STATE OF MINNESOTA
IN COURT OF APPEALS
A18-1525

State of Minnesota,
Respondent,

vs.

Ayanna Laverne Coleman,
Appellant.

Filed October 7, 2019
Affirmed
Jesson, Judge

Hennepin County District Court
File No. 27-CR-17-24719

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

Michael O. Freeman, Hennepin County Attorney, Jabari Barner, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Lydia Maria Villalva Lijó, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Jesson, Presiding Judge; Worke, Judge; and Bratvold, Judge.

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

JESSON, Judge

After smashing the front and rear windshields of her ex-boyfriend's car with a landscaping brick, appellant Ayanna Laverne Coleman was convicted of first-degree

damage to property. Coleman challenges her conviction on the grounds that a written vehicle repair estimate, as the primary evidence of the value of property damage, was inadmissible without the testimony of the person who prepared it. Because we conclude that Coleman's substantial rights were not affected by the admission of the repair estimate, we affirm.

FACTS

Appellant Ayanna Laverne Coleman and T.K. were in a relationship. Though how, when, and by whom is disputed, the relationship ended.[1] Sometime after the relationship ended, T.K. parked his 2014 Chevy Malibu in front of his apartment building in Brooklyn Park. When T.K. left the car, it was not damaged.

Later, the caretaker of the apartment building—who was outside—saw a "silverish gray Pontiac" drive up to the front of the building. According to the caretaker, there were about four or five women in the car talking loudly and laughing. The caretaker observed one woman get out of the car and throw a decorative landscaping brick at the front windshield of T.K.'s parked car. The woman then threw a brick at the back windshield. The caretaker reported the event to police, and police alerted T.K. that the front and rear windshields of his car were damaged, as was the body of the car.

The caretaker identified Coleman from a photographic lineup as the woman who threw the brick at T.K.'s car. The state charged Coleman with first-degree damage to

[1] It is disputed as to how long the two were together and who ended the relationship. T.K. testified that he ended the relationship and Coleman took it badly, but Coleman testified that she was the one who ended the relationship because of T.K.'s abuse.

property,[2] and the case proceeded to a jury trial.

At trial, the district court heard testimony from T.K., several police officers and detectives, Coleman, and a defense investigator. T.K. testified that Coleman damaged his car by throwing a brick at the front and rear windshields after he told her that he did not want to be with her. And during T.K.'s testimony, the state introduced an automobile repair estimate indicating that the total damage to his car was $4,354.99. After the $500 deductible, the damage amounted to $3,854.99.

Coleman testified that she had not seen T.K. since they broke up. According to Coleman, she was not near T.K.'s car when it was damaged, and she denied being in Brooklyn Park on the day of the incident.

The jury found Coleman guilty on the count of first-degree damage to property. The district court stayed imposition of sentence for three years and ordered Coleman to serve a 20-day workhouse sentence, with credit for time served, as a condition of the stayed sentence. Coleman appeals.

D E C I S I O N

Coleman challenges the district court's admission of the vehicle repair estimate without testimony from the individual who prepared the estimate.[3] Specifically, Coleman

---

[2] In violation of Minn. Stat. § 609.595, subd. 1(3) (2016) (damage reduced the property's value by more than $1,000 as measured by the cost of repair and replacement).

[3] Coleman also contends that the admission of the repair estimate constituted inadmissible hearsay. But Coleman did not object to the admission of the estimate at trial, making this argument subject to plain-error review. *State v. Vasquez*, 912 N.W.2d 642, 649-50 (Minn. 2018). And in applying the plain error standard of review to hearsay evidence, the supreme court has stated that "[t]he number and variety of exceptions to the hearsay exclusion make objections to such testimony particularly important to the creation of a record of the trial

asserts that the admission of the estimate violated her Confrontation Clause rights because she was unable to cross-examine the person who prepared it. Addressing Coleman's argument requires us to evaluate whether the Confrontation Clause was violated, a question of law we review de novo. *State v. Warsame*, 735 N.W.2d 684, 689 (Minn. 2007).

