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

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A25-1709**

State of Minnesota,  
Respondent,

vs.

Christopher Mack Layman,  
Appellant.

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

Ramsey County District Court  
File No. 62-CR-24-7986

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

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

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appellant)

Considered and decided by Bratvold, Presiding Judge; Larkin, Judge; and Reyes,  
Judge.

**NONPRECEDENTIAL OPINION**

**BRATVOLD**, Judge

In this direct appeal after a jury trial, appellant challenges the district court's  
judgments of conviction for second-degree assault and first-degree damage to property.

Appellant argues that the district court abused its discretion by admitting hearsay evidence—a statement by the victim to a police officer and recorded jail calls involving appellant and two female callers. Appellant also contends that the district court admitted the disputed evidence on grounds not argued by the state, which violated the principle of party presentation, created the appearance of bias, and deprived appellant of a fair trial. We conclude, first, the district court did not abuse its discretion by admitting the victim’s statement; second, any error in the admission of the recorded jail calls did not significantly affect the verdict; and third, appellant fails to establish his claim of judicial bias. Thus, we affirm.

## **FACTS**

Respondent State of Minnesota charged appellant Christopher Mack Layman with second-degree assault with a dangerous weapon under Minn. Stat. § 609.222, subd. 1 (2024) (count one), and first-degree damage to property with a foreseeable risk of bodily harm under Minn. Stat. § 609.595, subd. 1(1) (2024) (count two). In February and March 2025, the district court conducted Layman’s jury trial. The following summarizes the evidence received during the trial.

On November 9, 2024, at about 3:00 p.m., S.B. was seated inside her red sedan in a parking lot in St. Paul. A silver Mercedes drove straight at S.B.’s sedan and hit it on the front driver’s side. The Mercedes reversed and drove forward, hitting S.B.’s sedan a second time. S.B. got out of her sedan and tried to open the Mercedes’s rear passenger-side door. The Mercedes backed up, then drove directly towards S.B. and hit her. S.B. flew into the air, landed in the parking lot, and was injured. The Mercedes drove away.

The central issue at trial was who drove the Mercedes.

The prosecuting attorney offered recordings of three 911 calls, which were admitted into evidence and played for the jury. Layman does not challenge the admissibility of the 911 calls on appeal. The callers were two eyewitnesses and S.B. The first 911 caller reported that “a dude” or a “guy” in a silver Mercedes was “driving around like crazy,” “[s]mashed into” a woman’s car, then “intentionally ran over a woman.” The first 911 caller also testified about what he observed, stating that, after he heard a noise that sounded like a car crash, he saw “a car that looked like it had hit another car.” The Mercedes “pulled back and hit” the other car again. A woman then exited her car, and the Mercedes “pulled away and came back and hit the gas.” The Mercedes hit the woman, causing her to be “flung a few feet or more away.”

The second 911 caller reported that “a man” in a silver Mercedes had “raced through the parking lot” going 60 miles per hour. The second 911 caller also reported that the man “hit a woman’s car and then he backed up and ran her over,” hitting her “clean into the air.” Finally, S.B., in the third 911 call, reported that her “ex-boyfriend just hit [her] with his car” and that she was hurt. S.B. identified Layman as the driver and gave a physical description of Layman. S.B. also reported that Layman was driving a Mercedes and provided a partial license-plate number.

Surveillance cameras from adjacent buildings recorded the incident; these recordings were received into evidence and are not challenged on appeal. The surveillance recordings showed a silver car hitting S.B.’s red sedan twice, after which S.B. exited her

sedan and tried to grab the Mercedes's rear passenger-side door. The Mercedes then backed up and drove forward, hitting S.B., who was tossed over the hood.

The district court also admitted two recorded statements over Layman's objection, and these rulings are challenged on appeal. The disputed evidence is (1) S.B.'s statement to a St. Paul police officer who responded to the parking lot and recorded the statement on his body-worn camera (body-worn-camera statement) and (2) jail calls using Layman's personal identification number (PIN) and involving conversations between Layman and two female callers (jail calls). We summarize and discuss the disputed pieces of evidence, as well as the circumstances surrounding their admission, below in our analysis.

A St. Paul police officer testified that, when he arrived at the parking lot, he saw S.B. standing by a red sedan that "had damage on the front driver's side." The officer described recording S.B.'s statement on his body-worn camera. He also testified that S.B. gave him a complete license-plate number for the Mercedes. The district court later received into evidence the motor-vehicle summary for that license plate. The summary stated that Layman was the registered owner of a silver Mercedes with a license-plate number that matched the number S.B. provided to dispatch and law enforcement.

Less than a week before trial, S.B. filed an affidavit in district court recanting her statements that Layman drove the Mercedes. She averred that the driver was an "unknown female" and that she lied to law enforcement "out of jealous anger." After receiving S.B.'s affidavit, the state served and filed a notice of its intent to introduce as evidence S.B.'s two recorded statements—the 911 call and body-worn-camera statement.

S.B. testified consistently with her affidavit, which was also received into evidence. In response to questioning, S.B. agreed that she reported the incident in a 911 call and gave a statement to a police officer while in the parking lot. S.B. also agreed that, in these statements, she did not “mention the woman” to law enforcement during its criminal investigation. S.B. also testified that she was “in a relationship” with Layman at the time of trial and on the day of the assault. On cross-examination, S.B. testified that she was pregnant with Layman’s child at the time of trial.

The jury found Layman guilty of both counts. The district court imposed concurrent sentences of 72 months in prison for count one and 26 months for count two.

