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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-1793**

State of Minnesota,
Respondent,

vs.

Cristian Joel Mungia Figueroa,
Appellant.

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

Dakota County District Court
File No. 19HA-CR-23-297

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

Kathryn M. Keena, Dakota County Attorney, Beth Beaman, Assistant County Attorney,
Hastings, Minnesota (for respondent)

Barry S. Edwards, Max A. Keller, Keller Law Offices, Minneapolis, Minnesota (for
appellant)

Considered and decided by Rasmusson, Presiding Judge; Johnson, Judge; and Kirk,
Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

RASMUSSEN, Judge

In this direct appeal from the judgment of conviction for second-degree criminal sexual conduct, appellant argues that the district court abused its discretion by admitting improper testimony and allowing an unqualified person to testify as an expert. Appellant further argues that the prosecutor committed prosecutorial misconduct by vouching for various witnesses during closing argument. We affirm.

FACTS

Respondent State of Minnesota received a report that appellant Cristian Joel Mungia Figueroa¹ had been sexually abusing M.G.O., the 11-year-old daughter of his girlfriend, N.O. The allegations were confirmed by a forensic interview of M.G.O., after which the state charged Figueroa with criminal sexual conduct in the second degree (victim under 16) (significant relationship) (multiple acts) in violation of Minn. Stat. § 609.343, subd. 1(h)(iii) (Supp. 2019).

At trial the state called four witnesses, and their testimony is at issue in this appeal. M.G.O. testified that Figueroa sexually abused her for about one-and-a-half to two years, beginning when she was nine. M.G.O.'s cousin testified about what M.G.O. had disclosed to her soon after one of the incidents. A forensic interviewer laid the foundation for M.G.O.'s forensic interview, addressed the details of the interview, and described different types of memories and reasons why a child would delay disclosure of sexual abuse. The

¹ Mungia Figueroa is appellant's full last name. However, because he refers to himself as Figueroa in his briefing, we do so as well.

law enforcement officer's testimony included information about M.G.O.'s initial report and the forensic interview.

Figueroa testified at trial. He also called N.O., who testified that M.G.O. clearly disclosed the abuse to her but that she did not see how it could have happened because she never allowed Figueroa to be alone with her children. N.O. also acknowledged that, despite her status as a mandated reporter, she did not report the alleged abuse to any authorities.

The jury found Figueroa guilty of sexually abusing M.G.O. The district court entered a conviction and sentenced Figueroa to 90 months in prison. Figueroa appeals.

DECISION

Figueroa argues that the district court abused its discretion by admitting improper testimony and allowing an unqualified person to testify as an expert. He further argues that the prosecutor committed prosecutorial misconduct by vouching for or against various witnesses during their closing argument.

I. The district court did not admit hearsay, cumulative, or vouching testimony.

Figueroa first contends that the district court abused its discretion by “allowing hearsay and cumulative testimony that effectively vouched for complainant.” Specifically, Figueroa asserts that portions of the testimony of M.G.O.'s cousin, the law enforcement officer, and the forensic interviewer contained inadmissible hearsay from M.G.O. Figueroa further contends that the testimony of law enforcement and the forensic interviewer were cumulative, vouching, and prejudicial.

A district court has broad discretion in its evidentiary determinations. *State v. Scruggs*, 822 N.W.2d 631, 643 (Minn. 2012). Appellate courts “review a district court’s

evidentiary rulings for an abuse of discretion.” *State v. Hallmark*, 927 N.W.2d 281, 291 (Minn. 2019) (quotation omitted). “A district court abuses its discretion if it misapplies the law, makes findings unsupported by the record, or resolves discretionary questions in a manner that is contrary to logic and the facts on record.” *State v. Johnson*, 979 N.W.2d 483, 502 (Minn. App. 2022), *aff’d*, 995 N.W.2d 155 (Minn. 2023). “A defendant claiming error . . . has the burden of showing both the error and the prejudice resulting from the error.” *Holt v. State*, 772 N.W.2d 470, 483 (Minn. 2009) (quotation omitted).