At trial, Coleman did not object to the admission of the vehicle repair estimate. And when an alleged error is raised for the first time on appeal, it is subject to plain-error review and warrants reversal if: (1) an error occurred in the district court, (2) the error was plain, and (3) the error affects the defendant's substantial rights. *State v. Griller*, 583 N.W.2d 736, 740 (Minn. 1998). If the defendant satisfies this three-part test, this court asks whether the error seriously affects "the fairness, integrity, or public reputation of the judicial proceeding" before granting relief. *State v. Jones*, 678 N.W.2d 1, 18 (Minn. 2004).

The district court plainly erred by admitting the vehicle repair estimate without testimony from the individual who prepared it.

The Confrontation Clause provides a criminal defendant the right "to be confronted with the witnesses against him." U.S. Const. amend. VI; *see* Minn. Const. art. I, § 6; *see also State v. Hull*, 788 N.W.2d 91, 100 (Minn. 2010) ("We apply an identical analysis under both the state and federal Confrontation Clauses."). There are three prongs for a successful Confrontation Clause claim: (1) the statement at issue was testimonial, (2) the

---

court's decision-making process in either admitting or excluding a given statement." *State v. Manthey*, 711 N.W.2d 498, 504 (Minn. 2006). Because of the "complexity and subtlety" of the hearsay rule, the supreme court determined in *Manthey* that the statements at issue were not clearly or obviously inadmissible hearsay. *Id.* Similarly here, given the lack of objection and the number of exceptions to the hearsay rule, we conclude that Coleman has not shown plain error in the admission of the repair estimate on hearsay grounds.

statement was admitted for the truth of the matter asserted, and (3) the declarant was unable to be cross-examined by the defendant. *Andersen v. State*, 830 N.W.2d 1, 9 (Minn. 2013) (citing *Crawford v. Washington*, 541 U.S. 36, 59 & n.9, 124 S. Ct. 1354, 1369 & n.9 (2004)).

Here, the evidence at issue—the vehicle repair estimate—was introduced during T.K.'s testimony. The evidence consists of three screen shots of the repair estimate from a cell phone, detailing the cost to repair T.K.'s damaged car. Shown on the estimate is the name of the body shop. During his testimony, T.K. provided no information as to the estimate's origin.

Turning to the first prong of our Confrontation Clause analysis, we consider whether the vehicle repair estimate was testimonial, guided by Minnesota caselaw. And our caselaw explains that when evaluating the testimonial nature of evidence, courts look to the three formulations of "core" testimonial hearsay mentioned in *Crawford*—ex parte in-court testimony or its functional equivalent, extrajudicial statements, and "statements that were made under circumstances which would lead an objective witness reasonably to believe that the statement would be available for use at a later trial"—as well as the critical factor of whether the statement was prepared for trial. *Crawford*, 541 U.S. at 51-52, 124 S. Ct. at 1364; *State v. Caulfield*, 722 N.W.2d 304, 308-09 (Minn. 2006). When considering whether a statement was prepared for trial, courts also examine its nature and substance and whether the document had an evidentiary purpose of proving a fact. *State v. Andersen*, 900 N.W.2d 438, 444 (Minn. App. 2017); *see, e.g.*, *Caulfield*, 722 N.W.2d at 307, 309 (holding that a lab report "functioned as the equivalent of

testimony" because it was offered to prove a substance was cocaine). And it is the state's burden to prove the evidence was nontestimonial. *Caulfield*, 722 N.W.2d at 308.

Here, the vehicle repair estimate was prepared for litigation. During trial, a police detective testified that he directed T.K. to "go and get an estimate to—to complete charging on [the incident]" because he "needed a damage amount to see what level [the crime] was." Accordingly, the vehicle repair estimate was prepared at the direction of police and was prepared to prove an essential element of the crime: that the damage reduced the value of the car by more than $1,000 as measured by the cost of repair and replacement. Minn. Stat. § 609.595, subd. 1(3). As such, we conclude that the vehicle repair estimate "functioned as the equivalent of testimony" on the value of the damage caused to the vehicle and therefore was testimonial. *Caulfield*, 722 N.W.2d at 309.