Layman appeals.

## **DECISION**

Layman argues that the district court abused its discretion by admitting S.B.’s body-worn-camera statement and the jail calls. Layman also argues that the district court admitted the disputed recorded statements on grounds not raised by the state and therefore violated the principle of party presentation. Layman maintains that the district court judge’s rulings, therefore, gave the appearance of bias and that he was denied a fair trial. We consider each issue in turn.

### **I. The district court did not abuse its discretion by admitting S.B.’s body-worn-camera statement.**

Appellate courts review a district court’s evidentiary rulings for abuse of discretion. *State v. Fravel*, 34 N.W.3d 309, 319 (Minn. 2026). “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.” *Id.* (quotation omitted). If the district court erroneously admitted evidence, this court will reverse only if there is a “reasonable possibility that the wrongfully admitted evidence significantly affected the verdict.” *State v. Robinson*, 718 N.W.2d 400, 407 (Minn. 2006) (quotation omitted).

The parties agree that the body-worn-camera statement is hearsay evidence. Hearsay is an out-of-court statement “offered in evidence to prove the truth of the matter asserted.” Minn. R. Evid. 801(c). Hearsay “is not admissible” unless it falls under an exception to the rule. Minn. R. Evid. 802. The Minnesota Rules of Evidence contain enumerated exceptions as well as a residual exception for statements that are not covered by an enumerated exception. Minn. R. Evid. 803-04 (exceptions), 807 (residual exception). Layman objected to S.B.’s body-worn-camera statement as inadmissible hearsay; the district court agreed with Layman’s position that it was not admissible under the excited-utterance exception but admitted the evidence under the residual hearsay exception.

#### **A. S.B.’s Body-Worn-Camera Statement**

In her body-worn-camera statement to the St. Paul police officer, S.B. stated that she tried to break up with Layman via text message shortly before the parking-lot incident. While S.B. visited a friend in an apartment, S.B.’s uncle called and told her that Layman had “flattened [her] tire.” S.B. left the apartment, and when she got to her car, Layman was there. Layman yelled, “What the f\*ck are you doing?” S.B. responded that she was “going to put air in [her] tire.” S.B. got into her car to drive away, and Layman “rammed” her car with his Mercedes. After he hit her car a second time, S.B. got out of her car and tried to

grab Layman's passenger-side door. Layman started "backing up," then drove forward and hit her with his Mercedes.

## **B. Residual Exception**

If a hearsay statement does not fall under a specific exception, it may be admissible under the residual exception. Minn. R. Evid. 807. "A district court must conduct a two-step analysis before admitting hearsay statements under this residual exception." *Fravel*, 34 N.W.3d at 320. We consider the parties' arguments on both steps.

### ***First Step: Circumstantial Guarantees of Trustworthiness***

Under the first step, the district court "must look at the totality of the circumstances to determine whether the hearsay statement has circumstantial guarantees of trustworthiness." *State v. Hallmark*, 927 N.W.2d 281, 292 (Minn. 2019) (quotations omitted). Nonexclusive indicators of trustworthiness include the following:

whether the statement was given voluntarily, under oath, and subject to cross-examination and penalty of perjury; the declarant's relationship to the parties; the declarant's motivation to make the statement; the declarant's personal knowledge; whether the declarant ever recanted the statement; the existence of corroborating evidence; and the character of the declarant for truthfulness and honesty.

*State v. Griffin*, 834 N.W.2d 688, 693 (Minn. 2013) (quotation omitted).

In *State v. Ortlepp*, the supreme court held that a district court does not abuse its discretion by admitting an out-of-court statement under the residual exception when (1) there is no Confrontation Clause issue because the declarant testifies, admits to making the prior statement, and is available for cross-examination by the defense; (2) there is no real dispute about what the declarant said in their statement; (3) the statement is against the

declarant’s penal interest; and (4) the statement is consistent with the state’s other evidence of the defendant’s guilt. 363 N.W.2d 39, 44 (Minn. 1985).<sup>1</sup> In *State v. Plantin*, this court held that *Ortlepp*’s statement-against-interest factor may be satisfied “if the declarant is hostile to the state and supportive of the defendant” and the statement is against the declarant’s interest in a romantic relationship with the defendant. 682 N.W.2d 653, 659 (Minn. App. 2004), *rev. denied* (Minn. Sep. 29, 2004).

The district court admitted S.B.’s body-worn-camera statement after her direct examination, relying on the *Ortlepp* factors. The district court concluded that S.B.’s body-worn-camera statement had sufficient guarantees of trustworthiness because (1) S.B. was “available at trial” and no “confrontation issue” was involved; (2) there was “no dispute that [S.B.] made the statement”; (3) the statement was against S.B.’s “penal interest” for “making a false statement to law enforcement”; and (4) the statement was “consistent with other evidence,” including the three 911 calls about the assault. The district court also noted that S.B. “acknowledged she did not mention anything about a female driver on multiple occasions” after the incident.