A. Hearsay

As an initial matter, Figueroa did not object at trial to the admission of any of the statements that he now alleges were hearsay, so we review their admission for plain error. *State v. Segura*, 2 N.W.3d 142, 167 (Minn. 2024). “In reviewing for plain error, [appellate courts] examine whether (1) there was error, (2) the error was plain, and (3) the error affected the defendant’s substantial rights.” *State v. Bahtuoh*, 840 N.W.2d 804, 811 (Minn. 2013).²

Hearsay is an out-of-court statement offered “to prove the truth of the matter asserted” and is generally not admissible at trial. Minn. R. Evid. 801(c), 802. However, an out-of-court statement offered to prove the truth of the matter asserted may be admissible if it is exempted from the definition of hearsay or falls under an applicable

² Plain error affects substantial rights when it “was prejudicial and affected the outcome of the case,” meaning that “there [was] a reasonable likelihood that the error had a significant effect on the jury’s verdict.” *State v. Sontoya*, 788 N.W.2d 868, 872 (Minn. 2010). Even if we answer all three questions in the affirmative, appellate courts “will order a new trial only if the error seriously affected the fairness, integrity, or public reputation of judicial proceedings.” *Bahtuoh*, 840 N.W.2d at 811.

exception. *State v. Robinson*, 699 N.W.2d 790, 794 (Minn. App. 2005), *aff'd*, 718 N.W.2d 400 (Minn. 2006).

Prior consistent statements, which are prior statements by a witness that are consistent with their trial testimony and helpful in evaluating their credibility, are not hearsay. Minn. R. Evid. 801(d)(1)(B). This rule allows for the admission of such 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). For a prior consistent statement to be admissible, the district court must determine that (1) the witness’s credibility was challenged, (2) the statement would bolster the witness’s credibility, and (3) that the out-of-court statements are consistent with the declarant’s trial testimony. *State v. Bakken*, 604 N.W.2d 106, 109 (Minn. App. 2000) (the *Bakken* factors), *rev. denied* (Minn. Feb. 24, 2000).

On appeal, Figueroa argues that, although the parties stipulated that the forensic interview and the cousin’s testimony were admissible as prior consistent statements, the district court erred by not making independent findings on the record. The only findings by the district court relate to the third *Bakken* factor. Specifically, the district court found that M.G.O.’s trial testimony was consistent with the recorded forensic interview and the cousin’s testimony. The findings did not address the testimony of the law enforcement officer or the forensic interviewer. Our review of the record reveals that the testimony of these two witnesses regarding M.G.O.’s out-of-court statements was consistent with M.G.O.’s trial testimony and thus satisfies the third *Bakken* factor.

The district court also did not make formal findings as to the first and second *Bakken* factors. Therefore, we review the record to determine if those factors are satisfied.

We begin by addressing the first *Bakken* factor—whether M.G.O.’s credibility was at issue. The record demonstrates that Figueroa’s trial counsel began challenging M.G.O.’s credibility in the opening statement, suggesting that her testimony would be inconsistent with itself and that she made the accusations because she was unhappy that her mother was dating Figueroa. Figueroa’s attorney characterized M.G.O.’s allegations as “like what a child might imagine would happen” and challenged the jury to listen closely when they heard M.G.O.’s forensic interview. During cross-examination of M.G.O., Figueroa’s trial counsel attempted to establish a reason that she might have been dishonest in reporting the abuse. Figueroa concedes on appeal that the “sole issue” is “whether M.G.O.’s testimony was credible.” The facts on the record easily satisfy the first *Bakken* factor, that the witness’s credibility was challenged.

As to the second *Bakken* factor, Figueroa does not contend that the testimony of M.G.O.’s cousin, the law enforcement officer, and the forensic interviewer do not bolster M.G.O.’s credibility, but instead his argument appears to be that they bolstered it too much. We agree that the testimony of M.G.O.’s cousin, the law enforcement officer, and the forensic interviewer bolstered M.G.O.’s credibility and therefore satisfied the second *Bakken* factor.

Based upon our review of the record, all three *Bakken* factors are met with regard to M.G.O.’s statements to her cousin, the law enforcement officer, and the forensic

interviewer. Therefore, we conclude that the district court did not plainly err by admitting testimony from these witnesses as M.G.O.'s prior consistent statements.

B. Cumulative or Vouching Testimony

Figueroa next argues that the testimony of the forensic interviewer and the law enforcement officer were cumulative because they were both present at M.G.O.'s forensic interview and merely repeated what M.G.O. said during the interview. Figueroa raised this issue at trial, claiming that the evidence presented by the officer along with other witnesses who repeated M.G.O.'s allegations resulted in prejudice. The district court allowed the testimony.

