STATE OF MINNESOTA
IN COURT OF APPEALS
A13-0598
A13-1238

State of Minnesota,
Respondent,

vs.

Anthony Maynard Nelson,
Appellant.

Filed March 17, 2014
Affirmed
Halbrooks, Judge

Ramsey County District Court
File No. 62-CR-12-6598

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

John J. Choi, Ramsey County Attorney, Peter R. Marker, Assistant County Attorney, St. Paul, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Rachel F. Bond, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Halbrooks, Presiding Judge; Schellhas, Judge; and Klaphake, Judge.[*]

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

U N P U B L I S H E D O P I N I O N

HALBROOKS, Judge

Appellant seeks reversal of his convictions of first-, third-, and fifth-degree assault, arguing that the district court abused its discretion by (1) declining to provide a new instruction following a question from the jury during its deliberations and (2) excluding evidence concerning the victim's claim for and receipt of victim-reparations benefits. Appellant has also filed a pro se supplemental brief, but does not assert any additional legal claims. We affirm.

FACTS

On August 12, 2012, appellant Anthony Maynard Nelson and his girlfriend, T.S., got into a physical altercation in their second-floor apartment. Nelson pulled T.S. out of bed, hit her in the back, chest, and both eyes, and grabbed her by the hair as she tried to get away from him. T.S. screamed for help and ran out onto the apartment balcony. There, Nelson "tugged" at T.S. The balcony railing gave way, and T.S. fell to the ground below, sustaining severe injuries.

Nelson was charged with first-degree assault in violation of Minn. Stat. § 609.221, subd. 1 (2012), and third-degree assault in violation of Minn. Stat. § 609.223, subd. 1 (2012). Nelson pleaded not guilty, and the case went to trial.

T.S. testified at trial that Nelson pushed her off the balcony. The captain of the crew of responding paramedics testified that after they stabilized T.S. at the scene of the fall, T.S. stated, "He beat me and pushed me," referring to Nelson who was standing next to her. A neighbor, K.C., witnessed part of the altercation on the balcony. K.C. testified

that she saw T.S. being pulled from the balcony into the apartment and then saw her "body flying backwards out" over the balcony. K.C. clarified that she could not see whether T.S. was pushed.

A lesser-included charge of fifth-degree assault was submitted to the jury with the charged offenses. During its deliberations, the jury asked the district court whether it was first-degree assault if Nelson did not intend to push T.S. The district court referred the jury to the original charging instructions. The jury found Nelson guilty of first- and third-degree assault and the lesser-included offense of fifth-degree assault. He was sentenced to 110 months in prison for first-degree assault; no sentences were imposed for the other offenses. This appeal follows.

D E C I S I O N

I.

Nelson challenges the district court's decision to refer the jury to the original charging instructions in response to its question during deliberation. "The district court has broad discretion in determining jury instructions and we will not reverse in the absence of abuse of discretion." *Hilligoss v. Cargill, Inc.*, 649 N.W.2d 142, 147 (Minn. 2002). A district court abuses its discretion when its instructions "destroy the substantial correctness of the charge as a whole, cause a miscarriage of justice, or result in substantial prejudice." *Lindstrom v. Yellow Taxi Co. of Minneapolis*, 298 Minn. 224, 229, 214 N.W.2d 672, 676 (1974) (quotation and footnotes omitted). "If the jury asks for additional instruction on the law during deliberation, the court . . . may reread portions of the original instructions." Minn. R. Crim. P. 26.03, subd. 20(3)(b).

During deliberation, the jury asked the district court, "Is it still considered Assault in the First Degree if Anthony Nelson did not intend to push [T.S.], but as a result of his actions, she fell?" Defense counsel requested that the district court reply, "No, it is not . . . if he did not intend to push her." The district court declined to answer the question with a "yes" or a "no," explaining to counsel that doing so would substitute the district court's judgment for that of the jury. The district court instead answered the jury:

> [A]ll of the law that you, as the jury, need in order to arrive at a verdict in this case is contained in the written instructions that I have given you, and I would point specifically with regard to your question to the instructions on Assault in the First Degree and also to the instruction which defines the word intentionally.