Layman appears to challenge the district court’s analysis of the third and fourth *Ortlepp* factors. For the sake of efficiency, we first summarize Layman’s arguments on the third and fourth factors and then address them. Layman argues that the third factor does

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<sup>1</sup> *Ortlepp* analyzed the admission of hearsay under former Minn. R. Evid. 803(24) (residual exception when availability of declarant immaterial), which was later combined with former Minn. R. Evid. 804(b)(5) (residual exception when declarant unavailable) into the current residual exception in Minn. R. Evid. 807. Minn. R. Evid. 807 2006 comm. cmt.; *State v. Ahmed*, 782 N.W.2d 253, 258 n.1 (Minn. App. 2010) (observing that the same common-law standards apply to Rule 807 as applied to the former residual exceptions).

not favor trustworthiness because (1) “S.B. did not ‘so far subject herself to criminal liability’” by providing a false statement to police and (2) S.B.’s body-worn-camera statement “did not go against her interest” in preserving a romantic relationship with Layman because S.B. “declared she had no relationship with Layman” to protect at the time of the parking-lot incident.

As to the fourth factor, Layman argues that insufficient evidence corroborates S.B.’s body-worn-camera statement when compared with the evidence summarized in caselaw that affirms the admission of hearsay statements under the residual exception. *Cf. Hallmark*, 927 N.W.2d at 295-96 (concluding that a mother’s hearsay statement incriminating her son was trustworthy, in part, because it was made against her familial interest and was corroborated by her 911 call and forensic evidence). Layman urges that S.B.’s recantation of her body-worn-camera statement undermines its trustworthiness; he also maintains that the other 911 calls and surveillance videos do “very little” to corroborate S.B.’s body-worn-camera statement.<sup>2</sup>

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<sup>2</sup> Layman also argues for the first time on appeal that the prosecuting attorney did not satisfy a notice requirement of Rule 807. A hearsay statement may not be admitted under the residual exception “unless the proponent of it makes known to the adverse party, sufficiently in advance of the trial or hearing, to provide the adverse party with a fair opportunity to prepare to meet it, the proponent’s intention to offer the statement and the particulars of it, including the name, address and present whereabouts of the declarant.” Minn. R. Evid. 807; *see also State v. Morales*, 788 N.W.2d 737, 760 (Minn. 2010) (concluding that a statement was inadmissible under Rule 807, in part because “there was no pretrial notice that the State would seek to introduce [the witness’s] prior testimony as substantive evidence under Rule 807 or any other hearsay exception”).

Because Layman did not challenge notice in district court, we may decline to consider the issue on appeal. *See Roby v. State*, 547 N.W.2d 354, 357 (Minn. 1996) (stating that appellate courts “generally will not decide issues which were not raised before the district court”). Even so, we conclude that the state satisfied the notice requirement. Four

On the third *Ortlepp* factor, we agree with Layman that S.B.’s body-worn-camera statement does not appear to be against her penal interest because, at the time she made the statement, she did not expose herself to criminal liability. *See* Minn. R. Evid. 804(b)(3) (explaining that a statement against interest is one that, at the time of its making, “so far tended to subject the declarant to civil or criminal liability . . . that a reasonable person in the declarant’s position would not have made the statement unless believing it to be true”).<sup>3</sup> We also agree with Layman that S.B.’s body-worn-camera statement did not go against S.B.’s romantic interest at the time it was made because S.B. told the police officer that she broke up with Layman earlier that day.

S.B.’s body-worn-camera statement, however, need not satisfy each of the *Ortlepp* and *Plantin* factors. We examine the totality of the circumstances to determine whether the statement has sufficient guarantees of trustworthiness. *Hallmark*, 927 N.W.2d at 292-93 (stating that “the *Ortlepp* factors are not exclusive and merely represent an application of the totality of the circumstances approach” (quotation omitted)). On the first *Ortlepp* factor,

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days before trial, the state filed and served its written motions in limine and gave “notice of its intent to rely on out-of-court statements made by the victim” to law enforcement under Rule 803(24)—the residual exception that predated Rule 807. The state also sought to introduce “evidence of statements made by [S.B.] . . . as documented on police worn body camera.” The state therefore gave Layman adequate notice that the state intended to introduce S.B.’s body-worn-camera statement under Rule 807.

<sup>3</sup> This court has concluded that a victim’s statement, “If my man crosses me, I will call his probation officer or the police and get him in trouble,” was not a statement against her penal interests. *State v. Ampah*, No. A15-1661, 2016 WL 4723370, at \*2-3 (Minn. App. Sep. 12, 2016). While nonprecedential opinions are not binding, they may be cited as persuasive authority. Minn. R. Civ. App. P. 136.01, subd. 1(c); *see also State v. Monyak*, 14 N.W.3d 210, 215 n.2 (Minn. App. 2024) (applying Rule 136.01, subd. 1(c)).

Layman had the opportunity to cross-examine S.B. about her body-worn-camera statement at trial, so there is no Confrontation Clause issue. On the second *Ortlepp* factor, S.B. testified that she recorded the statement in the parking lot while speaking with a police officer, so the content of her statement is not at issue.

On the fourth *Ortlepp* factor, S.B.'s body-worn-camera statement is consistent with other evidence of Layman's guilt. In S.B.'s 911 call, which is not challenged on appeal and was made shortly before her body-worn-camera statement, S.B. identified Layman as the driver of the Mercedes. Two 911 callers reported that a male driver hit S.B. with a Mercedes, although neither caller identified the driver by name or described the driver. And the surveillance recordings are consistent with the body-worn-camera statement but do not show who is driving the Mercedes. Finally, Layman's motor-vehicle records are consistent with the body-worn-camera statement and show that he owned a Mercedes with the same license-plate number as the one that S.B. relayed in her 911 call and in the body-worn-camera statement.

Finally, additional indicators of trustworthiness support admission of the body-worn-camera statement. S.B. voluntarily gave the statement to the police officer and responded to open-ended questions. She provided a detailed, first-hand account of what happened that is consistent with the surveillance recordings and other evidence.

