

*This opinion is nonprecedential except as provided by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
A24-0867**

State of Minnesota,
Respondent,

vs.

Asad Rice Muhammad,
Appellant.

**Filed May 12, 2025
Affirmed
Bjorkman, Judge**

Hennepin County District Court
File No. 27-CR-23-20974

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

Mary F. Moriarty, Hennepin County Attorney, N. Nate Summers, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Steven P. Russett, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Bond, Presiding Judge; Bjorkman, Judge; and Reyes, Judge.

NONPRECEDENTIAL OPINION

BJORKMAN, Judge

Appellant challenges his conviction of third-degree criminal sexual conduct, arguing that the district court abused its discretion by not permitting him to ask the

complainant if she is a sex worker. He asserts additional arguments in a pro se supplemental brief. We affirm.

FACTS

During the evening of September 29, 2023, M.M. told police officers working in a store that a man “just raped” her and was outside. The officers found appellant Asad Rice Muhammad sitting in his vehicle in the store’s parking lot; M.M. confirmed that he was her assailant. Muhammad initially claimed that he was alone, but security footage confirmed that he had arrived at the store with M.M. The officers then asked M.M. for more information about what happened. She responded that she met Muhammad in Minneapolis, they drove around in his vehicle, and he gave her drugs, which she ingested. At that point, he asked “to do some sexual acts on her” and then “all of a sudden” became aggressive, strangled her, and raped her. The officers noticed that she was “visibly shaken” but did not see any marks on her neck. They arrested Muhammad.

Later that evening, M.M. underwent a sexual-assault examination. She told the nurse examiner that she “went driving” with a man who “forced” her to “give . . . him oral” and twice forced “penile vaginal penetration.” As she recounted the incident, she “did a lot of crying.” She declined to answer questions about strangulation, and the nurse examiner did not notice any marks on her neck. When a police investigator arrived at the hospital to ask her about the incident, M.M. said that she did not know Muhammad. She reiterated that he had strangled her and sexually assaulted her, including both oral and vaginal penetration. She said that she was scared and thought he was going to kill her. The

investigator did not notice any marks on M.M.'s neck. Subsequent testing of swabs taken from M.M.'s body during the examination confirmed the presence of Muhammad's DNA.

Muhammad was charged with two counts of third-degree criminal sexual conduct, one based on an allegation of coercion to accomplish sexual penetration, and one based on an allegation of force to accomplish sexual penetration. Before trial, Muhammad asserted a defense of consent and moved to admit "evidence of [M.M.'s] previous sexual conduct" under Minn. R. Evid. 412. He explained that he wanted to present evidence that M.M. is a sex worker, that the sexual encounter in question was a consensual encounter in exchange for money or something else of value, and that M.M. had engaged in a similar sexual encounter with him in August 2023. He emphasized that M.M. described herself as a sex worker to police and the nurse examiner. The district court partially denied the motion. It permitted Muhammad to question M.M. and present evidence about a consensual exchange of sex for money or drugs on the day in question, and the same for "previous sexual conduct with each other." But the court precluded Muhammad from presenting evidence or questioning M.M. about whether she "is engaged otherwise as a sex worker."

At trial, the state presented the testimony of M.M., the nurse examiner, one of the officers M.M. interacted with at the store (and two videos from his body-worn camera), and the police investigator. In testifying about the incident, M.M. said that Muhammad pulled up in his vehicle as she was walking down the street and offered her a cigarette. She said he claimed to know her but she did not remember meeting him. She explained that she got in the car with him, he stopped to pick up some methamphetamine, and he then parked the car. He put clothes up over the car windows, and M.M. assumed he was trying

to give her privacy while she injected methamphetamine. He then asked her to “suck his dick,” and when she refused he “choked” her with his hands around her neck for about 15 seconds. When he asked again, she agreed because she was scared. Next, he told her to lie down and insisted on vaginal sex even though she told him no; he had sex with her for a time and then ejaculated on her face. A few minutes later, he demanded oral sex again. When she refused, he “made a comment about a girl that [was] gang raped and found dead on a rooftop in South Minneapolis,” which intimidated and scared her, especially after the choking incident, so she acquiesced again. Muhammad also tried to initiate vaginal sex again but stopped after she said it hurt and clamped her legs together. She then told him she needed to go to the store to get a change of clothes, planning to find officers and report what had happened.

