STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1722

State of Minnesota,
Respondent,

vs.

Roosevelt Vinson,
Appellant.

Filed November 9, 2020
Affirmed in part, reversed in part, and remanded
Worke, Judge
Concurring specially, Connolly, Judge

Ramsey County District Court
File No. 62-CR-18-9179

Keith Ellison, 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, Suzanne M. Senecal-Hill, Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

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

WORKE, Judge

Appellant challenges his conviction for first-degree burglary, arguing that the district court (1) violated his right to a jury trial, (2) improperly admitted relationship

evidence, and (3) failed to make written findings of essential facts. Because we determine that the district court properly allowed the relationship evidence but committed plain error by not obtaining a valid jury-trial waiver, we affirm in part, reverse in part, and remand.

FACTS

Appellant Roosevelt Vinson was charged with burglary for breaking into the home of his ex-girlfriend, K.P. The district court appointed Vinson with a public defender who represented him through the trial. Before the bench trial began, Vinson filed a motion in limine, moving to preclude the state from introducing relationship evidence. The district court denied the motion and stated that it would address the evidence in relation to the findings at the end of the trial.

K.P. testified that she and Vinson had dated for six to eight months in 2015, and she ended the relationship because Vinson began "a pattern of drinking and violence." After their relationship, Vinson "would call and show up at [K.P.'s] place of employment constantly." She also testified that Vinson went to her house "a few times," banging on her door and demanding to be let in. Before the incident at issue, K.P. had last seen Vinson in the summer of 2017.

K.P. testified that she was at home watching television at 1:00 a.m. on December 22, 2018, when she heard a "bang" outside, "felt a thud," and simultaneously saw Vinson from her Ring Video Doorbell. Her boyfriend ran downstairs, and K.P. could hear him communicating with Vinson in an elevated voice. K.P.'s boyfriend then returned and put his shoes on, and K.P. called 911. K.P. heard "a large crash" and saw Vinson coming up the stairs while yelling threats to K.P.'s boyfriend. K.P.'s boyfriend wrestled Vinson to

the ground and held him there until the police arrived. The police arrested Vinson, and K.P. went downstairs to see "the sidelight window shattered and laying on the other side of the foyer, in its frame." Both K.P. and the arresting officers testified that Vinson appeared intoxicated.

Following a bench trial, the district court found Vinson guilty of first-degree burglary and addressed the admissibility of the relationship evidence by stating, "[t]he history of the relationship evidence is relevant. And because the [c]ourt concludes that its probative value substantially outweighs the risk of unfair prejudice in the fact finder, it is something that I am considering in my decision." The district court sentenced Vinson to 68 months in prison. This appeal followed.

D E C I S I O N

Right to jury trial

Vinson argues that he is entitled to a new trial because he did not waive his right to a jury trial.

The United States and Minnesota Constitutions guarantee criminal defendants the right to a jury trial. U.S. Const. amend. VI; Minn. Const. art. I, § 6. Defendants may waive their right to a jury trial if the waiver is knowing, intelligent, and voluntary. *State v. Dettman*, 719 N.W.2d 644, 651 (Minn. 2006). This waiver must be done "personally, in writing or on the record in open court, after being advised by the court of the right to trial by jury, and after having had an opportunity to consult with counsel." Minn. R. Crim. P. 26.01, subd. 1(2)(a). "Absent such a waiver, a criminal defendant must be tried by a jury." *State v. Little*, 851 N.W.2d 878, 882 (Minn. 2014).

Here, the parties agree that the district court improperly convicted Vinson after a bench trial without obtaining Vinson's waiver of his right to a jury trial. But the parties disagree about whether we should analyze the issue under the structural-error or plain-error standard, and whether the case should be remanded for a new trial.

"Structural errors are defects in the constitution of the trial mechanism, which defy analysis by harmless-error standards." *State v. Kuhlmann*, 806 N.W.2d 844, 851 (Minn. 2011) (quotation omitted). Only a "very limited class of" errors qualify as structural errors, but they warrant automatic reversal of a conviction. *Id.* (quotation omitted). "In contrast, a trial error is an error which occurred during the presentation of the case to the jury, and which may therefore be quantitatively assessed in the context of other evidence presented in order to determine whether its admission was harmless beyond a reasonable doubt." *Id.* (quotation omitted). "If a criminal defendant had counsel and was tried by an impartial adjudicator, there is a strong presumption that most constitutional errors are subject to harmless-error analysis." *State v. Fluker*, 781 N.W.2d 397, 400 (Minn. App. 2010). Because we determine that Vinson is entitled to a new trial under the plain-error analysis, we need not determine which reviewing standard is appropriate. *See Little*, 851 N.W.2d at 884 (declining to determine appropriate review standard when remand required under plain-error analysis).

