STATE OF MINNESOTA
IN COURT OF APPEALS
A20-1388

Ronald Lee Schlangen, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

Filed August 9, 2021
Affirmed
Jesson, Judge

Morrison County District Court
File No. 49-CR-17-276

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

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

Brian J. Middendorf, Morrison County Attorney, Michel P. Chisum, Assistant County Attorney, Little Falls, Minnesota (for respondent)

Considered and decided by Jesson, Presiding Judge; Bjorkman, Judge; and Florey, Judge.

NONPRECEDENTIAL OPINION

JESSON, Judge

After being found with roughly 130 grams of methamphetamine in his car, appellant Ronald Schlangen was convicted of first-degree controlled substance crime. Schlangen contested his conviction in a petition for postconviction relief, which was denied. On

appeal, Schlangen argues that the postconviction court erred by denying his petition in three respects: (1) the state's primary law-enforcement witness provided unnoticed and improper expert-witness testimony; (2) the prosecutor committed misconduct by asking the witness about Schlangen's guilt; and (3) the district court admitted unnoticed and prejudicial evidence of prior bad acts. In a pro se supplemental brief, Schlangen further argues that the district court violated his right to a speedy trial and that he received ineffective assistance of counsel. We affirm.

FACTS

While on patrol, a state trooper observed a car driving with a broken windshield. Upon running the license plate information on his squad car computer, the trooper learned that the car was registered to appellant Ronald Schlangen, who also had an active warrant for his arrest. Unbeknownst to the trooper, his computer system was not up to date and did not reflect the fact that Schlangen had transferred the title to the SUV to his daughter days earlier.

After stopping and approaching the vehicle, the trooper found K.L. in the driver's seat and Schlangen—who gave the trooper a false name—in the passenger seat. According to K.L. and Schlangen, they were on their way to the casino. While talking with the pair, the trooper noticed that K.L.'s eyes were watery and bloodshot and that her pupils were smaller than normal. K.L. also had a grayish film at the corners of her mouth and was "very animated" and speaking rapidly. During their brief conversation, the trooper spotted a miniature baseball bat in the center console that he perceived to be a weapon, a butane torch, and a pink box that appeared to be "out of place." The trooper commanded a

drug-sniffing dog to search the SUV. The dog alerted to the pink box, which contained 83.6 grams of methamphetamine inside plastic baggies. The trooper placed Schlangen and K.L. under arrest, and the vehicle was impounded.

After the arrests, a neighboring law enforcement agency received multiple calls from anonymous callers asking how to retrieve the contents of the SUV. Believing there were more drugs or paraphernalia in the vehicle, the trooper obtained a search warrant. While searching the vehicle, the trooper discovered a satchel behind the driver's seat that contained multiple pieces of mail addressed to Schlangen, gift cards to the casino in Schlangen's name, drugs (such as LSD and mushrooms), and marijuana. There was also a fluorescent green bag in the satchel that contained a digital scale and a box labeled "Mike and Ikes." The box contained several baggies holding 47.077 grams of methamphetamine in total. The state ultimately charged Schlangen with a first-degree controlled substance crime (possession of 50 grams or more of methamphetamine), and a second-degree controlled substance crime (possession of 25 grams or more of methamphetamine). Minn. Stat. §§ 152.021, subd. 2(a)(1), .022, subd. 2(a)(1) (2016).

During a three-day trial, the jury heard testimony from the trooper, Schlangen's friend L.R. (who Schlangen claimed was the rightful owner of the methamphetamine), a fingerprint specialist, and Schlangen.

The trooper testified that he was certified as a drug-recognition evaluator, which included training to recognize the "signs and symptoms" of persons under the influence of a controlled substance. He also stated that he "specializes" in "traffic based narcotics interdiction," which involves training to identify signs that someone is hiding and

transporting drugs. The trooper testified that Schlangen's conduct was consistent with many of the general drug-courier traits. Some of these signs include having a female drive the car, having matching stories of where the passengers are going, and hiding drugs in items off of their person as to not create a direct link to the drugs. The trooper also noted common items he looks for in a stop, like weapons and butane torches—items he perceived as being present in Schlangen's vehicle.

Through the trooper's testimony, the state further introduced recordings of phone calls made from Schlangen while he was in jail to his daughter, nephew, and others present with K.L.[1] In the recordings, Schlangen demonstrated his knowledge of the importance of the green fluorescent bag, which he mentioned in a call before he was asked about it by the trooper. He also repeatedly discussed the pink box, relayed that there was "stuff . . . in those bags," and referred to K.L. as his "ace in the deck" for knowing the "true details" of the arrest and agreeing to claim ownership of the drugs. And in a call with his nephew, Schlangen gave the following advice: to travel as little as possible, to always have a story, to travel with a girlfriend if possible because "they don't like to harass women," and that areas under the hood of the car and in the trunk are "better." When asked about this recording, the trooper explained that Schlangen was giving his nephew advice on how to transport narcotics without getting caught and stated that Schlangen generally appeared to be "following much of his own advice" on transporting drugs.