During cross-examination, defense counsel asked M.M. if she had met Muhammad before the day of the incident; she answered in the negative. He repeatedly asked M.M. why she would stop to talk to a stranger and get in a stranger’s car, emphasized her drug use, and asked her about what she was wearing. And defense counsel reframed her description of walking down the street when she met Muhammad as “walking the streets.”

Muhammad testified in his own defense. He said that he saw M.M. walking down the street on the day in question and recognized her from a sexual encounter a month or two earlier when he “had sex for money with her,” after “she told [him] she was a female escort.” He added: “She was escorting herself. That’s what she’d do for money and I guess to feed her habit, I guess.” And he said that on the evening in question she again agreed to

“some forms of sexual encounter” in exchange for “some money so she could get some meth, so she could feel high.”

The jury found Muhammad guilty of third-degree criminal sexual conduct involving coercion but not guilty of third-degree criminal sexual conduct involving force. The district court imposed a presumptive 42-month prison sentence.

Muhammad appeals.

DECISION

I. The district court did not abuse its discretion by excluding evidence of M.M.’s history of sex work unrelated to Muhammad.

Appellate courts review a district court’s evidentiary rulings for abuse of discretion, even where, as here, the defendant claims that the exclusion of evidence deprived him of his constitutional right to a meaningful opportunity to present a complete defense. *State v. Wenthe*, 865 N.W.2d 293, 306 (Minn. 2015). A district court abuses its discretion if its decision rests on an erroneous view of the law or is “against logic and the facts in the record.” *State v. Fernandez Sorto*, 12 N.W.3d 207, 212 (Minn. App. 2024) (quotation omitted), *rev. denied* (Minn. Dec. 17, 2024). Even if the district court abused its discretion by excluding evidence, that error does not warrant reversal if it was harmless beyond a reasonable doubt. *Id.* An error is harmless beyond a reasonable doubt if “the verdict actually rendered was surely unattributable to the error.” *Wenthe*, 865 N.W.2d at 308 (quotation omitted).

In a criminal-sexual-conduct prosecution, evidence of the victim’s “previous sexual conduct” is admissible only if its probative value “is not substantially outweighed by its

inflammatory or prejudicial nature,” and only in specified circumstances, including when the victim’s consent is a defense. Minn. R. Evid. 412(1)(A); *see* Minn. Stat. § 609.347, subd. 3 (2024) (stating substantially identical rule). When consent is at issue, two types of evidence may be admissible:

- (i) evidence of the victim’s previous sexual conduct tending to establish a common scheme or plan of similar sexual conduct under circumstances similar to the case at issue, relevant and material to the issue of consent;
- (ii) evidence of the victim’s previous sexual conduct with the accused[.]

Minn. R. Evid. 412(1)(A); *see* Minn. Stat. § 609.347, subd. 3(a). Known as the “rape-shield law,” the statute ““serves to emphasize the general irrelevance of a victim’s sexual history.”” *Wenthe*, 865 N.W.2d at 306 (quoting *State v. Crims*, 540 N.W.2d 860, 867 (Minn. App. 1995), *rev. denied* (Minn. Jan. 23, 1996)).

Muhammad argues that the district court abused its discretion by admitting only evidence of M.M.’s previous sexual conduct with him under Minn. R. Evid. 412(1)(A)(ii), but not general evidence of her previous sexual conduct—specifically, that she is a sex worker—under Minn. R. Evid. 412(1)(A)(i). He contends that evidence of M.M.’s sex work would have “buttress[ed]” his testimony that they engaged in a consensual sexual encounter on the evening in question and undermined M.M.’s testimony. He also asserts this evidence was admissible because it was not evidence of specific other acts of prostitution, it did not concern events after the incident in question, credibility was critical to evaluating Muhammad’s consent defense, and the evidence was not unfairly prejudicial because M.M. “readily admitted” to others that she is a sex worker. But none of these

contentions addresses the central issue—whether evidence of M.M.’s sex work “tend[s] to establish a common scheme or plan of similar sexual conduct under circumstances similar to the case at issue, *relevant and material to the issue of consent*.” See Minn. R. Evid. 412(1)(A)(i) (emphasis added).