Vinson did not object to the bench trial. An appellant generally forfeits any relief by not objecting at trial. *State v. Webster*, 894 N.W.2d 782, 786 (Minn. 2017). But we may review unobjected-to claims under the plain-error test. *Id.* An appellant must establish "(1) an error, (2) that was plain, and (3) that affected [his] substantial rights." *Id.*

If the appellant establishes all three elements, "we may correct the error only if it seriously affects the fairness, integrity, or public reputation of judicial proceedings." *Id.*

The parties agree that the district court committed error and that the error was plain. But the parties disagree about whether it affected Vinson's substantial rights. "An error affects a defendant's substantial rights when there is a reasonable likelihood that the error substantially affected the verdict." *State v. Brown*, 792 N.W.2d 815, 824 (Minn. 2011) (quotation omitted). In *Little*, the supreme court concluded that the district court's failure to obtain a waiver on an additional charge affected the defendant's substantial rights because the record did not show that the defendant was aware of a newly added charge, which meant that he may not have received adequate counsel and that he may have selected a plea agreement. 851 N.W.2d at 884-85. The supreme court determined that Little's substantial rights were affected because there was "a reasonable possibility that [Little] would not have waived his right to a jury trial on the amended charge." *Id.* at 886. Because the record here does not show that the district court told Vinson about his right to a jury, the reasoning in *Little* applies. Vinson's substantial rights were affected by this error.

Finally, the error also "affects the fairness, integrity, or public reputation of judicial proceedings." *See Webster*, 894 N.W.2d at 786. In *Little*, the supreme court reasoned, "Allowing Little to stand convicted of a . . . more serious offense when there is a reasonable likelihood that but for the . . . error he would not have waived his . . . right to a jury trial on the . . . added charge will adversely affect the public's confidence in the fairness and integrity of judicial proceedings." 851 N.W.2d at 886. The same is true here; the public's confidence in the fairness and integrity of judicial proceedings would be undermined by

allowing Vinson to stand convicted when there is a reasonable likelihood that he would not have waived his right to a jury trial. Because the district court's error satisfies the plain-error analysis, we reverse and remand.

Relationship evidence

Vinson also challenges the admission of evidence of his prior domestic conduct. "Evidentiary rulings rest within the sound discretion of the [district] court and will not be reversed absent a clear abuse of discretion." *State v. Amos*, 658 N.W.2d 201, 203 (Minn. 2003). "When challenging a district court's evidentiary ruling, an appellant must establish both that the district court abused its discretion and that, as a consequence, the appellant was prejudiced." *State v. O'Meara*, 755 N.W.2d 29, 33 (Minn. App. 2008).

Evidence of a defendant's prior bad acts is generally inadmissible. Minn. R. Evid. 404. The district court admitted the evidence under Minn. Stat. § 634.20 (2018), which allows for the admissibility of "[e]vidence of domestic conduct by the accused against the victim of domestic conduct, or against other family or household members." But the state concedes that section 634.20 does not apply to this case, and instead argues that K.P.'s testimony was admissible as general relationship evidence.

The state argued general relationship evidence in its notice of intent to introduce domestic-related evidence. The relationship-evidence exception falls under Minn. R. Evid. 404(b). "[R]elationship evidence is character evidence that may be offered to show the strained relationship between the accused and the victim [and] is relevant to establishing motive and intent and is therefore admissible." *State v. Loving*, 775 N.W.2d 872, 880 (Minn. 2009) (quotation omitted). This exception does not require an underlying

domestic-abuse charge. *State v. Hormann*, 805 N.W.2d 883, 890 (Minn. App. 2011), *review denied* (Minn. Jan. 17, 2012).

K.P.'s testimony about her prior relationship with Vinson is admissible as general relationship evidence to show motive. The question before the district court was whether to believe K.P.'s or Vinson's testimony. The district court found that Vinson's testimony was not credible "[p]articularly in light of the history of the relationship evidence." The district court also found that the evidence's "probative value substantially outweighs the risk of unfair prejudice." Because the evidence is admissible under the alternative theory of admissibility that the state argued, Vinson was not prejudiced by the district court's error in admitting the evidence under an inapplicable rule.

Finally, because we reverse the case for a new trial, we need not consider whether the district court failed to make written findings of the essential facts.

Affirmed in part, reversed in part, and remanded.

CONNOLLY, Judge (concurring specially)

I agree with the majority's decision: under *State v. Little*, 851 N.W.2d 878, 885-86 (Minn. 2014) the failure to have obtained a defendant's personal waiver of a jury trial on every charge of which he is convicted is an error that is plain and that violates the defendant's substantial rights. *See State v. Griller*, 583 N.W.2d 736, 740 (Minn. 1998) (setting out the three prongs of the plain-error test).

I write separately because I have a concern that *Little* appears to gloss over the last prong of the *Griller* test, namely the "heavy burden" it imposes on defendants to show a violation of their substantial rights by demonstrating that the error was prejudicial and affected the outcome of the case. *Id.* at 741. The facts of this case are such that a jury, having heard K.P.'s testimony about the history of her relationship with appellant, would have been more likely than the district court to find appellant guilty. Thus, the likelihood of appellant's having chosen a jury trial rather than a bench trial is minimal, and the record provides no indication that he would have done so. It does not reflect that appellant ever expressed dissatisfaction with a bench trial or a preference for a jury trial, or that he sought review of whether he had been prejudiced by the district court's failure to obtain his waiver of a jury trial. It does not appear to me that appellant met the "heavy burden" imposed by the substantial-rights prong of the plain-error test.

Nevertheless, because *Little* is the law, I agree that we must follow it. *See State v. Curtis*, 921 N.W.2d 342, 346 (Minn. 2018) (noting that the court of appeals is bound by supreme court precedent).