

*This opinion is nonprecedential except as provided by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
A21-1447**

State of Minnesota,
Respondent,

vs.

Travis John Stancer,
Appellant.

**Filed August 29, 2022
Affirmed
Johnson, Judge**

Brown County District Court
File No. 08-CR-19-973

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

Charles W. Hanson, Brown County Attorney, Paul J. Gunderson, Assistant County Attorney, New Ulm, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jenna Yauch-Erickson, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Slieter, Presiding Judge; Ross, Judge; and Johnson, Judge.

NONPRECEDENTIAL OPINION

JOHNSON, Judge

Travis John Stancer was found guilty in a court trial of four counts of first-degree criminal sexual conduct based on evidence that he sexually assaulted his young daughter. Stancer argues that the district court erroneously admitted *Spreigl* evidence that he had

sexually assaulted two other daughters. We conclude that Stancer is not entitled to a new trial because, even if the *Spreigl* evidence was erroneously admitted, there is not a reasonable possibility that the evidence significantly affected the verdicts. Therefore, we affirm.

FACTS

In 2019, 12-year-old J.R.S. reported to her therapist, to her personal-care attendant, and to her mother that her father, Stancer, had sexually abused her. In a forensic interview, J.R.S. stated that, on two occasions when she was between the ages of five and seven years old, Stancer penetrated her vagina with his penis. She stated that both incidents occurred in her mother's bedroom and that, on the first occasion, Stancer gave her alcohol to drink before the sexual contact.

In October 2019, the state charged Stancer with four counts of first-degree criminal sexual conduct, in violation of Minn. Stat. § 609.342, subd. 1(a), (g) (2010). In March 2020, the state moved for leave to admit evidence of other acts pursuant to rule 404(b) of the rules of evidence and *State v. Spreigl*, 139 N.W.2d 167 (Minn. 1965). Specifically, the state sought to introduce evidence that Stancer had engaged in sexual contact with two other daughters. First, the state sought to introduce evidence that Stancer had sexually penetrated S.M. on numerous occasions when they lived together after she turned 18 years of age, that S.M. had given birth to a baby, and that Stancer likely is the biological father of the baby. Second, the state sought to introduce evidence that Stancer had sexually penetrated J.E.S. on one occasion when she was 11 years old after forcing her to drink a can of beer. In April 2020, the district court filed a written order in which it granted the

state's motion to admit the *Spreigl* evidence. The district court stated in the order that it might reconsider its ruling "based on the evidence actually presented at the trial."

Stancer waived his right to a jury trial, and the matter was tried to the district court on two days in February 2021. J.R.S. testified that, when she was five years old, Stancer took off her clothes and put his penis inside her vagina. She testified that Stancer engaged in such conduct more than ten times until she was nine years old. She testified that he did so only in their living room and that he gave her alcoholic beverages after each incident.

The state also introduced its *Spreigl* evidence. First, with respect to S.M., the state introduced certified copies of documents from a prior criminal case in which Stancer pleaded guilty to third-degree criminal sexual conduct, in violation of Minn. Stat. § 609.344, subd. 1(c) (2014), and incest, in violation of Minn. Stat. § 609.365 (2014) based on his sexual contact with her. Second, J.E.S testified that Stancer once touched her vagina and her breasts with his hands and mouth. She did not remember his giving her something to drink, and she specifically denied that she ever had reported penile-vaginal penetration by Stancer.

At the conclusion of trial, the district court made an oral finding from the bench that Stancer is guilty of all four charges. The district court later filed a written order with findings of fact, conclusions of law, and an order stating that Stancer is guilty with respect to each count. The district court imposed concurrent sentences of 360 months of imprisonment on counts 1 and 2. Stancer appeals.

DECISION

Stancer argues that the district court erred by admitting the state's *Spreigl* evidence.

Stancer’s argument is based on a rule of evidence that provides, “Evidence of another crime, wrong, or act is not admissible to prove the character of a person in order to show action in conformity therewith,” though it may be admissible “for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.” Minn. R. Evid. 404(b)(1). Such evidence is admissible in a criminal prosecution only if the “probative value of the evidence is not outweighed by its potential for unfair prejudice to the defendant.” Minn. R. Evid. 404(b)(2). Evidence of other crimes or bad acts is known in Minnesota as “*Spreigl* evidence.” *State v. Kennedy*, 585 N.W.2d 385, 389 (Minn. 1998) (citing *State v. Spreigl*, 139 N.W.2d 167 (Minn. 1965)). Such evidence is admissible only if

the prosecutor, consistent with the rules of criminal procedure, gives notice of its intent to offer the evidence. The notice must include a summary of the evidence and the specific purpose(s) for which the evidence will be offered. Such evidence shall not be admitted in a criminal prosecution unless (a) the proffered evidence is relevant to an identified material issue other than conduct conforming with a character trait; (b) the other crime, wrong, or act and the participation in it by a relevant person are proven by clear and convincing evidence; and (c) the probative value of the evidence is not outweighed by its potential for unfair prejudice to the defendant.

Minn. R. Evid. 404(b)(2). This court applies an abuse-of-discretion standard of review to a district court’s admission of *Spreigl* evidence. *State v. Griffin*, 887 N.W.2d 257, 261 (Minn. 2016).

Stancer challenges the district court’s ruling with respect to several requirements of rule 404(b). Specifically, Stancer contends that (1) the state did not clearly indicate the purpose for which the *Spreigl* evidence was offered, (2) the state’s evidence concerning

J.E.S. does not satisfy the clear-and-convincing standard because J.E.S.'s trial testimony was inconsistent with the state's proffer at the time of the pre-trial motion, (3) the offenses underlying the *Spreigl* evidence were not similar to the charges in this case in terms of time and *modus operandi*, and (4) the probative value of the *Spreigl* evidence was far outweighed by the potential for unfair prejudice.

We need not resolve Stancer's arguments that the district court erred by admitting the state's *Spreigl* evidence. If we were to conclude that the district court erred, we nonetheless would conclude that a new trial is not required. The supreme court has held that, if a district court has erroneously admitted *Spreigl* evidence, an appellate court "must determine whether there is a reasonable possibility that the wrongfully admitted evidence significantly affected the verdict." *State v. Ness*, 707 N.W.2d 676, 691 (Minn. 2006). There is not such a reasonable possibility if there is no "real and discernible prejudice" in a district court's findings and conclusions after a court trial. *See id.* In *Ness*, the district court referred to the state's *Spreigl* evidence and stated that it "bolstered" the state's case, but the supreme court determined that there was no prejudice because the *Spreigl* evidence "was not the critical push beyond a reasonable doubt." *Id.*

There is even less indication of prejudice in this case. It is notable that the district court did not rely on the state's *Spreigl* evidence in any way in either its oral findings at the conclusion of the trial or in its findings of fact, conclusions of law, and order. The district court based its verdicts on J.R.S.'s testimony, the video-recording and transcript of her forensic interview, and the testimony of the state's expert witness concerning common behaviors of child victims of sexual abuse. The district court's written order does not even

mention the state's *Spreigl* evidence concerning Stancer's prior conduct toward J.E.S. and S.M. Stancer contends that, because the prosecutor drew attention to the *Spreigl* evidence in closing argument, it is likely that the *Spreigl* evidence affected the verdict. But Stancer's contention is undercut by the absence of any mention of the *Spreigl* evidence in the district court's written order. Accordingly, we conclude that there is *not* a reasonable possibility that the state's *Spreigl* evidence significantly affected the verdict.

Thus, Stancer is not entitled to a new trial on the ground that the district court erroneously admitted the state's *Spreigl* evidence.

Affirmed.