

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-1874**

State of Minnesota,
Respondent,

vs.

Lawrence Sepan Wilson,
Appellant.

**Filed September 21, 2026
Affirmed in part, reversed in part, and remanded; motion granted
Connolly, Judge**

Hennepin County District Court
File No. 27-CR-23-4087

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

Mary F. Moriarty, Hennepin County Attorney, Mark V. Griffin, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Benjamin J. Butler, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Connolly, Presiding Judge; Reyes, Judge; and Rasmusson, Judge.

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

Appellant challenges his conviction of first-degree criminal sexual conduct (CSC 1), kidnapping, simple robbery, and violation of a domestic-abuse no-contact order (DANCO), arguing that the district court erred by: (1) failing to ask appellant to renew his

waiver of counsel following the addition of the kidnapping charge; (2) improperly instructing the jury on the necessary relationship between personal injury and sexual penetration for the CSC 1 offense, (3) failing to instruct the jury as to which alleged act supported the “sexual element” of the CSC 1 offense, and (4) ordering appellant to pay restitution in the absence of a request for restitution or any information about economic loss. Appellant also filed a motion to strike from the addendum to respondent’s brief a restitution claim and orders for various items that were not part of the record. We affirm the conviction, reverse the restitution order and remand it, and grant the motion to strike.

FACTS

In September 2022, appellant Lawrence Sepan Wilson and B.L. had a daughter. They were no longer living together by February 2023; appellant was then in an apartment that he had been ordered to vacate. On February 19, 2023, he said he wanted to see B.L. and the baby, so they came to the apartment.

He refused to let B.L. leave, demanded that she have sex with him, and threatened her by saying she would not get very far if she attempted to leave. He forced B.L. to perform oral sex for an hour, then drove her and the baby around for four hours in appellant’s car, during which he sexually assaulted her several times. B.L. texted a female friend, A.M., who came to appellant’s apartment. Appellant took the friend’s two phones and left. A.M. located appellant and the phones in a casino and notified the police, who arrested appellant.

He was initially charged with simple robbery and misdemeanor DANCO; the complaint was amended to include charges of CSC 1 and third-degree criminal sexual

conduct (CSC 3). In March 2023, A.M. claimed \$856.51 in restitution for lost or stolen property. In April 2023, appellant's public defender (PD) asked for a competency evaluation of appellant. In May 2023, appellant was found incompetent to proceed. The prosecution was suspended while appellant remained in treatment until April 2025.

Then, at a hearing, appellant's PD moved to have appellant released to a treatment facility. The prosecutor objected, saying that: (1) appellant was charged with first-degree CSC, simple robbery, and third-degree CSC; (2) the prosecution intended to amend the complaint with kidnapping charges, and (3) when appellant was previously released, he violated the terms and conditions of release. After the hearing, appellant was found competent to proceed.

In May 2025, appellant said he wanted to fire his two public defenders and hire private counsel. He did not do this, but he did sign a petition to proceed pro se. On May 22, 2025, appellant went through the petition with the public defenders, stating he understood the consequences of representing himself and that the maximum sentence for CSC 1 was 30 years. The prosecutor explained that appellant's most serious offense, CSC 1, exposed him to a 144-month sentence; the kidnapping charge could result in a consecutive 48 months, and having a separate victim, A.M., could result in a consecutive 33 months, for a total of 225 months. Appellant assured the district court that he heard everything the prosecutor had been saying. The state's offer was for appellant to plead guilty to CSC 3 for a sentence of 57 months, receive credit for time served on the misdemeanor DANCO violation in the 23-4087 file and on a misdemeanor DWI in another file, and have all other charges dismissed, leaving him with about 18 months in prison left

to serve. He was given until May 30 to consider the state's offer, but he did not accept the offer.

In July 2025, a jury trial was held; appellant cross-examined B.L. and A.M. The jury found appellant guilty of CSC 1, kidnaping, simple robbery, and the DANCO violation. In August 2025, appellant received a copy of the pre-sentence investigation (PSI), which included the request for restitution. He was sentenced to 219 months in prison and ordered to pay A.M. \$856.51 in restitution. He did not challenge the restitution order in the 30 days allowed for doing so, but appealed directly from the judgment of conviction. After respondent filed its brief, appellant filed a motion to strike items in respondent's addendum; the decision on the motion to strike was deferred to the panel.

