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Minn. Stat. § 480A.08, subd. 3 (2012).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A12-1488**

State of Minnesota,
Respondent,

vs.

Jacob John Skinner,
Appellant.

**Filed August 19, 2013
Affirmed
Kalitowski, Judge**

Washington County District Court
File No. 82-CR-11-577

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

Peter Orput, Washington County Attorney, Thomas D. Wedes, Assistant County Attorney, Stillwater, Minnesota (for respondent)

David W. Merchant, Chief Appellate Public Defender, Bridget K. Sabo, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Hooten, Presiding Judge; Kalitowski, Judge; and Willis, Judge.*

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

UNPUBLISHED OPINION

KALITOWSKI, Judge

Appellant Jacob John Skinner challenges his conviction of second-degree assault, arguing that the district court committed reversible error when it permitted a police officer to testify that the wound on Skinner's hand was consistent with wounds the police officer has seen in other knife-fight cases. We affirm.

DECISION

We review the district court's evidentiary rulings for an abuse of discretion. *State v. Mahkuk*, 736 N.W.2d 675, 686 (Minn. 2007). When the district court errs in admitting evidence, we determine whether the error was harmless beyond a reasonable doubt. *State v. Munt*, 831 N.W.2d 569, 583 (Minn. 2013). If there is a reasonable possibility that the verdict might have been more favorable to the defendant without the evidence, then the error is prejudicial. *Id.*

Following a stabbing report at an apartment complex, Oak Park Heights police officers followed a trail of blood to an apartment unit. After the tenant opened the door, the officers entered the unit and found Skinner in a back bedroom, covered by a blanket and bleeding heavily from a cut on his hand. Skinner was arrested and charged with second-degree assault. At the jury trial, the state called Sergeant Michael Hausken. He testified that he has (1) 29 years of experience as a police officer; (2) taken numerous classes on assaults and weapons; and (3) seen "30 or better" knife wounds during his time as a police officer. Based on this experience, Sergeant Hausken testified that people in knife fights will often cut themselves when their hands slip over the blade. He concluded

that the wound on Skinner’s hand was consistent with wounds he has seen in other knife-fight cases.

The admissibility of expert testimony is governed by Minn. R. Evid. 702, which states the following:

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise. The opinion must have foundational reliability.

Thus, nonscientific expert testimony is admissible if “(1) the witness is qualified as an expert; (2) the expert’s opinion has foundational reliability; [and] (3) the expert testimony is helpful to the jury.” *State v. Obeta*, 796 N.W.2d 282, 289 (Minn. 2011).

We have permitted police officers to provide expert testimony about subjects that fall within their expertise. *See State v. Thompson*, 300 Minn. 220, 222, 218 N.W.2d 760, 762 (1974) (police officer qualified as expert in fingerprint identification despite lack of formal training); *State v. Carillo*, 623 N.W.2d 922, 926-27 (Minn. App. 2001) (police officer familiar with gangs permitted to testify that a certain group was a criminal gang), *review denied* (Minn. June 19, 2001). The basic test is whether the officer’s expert testimony will “add precision or depth to the jury’s ability to reach conclusions.” *State v. Ferguson*, 804 N.W.2d 586, 604 (Minn. 2011) (quotation omitted); *see also Carillo*, 623 N.W.2d at 926 (“[T]he primary criterion for admissibility is whether the opinion testimony will be helpful to the trier of fact—that is, whether the testimony will assist the jury in resolving factual questions presented.”).

Skinner argues that the district court committed reversible error when it permitted Sergeant Hausken to testify that the wound on Skinner's hand was consistent with wounds he has seen in other knife-fight cases. We disagree.

An expert is foundationally reliable if he or she has the requisite "knowledge, skill, experience, training, or education." Minn. R. Evid. 702. Here, the prosecuting attorney established foundation for Sergeant Hausken's opinion by eliciting testimony from Sergeant Hausken that he has been a licensed police officer for 29 years, taken numerous classes on assaults and different kinds of weapons, and has seen "30 or better" knife wounds.

In *State v. Valentine*, 787 N.W.2d 630, 638-39 (Minn. App. 2010), *review denied* (Minn. Nov. 16, 2010), we held that the district court did not abuse its discretion when it permitted a police officer to testify as an expert witness on battered-woman syndrome. The officer in that case testified that she had five years of experience in law enforcement and eight years of experience as a probation officer. *Id.* at 639. She also completed numerous training sessions related to domestic violence and dealt with domestic-violence issues while working as a police officer. *Id.* Here, Sergeant Hausken has taken relevant assault classes and has hands-on experience in the field. And Sergeant Hausken has 29 years of experience as an officer, whereas the officer in *Valentine* had only 13. *Id.* Based on the testimony the state elicited from Sergeant Hausken about his background and experience with knife wounds, we conclude that Sergeant Hausken qualified as an expert and that his testimony was foundationally reliable.

Skinner contends that Sergeant Hausken “is not a medical doctor or a forensic pathologist who, through years of medical school and experience, has studied injury patterns, read research, and compared notes with other professionals.” But Skinner does not provide support as to why medical school or a related experience would be required to testify as an expert about knife wounds. And our caselaw suggests that the prosecution may establish a police officer as an expert if the officer has had training and years of relevant experience. Thus, we conclude that the district court did not abuse its discretion by permitting Sergeant Hausken to testify as an expert about Skinner’s wound.

Skinner also contends that Sergeant Hausken’s testimony did not help the jury. “[E]xpert testimony is not helpful if the expert opinion is within the knowledge and experience of a lay jury and the testimony of the expert will not add precision or depth to the jury’s ability to reach conclusions.” *State v. Sontoya*, 788 N.W.2d 868, 872 (Minn. 2010) (quotation omitted). Expert testimony is thus inadmissible if “the jury is in as good a position to reach a decision as the expert.” *Id.* (quotation omitted).

The jury first needed to decide whether Skinner inflicted or attempted to inflict bodily harm upon the victim, and then, whether Skinner used a dangerous weapon. *See* Minn. Stat. § 609.222, subd. 1 (2012) (“whoever assaults another with a dangerous weapon” is guilty of second-degree assault); 10 *Minnesota Practice*, CRIMJIG 13.10 (Supp. 2012) (defining the elements of second-degree assault). To be admissible, Sergeant Hausken’s testimony must in some way be helpful to the jury when making these factual determinations.

Here, Sergeant Hausken's testimony helped the jury understand why Skinner might have cuts on his hands. Without Sergeant Hausken's testimony, a lay jury would likely be unaware that when an attacker uses a knife to cut a victim, the attacker's hands often slip onto the blade during the scuffle. Further, a lay jury would likely be unaware that Skinner's wound in this case was consistent with wounds in other knife-fight cases. Thus, we conclude that Sergeant Hausken's testimony helped the jury decide whether Skinner was involved in the incident, and if so, whether Skinner used a knife.

In sum, we conclude that (1) Sergeant Hausken was qualified as an expert; (2) his opinion had foundational reliability; and (3) his testimony was helpful to the jury. Thus, the district court did not abuse its discretion by permitting Sergeant Hausken to testify that the wound on Skinner's hand was consistent with wounds he has seen in other knife-fight cases.

Affirmed.