[1] Six calls were played at trial, although there were additional calls that were declared inadmissible during a pre-trial hearing.

Next on the stand was Schlangen's friend L.R. She testified to meeting Schlangen when he worked as a driver, a job where he transported her to her medical appointments. Before Schlangen's arrest, he came to L.R.'s house, gave her cash and a bag containing cash and methamphetamine, and asked her to hold on to it. But L.R. got nervous and asked Schlangen to take the items back. L.R. placed the drugs and cash inside a pink flowered box and taped it shut. She then took the box with her to a medical appointment and showed Schlangen which car the box was in. When L.R. returned, the box was gone. At trial, L.R. identified the pink box found in Schlangen's car as the same box in which she had placed the methamphetamine and cash.

Following L.R.'s testimony, the fingerprint expert testified about fingerprints found on the pink box. The expert explained that, although she concluded that L.R. was the source of some of the fingerprints found on both the box itself and the tape on the box, the expert could not conclusively identify any fingerprints on the box as belonging to K.L. or Schlangen. Despite this, the expert testified that it was possible for someone to touch an item without leaving fingerprints behind.

Finally, Schlangen testified. He said that on the day of his arrest he and K.L.—with whom he was living at the time—had planned on going to the casino. But before doing so, the pair had a few stops to make. First, K.L. grabbed some of his mail to take with them. She told Schlangen that they needed to meet L.R. at her doctor's office. Once there, K.L. got out of the SUV and retrieved the pink box left by L.R. Schlangen then drove the pair to Walmart to meet his daughter. Because Schlangen planned on turning himself in for his outstanding warrant, he needed to give his daughter access to his apartment. Schlangen

and K.L. then stopped for gas and switched seats. It was at this point, Schlangen testified, that he first noticed the pink box.

Regarding the items found in the car, Schlangen claimed that the butane torch and the bat did not belong to him, and that the green bag belonged to K.L. And although the satchel also belonged to K.L. and was predominately filled with her belongings, Schlangen stated that the LSD, mushrooms, and marijuana found inside were his. As for the methamphetamine in the Mike and Ike's box, Schlangen said he had no knowledge of it at the time. Schlangen also denied most of the trooper's characterizations of his jail phone calls, saying that when he referred to "stuff" he only meant the non-methamphetamine drugs and paraphernalia. He also explained that K.L. was his "ace in the deck" because the methamphetamine belonged to her. But on cross-examination, Schlangen admitted to giving his nephew advice on how to transport illegal drugs.

The jury found Schlangen guilty on both counts. At sentencing, the district court entered a conviction for first-degree controlled substance crime, and sentenced Schlangen to 140 months' imprisonment.[2]

Following his conviction, Schlangen filed a petition for postconviction relief, arguing that he should be granted a new trial based on several errors that occurred during his trial. Specifically, he argued that (1) the trooper gave improper drug courier profile evidence; (2) the trooper testified as an unnoticed expert witness; (3) the trooper improperly

[2] After initially filing a direct appeal, Schlangen discharged his attorney, dismissed his appeal, and sought pro se postconviction relief. Eventually, Schlangen requested a public defender to represent him in the postconviction proceedings, and the district court appointed one.

testified that Schlangen constructively possessed the methamphetamine found in the SUV; and (4) the district court improperly admitted unnoticed *Spreigl* evidence. The postconviction court denied relief, concluding that while some of the evidence admitted against Schlangen was improper and constituted plain error, the errors did not affect Schlangen's substantial rights because there was no reasonable likelihood that they had a significant effect on the jury's verdict.

Schlangen appeals.

DECISION

Before addressing Schlangen's arguments, we begin with the overarching standard for postconviction relief. On appeal, a decision denying postconviction relief is reviewed for an abuse of discretion. *Griffin v. State*, 941 N.W.2d 404, 408 (Minn. 2020). We will not reverse a district court's denial of a petition for relief unless the court "exercised its discretion in an arbitrary or capricious manner, based its ruling on an erroneous view of the law, or made clearly erroneous factual findings." *Id.* (quotation omitted). With this standard in mind, we turn to the four central issues before us.

I. The state's primary law-enforcement witness opining on drug-courier behaviors did not affect Schlangen's substantial rights.

