

*This opinion is nonprecedential except as provided by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
A24-0800**

State of Minnesota,
Respondent,

vs.

Bashir Abdullahi Farah,
Appellant.

**Filed May 19, 2025
Affirmed
Schmidt, Judge**

Olmsted County District Court
File No. 55-CR-22-3637

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

Michael Walters, Olmsted County Attorney, James E. Haase, Senior Assistant County Attorney, Rochester, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Andrea Barts, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Schmidt, Presiding Judge; Johnson, Judge; and Larkin, Judge.

NONPRECEDENTIAL OPINION

SCHMIDT, Judge

Appellant challenges his convictions for first-degree aggravated robbery and second-degree assault, arguing that the district court erred by admitting reputation testimony from a law enforcement officer as to the untruthful reputation of a hearsay

declarant.¹ Because the district court did not abuse its discretion and because any possible error was harmless, we affirm.

FACTS

In April 2022, S.W. met appellant Bashir Abdullahi Farah at an apartment where other people, including S.A., were present. When S.W. tried to leave, Farah pulled out a knife, demanded that S.W. surrender his belongings, and cut S.W. with the knife.

Law enforcement responded to a call and could hear S.W. yelling for help when they arrived. When officers entered the apartment, S.A. claimed that S.W. tried to rape her. Officers saw S.W. slumped on the floor and found Farah hiding in a bedroom closet. S.W. later told the detective that Farah cut him with the knife and took his possessions.

Respondent State of Minnesota charged Farah with first-degree aggravated robbery, first-degree assault, and second-degree assault. Farah waived his right to a jury and proceeded with a bench trial. S.A. did not testify at trial, but—over the state’s hearsay objection—the district court allowed the jury to hear S.A.’s statements that she made at the scene as recorded in the responding officer’s body-camera video. Over defense counsel’s objection for lack of foundation, an officer offered the following testimony at trial regarding S.A.’s reputation for untruthfulness:

THE STATE: Are you familiar with [S.A.’s] reputation?

OFFICER: Yes, I am.

¹ Appellant also challenges his conviction of third-degree assault. But that count is not adjudicated in the warrant of commitment and we do not consider challenges to unadjudicated counts. *See State v. Ashland*, 287 N.W.2d 649, 650 (Minn. 1979).

THE STATE: Are you familiar enough with her reputation to have an opinion as to her character for honesty?

OFFICER: Yes.

DEFENSE COUNSEL: Judge, I'm going to object on foundation on this officer's familiarity with [S.A.'s] reputation.

THE COURT: Sure. Maybe you could articulate more how you know this individual so that I can have a better assessment of, you know, how well you know her reputation for truthfulness or untruthfulness.

THE STATE: I'll follow up on that. So on the video we hear you refer to [S.A.] as Lucky without her having to tell you her name, correct?

OFFICER: That is correct.

THE STATE: How long have you known her as Lucky?

OFFICER: Ever since the first interaction that I had with her. That's what she had told me her name was.

THE STATE: How long ago was that?

OFFICER: I would say that was probably early in the wintertime of, like—sometime in the wintertime of 2020 and 2021 I would say roughly.

THE STATE: And is she—is she also a person that you've talked about with other officers?

OFFICER: That is correct.

THE STATE: Okay. . . . And how many times, best estimate, do you think you've interacted with her in one fashion or another?

OFFICER: Probably over 25.

THE STATE: Okay. Is that sufficient, Your Honor, for me to ask the—

THE COURT: (Indicating.)

THE STATE: And what is your opinion as to her reputation for honesty?

OFFICER: Not very truthful.

On recross, defense counsel questioned the officer about S.A.'s reputation for untruthfulness. When asked by defense counsel whether the officer had discussed S.A.'s reputation with anyone in the community, the officer testified, "I'm sure that I've had conversations with people" regarding "her honesty[.]"

The district court found Farah guilty of first-degree aggravated robbery, second-degree assault, and third-degree assault. In its verdict and memorandum, the district court addressed S.A.'s claim that the victim raped her:

[S.A.] almost immediately made claims that [S.W.] tried to rape her but there was nothing credible about her claims under the circumstances. [S.A.] deliberately sowed chaos and confusion for the responding officers about what happened by talking loudly and incessantly. She was not cooperative with officers or credible.

The district court also addressed the testimony about S.A.'s reputation for untruthfulness: "[The officer] credibly testified that [S.A.] had a reputation for untruthfulness, which was based on approximately twenty-five prior encounters with [S.A.]."

Before sentencing, Farah moved for a new trial, arguing that the state impermissibly attacked the character of a nontestifying declarant when the officer testified that S.A. has

a reputation for untruthfulness. The district court denied the motion and explained that the officer's testimony regarding S.A. did not impact the court's verdict:

It is perfectly acceptable to allow a police officer, if they've articulated that they're familiar with the person's reputation for untruthfulness—which the officer did testify in that respect and mentioned the roughly 25 prior encounters that she was aware of. That's exactly what the rule allows for, is for her to give her opinion on the reputation of [S.A.] for truthfulness. But, frankly, it really was not—it was a very insignificant portion of the Court's consideration.