We acknowledge that S.B. recanted her recorded statements identifying Layman as the driver and testified that she lied because she was jealous. A declarant's recantation of a hearsay statement may detract from its trustworthiness, but the recanted statement nonetheless may have sufficient circumstantial guarantees of trustworthiness "where

(1) other uncontradicted evidence discredits the declarant's recantation; (2) the declarant possesses a motive to falsely recant; (3) the declarant's recantation is itself inconsistent; and (4) the prior hearsay statements are strongly corroborated by evidence admitted at trial." *Id.* at 293 (quotation omitted).

We conclude that two of these factors show that S.B.'s body-worn-camera statement, though recanted, had sufficient guarantees of trustworthiness. First, S.B. had a motive to falsely recant. S.B. testified that she was in a romantic relationship with Layman at the time of trial. S.B. also testified that, on the day of trial, she was pregnant with Layman's child. Thus, S.B.'s body-worn-camera statement was against her relationship interest at the time of trial. *See Plantin*, 682 N.W.2d at 659 (finding that a statement is against a declarant's relationship interests when the declarant and the defendant "were trying to reconcile things" at the time of trial). Second, as discussed above, S.B.'s body-worn-camera statement is strongly corroborated by three 911 calls, the testimony of the first 911 caller, and motor-vehicle records. We conclude that, under the totality of the circumstances, S.B.'s body-worn camera-statement had sufficient guarantees of trustworthiness.

### ***Step Two: Rule 807 Requirements***

Under the second step, the district court must determine whether the three enumerated requirements of Rule 807 are met. *Fravel*, 34 N.W.3d at 320. The rule requires the following:

- (A) the statement is offered as evidence of a material fact;
- (B) the statement is more probative on the point for which it is offered than any other evidence which the proponent can

procure through reasonable efforts; and (C) the general purpose of [the Minnesota Rules of Evidence] and the interests of justice will best be served by admission of the statement into evidence.

Minn. R. Evid. 807. The hearsay statement “need not be essential to satisfy th[ese] requirement[s]; the question is whether other admissible evidence on the same point could be obtained through reasonable efforts.” *Fravel*, 34 N.W.3d at 320 (quotations omitted).

In his brief, Layman correctly notes that the district court did not make any findings related to the three enumerated factors in Rule 807. But a district court’s “failure to explicitly consider all relevant circumstances under Rule 807 is not automatically an abuse of discretion.” *Hallmark*, 927 N.W.2d at 294. Instead, the appellate court will independently evaluate whether the statement is admissible under Rule 807. *Id.*

Based on the record, we conclude that S.B.’s body-worn-camera statement satisfies the three enumerated requirements of Rule 807. First, the body-worn-camera statement was offered as evidence of a material fact—the identity of the driver who hit S.B. and her car. Second, the body-worn-camera statement was more probative of the driver’s identity than any other evidence the state could procure through reasonable efforts. Although S.B.’s 911 call also identified Layman as the driver, the body-worn-camera statement offered additional details and explained Layman’s motive to assault S.B.—retribution for their breakup. Finally, the admission of the body-worn-camera statement promotes the “growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly determined.” *State v. Aubid*, 591 N.W.2d 472, 479 (Minn. 1999) (quoting Minn. R. Evid. 102).

In sum, we conclude that the district court did not abuse its discretion by admitting S.B.'s body-worn-camera statement under the residual exception. Therefore, we need not consider Layman's contention that this evidence significantly affected the jury's verdict.

**II. The district court did not commit reversible error by admitting the jail calls under the business-records exception to the hearsay rule.**

Layman also challenges the district court's admission of recorded jail calls. As discussed above, we review this evidentiary ruling for abuse of discretion. *Fravel*, 34 N.W.3d at 319.

**A. Jail Calls**

The district court admitted five redacted jail calls made from Layman's PIN number to two female callers. The jury listened to the recordings of the jail calls and received three transcripts of the jail calls; all the calls were between Layman and a "female caller." The transcripts do not identify S.B. or Layman's mother as the female voices in the jail calls. In the first call, Layman told a female caller, "I love you," and, "[P]lease don't leave me again." The female caller responded, "Okay," and that she loved him, too.

In the second call, Layman told the female caller that he was "super scared." The female caller responded that she was "confused and discombobulated about everything," that she was "upset and angry" and did not trust him, and that she did not know what "b\*llsh\*t" Layman was "going to try to pull with the car." Layman told the female caller, "You're the one I want to marry." The female caller explained that she had "mixed feelings" because Layman's "intentions weren't right with the whole like when that's my car." Layman told the female caller, "Don't talk about it," and, "You've done the exact

f\*cking same thing right now that I'm sitting in here for." Layman repeated that he loved the female caller and asked her if they could "just get married," and the female caller said, "No."

In the third call, Layman told the female caller that his cellmate was in jail on "some pretty severe charges" and that "his, um, the girls (unintelligible) the victim, well she isn't cooperating" and "[a]ll of that stuff ended up getting dismissed." Layman then said that he had his "mom looking into it." Layman told the female caller that he had "the wedding ring for [her] picked out." In the fourth call, a female caller told Layman, "Apparently you have an anger issue." In the fifth call, Layman asked his "mom" if she could research what happens to assault cases if the victim does not appear in court and that this was not "anybody else's fault but [his] own."

