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**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A17-0282**

State of Minnesota,  
Respondent,

vs.

Christopher Cory Wiedeman,  
Appellant.

**Filed January 16, 2018  
Affirmed  
Jesson, Judge**

Clay County District Court  
File No. 14-CR-16-1313

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Brian J. Melton, Clay County Attorney, Lori H. Conroy, Assistant County Attorney, Moorhead, Minnesota (for respondent)

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

Considered and decided by Connolly, Presiding Judge; Jesson, Judge; and Florey, Judge.

**UNPUBLISHED OPINION**

**JESSON**, Judge

K.M. was spending a normal day at her apartment, doing laundry, when her ex-boyfriend, appellant Christopher Cory Wiedeman, arrived. Met at the door by a friend of

K.M., Wiedeman slammed the friend into the apartment door and mailboxes and threatened his life. While the friend got away, Wiedeman proceeded into K.M.'s apartment, threatening her and throwing knives in her direction. Wiedeman challenges his convictions for terroristic threats, assault, and violation of a domestic abuse no-contact order. He takes issue specifically with the admission of relationship evidence of two previous incidents of domestic violence against K.M. Because the evidence was properly admitted, we affirm.

### **FACTS**

On March 27, 2016, K.M. was at her apartment complex in Moorhead washing clothes. The dryer she was using jammed, so K.M. called her friend, S.K., to help. S.K. came to K.M.'s apartment, fixed the dryer, and on his way to leave, ran into K.M.'s ex-boyfriend, appellant Christopher Cory Wiedeman. K.M. had an active Domestic Abuse No-Contact Order (DANCO) against Wiedeman at the time.

S.K. extended his hand to shake Wiedeman's hand. Wiedeman responded by slamming S.K. into the apartment complex door and mailboxes and threatening his life, saying "I'll kill you motherf-cker." K.M. attempted to get between the two men during the confrontation and sustained injury. At one point during the struggle, S.K. was able to get away from Wiedeman and leave the apartment. He called another friend of K.M.'s, and asked her to go to K.M.'s apartment and check on her.

When S.K. left, K.M. was able to get back into her apartment. Wiedeman attempted to follow, banging on her apartment door and screaming at K.M. to let him in. K.M. let Wiedeman in, and the two argued. Wiedeman threatened that if police came, K.M. would be "dead before they can even make it to the door." Wiedeman threw two knives in K.M.'s

direction. Eventually, K.M.'s friend, the one that S.K. had called, arrived at K.M.'s apartment. At this point, Wiedeman left.

Wiedeman then went to S.K.'s home. When S.K. saw Wiedeman at his door, he called 9-1-1. Law enforcement responded but Wiedeman was no longer at the residence. S.K. provided a statement to law enforcement about the earlier encounter with Wiedeman at K.M.'s apartment. K.M. also gave a statement three days later.

Wiedeman was charged with offenses against both S.K. and K.M. Against S.K., Wiedeman was charged with threats of violence and fifth-degree assault.<sup>1</sup> Against K.M., Wiedeman was charged with domestic assault and violation of a no-contact order.<sup>2</sup> Wiedeman was also charged with damage to property over \$1,000, which was later amended to \$500-\$1,000,<sup>3</sup> for damage to the apartment-complex door.

Wiedeman pleaded not guilty and the case went to trial. Prior to trial, Wiedeman opposed the state's motions in limine to allow relationship evidence to come in under Minnesota Statutes section 634.20 (2016) regarding two prior incidents between Wiedeman and K.M. One of those incidents took place in September 2015, when Wiedeman pushed, shoved, and hit K.M. at her apartment. Another incident took place in October 2015, while the two were driving, when Wiedeman struck her while in the car and then again when they got out of the car and were in a ditch, and kicked her in the stomach. The district court allowed the state to introduce the relationship evidence, and K.M.

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<sup>1</sup> Minn. Stat. §§ 609.713, subd. 1(Supp. 2015), .224, subd. 4(b) (2014).

<sup>2</sup> Minn. Stat. §§ 609.2242, subd. 4, 629.75, subd. 2(d)(1) (2014).

<sup>3</sup> Minn. Stat. § 609.595, subs. 1(3), 2(a) (2014).

testified about both incidents at trial.<sup>4</sup> Prior to that testimony, the court gave cautionary instructions to the jury. Those instructions were repeated prior to jury deliberations.

K.M. testified that Wiedeman was her ex-boyfriend and that she had a DANCO against him that began March 2, 2016, 25 days prior to the charged incident. The DANCO was produced at trial. The state was permitted to introduce two of Wiedeman's prior convictions at trial, one for a felony violation of a restraining order and one for a felony domestic assault.<sup>5</sup> Neither warrant of commitment included information that K.M. was the victim of those offenses.