And in that respect, I will point out that in the motion context and denying the motion, if it was error, which I don't feel that it was, to allow that testimony from [the officer], it certainly was harmless because there was no reasonable chance that it affected the ultimate outcome or the Court's decision, which was primarily based off the credibility findings regarding [S.W.].

The district court then sentenced Farah to 180 months' imprisonment. Farah appeals.

DECISION

Farah argues that the district court abused its discretion in determining that the state provided sufficient foundation for the officer's testimony about S.A.'s untruthfulness and contends that the district court plainly erred in allowing the officer to testify about S.A.'s untruthfulness because S.A.'s character for truthfulness had not been attacked. *State v. Amos*, 658 N.W.2d 201, 203 (Minn. 2003) (reviewing evidentiary rulings for an abuse of discretion); *State v. Myhre*, 875 N.W.2d 799, 804 (Minn. 2016) (reviewing unobjected-to errors for plain error).² We are not persuaded.

² Farah contends both issues should be reviewed for an abuse of discretion. But without an objection to the admission of the testimony—and the record reflects none—we review the second issue for plain error.

First, the district court did not abuse its discretion because the state provided the proper foundation for the officer to testify to S.A.'s untruthfulness. After Farah's counsel objected to foundation, the prosecutor asked several additional questions to establish foundation. In response to the questioning, the officer provided that she: knew S.A.'s nickname, knew S.A. since the winter of 2020 and 2021, talked to other officers about her, and interacted with S.A. over 25 times. The prosecutor asked the judge whether the questions were "sufficient." The transcript notes that the judge responded by "indicating." The transcript does not reflect that Farah's counsel raised a second objection to foundation, and the prosecutor proceeded to ask the officer about S.A.'s reputation for honesty. The district court did not abuse its discretion in determining that the state had provided adequate foundation for the officer's testimony.

Second, the district court did not plainly err in allowing the officer to testify about S.A.'s untruthfulness. *Myhre*, 875 N.W.2d at 804 (noting an appellant must prove, among other factors, (1) error, (2) that is plain). S.A. did not testify at trial, but her recorded hearsay statements from the officer's body-worn camera were admitted over the state's hearsay objection. Given that S.A.'s hearsay statements were admitted, the state's questions related to S.A.'s credibility were appropriate under rule 806. *See* Minn. R. Evid. 806 ("When a hearsay statement . . . has been admitted in evidence, the credibility of the declarant may be attacked, and if attacked may be supported, by any evidence which would be admissible for those purposes if declarant had testified as a witness.").

Farah contends that the district court plainly erred because S.A.'s character for truthfulness had not been attacked before the officer testified about S.A.'s lack of honesty.

But rule 608 distinguishes between evidence of bolstering a witness' truthfulness and evidence that attacks a witness' truthfulness. Minn. R. Evid. 608(a)(2). The rule prohibits the admission of evidence of *truthful* character if the character of the witness for *truthfulness* has not yet been attacked. *Id.*; *see also* Minn. R. Evid. 608 1977 comm. cmt. ("Evidence of truthful character is only admissible for rehabilitation purposes after the character of the witness is attacked."); *State v. Lasnetski*, 696 N.W.2d 387, 395-96 (Minn. App. 2005) (affirming district court's ruling prohibiting defendant from presenting testimony about his truthfulness because the state had not attacked the defendant's character for truthfulness). That same prohibition does not apply to evidence of *untruthful* character. *See* Minn. R. Evid. 608(a)(2). The district court neither erred, nor plainly erred because the state appropriately offered testimony about S.A.'s lack of honesty under rule 806 after her hearsay statements were introduced through the body camera video.

Even if we were to assume that the district court abused its discretion or plainly erred, we would still affirm because any possible error was harmless. *State v. Smith*, 940 N.W.2d 497, 505 (Minn. 2020) (reviewing evidentiary rulings for an abuse of discretion "governed by the harmless error standard"); *Myhre*, 875 N.W.2d at 804 (noting that if district court plainly erred in admitting evidence, relief only warranted if the ruling affected substantial rights). "[I]n assessing whether an error is harmless, the question is not whether the other evidence was *sufficient* to support the conviction, but rather whether the error substantially influenced the verdict." *State v. Bigbear*, 10 N.W.3d 48, 54 (Minn. 2024) (emphasis in original) (quotation omitted). "An error is not harmless if a reasonable possibility exists that the error significantly affected the [fact-finder]'s verdict." *Id.*

We conclude that the officer's testimony about S.A.'s reputation for untruthfulness did not influence the district court's verdict. In its posttrial ruling, the district court explicitly found that even if it were an error to admit the officer's testimony, "it certainly was harmless because there was no reasonable chance that it affected the ultimate outcome or the Court's decision[.]" The district court noted that its decision "was primarily based off the credibility findings regarding [S.W.]" The district court stated that S.A.'s testimony constituted "a very insignificant portion of the Court's consideration" in finding Farah guilty. Thus, even assuming the officer's testimony was improperly admitted, we conclude that admitting the testimony was harmless.

Affirmed.