STATE OF MINNESOTA
IN COURT OF APPEALS
A22-0531

State of Minnesota,
Respondent,

vs.

Angela Marie Vela,
Appellant.

Filed March 13, 2023
Reversed and remanded
Smith, Tracy M., Judge

Steele County District Court
File No. 74-CR-21-266

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

Daniel A. McIntosh, Steele County Attorney, Campbell R. Housh, Assistant County Attorney, Owatonna, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Gina D. Schulz, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Wheelock, Presiding Judge; Worke, Judge; and Smith, Tracy M., Judge.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

In this direct appeal, appellant Angela Marie Vela argues that her conviction for disorderly conduct (fighting or brawling) must be reversed and remanded for a new trial because of an erroneous jury instruction and prosecutorial misconduct. Because the district

court committed reversible plain error by instructing the jury that self-defense was available only if Vela was resisting an offense that had the potential to cause bodily harm, we reverse and remand for a new trial. We do not reach the question of prosecutorial misconduct.

FACTS

Respondent State of Minnesota charged Vela with two counts of misdemeanor assault and two counts of disorderly conduct arising out of a February 2021 altercation with her boyfriend. A two-day jury trial established the following facts.

Vela and her boyfriend, N.M., went to the apartment of N.M.'s sister, A.M., to cook dinner. Vela, N.M., and A.M. all consumed alcohol, and the three testified that Vela became very intoxicated. Vela, N.M., and A.M. also all testified that an altercation between Vela and N.M. occurred and that the police responded, but their testimonies regarding the details of the altercation differed.

N.M.'s Account

N.M. testified that Vela got "drunk fast" and that she was "falling and stumbling." He said that he was telling Vela to "calm down" and that he sat her down on the couch while he made food. He agreed that Vela became violent and that she "was kind of pushing [him] around" and that she "kind of punched [him] in [his] chest." He testified that things "escalated" when Vela dumped salsa on him. N.M. testified that Vela tried to leave the apartment and he said something like, "You can't leave," because she could not "drive like that." In addition, N.M. testified:

> Q: But at some point did you put your hands on her to stop her from leaving?
> A: I didn't want to argue, just tell her to calm down, so I probably did give her like a hug.
> . . . .
> Q: Did she tell you she was trying to leave?
> A. Well, she wanted to leave. She wanted to drive. I tell her she cannot drive, but I never restrained her or nothing. I just tried to stop her --
> . . . .
> A: I didn't restrain her to try to stop her from leaving. I just tried to like stop her from -- like from leaving. Even my sister was trying to stop her.

N.M. stated that he gave her a hug "like you hug your wife or your girlfriend to calm her down." However, he denied grabbing her ankles or wrists or "physically restrain[ing]" Vela from leaving. He denied standing between Vela and the doorway or impeding her progress as she was attempting to leave the room. He explained that he received "a scratch on [his] neck" from Vela. He said that he just wanted to prevent Vela from hurting herself.

A.M.'s Account

A.M. testified that she knew Vela was intoxicated because of "the way she was slapping [N.M.]" and because Vela was "falling over drunk" and N.M. "was catching her to put her on the couch." When asked how the altercation started, A.M. said that Vela and N.M. were not arguing but that Vela suddenly threw salsa everywhere and started slapping N.M. A.M. also stated that Vela "kept pushing [N.M.] . . . [and] punched him in the chest." A.M. testified that she did not remember Vela trying to leave and denied that N.M. tried to stop her from leaving. However, A.M. testified that she took Vela's keys because Vela's mom told A.M., via a phone call, to take them from Vela because her mom "didn't want [Vela] to drive."

A.M. first stated that she did not see any injuries to anyone but then said that she saw scratches from Vela on N.M.'s neck. A.M. testified that she never heard Vela say "stop" or "get off me."