#### **B. Business-Records Exception**

Layman objected to the jail calls as inadmissible hearsay. The district court heard arguments by both sides and admitted the evidence under the business-records exception. Minn. R. Evid. 803(6). A "memorandum, report, record, or data compilation" is admissible if it is

made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness.

*Id.*<sup>4</sup> But a record “prepared for litigation is not admissible under this exception.” *Id.* The business-records exception has three foundational requirements. “First, the records must have been kept in the course of a regularly conducted business activity. Second, it must be the regular business practice to create the records. And third, a record custodian or other qualified witness must testify to show that the first two requirements are met.” *State v. Vick*, 28 N.W.3d 475, 481 (Minn. App. 2025). The district court admitted the jail calls under the business-records exception but did not analyze the three foundational requirements.

Layman argues, among other things, that the jail calls lacked proper foundation under the business-records exception. In its brief to this court, the state does not argue that the jail calls were properly admitted under the business-records exception. Instead, the state argues that the jail calls were not hearsay because they were Layman’s own statements. *See* Minn. R. Evid. 801(d)(2)(A) (providing that a “party’s own statement” being “offered against a party” is not hearsay). Layman’s reply brief correctly notes that the state did not argue that the jail calls were not hearsay during district court proceedings and, therefore, we may deem that issue forfeited on appeal. *See Roby*, 547 N.W.2d at 357.

We assume, without deciding, that the district court abused its discretion by admitting the jail calls under the business-records exception. Still, appellate courts “generally will not reverse a verdict even when improper evidence is presented to the jury

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<sup>4</sup> Under this rule, the term “business” means “business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.” Minn. R. Evid. 803(6). This expansive definition appears to include county jails.

unless there is a reasonable possibility that the wrongfully admitted evidence significantly affected the verdict.” *State v. Bigbear*, 10 N.W.3d 48, 54 (Minn. 2024) (quotations omitted). The appellant bears the burden to show that the error was not harmless. *Id.*

To determine whether erroneously admitted evidence significantly affected the verdict, appellate courts examine the entire record and consider the following nonexclusive 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). And “strong evidence of guilt undermines the persuasive value of wrongly admitted evidence.” *Id.* (quotation omitted). We address each factor in turn.

### ***Manner Presented***

“In analyzing the prominence of erroneously admitted evidence,” appellate courts can consider “the relative number of transcript pages that the evidence occupies.” *Id.* at 56. Appellate courts also consider “whether the evidence was used throughout the State’s case.” *Id.* In his brief, Layman does not discuss how the state presented the jail calls.

All five jail calls were played for the jury. These calls spanned 21 minutes over the three-day trial. And discussion of the jail calls covered approximately 28 pages of the nearly 250-page trial transcript. *See id.* (concluding “challenged statements” that alone spanned 12 pages of the 300-page transcript were insignificant relative to the whole trial). Given these circumstances, we conclude that the jail calls were not prominent. This factor suggests that the jail calls did not significantly affect the verdict.

### ***Persuasive Value***

We also consider whether the jail calls were “highly persuasive.” *Bigbear*, 10 N.W.3d at 56-57 (quotation omitted). Layman argues that the jail calls, together with S.B.’s body-worn-camera statement, “were the key to the State’s case” and suggests that they demonstrated his criminal culpability.

For the most part, we disagree. In the jail calls, Layman and the female callers do not explicitly refer to who drove the Mercedes, the charged offenses, or Layman’s guilt. Rather, the substance of most of the calls is relevant to the separate issue of S.B.’s credibility because the jail calls tend to prove an ongoing relationship between Layman and the female caller and that they discussed the impact of a victim not cooperating with the prosecution. Because the jail calls had little persuasive value as to who drove the Mercedes but some persuasive value as to S.B.’s credibility at trial, this factor suggests that the jail calls may have had some effect on the verdict.

### ***Use in Closing Arguments***

“We also consider whether and how the offering party used the erroneously admitted evidence in closing argument.” *Id.* at 59. Layman argues that the jail calls’ prominence and persuasive value were enhanced by the prosecuting attorney’s closing argument and rebuttal.

We disagree. The prosecuting attorney referenced the jail calls in two paragraphs of the 12-page transcript of her closing and rebuttal arguments. The first reference concerned S.B.’s credibility at trial, noting that the jail calls were made “over a month after the incident” and before S.B. recanted her statement to law enforcement. The second reference

emphasized that, in one jail call, Layman talked about “knowing someone else who had some pretty severe charges” and that the case “ended up getting dismissed” when the victim did not cooperate. The prosecuting attorney argued that Layman acknowledged he had his “mom looking into it.”

On balance, we conclude that the prosecuting attorney’s use of the jail calls during closing was only minimally persuasive as to who drove the Mercedes. The jail calls tended to diminish S.B.’s credibility for her trial testimony about a woman driving the Mercedes. Still, S.B. admitted in her testimony that she was in a romantic relationship with Layman and pregnant with his child at the time of trial. Because the jail calls were most persuasive as to S.B.’s credibility and other admissible evidence similarly undermined S.B.’s credibility, this factor weighs in favor of concluding that the jail calls did not significantly affect the jury’s verdict.

### ***Effectively Countered***

We may also consider whether the defendant “effectively countered the evidence.” *State v. Smith*, 940 N.W.2d 497, 505 (Minn. 2020). Layman argues that he did not effectively counter the inadmissible evidence. He acknowledges that he “obtained the admission of S.B.’s written statement recanting her prior statements” but urges that this recantation “was rejected by the jury when compared to the evidence of the 911 calls, body-cam video, and jail calls.”