Appellant now argues that the district court erred by (I) not repeating questions about his decision to proceed pro se at the beginning of trial, (II) giving the jury an erroneous instruction on CSC 1, (III) refusing to give the specific-unanimity instruction requested by appellant, and (IV) ordering restitution for which there was no factual basis;¹ he also (V) moves to strike portions of the addendum to respondent's brief.

DECISION

I. Appellant's Waiver of the Right to Counsel

This court reviews a district court's findings on a defendant's decision to waive the right to counsel for clear error. *State v. Turner*, 32 N.W.3d 546, 553 (Minn. 2026). Once the defendant has knowingly, voluntarily, and intelligently waived the right to counsel, the defendant need not renew the waiver of counsel at later proceedings. *State v. Rhoads*, 813

¹ Respondent contends that the challenge to the restitution order is not properly before us.

N.W.2d 880, 885 (Minn. 2012). But a renewed waiver may be required “when an intervening event substantially changes the circumstances existing at the time of the initial waiver of counsel.” *Turner*, 32 N.W.3d at 553. A district court can “reasonably presume” that a defendant who has consulted with counsel before waiving counsel had all the information necessary for a valid waiver. *Id.* at 556.

Appellant argues that the addition of the kidnapping charge, with the possibility of a 48-month consecutive sentence, was an “intervening event” that occurred after his waiver of counsel. But the transcript shows that: (1) appellant heard about the kidnapping charges on April 15, more than a month before he signed the petition to waive counsel on May 21; (2) he discussed the petition with his attorneys on May 22; and (3), when he said “I just heard it for the first time,” in response to a question as to whether he needed more time to consider the state’s offer, the “it” was the plea offer, not the kidnapping charge. Also, before the trial began, appellant filed a motion to dismiss the kidnapping charge, so he knew about it then. There was no “intervening event” that would have required another waiver of counsel.

Appellant relies on *Rhoads*, asserting that his case “calls for a straightforward application” of that case. But *Rhoads* is distinguishable. It involved two waivers of counsel: the first at a pretrial hearing and the second after the complaint had been amended “to include a count of first-degree burglary that roughly doubled the maximum possible punishment.”² *Rhoads*, 813 N.W.2d at 882. “Because the record does not support an

² In contrast to *Rhoads*, in which the penalty was “roughly doubled” by the additional charge, the penalty here was increased by about 20 percent; 48 months in prison were added to 177 months in prison for a total of 225 months in prison.

inference that when Rhoads renewed his waiver-of-counsel he understood the maximum possible punishment he faced had doubled, we conclude that the renewed waiver-of-counsel was not knowing and intelligent.” *Id.* Here, after appellant was told of the possible penalty, he asked for more time to consider the state’s offer and for the prosecutor’s phone number, so he could discuss the offer with the prosecutor. The district court ensured that appellant understood the possible penalty, including the kidnapping charge penalty, by having the prosecutor read it into the record. Thus, the district court “reasonably presume[d]” that appellant had all the information necessary for a valid waiver of counsel. *See Turner*, 32 N.W.3d at 556.

The district court did not err by not having appellant repeat his waiver of counsel.

II. The Jury Instruction on CSC 1

Because there was no objection to the jury instruction, it is reviewed for plain error. *State v. Milton*, 821 N.W.2d 789, 805 (Minn. 2012). Appellant must show that there was an error, that the error was plain, and that the error affected appellant’s substantial rights; he also “has the heavy burden of proving that there is a reasonable likelihood that giving the instruction in question had a significant effect on the jury verdict.” *State v. Kelley*, 885 N.W.2d 269, 283 (Minn. 2014).