Vela's Account

Vela confirmed that there was a physical altercation with N.M. but said that she could not recall what started it. Vela testified that she wanted to leave the apartment, stating, "I just didn't feel comfortable anymore . . . I wanted to leave because I was intoxicated; and before anything escalated to an altercation." She explained that she told N.M. that she wanted to leave. She said that he "grabbed [her], grabbed [her] from [her] coat" and, "at some point . . . stood in front of the door." She said they then "started wrestling." She stated that "there was no swinging of the arms, like punching or hitting" and that she was "wrestling towards the door to get out of the apartment." Vela denied punching or scratching N.M. and did not recall intentionally throwing salsa. She stated that she did not notice any injuries during the altercation but noticed bruises on herself the next day. Vela testified that she received a bruise on her leg from wrestling and a bruise on her foot because N.M. "put his foot on [her] foot to put [her] down because, you know, wrestling." She stated that if the police had not knocked on the door, she "wouldn't have been able to leave" and confirmed that she felt that she was being held against her will.

During the police interview immediately following the incident, Vela described blacking out from alcohol consumption, which contributed to the gaps in memory from that evening. During her trial testimony, Vela also testified about her memory gaps.

Jury Instructions and Verdicts

The jury received oral and written instructions, including instructions on self-defense, which applied to each of the four counts. The self-defense jury instruction provided the following:

> No crime is committed when a person uses reasonable force to resist an offense against the person, if such an offense was being committed or the person reasonably believed that it was.
>
> An "offense against the person" means an offense of a physical nature with the potential to cause bodily harm.
>
> "Bodily harm" means physical pain or injury, illness, or any impairment of physical condition.

Vela did not object to the instruction.

The jury returned not-guilty verdicts on count 1 (domestic assault—intent to inflict bodily harm), count 2 (domestic assault—intent to cause fear), and count 4 (disorderly conduct—offensive/abusive/boisterous/noisy/obscene conduct or language). The jury found Vela guilty of disorderly conduct (fighting or brawling), in violation of Minnesota Statutes section 609.72, subdivision 1(1) (2020). Vela was convicted and sentenced to 90 days in jail, 88 of which were stayed for one year.

Vela appeals.

DECISION

Vela argues that the district court committed plain error by instructing the jury that she was justified in using reasonable force in self-defense to resist an offense against her that was "of a physical nature with the potential to cause bodily harm." This instruction, according to Vela, does not conform to this court's decision in *State v. Lampkin*, 978

N.W.2d 286 (Minn. App. 2022), *rev. granted* (Minn. Oct. 26, 2022).[1] In *Lampkin*, we concluded that "self-defense is not limited to resisting an offense that threatens bodily harm." *Id.* at 291.

The district court has broad discretion in instructing the jury, so we typically review allegedly improper instructions for an abuse of that discretion. *State v. Smith*, 674 N.W.2d 398, 400 (Minn. 2004). But Vela did not object to the jury instruction at trial, so we review the instruction for plain error. *Kelley*, 855 N.W.2d at 273-74. Under the plain-error test, appellate courts consider whether the jury instruction contained an (1) error (2) that was plain and (3) that affected the appellant's substantial rights. *State v. Milton*, 821 N.W.2d 789, 805 (Minn. 2012). An error is "plain" when it is "clear" or "obvious." *Id.* at 807. An error affected an appellant's substantial rights "if there is a reasonable likelihood that the error had a significant effect on the jury's verdict"—in other words, it was prejudicial. *Id.* at 809 (quotation omitted). Under our plain-error review, even if Vela could establish that a plain error occurred and affected her substantial rights, we have discretion to correct the error only if it seriously affected the fairness, integrity, or public reputation of judicial proceedings. *Id.* at 807; *Pulczinski v. State*, 972 N.W.2d 347, 356 (Minn. 2022).

[1] *Lampkin* was decided after the trial in this case but while this appeal was pending. Appellate courts assess whether there was plain error based on the law at the time of appeal, not at the time of the error. *State v. Kelley*, 855 N.W.2d 269, 277 (Minn. 2014). Therefore, it is appropriate to apply *Lampkin* in deciding whether the jury instruction was plainly erroneous even though the case was unavailable to the district court at the time of trial.