We conclude that Layman effectively countered the jail calls. In closing argument, Layman’s attorney emphasized S.B.’s testimony that Layman “wasn’t driving the car.” The attorney urged that S.B. “told the truth” at trial. The attorney also emphasized that S.B.’s

affidavit, in which she recanted her initial statements, “gave reasons for why” she lied to law enforcement and “indicated it was another woman” who hit her. And the attorney explicitly addressed the jail calls:

But the witness, the last witness who testified about the jail calls, you know, he’s somebody that has to find the jail calls, locate the jail calls, bring those to the courtroom, and say these were jail calls, this is where I got them. You know, it’s okay; he doesn’t have to presume innocence, that individual. He can presume guilt, if he wants to. And I think if you presume guilt, you can fashion and say, yes, these are what these phone calls are about.

But I think if you were to approach those phone calls with the presumption of innocence, what you’re hearing is a scared man, an adult man, breaking down in front of his mother, telling his mother he’s frightened. His mother seems to be saying something to the effect of, She set you up. There [are] conversations about another person . . . . So there certainly appears to be something going on there. Whether it’s a full-blown sort of infidelity or some sort of suspicion of an infidelity, there is some sort of issue going on. Mom seemed to be aware of it. Mom seemed to be concerned whether her son was, she used that word, set up. Mom’s concerned about her son not being home at Christmas.

We conclude that Layman’s attorney effectively countered the jail calls in his closing argument and this factor supports that the jail calls did not significantly affect the verdict.

### ***Strong Evidence of Guilt***

Finally, we consider the strength of the state’s case against Layman. “[O]verwhelming evidence of guilt is a factor, often a very important one, in determining whether the error has no impact on the verdict.” *Bigbear*, 10 N.W.3d at 59 (quotation

omitted). “Strong evidence of guilt undermines the persuasive value of wrongly admitted evidence.” *Id.* (quotation omitted).

Layman argues that the case against him lacks “evidentiary strength.” He argues that “[n]o witness actually saw Layman” commit the offense, noting that S.B. recanted her statement against him “before and during trial.”

Based on our review of the record, we conclude that the evidence of Layman’s guilt is strong. In her 911 call, S.B. reported that Layman hit her with his Mercedes. S.B.’s body-worn-camera statement corroborates her 911 call and adds details. Two other 911 callers also reported that S.B. was hit by a male driving a Mercedes. And Layman’s motor-vehicle records show that his Mercedes had the same license-plate number reported by S.B. during her 911 call and to the police officer at the scene. Thus, this factor weighs in favor of determining that the jail calls did not significantly affect the verdict.

After examining these nonexclusive factors, we conclude that the jail calls were not prominent in the state’s case or highly persuasive because they did not explicitly discuss who drove the Mercedes, the charged offenses, or Layman’s guilt. The jail calls were relevant to the jury’s assessment of S.B.’s credibility at trial, but her ongoing relationship and pregnancy with Layman was also a part of her trial testimony, reducing the persuasive value of the jail calls as to her credibility. The jail calls were a minor part of the prosecuting attorney’s closing argument and rebuttal, and Layman’s attorney effectively countered the calls in his closing argument. Importantly, strong evidence of Layman’s guilt suggests that any error in admitting the jail calls was harmless. On balance, we conclude that admission of the jail calls did not significantly affect the jury’s verdict.

### **III. The district court did not give the appearance of bias in its evidentiary proceedings.**

Layman argues that the district court “violated the principle of party presentation” when it admitted S.B.’s body-worn-camera statement and the jail calls. He contends that these rulings therefore “created the appearance of judicial bias” and mandate reversal. We first consider the party-presentation principle, assume that it applies to district court proceedings, conclude that it was not implicated by the admission of S.B.’s body-worn-camera statement, and then examine whether the district court gave the appearance of bias in its ruling on the admission of the jail calls.

#### **A. Principle of Party Presentation**

Under the principle of party presentation, “we rely on the parties to frame the issues for decision and assign to courts the role of neutral arbiter of matters the parties present.” *Greenlaw v. United States*, 554 U.S. 237, 243 (2008). In other words, courts should not independently raise and decide issues that are not raised or argued by a party.

As discussed above, the district court admitted S.B.’s recorded statement under the residual exception to the hearsay rule and the jail calls under the business-records exception. Layman argues that the district court violated the party-presentation principle because the prosecuting attorney “never actually argued” these grounds for admission to the district court. The state counters that the party-presentation principle “is vastly, if not universally, an appellate court principle, not a trial court principle.” The state also maintains that the record and caselaw do not support Layman’s position and that extension of the party-presentation principle would prevent district courts from making “independent

judicial determinations pertaining to the admission of evidence . . . as they would be bound only by the rationale for admission or exclusion advanced by the parties.”

The party-presentation principle is recited with reference to appellate courts. Layman relies on caselaw reversing appellate courts for raising and deciding issues not presented by the parties, either in district court or on appeal. *See, e.g., State v. Martens*, 18 N.W.3d 752, 761 n.9 (Minn. 2025) (declining to reach an issue that was “not merely forfeited” but was “*never made*” during trial proceedings); *State v. Glidden*, 455 N.W.2d 744, 746-47 (Minn. 1990) (concluding that the court of appeals erred by deciding “an issue not raised on appeal”). Layman also acknowledges, however, that appellate courts “decide cases in accordance with law,” even when parties do not raise a particular issue, so long as that issue is not “novel or questionable.” *State v. Hannuksela*, 452 N.W.2d 668, 673 n.7 (Minn. 1990). *But see Glidden*, 455 N.W.2d at 746 (stating that “an appellate court should exercise this authority only sparingly”).