Prior to jury deliberations, the district court granted a motion for acquittal on the domestic assault against K.M. because it stated that the state failed to prove that Wiedeman and K.M.'s relationship was adequately significant. The other charges went to the jury, which found Wiedeman guilty of threats of violence and fifth-degree assault against S.K. and violating a no-contact order against K.M. The jury acquitted Wiedeman of damage to property.

The court sentenced Wiedeman to 32 months in prison for the assault and a concurrent 24 months for the violation of the DANCO. Wiedeman appeals.

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<sup>4</sup> The state also tried to introduce testimony from a police officer who responded to the September 2015 incident to provide credibility to K.M. as a witness testifying to the incident. This district court did not allow for that testimony.

<sup>5</sup> These convictions were introduced because Wiedeman refused to stipulate to the convictions in order to allow for offense enhancements in this case.

## DECISION

Wiedeman challenges the admission of the two violent altercations he had with K.M. in 2015 as relationship evidence. A district court's decision to admit similar-conduct or relationship evidence under Minnesota Statutes section 634.20 in a domestic-abuse prosecution is reviewed for an abuse of discretion. *State v. McCoy*, 682 N.W.2d 153, 161 (Minn. 2004). "On appeal, the appellant has the burden of establishing that the [district] court abused its discretion and that appellant was thereby prejudiced." *State v. Amos*, 658 N.W.2d 201, 203 (Minn. 2003) (citation omitted).

Minnesota Rule of Evidence 404(b) allows a court to admit evidence of another crime, wrong, or act to prove "motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident." Relationship evidence is a subset of 404(b) evidence and has "generally been used to describe any evidence that is offered to illuminate the relationship between the accused and the alleged victim." *State v. Bell*, 719 N.W.2d 635, 638 n.4 (Minn. 2006). Relationship evidence under Minnesota Statutes section 634.20 is a further subtype of general relationship evidence and relates to specifically domestic conduct. *See id.*

Minnesota Statutes section 634.20 provides, "Evidence of domestic conduct . . . is admissible unless the probative value is substantially outweighed by the danger of unfair prejudice." The rationale for admitting relationship evidence under this section is to "illuminate the relationship between the defendant and the alleged victim" and to place a crime in the context of that relationship. *State v. Valentine*, 787 N.W.2d 630, 637 (Minn.

App. 2010), *review denied* (Minn. Nov. 16, 2010). Evidence that provides this context “bolsters its probative value.” *State v. Kennedy*, 585 N.W.2d 385, 392 (Minn. 1998).

The relationship evidence admitted by the district court here was probative. While both K.M. and S.K. testified that Wiedeman was K.M.’s ex-boyfriend, that fact does not establish what that relationship was like. The violent incidents in 2015 provide the context that Wiedeman and K.M.’s relationship was volatile. This evidence was relevant to motive and intent because, but for the relationship evidence, the jury would not necessarily have understood why Wiedeman would attack a man leaving K.M.’s apartment or why K.M. would have a DANCO against Wiedeman. The past relationship evidence between K.M. and Wiedeman provides this needed context.

Wiedeman argues that, instead of being probative, the relationship evidence was cumulative. Relationship evidence can be inadmissible when it provides only a “needless presentation of cumulative evidence.” Minn. Stat. § 634.20. Wiedeman asserts that because the jury already knew about his two prior convictions for domestic-related offenses, and because the fact he was once in a relationship with K.M. was not in doubt, evidence of the incidents in September and October 2015 should have been barred. But the fact that a relationship existed provides little context about that relationship.<sup>6</sup> And while Wiedeman’s domestic-related convictions were admitted, one for a violation of a harassment restraining order and another for felony domestic assault, those convictions did

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<sup>6</sup> Wiedeman asserts that the past relationship between Wiedeman and K.M. was established, but this is contrasted by the fact that the district court dismissed the domestic assault charge for Wiedeman’s actions against K.M., finding that the state failed to prove an adequately significant relationship to fall under the statute’s purview.

not list K.M. as the victim. Without evidence of Wiedeman's violent acts against K.M., there is little basis for his motive or intent in involving himself in the violent altercation with K.M. and S.K. at issue in this case.<sup>7</sup> The relationship evidence was not merely cumulative.

Since we determine that the relationship evidence is probative, we next turn to whether the probative value is substantially outweighed by unfair prejudice to Wiedeman. The unfair prejudice we consider in this balancing "is not merely damaging evidence, even severely damaging evidence; rather, unfair prejudice is evidence that persuades by illegitimate means, giving one party an unfair advantage." *Bell*, 719 N.W.2d at 641 (quotation omitted).

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<sup>7</sup> Wiedeman contrasts this case with *State v. Loving*, 775 N.W.2d 872, 876, where the defendant denied meeting or knowing the victim and the court properly allowed for relationship evidence, unlike here where Wiedeman never denied knowing the victims. But this argument again neglects that relationship evidence is relevant to the context of a relationship, not just to establish whether the parties knew each other. *See Valentine*, 787 N.W.2d at 637 (the rationale for admitting relationship evidence under section 634.20 is to put a crime in the *context* of that relationship).