A. The self-defense jury instruction was plainly erroneous.

Vela asserted self-defense under Minnesota Statutes section 609.06, subdivision 1(3) (2020), against the charge of disorderly conduct (fighting or brawling). Under that subdivision, a person is justified in using reasonable force when they "reasonably believe[]" that they are "resisting or aiding another to resist an offense against the person." Minn. Stat. § 609.06, subd. 1(3).

The district court properly instructed the jury that a crime is not committed "when a person uses reasonable force to resist an offense against the person." But the district court went on to instruct the jury that an "offense against the person" means "an offense of a physical nature with the potential to cause *bodily harm*" and that "bodily harm" means "*physical pain or injury, illness, or any impairment of a physical condition*." (Emphasis added.) In other words, the district court instructed the jury that the alleged offense that Vela claimed to have been resisting must have been an offense with the potential to physically harm her.

In *Lampkin*, this court clarified that the self-defense statute "permits a person to use reasonable force to resist a personal offense that does not involve or threaten bodily harm," such as false imprisonment. 978 N.W.2d at 292, 294-95. Vela argues that *Lampkin* controls and that the jury instruction in her case was plainly erroneous because the evidence permitted the finding that, when she was brawling with N.M., she was resisting the offense of false imprisonment. *See* Minn. Stat § 609.255, subd. 2 (2020) (providing that a person who "intentionally confines . . . any other person" with knowing lack of lawful authority and "without the person's consent[] is guilty of false imprisonment").

In *Lampkin*, the appellant used force against his girlfriend when she attempted to stop the appellant from leaving their apartment, arguably amounting to false imprisonment. 978 N.W.2d. at 288-89. When instructing the jury, the *Lampkin* district court stated that the appellant could use reasonable force in self-defense "to resist an *assault* against the person." *Id.* at 288. We concluded that the instruction was erroneous because "the law of self-defense justifies a person to use force more broadly to resist any *offense* against the person and the facts could support Lampkin's contention that he used reasonable force to resist his girlfriend's unlawful attempt to detain him." *Id.* (quotation omitted). However, *Lampkin* also clarified that, in most contexts, a self-defense jury instruction that incorporates a bodily-harm element is proper because the person invoking self-defense usually claims to have been resisting an offense that was, in fact, threatening or causing bodily harm. *Id.* at 294 (citing *State v. Soukup*, 656 N.W.2d 424, 429-30 (Minn. App. 2003), *rev. denied* (Minn. Apr. 29, 2003)).

The state contends that the district court's instruction here was accurate because this case involved a physical altercation, unlike in *Lampkin*. It is true that the jury received evidence of a physical altercation between N.M and Vela, including Vela's testimony that she and N.M. were "wrestling," and exhibits showing injuries to both N.M. and Vela. And defense counsel's closing argument acknowledged that "[t]he injuries sustained by both parties clearly show that there was some sort of scuffle." But the jury also received evidence that arguably indicated that the physical altercation began when N.M. was preventing Vela from leaving through conduct that did not threaten bodily injury (e.g.,

standing in the doorway and giving Vela a "hug") and that Vela was resisting false imprisonment when she engaged in physical contact.

Moreover, the fact that physical contact occurred between Vela and N.M. does not distinguish this case from *Lampkin*. To the contrary, the factual circumstances in *Lampkin* also involved the appellant being "physically" prevented from leaving by his girlfriend, with surveillance footage showing appellant's girlfriend "pulling at him, pushing him, and using her body to block him from getting out the door." 978 N.W.2d at 289. Here, the timing, nature, and extent of the physical interaction between Vela and N.M. is unclear because of conflicting witness testimony describing the altercation. We cannot conclude that the offense that Vela claims to have been resisting necessarily was of a physical nature with the potential for bodily harm. Therefore, the district court provided a jury instruction that was a plainly erroneous limitation on Vela's assertion of self-defense because, similar to the circumstances in *Lampkin*, Vela was arguably resisting false imprisonment that involved "no risk of physical pain or injury" when she engaged in the conduct underlying the charge against her. *Id.* at 294.