A district court may exclude relevant evidence when “its probative value is substantially outweighed by . . . considerations of . . . needless presentation of cumulative evidence.” Minn. R. Evid. 403. Determinations “concerning the admissibility of evidence under Minn. R. Evid. 403 are within the discretion of the district court, and will only be reversed for a clear abuse of that discretion.” *State v. Schulz*, 691 N.W.2d 474, 477 (Minn. 2005). A district court admitting cumulative evidence does not abuse its discretion if the evidence is “only marginally repetitive” and is “highly probative.” *Id.* at 480.

Here, the law enforcement officer and forensic interviewer summarized M.G.O.'s report. Their testimony was not focused on M.G.O.'s specific assertions and they did not repeat any of her claims verbatim. Furthermore, cross-examination of the officer reduced any prejudice to Figueroa by informing the jury that his testimony regarding M.G.O.'s statements summarized what he remembered of the forensic interview rather than introducing new facts.

Figueroa argues, however, that he was prejudiced because the volume of the state's evidence diminished the weight of N.O.'s testimony. However, "[t]he number of witnesses does not establish the weight of the evidence." *Waldo v. St. Paul City Ry. Co.*, 70 N.W.2d 289, 294 (Minn. 1955) (quotation omitted). Instead, "the jury . . . determine[s] the credibility of the witnesses and weigh[s] the evidence before it," and may accept or reject testimony as it sees fit. *State v. Harris*, 895 N.W.2d 592, 600 (Minn. 2017).

We conclude the district court did not abuse its discretion by allowing the testimony of the law enforcement officer and forensic interviewer as to the contents of the forensic interview.

Figueroa also argues that "[s]ince the witnesses repeated what M.G.O. said as though they believed it, the testimony was vouching." Improper vouching occurs when one witness testifies that another witness is telling the truth or is more believable than another witness. *See State v. Ferguson*, 581 N.W.2d 824, 835 (Minn. 1998). "It is well settled that one witness may not vouch for or against the credibility of another witness." *State v. Vick*, 632 N.W.2d 676, 689 (Minn. 2001) (quotation omitted). Vouching is improper because "the credibility of a witness is for the jury to decide, not [another] witness." *State v. Koskela*, 536 N.W.2d 625, 630 (Minn. 1995). Figueroa provides no examples of any of the state's witnesses expressing an opinion regarding whether M.G.O.'s testimony was credible, nor could we find any after thoroughly reviewing the entire trial transcript.

We conclude that the district court did not plainly err or abuse its discretion by allowing hearsay, cumulative, or vouching testimony.

II. The district court did not abuse its discretion by admitting improper expert testimony.

Figueroa next contends that the district court should not have permitted the forensic interviewer to offer expert testimony because she did not have a degree in psychology or psychiatry and because the interview method she used, CornerHouse, does not pass the *Frye-Mack* test for admissibility.³

Expert testimony is admissible under Minnesota Rule of Evidence 702 when the witness has “scientific, technical, or other specialized knowledge” that will assist the trier of fact in understanding the evidence. An expert may be qualified “by knowledge, skill, experience, training, or education.” *Id.* “That knowledge may be gained through formal education or through years of occupational experience.” *DeRemer v. Pac. Intermountain Express Co.*, 353 N.W.2d 694, 698 (Minn. App. 1984). The district court’s broad discretion in evidentiary determinations includes those regarding the admissibility of expert testimony. *State v. Thao*, 875 N.W.2d 834, 840 (Minn. 2016).

At a pretrial hearing, counsel objected to the forensic interviewer testifying as an expert, claiming that she performed the forensic interview incorrectly, may vouch for M.G.O., had not published any articles or taught any courses, and was not “the kind of expert that [counsel was] used to seeing.” However, because Figueroa’s counsel had no

³ The *Frye-Mack* test is applied when a novel scientific technique is utilized and requires that the technique be generally accepted in the relevant scientific community and the evidence derived must have a scientifically reliable foundation. *State v. Roman Nose*, 649 N.W.2d 815, 818 (Minn. 2002).

legal support for these contentions, the district court granted the state's motion to offer expert testimony after determining that the state met the expert-testimony requirements.