First, Schlangen argues that we should reverse his conviction and remand for a new trial because the trooper testified as an unnoticed expert witness. We generally review evidentiary rulings, including those relating to expert testimony, for an abuse of discretion. *State v. Thao*, 875 N.W.2d 834, 840 (Minn. 2016). 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). We review the admission of unobjected-to expert testimony for plain error. *State v. Martinez*, 725 N.W.2d 733, 738-39 (Minn. 2007).

Under the plain-error test, we examine evidentiary rulings to determine whether there was (1) an error, (2) that was plain, and (3) that affected appellant's substantial rights. *State v. Gunderson*, 812 N.W.2d 156, 159 (Minn. App. 2012).[3] When considering whether someone's substantial rights were implicated, we consider factors such as the strength of the evidence against the defendant, the pervasiveness of the improper behavior, and whether the defendant had an opportunity to rebut the improper suggestions. *State v. Davis*, 735 N.W.2d 674, 682 (Minn. 2007).

With that standard in mind, we turn to the caselaw and rules surrounding the alleged error—improper expert-witness testimony. A lay witness may only testify about matters to which they have "personal knowledge." Minn. R. Evid. 602. Lay witnesses may give testimony in the form of opinions if the opinions are rationally based on the witness's perception. Minn. R. Evid. 701. But a lay witness may not give opinion testimony that is based on "scientific, technical, or other specialized knowledge." *Id.* Conversely, a witness qualifying as an expert may testify based on their "scientific, technical, or otherwise specialized knowledge." Minn. R. Evid. 702. But before the state may offer expert

[3] An error affects substantial rights if there is a reasonable likelihood that the error substantially affected the verdict. *State v. Strommen*, 648 N.W.2d 681, 688 (Minn. 2002). If any requirement of the plain-error test is not satisfied, we do not need to address any of the others. *State v. Lilienthal*, 889 N.W.2d 780, 785 (Minn. 2017); *see also Montanaro v. State*, 802 N.W.2d 726, 733 (Minn. 2011) (applying the plain-error test by reviewing substantial rights without analyzing error).

testimony it must disclose to the defense the identity of the expert witness and provide a written summary of the subject matter of the expert's testimony, including any findings, opinions, or conclusions the expert will give. Minn. R. Crim. P. 9.01, subd. 1(4)(c).

In the context of police officers, we have allowed police officers to testify as expert witnesses based on factors like their education and training. *See State v. Valentine*, 787 N.W.2d 630, 639 (Minn. App. 2010) (determining that an officer's bachelor's degree in criminal justice, years on the job, and training sessions qualified her as an expert on domestic violence). But we have warned that a police officer giving expert testimony utilizing a drug-courier profile to establish guilt is "plainly inadmissible." *State v. Barajas*, 817 N.W.2d 204, 222 (Minn. App. 2012) (quoting *State v. Litzau*, 650 N.W.2d 177, 185 (Minn. 2002)). Police officers may, however, testify about relevant techniques employed by other drug dealers to explain the "significance of certain evidence or the defendant's conduct." *Id.* (citing *State v. Williams*, 525 N.W.2d 538, 548 (Minn. 1994)).

Here, the trooper testified that he had training in "narcotics interdiction" which involved identifying and comparing behaviors and tactics used by people transporting drugs. The trooper proceeded to testify about the common traits of a drug courier and compared those traits to what he witnessed during the traffic stop. While this type of testimony may be narrowly permitted to explain the significance of evidence or Schlangen's conduct as instructed in *Williams* and *Litzau*, the trooper here made broad comparisons informed by his education, experience and training. But, despite its decision to elicit this testimony, the state had not made the required expert disclosures, even after Schlangen's demand for discovery asking for a list of the state's expert witnesses. Minn.

R. Crim. P. 9.01, subd. 1(4)(c). The postconviction court said this evidence was improper and constituted plain error, but that the state demonstrated that the errors did not affect Schlangen's substantial rights.

We need not decide if the admission of this portion of the trooper's testimony was plain error because we agree with the postconviction court that the testimony did not affect Schlangen's substantial rights. In so concluding, we begin with the observation that the state's case hinged on proving that Schlangen was in joint, constructive possession of methamphetamine with K.L. Even without the portion of the trooper's testimony that was related to narcotics interdiction, the state's case against Schlangen that related to possession was strong. L.R.'s testimony that Schlangen planned the transfer of the methamphetamine in the pink box not only showed that Schlangen knew about the methamphetamine, but also *directly placed it in his possession*, demonstrating his constructive possession of the drugs.[4] And at the scene, Schlangen was quick to disclaim ownership of the box *before* being told there were drugs inside. Furthermore, the phone calls Schlangen made while in jail—in particular his discussion with his daughter about the "stuff . . . in those bags"—displayed that he knew about the drugs in the green bag and the pink box. These phone calls showed that Schlangen was not only a participant in the transportation of drugs, but

[4] Schlangen also contends that because the trooper corroborated L.R.'s accomplice testimony, as required by Minnesota Statutes section 634.04 (2020), Schlangen's substantial rights were affected. But L.R.'s testimony corroborated by the trooper was from undeniably admissible evidence, including finding the pink box in Schlangen's car and discovering methamphetamine within the box. We conclude that L.R.'s testimony was not corroborated in error and did not affect Schlangen's substantial rights.

that he was the one in charge. Moreover, all of the drugs were found in a vehicle that was still registered to Schlangen at the time of his arrest.

