before admitting statements as prior consistent statements, the district court must determine that (1) the witness's credibility was challenged; (2) the statement would bolster the witness's credibility as to the part of the witness's credibility that was challenged; and (3) the prior statement is "consistent" with the witness's trial testimony. *State v. Bakken*, 604 N.W.2d 106, 109 (Minn. App. 2000), *rev. denied* (Minn. Feb. 24, 2000).

Vos argues that the district court abused its discretion by admitting the video of M.'s forensic interview as a prior consistent statement. He acknowledges that he challenged M.'s credibility and says his argument focuses solely on the question of consistency. He first contends the district court failed to review M.'s forensic interview before ruling on its admissibility because the district court never expressly stated that it had done so. But Vos presents no affirmative evidence in support of this serious allegation, and we do not presume error. *See Butler v. Jakes*, 977 N.W.2d 867, 873 (Minn. App. 2022). Here, no error is apparent from the record. The state provided the district court with a transcript of the video-recorded forensic interview for the express purpose of evaluating its consistency with M.'s testimony, the parties argued about whether the interview was consistent with her testimony, and the district court expressly addressed consistency in rendering its ruling. This record satisfies us that the district court performed the factual and legal analysis necessary to determine the admissibility of the forensic interview.

Vos also argues that M.'s statements during the forensic interview are not sufficiently consistent with her trial testimony because the interview contained inconsistent and additional information. Vos is correct that, when a witness's prior statement "contains

assertions about events that have not been described by the witness in trial testimony, those assertions are not helpful in supporting the credibility of the witness and are not admissible under this rule.” *Farrah*, 735 N.W.2d at 344. But “[t]he trial testimony and the prior statement need not be verbatim.” *Bakken*, 604 N.W.2d at 109. The two need only be sufficiently similar to prevent the prior-consistent-statement exception from serving as a “means to prove new points not covered in the testimony of the speaker.” *Farrah*, 735 N.W.2d at 344 (quotation omitted).

The differences that Vos highlights do not run afoul of this principle. Vos points to differences in M.’s descriptions of her surroundings, what she was wearing on a particular day, whether Vos displaced or fully removed her clothing, whether Vos ejaculated on her bare chest or on her sweatshirt on her chest, and whether she was nearly or fully asleep when Vos assaulted her the last time. None of those differences bears on the elements of the offense of which Vos was convicted, and Vos has not pointed to any facts that were included in the forensic interview but not M.’s trial testimony that could have enhanced the criminal culpability of Vos’s conduct. In both her trial testimony and the forensic interview, M. consistently described the events that led to Vos’s conviction: (1) she had developed a relationship with Vos that included exchanging messages over social media; (2) Vos sexually assaulted her once the weekend of January 14-16, 2022, and twice in one night the weekend of January 29-30, 2022; (3) he did so by coming into her bedroom after she had gone to bed; (4) he displaced her clothing and initiated penile-vaginal penetration while she was asleep or nearly asleep; (5) the first and second of the three times, Vos ejaculated onto her abdomen; and (6) afterward, there was semen on her sweatshirt. Given

these points of consistency and that none of the inconsistencies he identifies could have supported any element of the offense, the district court did not abuse its discretion by admitting the video of the forensic interview as a prior consistent statement.

Affirmed.