As the rape-shield law clarifies, and the district court noted, “[i]n order to find a common scheme or plan, the judge must find that the victim made prior allegations of sexual assault which were fabricated.” Minn. Stat. § 609.347, subd. 3(a)(i). Muhammad never made an offer of proof as to any specific prior sexual conduct by M.M., let alone present evidence that she fabricated a prior allegation of sexual assault. As such, he failed to establish any basis for the district court to admit evidence of M.M.’s prior sexual conduct unrelated to the defendant. While Muhammad emphasizes that M.M. acknowledged her history of sex work during her interactions with police and the nurse examiner, he does not explain how that acknowledgment makes the evidence any less prejudicial or more relevant. In short, Muhammad has not demonstrated that the district court abused its discretion by preventing him from questioning M.M. about her history of sex work unrelated to him.

Moreover, Muhammad has not demonstrated any prejudice flowing from the district court’s ruling. As noted above, an erroneous evidentiary ruling does not warrant reversal if the jury’s verdict was “surely unattributable to the error.” *Wenthe*, 865 N.W.2d at 308 (quotation omitted). Muhammad is correct that this case was about credibility—the jury was presented with an undisputed sexual encounter and asked to determine whose version of it was more credible. He contends that it is reasonably likely that the jury would have

found his consent defense more credible if he had been permitted to question M.M. about being a sex worker. The record persuades us otherwise.

Indeed, the record shows that Muhammad presented that very evidence to the jury, despite the district court's ruling that he was not entitled to do so. He testified expressly and repeatedly that M.M. was a sex worker, and defense counsel openly alluded to it while cross-examining her. There is no reason to think that hearing M.M. acknowledge as much herself would have affected the jury's credibility determination. Additionally, the jury's verdict shows that it rejected Muhammad's claim that their sexual encounter was consensual; it simply found that he used coercion rather than force during the encounter. On this record, the jury's verdict that he was guilty of third-degree criminal sexual conduct involving coercion is surely unattributable to the district court's ruling preventing Muhammad from questioning M.M. about being a sex worker.

II. Muhammad's pro se supplemental arguments do not entitle him to relief.

In a pro se supplemental brief, Muhammad reiterates the evidentiary argument advanced in his principal brief and addresses a range of additional subjects, including: (1) M.M.'s credibility, (2) hearsay, (3) a juror who was not seated, (4) ineffective assistance of counsel, (5) the legality of his sentence, (6) jury instructions, and (7) prosecutorial misconduct. For most of these, it is impossible to discern Muhammad's argument with sufficient clarity to address it. And for all of these, Muhammad fails to provide legal analysis or citation to the record or legal authority. Given that failure to explain or support his arguments, he has forfeited them. *State v. Reek*, 942 N.W.2d 148, 165 (Minn. 2020). Additionally, his arguments appear to concern witness credibility and various matters

regarding the district court's conduct of a criminal trial, all of which warrant substantial deference on appeal. *See State v. Colgrove*, 996 N.W.2d 145, 150 (Minn. 2023) (credibility); *Wenthe*, 865 N.W.2d at 306 (evidentiary rulings); *State v. Soto*, 855 N.W.2d 303, 307-08 (Minn. 2014) (sentencing); *State v. Moore*, 863 N.W.2d 111, 118 (Minn. App. 2015) (jury instructions), *rev. denied* (Minn. July 21, 2015). Because nothing in Muhammad's pro se brief articulates a basis for deviating from this deferential posture, identifies a clear abuse of discretion by the district court, or otherwise shows that he did not receive a fair trial, he has not demonstrated a basis for relief.

Affirmed.