We are unable to identify a Minnesota opinion explicitly applying the party-presentation principle to district courts. Some caselaw, however, indicates that a district court should adhere to this principle. *See Greenlaw*, 554 U.S. at 243 (“In our adversary system, in both civil and criminal cases, *in the first instance* and on appeal, we follow the principle of party presentation.” (emphasis added)). For example, in *State v. Foster*, the district court excluded certain evidence because it lacked probative value, a ruling Foster challenged on appeal. 20 N.W.3d 6, 12-13 (Minn. 2025). The district court’s “second, independent basis” for exclusion was that the evidence was needlessly cumulative. *Id.* at 12. In her concurrence, Justice Gaïtas noted that the state “did not

present” this cumulative-evidence argument to the district court and “never defended” the district court’s second basis for exclusion on appeal. *Id.* at 29 (Gaïtas, J., concurring). Justice Gaïtas disagreed with the majority’s decision to affirm the district court’s cumulative-evidence ruling: “Because the cumulative-evidence argument was never presented, and Foster never had an opportunity to address it, we should not raise it and rely on it as a basis to affirm. Doing so violates the party presentation principle, and there is no justification for departing from this principle here.” *Id.*

Even if we assume that the party-presentation principle applies to district courts, we conclude that the district court did not commit reversible error in either of its evidentiary rulings. First, the party-presentation principle is not implicated as to the admission of S.B.’s body-worn-camera statement. The prosecuting attorney argued to the district court that the body-worn-camera statement was admissible under the residual exception. In its written motions in limine, the state requested introduction of the recorded statement under Minnesota Rule of Evidence 803(24), among other rules. The state’s motion also requested introduction of “any hearsay statement” under Rule 807, listing the factors courts consider when admitting evidence under the residual exception. *See Plantin*, 682 N.W.2d at 659 (discussing the four *Ortlepp* factors and adding statements against the declarant’s relationship interests with the defendant).

On the first day of trial, the prosecuting attorney maintained that, if S.B. testified that Layman was not the driver, the state could impeach her with her body-worn-camera statement under *Plantin*. The prosecuting attorney listed the *Ortlepp* factors. After S.B. testified that Layman was not the driver, the district court asked the prosecuting attorney

outside the presence of the jury how the body-worn-camera statement was “admissible as substantive evidence outside of admission for impeachment purposes.” The prosecuting attorney again cited *Plantin*, noting that the case “expands on the *Ortlepp* factors” and goes toward whether an out-of-court statement has sufficient circumstantial guarantees of trustworthiness. The district court agreed with the state and admitted the body-worn-camera statement under Rule 807. Because this record shows that the prosecuting attorney argued the residual exception to the district court, the party-presentation principle was not implicated by the court’s admission of S.B.’s body-worn-camera statement.

Second, as to the jail calls, we agree with Layman that the prosecuting attorney did not argue the business-records exception to the district court to support the admission of this evidence at trial. The state instead argued to the district court that the jail calls were admissible as relationship evidence—a ground the state does not advance on appeal. Thus, the district court admitted the jail calls after hearing arguments from the parties but for a reason not presented or argued by a party.

Layman’s attorney, however, did not argue that the district court violated the party-presentation principle during district court proceedings. Because Layman raises the party-presentation principle for the first time on appeal, we need not consider it. *See Roby*, 547 N.W.2d at 357. We conclude that, even assuming that the party-presentation principle applies to district court proceedings, Layman is not entitled to reversal based on the principle alone. Thus, we consider Layman’s argument that the district court’s ruling on the jail calls created the appearance of bias.

## B. Judicial Bias

Layman argues that the district court judge “violated her duty to remain impartial” by admitting evidence “that benefited the State’s case, on grounds not argued by the State.” Appellate courts review de novo allegations of judicial bias. *State v. Reek*, 942 N.W.2d 148, 156 (Minn. 2020).<sup>5</sup> We analyze Layman’s judicial-bias argument only as to the district court’s admission of the jail calls.

A district court judge must disqualify themselves from “any proceeding in which the judge’s impartiality might reasonably be questioned.” Minn. Code Jud. Conduct Rule 2.11(A); *see also* Minn. R. Crim P. 26.03, subd. 14(3) (stating that a judge cannot preside over a criminal proceeding from which they are disqualified under the Minnesota Code of Judicial Conduct). But the “mere fact that a party declares a judge partial does not in itself generate a reasonable question as to the judge’s impartiality.” *State v. Schlien*, 774 N.W.2d 361, 366 (Minn. 2009) (quotation omitted); *see also Hannon v. State*, 752 N.W.2d 518, 522 (Minn. 2008) (stating that appellate courts presume that “a judge has discharged her duties properly”). Instead, “the relevant question is whether a reasonable examiner, with full knowledge of the facts and circumstances, would question the judge’s impartiality.” *Reek*, 942 N.W.2d at 156 (quotation omitted).

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<sup>5</sup> Layman did not move to disqualify the district court judge or otherwise argue that the judge was biased at trial. Supreme court caselaw suggests that appellate courts review all claims of judicial bias de novo, even if asserted for the first time on appeal. *See Reek*, 942 N.W.2d at 155-56 (reviewing de novo a claim of judicial disqualification under the code of judicial conduct, even though the claim was raised for the first time on appeal). *But see State v. Finch*, 865 N.W.2d 696, 701 n.3 (Minn. 2015) (reviewing a similar judicial-disqualification claim for plain error).