Having concluded that the vehicle repair estimate was testimonial, we turn to the second prong of our Confrontation Clause analysis: whether the statement was admitted to prove the truth of the matter asserted. And here, it is clear from the record that the state offered the vehicle repair estimate to establish the amount of damage to T.K.'s car. The state introduced the vehicle repair estimate during T.K.'s testimony to prove that the damage to the car totaled more than $1,000. And during its closing argument, the state referenced the vehicle repair estimate to prove that it met its burden regarding the element of loss. Accordingly, it is evident that the vehicle repair estimate was admitted to prove the truth of the matter asserted.

Finally, considering the third prong of our Confrontation Clause analysis—whether the defendant could cross-examine the declarant—we conclude that Coleman was unable

to cross-examine the person who prepared the vehicle repair estimate. The individual who prepared the vehicle repair estimate did not testify at trial, leaving Coleman without the ability to conduct a cross-examination.

Because the vehicle repair estimate was testimonial, offered for the truth of the matter asserted, and Coleman was unable to cross-examine the declarant, we conclude that the admission of the estimate violates the Confrontation Clause. And the admission of evidence that violates the Confrontation Clause constitutes an error, satisfying the first prong of the plain-error standard of review. *State v. Tscheu*, 758 N.W.2d 849, 864 (Minn. 2008).

Having concluded that the district court erred by admitting the vehicle repair estimate, we turn to whether that error was plain. Plain error is one that was clear or obvious, which may be the case if the error "contravenes case law, a rule, or a standard of conduct." *State v. Webster*, 894 N.W.2d 782, 787 (Minn. 2017). Here, the district court's error—admitting the vehicle repair estimate without requiring testimony from the person who created it—was plain because it violates the Confrontation Clause and caselaw interpreting and applying it. *See Crawford*, 541 U.S. at 51-52, 124 S. Ct. at 1364; *Caulfield*, 722 N.W.2d at 308-09.

The error did not affect Coleman's substantial rights.

Because the district court plainly erred by admitting the vehicle repair estimate, we turn to the third prong of the plain error standard of review: whether the error affected Coleman's substantial rights. *Griller*, 583 N.W.2d at 740. It is Coleman's burden to establish "that there is a reasonable likelihood that the absence of the error would have had

a significant effect on the jury's verdict." *State v. Horst*, 880 N.W.2d 24, 38 (Minn. 2016) (quotation omitted). And "[i]n evaluating the reasonable likelihood that the erroneously admitted evidence significantly affected the verdict, this court must consider the persuasiveness of that evidence . . . [and] the manner in which the evidence was presented." *State v. Jackson*, 764 N.W.2d 612, 620 (Minn. App. 2009), *review denied* (Minn. July 22, 2009).

Here, the state was required to prove beyond a reasonable doubt that the damage to T.K.'s vehicle exceeded $1,000. In support of this element, in addition to the repair estimate, the state introduced photographs of the damage done to the car. The photographs show a completely shattered back windshield, a significantly damaged front windshield, and damage to the body of the car. Additionally, an officer testified that based on his experience, the damage to the car exceeded $1,000. Given the additional evidence of damage, we do not believe it reasonably likely that the jury's verdict would have been different had the error not occurred. As a result, we conclude that Coleman's substantial rights were not affected by the admission of the vehicle repair estimate.[4] And because Coleman's substantial rights were not affected, we affirm her conviction.

Affirmed.

[4] Because we conclude that Coleman's substantial rights were not affected, we do not reach whether the error seriously affected "the fairness, integrity, or public reputation of the judicial proceeding." *Griller*, 583 N.W.2d at 740. But even if we had reached the issue, based upon our review of the record it appears Coleman made a strategic decision to not object to the admission of the vehicle repair estimate because it did not fit with her theory of the case at trial. As such, the interests of justice do not require a new trial.