Wiedeman also argues Minnesota Statutes section 634.20 cannot be used to admit evidence of prior similar conduct against someone other than the complainant, referring to admitted evidence of Wiedeman's prior relationship with K.M., when both K.M. and S.K. are victims in this case. Wiedeman cites to *State v. Williams*, stating that incidents of past violence can be relevant when committed "by the same defendant against the same victim." 593 N.W.2d 227, 236. But in *Williams*, there were also two victims, an ex-girlfriend and that ex-girlfriend's grandmother, and relationship evidence was properly admitted between the defendant and only one of the victims. *Id.* at 230-32. Just like the court in *Williams* allowed for this relationship evidence, it is not an abuse of discretion for the district court to allow evidence of Wiedeman's relationship with K.M. to be introduced in a case where both K.M. and S.K. were victims. *But see State v. Copeland*, 656 N.W.2d 599, 602 (Minn. App. 2003) (the introduction of relationship evidence under section 634.20 against a material witness, and not the victim of the charged offense, was erroneous), *review denied* (Minn. Apr. 29, 2003).

Wiedeman argues that the relationship evidence is overly prejudicial because it “overwhelmed” the jury, precluding them from being able to separate the facts of this case from the “attack on appellant’s character” and his history of domestic offenses. A review of the record refutes this argument for three reasons.

First, the vast majority of the testimony that the jury heard in this case was related to the actual incident charged. K.M. was the only witness to testify about the prior incidents and she did so in what made up less than four pages of the trial transcript, while the duration of her entire testimony made up over twenty-five pages. We also consider whether the prosecutor urged the jury to use the relationship evidence in an improper way. *State v. Word*, 755 N.W.2d 776, 786 (Minn. App. 2008). But neither counsel discussed the prior incidents in their opening or closing statements in any more detail than the state describing Wiedeman and K.M.’s relationship as “rocky” and noting that she had a DANCO against him. This was not improper.

Next, we consider the level of violence at issue in the admitted past acts versus the acts charged in this case to determine if those past acts are overly prejudicial. In September and October 2015, Wiedeman hit and kicked K.M. In the present case, he slammed S.K. against mailboxes and a wall and threatened to kill him. Wiedeman threw knives in K.M.’s direction. The threats, physical violence, and use of weapons in the charged incident make it more serious than the past incidents, demonstrating that the past acts were not unfairly prejudicial.

Finally, we view it significant that the district court provided limiting instructions prior to testimony on each prior relationship incident and then again at the end of the trial,

to properly guide the jury. “A district court’s limiting instruction lessens the probability of undue weight being given by the jury to [relationship] evidence.” *State v. Ware*, 856 N.W.2d 719, 729 (Minn. App. 2014) (quotation omitted). Appellate courts presume that a jury follows the district court’s instructions. *State v. Miller*, 573 N.W.2d 661, 675 (Minn. 1998). The jury acquitted Wiedeman of criminal damage to property, which tends to show the jury was not unfairly prejudiced against Wiedeman. *See State v. DeWald*, 463 N.W.2d 741, 745 (Minn. 1990) (stating the acquittal of some charges demonstrates that the jury considered the evidence in a case conscientiously and the jury was not “unduly inflamed” by information regarding the defendant’s history.)

The relationship evidence of incidents in September and October 2015 provide context and help prove Wiedeman’s motive and intent, and is therefore probative. The record, as well as a comparison of the level of violence in the prior incidents and the charged incident here, demonstrate that the evidence was not unfairly prejudicial. Because the evidence’s probative value is not substantially outweighed by its danger of unfair prejudice, the district court’s admission of that evidence was not in error.<sup>8</sup>

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<sup>8</sup> Even if the district court admitted the relationship evidence in error, this court will only reverse if “there is a reasonable possibility that the wrongfully admitted evidence significantly affected the verdict.” *State v. Thao*, 875 N.W.2d 834, 839 (Minn. 2016) (quotation omitted). Wiedeman argues that reasonable possibility exists. Because the record is replete with facts that support the jury’s verdict, in addition to the relationship evidence, we disagree.

At trial, the jury heard consistent testimony from both victims on the charged incident. It heard testimony from the police officer who investigated. It saw evidence of K.M.’s DANCO against Wiedeman and evidence that Wiedeman had past domestic-related convictions that allowed for offense enhancement. This all strongly supports Wiedeman’s convictions for terroristic threats, assault, and violation of the DANCO.

The district court carefully determined that the relationship evidence between Wiedeman and K.M. was admissible at trial. The decision was not an abuse of discretion.

**Affirmed.**