At trial, the forensic interviewer testified that she has a bachelor's degree in elementary education and early-childhood development, a master's degree in Christian education, participated in training for child-protective services, was trained in the CornerHouse method for interviewing potential victims of abuse, and has nearly a decade of experience in the field of child protection. The forensic interviewer estimated that she performed between 600 and 700 forensic interviews using the CornerHouse method. We agree with the district court that this specialized knowledge gained through both education and experience was sufficient to qualify her as an expert witness, consistent with applicable law.

Figueroa further contends that *State v. Saldana*, 324 N.W.2d 227 (Minn. 1982), should persuade us to reverse because the "[forensic examiner's] only role" was "to vouch for M.G.O.'s credibility." In *Saldana*, the supreme court determined that the admission of expert testimony that the alleged victim did not fabricate her story was erroneous because the alleged victim was an adult with at least average intelligence, the expert lacked medical education or training, and the credibility opinion invaded the province of the jury. 324 N.W.2d at 231-32.

Figueroa's argument that *Saldana* requires us to reverse is flawed for two reasons. First, *Saldana* is distinguishable because here the forensic examiner did not testify regarding M.G.O.'s credibility or whether criminal sexual conduct occurred but instead

discussed reasons why children delay reporting abuse and explained different types of memory to aid the jury to understand and weigh testimony.

Second, the supreme court “declined to extend *Saldana* to cases involving sexual assaults against children and adolescents, and concluded that expert testimony about counterintuitive behaviors of child- or adolescent-victims of sexual assault could aid jurors in their fact-finding.” *State v. Obeta*, 796 N.W.2d 282, 291 (Minn. 2011). The supreme court has also concluded that, although “[w]ith respect to most crimes the credibility of a witness is peculiarly within the competence of the jury,” the nature of “sexual abuse of children places lay jurors at a disadvantage” because “the common experience of the jury may represent a less than adequate foundation for assessing the credibility of a young child who complains of sexual abuse.” *State v. Myers*, 359 N.W.2d 604, 609-10 (Minn. 1984).

Figueroa also argues extensively that the forensic interview was based on a method without “foundational reliability” because the CornerHouse method does not pass the *Frye-Mack* test. This argument also fails.

First, “[i]t is only when the proponent offers novel scientific evidence that the . . . *Frye-Mack* standard applies.” *Doe 76C v. Archdiocese of St. Paul*, 817 N.W.2d 150, 164-65 (Minn. 2012) (quotation marks omitted). The CornerHouse method is not novel but is instead widely used.⁴ Second, Figueroa forfeited this argument by failing to

⁴ See, e.g., *State v. Andrade*, No. A24-2018, 2026 WL 81547, at *1-3 (Minn. App. Jan. 12, 2026), *rev. denied* (Minn. Apr. 3, 2026); *State v. Peterson*, No. A24-1912, 2025 WL 3269002, at *1-2 (Minn. App. Nov. 24, 2025), *rev. denied* (Minn. Feb. 18, 2026); *State v. Schertner*, No. A24-1175, 2025 WL 2102498, at *1-2, *4 (Minn. App. July 28, 2025), *rev. denied* (Minn. Oct. 15, 2025); *Contreras v. State*, No. A22-0329, 2023 WL 18279, at *2-4 (Minn. App. Jan. 3, 2023), *rev. denied* (Minn. Mar. 28, 2023); *State v. Saldana*, No.

challenge the foundational reliability of the CornerHouse method either prior to or at trial. “[Appellate courts] generally will not decide issues which were not raised before the district court.” *Roby v. State*, 547 N.W.2d 354, 357 (Minn. 1996).

We conclude that the district court did not abuse its discretion in admitting the expert testimony of the forensic interviewer.

III. The prosecutor did not commit prosecutorial misconduct by personally vouching for or against the credibility of any witness.

Lastly, Figueroa contends that the prosecutor committed prosecutorial misconduct during their closing argument by vouching for the state’s witnesses and against the defense witnesses.