Minnesota Statute § 609.342, subd. 1(c)(i) (2022), provides that “[a] person who engages in sexual penetration with another person is guilty of [CSC 1] if any of the following circumstances exists . . . the actor causes personal injury to the complainant, and . . . the actor uses coercion to accomplish the act.” At the state’s request, the jury was instructed that “[i]t is not necessary that the personal injury must be caused in the process

of accomplishing sexual penetration. A victim's injuries do not have to be simultaneous with the actual sexual penetration, as long as they are sufficiently related to the act." This instruction was taken from *State v. Sollman*, 402 N.W.2d 634, 636 (Minn. App. 1987).

But on July 9, 2025, the day before the instruction was given, the supreme court released *State v. Letourneau*, holding that "If the actor's use of force in section 609.342, subdivision 1(d), is an 'event accompanying, conditioning or determining' the sexual penetration, the plain language of the statute penalizes the use of force both before ('conditioning or determining') and during ('accompanying') the sexual penetration." 23 N.W.3d 386, 394 (Minn. 2025). Appellant was accused and convicted of violating Minn. Stat. § 609.342, subd. 1(c) (pertaining to causing personal injury by using coercion to accomplish sexual penetration), not subd. 1(d) (involving the use of force to accomplish sexual penetration). Thus, *Letourneau* is not really on point.

In any event, the state showed that the personal injury appellant caused B.L. accompanied, conditioned, or determined his sexual penetration of her. Appellant's argument that he inflicted violence on B.L. to force her to give him her phone, not to force her into sexual contact, is contradicted by the transcript. When he asked B.L., "You were assaulted for sex or were you assaulted for the phone?" she answered, "I was assaulted before the phone ever came into the picture, when I was forced to perform oral sex for over an hour" and "I was forced to [perform oral sex] so strongly that I threw up two or three times."

Finally, appellant has not shown that any error in not using the language of *Letourneau* in the jury instruction had a significant effect on the jury's verdict, because the

jury heard extensive evidence that the personal injuries appellant inflicted on B.L. “accompany[ied], condition[ed], or determine[ed]” his sexual penetrations of her. There was no error in the district court’s failure to use the language of *Letourneau* in the jury instruction.³

III. Omission of an Instruction on Unanimity

Again, there was no objection to the jury instruction that was given, so the standard of review is plain error. *See Milton*, 821 N.W.2d at 805.

Appellant argues that the district court erred by not instructing the jury that it had to agree which act (oral sex in the car, vaginal sex in the apartment, or vaginal sex the next morning) satisfied the “sexual penetration” element of Minn. Stat. § 609.342, subd. 1 (c)(i). He relies on *State v. Stempf*, 627 N.W.2d 352, 358 (Minn. App. 2001) (holding in a drug-possession case that a defendant’s unanimous-verdict right was violated because the prosecutor did not indicate whether the drugs found in the defendant’s workplace or the drugs found in his truck were the basis for the conviction, and the district court did not instruct the jury that it had to agree on which drugs it relied). But such an instruction was not necessary here because appellant did not deny that any of the sexual acts occurred: his only defense was that B.L. had consented to all of them.

Even if the omission of the unanimity instruction had been plain error, relief for plain error requires the error to affect the defendant’s substantial rights. *See Kelley*, 855

³Appellant concedes that the prosecutor may not have known about the day-old *Letourneau* case, but states that “ignorance of the law is no excuse” and cites *Underwood v. State*, 25 N.W.3d 26, 34 (Minn. 2025) for the proposition that prosecutors, like other members of society, are presumed “at least, to have acquainted themselves with those laws that are likely to affect their usual activities.”

N.W.2d at 273-74. An error affects a defendant’s substantial rights if it “was prejudicial and affected the outcome of the case.” *State v. Griller*, 583 N.W.2d 736, 741 (Minn. 1998). “[A] district court’s failure to provide a specific-unanimity instruction [is] prejudicial if it is ‘reasonably likely’ that the lack of instruction resulted in a non-unanimous verdict.” *State v. Yang*, 38 N.W.3d 74, 87 (Minn. 2026) (quoting *State v. Wenthe*, 865 N.W.2d 293, 300-01 (Minn. 2015)).