Appellate courts “take the perspective of an objective, unbiased layperson.” *Id.* (quotation omitted). We therefore analyze whether, in ruling on the admission of the jail calls, the district court judge “considered arguments and motions made by both sides, ruled in favor of a complaining defendant on any issue, and took actions to minimize prejudice to the defendant.” *Hannon*, 752 N.W.2d at 522. Adverse rulings, on their own, do not demonstrate judicial bias. *Id.* “[G]ood faith errors of fact or law” also do not show partiality. Minn. Code Jud. Conduct Rule 2.2 cmt. 3. A district court judge, however, cannot make “a motion or objection for one party” or act “as counsel for a party.” *Reek*, 942 N.W.2d at 158.

Layman argues that the district court judge “effectively made a motion for one party by finding a legal basis for the admission of damaging evidence to the defense.” He urges that the judge “undid virtually the entire defense” by admitting “the jail calls with apparent talk of the incident and how the case might not go forward.” Layman maintains that the state’s “legal arguments were apparently not making a sufficient showing to overcome the defense objections, so the district court overcame the objections on its own.”

The state acknowledges that the judge’s ruling on the jail calls was made “without the assistance of the prosecutor” but urges that this does not suggest partiality. The state maintains that the judge had “broad authority to rule independently on evidentiary matters” and that, even if the judge’s rationale for admitting the jail calls was erroneous, this legal error does not show “a lack of impartiality.”

*Schlien* offers guidance about when a district court’s communication with the prosecuting attorney creates an appearance of bias that warrants reversal. 774 N.W.2d 361.

*Schlien* involved an ex parte discussion “initiated” by the district court in which “the judge told the prosecutor to be prepared to respond to [an] anticipated plea-withdrawal motion and suggested specific arguments” against the motion. *Id.* at 363, 367. The arguments were based on the district court’s own “review . . . of the case law on withdrawal of guilty pleas.” *Id.* at 363. The prosecuting attorney later opposed *Schlien*’s plea-withdrawal motions on the grounds suggested by the district court, and the court denied the motion. *Id.* at 364-65. On appeal, the supreme court determined that the judge’s conduct created a reasonable question about the district court’s impartiality and reversed and remanded for the plea-withdrawal motion to be heard by a different judge. *Id.* at 363, 369.

Unlike the district court judge in *Schlien*, the judge here did not engage in ex parte communications with the prosecuting attorney and did not act as an advocate for one side. Before making its ruling, the judge had lengthy discussions with both parties about the admissibility of the jail calls and heard the parties’ arguments on relevance, foundation, whether a hearsay exception applied, and whether the jail calls could be used for impeachment purposes. Although the judge’s ruling on the business-records exception was made sua sponte and adversely to Layman, this unfavorable ruling alone did not create an appearance of bias. *See Hannon*, 752 N.W.2d at 522 (“Previous adverse rulings by themselves do not demonstrate judicial bias. Rather, bias must be proved in light of the record as a whole.” (citation omitted)).<sup>6</sup>

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<sup>6</sup> This court’s opinion in *State v. Jones* involved facts similar to this appeal and is persuasive. No. A24-1451, 2025 WL 2902129 (Minn. App. Oct. 13, 2025); *see* Minn. R. Civ. App. P. 136.01, subd. 1(c). In *Jones*, the state sought admission of an assault victim’s recorded statement to law enforcement after she testified to having “no memory of the

While we assumed above that the jail calls were inadmissible under the business-records exception, this error of law does not show that the judge was biased. *See* Minn. Code Jud. Conduct Rule 2.2 cmt. 3. The record shows that the district court considered both parties' arguments and motions throughout trial. The district court sustained several defense objections, including the excited-utterance hearsay objection to S.B.'s body-worn-camera statement and six foundational objections to the jail calls. The district court minimized the prejudice to Layman by redacting portions of the jail calls, including the identities of the female callers. And, as discussed above, the jail calls did not significantly affect the jury's verdict.

We conclude that a reasonable examiner, with full knowledge of the facts and circumstances, would not question the judge's impartiality based on the district court's ruling on the jail calls. *See Reek*, 942 N.W.2d at 156. Thus, Layman did not demonstrate

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attack." 2025 WL 2902129, at \*1, \*7. Defense counsel objected to the recorded statement on hearsay grounds. *Id.* The district court "questioned whether the evidence met the definition of hearsay, asking defense counsel 'if it really asserts the truth of anything.'" *Id.* During a discussion with both parties' attorneys outside the jury's presence, the district court suggested several grounds for admitting the recorded statement that had not been raised by the state and later admitted the recorded statement on those grounds. *Id.* at \*8.

On appeal, this court determined there was no appearance of bias. *Id.* at \*9. Distinguishing *Schlien*, we noted the absence of ex parte communications and concluded that the district court's suggestions reflected "the judge's effort to 'rule intelligently' on the hearsay objection." *Id.* (quoting *Adelmann v. Elk River Lumber Co.*, 65 N.W.2d 661, 666 (Minn. 1954)). As in *Jones*, the district court here engaged in discussion with both parties in an effort to rule intelligently on Layman's objection, and the discussion did not create an appearance of bias.

that the district court judge violated Rule 2.11(a) or created an appearance of bias in ruling on the admissibility of the jail calls.

**Affirmed.**