“Vouching occurs when the government implies a guarantee of a witness’s truthfulness, refers to facts outside the record, or expresses a personal opinion as to a witness’s credibility.” *State v. Gail*, 713 N.W.2d 851, 866 (Minn. 2006) (quotation omitted). An advocate “may not throw onto the scales of credibility the weight of his own personal opinion.” *State v. Ture*, 353 N.W.2d 502, 516 (Minn. 1984). However, this rule “is not designed to prevent the prosecutor from arguing that particular witnesses were or were not credible.” *State v. Leutschafft*, 759 N.W.2d 414, 425 (Minn. App. 2009) (quotation omitted), *rev. denied* (Minn. Mar. 17, 2009). “The use of the first-person pronoun ‘I’ indicates that the prosecutor has injected his or her personal opinion into an argument.” *Id.*

A22-0747, 2023 WL 3296366, at *3 (Minn. App. May 8, 2023); *State v. Wesley*, No. A05-784, 2006 WL 696322, at *5-6 (Minn. App. Mar. 21, 2006), *rev. denied* (Minn. July 19, 2006); *State v. Goldenstein*, 505 N.W.2d 332, 343-44 (Minn. App. 1993), *rev. denied* (Minn. Oct. 19, 1993).

But when a prosecutor uses the phrase “the state submits,” it “[does] not inject the personal opinion of the prosecutor.” *State v. Reed*, 398 N.W.2d 614, 617 (Minn. App. 1986), *rev. denied* (Minn. Feb. 13, 1987). When evaluating prosecutorial misconduct during a closing argument, appellate courts review “the closing argument as a whole” instead of focusing on “selected phrases and remarks.” *State v. Smith*, 876 N.W.2d 310, 335 (Minn. 2016) (quotations omitted).

As an initial matter, Figueroa did not object to the prosecutor’s closing statement at trial. Appellate courts apply a modified plain-error standard to unobjected-to prosecutorial misconduct. *State v. Ramey*, 721 N.W.2d 294, 296 (Minn. 2006). Under this standard, once the defendant shows that “the prosecutorial misconduct was error that was plain, the state bears the burden of showing that the error did not affect the defendant’s substantial rights.” *Id.*

Figueroa highlights several statements that the prosecutor made during the closing argument that he argues vouch for or against the credibility of various witnesses. We address each one in turn, italicizing the statements in question.

“The purpose of this argument is to explain to you why [M.G.O.] and the other State’s witnesses are the ones telling the truth.” After making this statement, the prosecutor immediately discussed the elements the state needed to prove to the jury beyond a reasonable doubt. In context of the closing argument as a whole, this statement is not vouching. Furthermore, prosecutors are allowed to argue that witnesses were credible or not credible. *Leutschaft*, 759 N.W.2d at 425.

“The State submits to you that [M.G.O.] was very credible when she was up there.”

This is not an expression of the prosecutor’s opinion. *See Reed*, 398 N.W.2d at 617 (a prosecutor using the phrase “the state submits” does not inject their own opinion); *Leutschaft*, 759 N.W.2d at 425 (prosecutors may argue that witnesses are credible).

“[S]he told the truth.” This statement referred to M.G.O.’s decision to disclose to the police, even knowing that it might cause problems for her mom or Figueroa. The statement in context is:

If you recall, from the video, she said something to somebody at school. And then she was in the counselor’s office with the police and child protection, asking about what was going on at home. So she is not even the one who reported it to the police. But she thought about the consequences and *she told the truth*.

Viewing this statement in context we conclude that the statement was an argument that M.G.O. was credible based upon the evidence presented at trial. *Leutschaft*, 759 N.W.2d at 425.

“You can’t really put much weight on the testimony of [Figueroa’s character witness].” Figueroa argues that the prosecutor “did not explain why the jury should not put much weight on this testimony, which may have rehabilitated the otherwise-improper statement.” The prosecutor did, in fact, tell the jury why it should not put weight on this witness’s testimony, specifically that the witness was N.O.’s sister-in-law, had not known Figueroa for long, and had only seen him semi-regularly. The prosecutor was arguing that witnesses were or were not credible in the closing statement, which is allowed by *Leutschaft. Id.*

“And then the Defendant, he got up there and he denied that this happened. He is not credible.” Again, *Leutschaft* allows this type of argument. *Id.*

After reviewing the statements made by the prosecutor, we conclude that the prosecutor did not commit prosecutorial misconduct by personally vouching for any of the state’s witnesses or against the defense’s witnesses.

Affirmed.