In *Wenthe*, the jurors had been instructed that they must unanimously agree that Wenthe violated the clergy sexual conduct statute, but not on the specific meeting at which the statute was violated. *Wenthe*, 865 N.W.2d at 299. But this “alleged error did not affect Wenthe’s substantial rights.” *Id.*

[The omission of] the unanimity instruction was prejudicial only if it is reasonably likely that (i) some jurors believed that both sexual penetration and spiritual counsel occurred at the November 13 meeting, but not at subsequent meetings; while (ii) other jurors believed that sexual penetration and spiritual counsel occurred at a later meeting but not at the November 13 meeting. *See Scarborough v. United States*, 522 A. 2d 869, 873-74 (D.C. 1987) (concluding that the lack of a specific unanimity instruction was harmless error).

Jurors could have reasonably concluded that Wenthe violated the single-meeting statute at the November 13 meeting but not at later meetings. . . .

There is no reasonable possibility, however, that some jurors concluded that both sexual penetration and spiritual counsel occurred at a later meeting but not at the November 13 meeting. . . . [The victim’s] testimony does not support this scenario. . . . Neither does the scenario comport with Wenthe’s theory of the case, as he argued that spiritual counsel ceased before the relationship became sexual in nature. Further, Wenthe and [the victim] undisputedly engaged in sexual conduct at the November 13 meeting, but the record is unclear on other dates. . . . [N]either Wenthe nor [the victim] could remember the exact dates of later sexual encounters. . . . [I]t is

not reasonably likely that any juror relied on a later meeting but not the November 13 meeting to find Wenthe guilty.

....

Because it is not reasonably likely that the district court's failure to provide a specific-unanimity jury instruction significantly affected the verdict, we conclude that any error did not affect Wenthe's substantial rights.

Id. at 300-301; *compare Yang*, 38 N.W.3d at 87 (“Given the multiple acts alleged and the vagueness of [the victim’s] allegations, it is reasonably possible that the jurors were split on the acts that they believed had been proven”); *State v. Keyes*, 38 N.W.3d 21, 25 (Minn. 2026) (“Because it is reasonably likely that some jurors believed that appellant sexually penetrated the victim in the bedroom but not the living room, while other jurors believed that appellant sexually penetrated the victim [in the living room] but not the bedroom, the district court’s error [in omitting the unanimity instruction] was not harmless beyond a reasonable doubt”).

Here, the jury could not have had more than one view on whether appellant engaged in sexual penetration, since neither he nor B.L. denied it, and it could not have had more than one view as to whether B.L. consented, because she repeatedly and extensively testified that she did not consent. Thus, because it is not reasonably likely that the lack of a specific-unanimity instruction resulted in a non-unanimous jury verdict, the omission of the instruction did not affect appellant’s substantial rights.

IV. Restitution

This court reviews de novo whether a district court had the authority to order restitution. *State v. Anderson*, 871 N.W.2d 910, 913 (Minn. 2015).

The information that A.M. had claimed \$865.51 was forwarded to the probation officer, who included it in appellant's PSI, states: "Loss Data: . . . "Victim 2 [A.M.] submitted a restitution claim in the amount of \$865.51." The claim for restitution states that A.M.'s "property stolen or damaged" was \$800.00 in cash and \$65.51 in phone cases, screen protectors, and phone rings, and provides orders for these items that list the amounts paid. But the claim and the orders were not before the district court and therefore are not part of the record.

Because there was no factual basis for the restitution award in the record, we reverse the order and remand. *See State v. Fader*, 358 N.W.2d 42, 48 (Minn. 1984) (vacating restitution order for \$10,000 because "the record [did] not provide a factual basis for the restitution award" and remanding for reconsideration so the parties could "present evidence bearing on the issue of economic loss to the victim and her family").

V. The Motion to Strike

Appellant moves to strike the copy of the restitution claim and the orders, arguing that the claim "accuses [him] of stealing cash from a complaining witness: an accusation neither the government nor the complainant had ever made." Here, the state has not filed a response opposing the motion to strike. We grant the motion.

Affirmed in part; reversed in part and remanded; motion granted.