Nelson does not assert that the original charging instructions were deficient. In fact, he concedes that they were adequate. Instead, he challenges the district court's decision to refer the jury to the original charge instead of providing a new instruction. Nelson presumes that the district court's response did not sufficiently address the jury's question and that the district court was required to do more in the exercise of its discretion. We disagree.

The law imposes no requirement that the district court provide additional instruction following a jury question. *See State v. Crims*, 540 N.W.2d 860, 864-65 (Minn. App. 1995) ("[A] [district] court may properly refer to its initial charge when that charge provides the jury with the guidance necessary to resolve its confusion."), *review denied* (Minn. Jan. 25, 1996). The district court has broad discretion "to decide whether to amplify previous instructions, reread previous instructions, or give no response at all"

in response to a jury's question on a point of law. *State v. Murphy*, 380 N.W.2d 766, 772 (Minn. 1986).

Further fatal to Nelson's argument, Nelson conceded at oral argument that the instructions were correct, but reiterated his position that the district court abused its discretion by not "augmenting" its instructions. But the law does not require the district court to "augment" instructions that were correct and adequate to provide the guidance necessary to resolve the jury's question.

Because Nelson assigns no error relating to the original instructions and those instructions were adequate to address the jury's question concerning the governing law, we conclude that the district court acted well within its discretion by referring the jury to the original charging instructions in response to its question.

II.

Nelson argues that a new trial is warranted because the district court's exclusion of evidence relating to T.S.'s victim-reparations benefits deprived him of his constitutional rights to present a complete defense and to confront witnesses against him. Due process requires that the accused be "afforded a meaningful opportunity to present a complete defense." *State v. Quick*, 659 N.W.2d 701, 712 (Minn. 2003) (quotation omitted) (citing U.S. Const. amend. XIV; Minn. Const. art. I, § 7). This right affords a defendant the opportunity to develop his or her version of the facts. *Crims*, 540 N.W.2d at 865. The right to confrontation under the federal and state constitutions further allows a defendant to advance his or her theory of the case by revealing the bias of an adverse witness. *Id.* But a defendant has no right to introduce evidence that is irrelevant or unduly prejudicial.

Id. at 866. We review a district court's evidentiary rulings for an abuse of discretion, even when appellant asserts that his constitutional right to a complete defense was violated by the exclusion of evidence. *State v. Grigsby*, 806 N.W.2d 101, 112 (Minn. App. 2011), *aff'd*, 818 N.W.2d 511 (Minn. 2012).

Defense counsel sought to introduce at trial evidence of claims for benefits that T.S. made with the Minnesota Crime Victims Reparations Board that were awarded before trial. The district court refused to allow admission of this evidence on grounds that it was irrelevant, potentially confusing, and prejudicial to Nelson because that evidence would reveal the reparation board's determination that T.S. was a "victim of a crime." The district court elaborated, "We don't want the jury thinking that somebody else has already decided the issue that [is] their job to decide in this case."

Nelson argues that evidence of T.S. having received benefits from the victims-reparations board is relevant to prove witness bias. In support of his argument, Nelson cites case law holding that evidence of a witness's "financial motive to testify" is a form of "prototypical bias" that is admissible for impeachment purposes. But there is nothing in the record indicating that T.S. had a "financial motive to testify" in this case. T.S. had already been granted benefits from the reparations board at the time of trial. And there is no evidence to suggest that those benefits were contingent upon the outcome of Nelson's trial or that an acquittal would have had any effect, such as disgorgement, on the benefits that T.S. had received. Because there was no causal connection between the outcome of Nelson's trial—and therefore T.S.'s testimony at trial—and the reparation's board determination as to T.S.'s reparations claims, that evidence was not probative of witness

bias. The district court properly exercised its discretion by excluding the reparations-benefits evidence from admission at trial. A new trial is not warranted.

Affirmed.