B. The self-defense jury instruction affected Vela's substantial rights.

The third prong of the plain-error test requires us to determine whether Vela has shown that the error had an effect on the jury's verdict and thus affected Vela's substantial rights. *See Milton*, 821 N.W.2d at 808-09.

Vela asserts that, had the jury been properly instructed on self-defense, the jury could have found that she was resisting the offense of false imprisonment, especially in light of the jury's not-guilty verdicts on the three other charges. Vela argues that her case

is like *State v. Baird*, 654 N.W.2d 105 (Minn. 2002). In *Baird*, the Minnesota Supreme Court considered a plainly erroneous self-defense jury instruction and concluded that the error affected the appellant's substantial rights because it was "simply impossible to determine whether the jury rejected [the appellant's] version of the facts or whether it accepted [the appellant's] version but concluded that [the appellant] was guilty nevertheless" because of the direction provided in the plainly erroneous jury instructions. 654 N.W.2d at 113-14. The state responds that "[i]t is not likely that removing the bodily harm language from the jury instruction would have a *significant* effect on the verdict," asserting that evidence of false imprisonment is "conflicting at best" and that the evidence "overall indicates more of a physical scuffle."

We agree with Vela. If the jury had known that Vela did not have to face bodily harm, it could have decided differently regarding self-defense. The record contains evidence that Vela was prevented from leaving by conduct that did not pose the threat of bodily harm, for example, evidence that N.M. blocked the doorway and "hugged" Vela. Under these circumstances, it is impossible to determine whether the jury rejected this version of the facts or accepted this version but rejected self-defense anyway based on the jury instruction. Because there is a reasonable likelihood that the plainly erroneous self-defense jury instructions had a significant effect on the jury's verdict, we conclude that the error was prejudicial and affected Vela's substantial rights.

C. A new trial is required.

When an appellant satisfies the plain-error test—establishing an error that is plain and that affected the appellant's substantial rights—an appellate court can correct the plain

error only when the error "seriously affects the fairness, integrity, or public reputation of judicial proceedings." *Pulczinski*, 972 N.W.2d at 358. This analysis "does not focus on whether the alleged error affected the outcome resulting in harm to the defendant in the particular case." *Id.* Instead, appellate courts "ask whether failing to correct the error would have an impact beyond the current case by causing the public to seriously question whether our court system has integrity and generally offers accused persons a fair trial." *Id.* Vela argues that "[t]he public would lose trust in the integrity of judicial proceedings if they saw that a conviction could stand even when the jury had an inaccurate understanding of a critical piece of a defendant's case."

Under these circumstances, a new trial is required to protect the fairness, integrity, and public reputation of judicial proceedings. "Fairness requires that [the appellant] be given an opportunity to present [their] account of the facts to a jury under the proper instructions." *State v. Watkins*, 820 N.W.2d 264, 269 (Minn. App. 2012) (citing *Baird*, 654 N.W.2d at 114). And "[t]he fairness and integrity of the judicial proceedings are called into question by the erroneous instructions and the verdict based on those instructions" when the jury may not have properly considered disputed elements of the crime. *Id.* (quotation omitted). Here, it is possible that the district court's erroneous jury instruction compromised the jury's ability to properly consider Vela's claim of self-defense, given our intervening decision in *Lampkin*. The plainly erroneous self-defense jury instruction requires the use of our "limited discretionary power to grant relief" in this context because both fairness and the integrity of judicial proceedings are jeopardized by Vela's conviction.

Without reversal, the public would reasonably question the court system's integrity and fairness, causing an impact beyond the current case. *See Pulczinski*, 972 N.W.2d at 356.[2]

Reversed and remanded.

[2] Again, because we conclude that the plainly erroneous self-defense jury instruction requires a new trial, we need not reach Vela's argument that she is entitled to a new trial based on prosecutorial misconduct.