Finally, we observe that Schlangen's words and L.R.'s testimony constituted the bulk of the state's closing argument, whereas the references to the "expert" testimony took up less than a page of the 21 pages of the state's closing argument. *Cf.*, *Davis*, 735 N.W.2d at 682 (concluding that one page of improper suggestions in a 64-page transcript was not pervasive).

In sum, because the state had a strong case against Schlangen, even without the trooper's expert drug-interdiction testimony and his testimony comparing Schlangen's behavior to those who transport drugs, the admission of that testimony did not affect Schlangen's substantial rights. The postconviction court therefore did not abuse its discretion by denying Schlangen's petition for relief on this basis.[5]

II. The prosecutor committed misconduct by asking about guilt, but the misconduct did not affect Schlangen's substantial rights.

Next, Schlangen argues that he is entitled to a new trial because the prosecuting attorney elicited inadmissible testimony, which was plain error and amounts to prosecutorial misconduct.

[5] Schlangen also argues that the prosecutor committed misconduct by eliciting testimony about general drug-courier traits. Eliciting inadmissible testimony, such as undisclosed expert-witness testimony, is prosecutorial misconduct. *State v. Ramey*, 721 N.W.2d 294, 300 (Minn. 2006). When an appellant has failed to object during trial, we review allegations of prosecutorial misconduct under a modified plain-error standard. *Id.* at 302. Here, the prosecuting attorney questioned the trooper about his expertise in narcotic interdiction, including drug-courier traits. For the same reasons as our analysis above, the invocation of this testimony by the prosecutor did not affect Schlangen's substantial rights.

A prosecutor engages in misconduct when they violate clear or established standards of conduct, including rules, laws, or orders by a district court. *State. v. McCray*, 753 N.W.2d 746, 751 (Minn. 2008). Eliciting inadmissible testimony is prosecutorial misconduct. *Ramey*, 721 N.W.2d at 300. When, as here, an appellant has objected to misconduct, we review under the harmless-error standard. An error is harmless if there is "no reasonable possibility that it substantially influence[d] the jury's decision." *State v. Taylor*, 869 N.W.2d 1, 14 (Minn. 2015) (alteration in original) (quotation omitted).

Testimony as to the ultimate issue in a case, by either expert or lay witnesses, is not objectionable unless the testimony is "conclusion testimony which embraces legal conclusions." *State v. DeWald*, 463 N.W.2d 741, 744 (Minn. 1990). Opinions that are questions of law or tell a jury "what result to reach" are improper. *State v. Moore*, 699 N.W.2d 733, 740 (Minn. 2005) (quotation omitted).

Here, the objected-to testimony involved two instances in which Schlangen claims the prosecutor elicited the trooper's opinion testimony on the issue of guilt. In the first instance, the prosecutor asked:

> Q: Trooper, after discovering the satchel on the 28th and seeing what was inside that, and after hearing the defendant reference the green bag and knowing what you had discovered in the green bag, thinking back to the traffic stop, *did you have any thoughts about the pink box*?
> A: Yes.
> Q: What were those thoughts?
> A: That Mr. Schlangen *knew what was in it, and it was in his possession*.

(Emphasis added.) The prosecutor later asked:

> Q: Did you hear the defendant ask about when the pink box—or the flowered box was opened?
> A: Yes.
> Q: Did that spark or give you cause for concern?
> A: Yes.
> Q: Why?
> A: It's showing knowledge that Mr. Schlangen had about the pink box and its importance.

Both instances were objected to and sustained. The district court later gave the jury instructions to disregard all evidence that was struck from the record such as these exchanges.

As to the first question, the prosecutor was clearly asking the trooper to testify as to whether Schlangen knew that he constructively possessed the methamphetamine. Opinions that address questions of law or tell a jury "what result to reach" are improper. *Id.* We conclude that the first instance was misconduct because it was an explicit question as to Schlangen's guilt. The second instance, however, did not rise to this level because explaining that Schlangen had *knowledge* of the pink box is not a legal conclusion that he *constructively possessed* the pink box. *See, e.g.*, *DeWald*, 463 N.W.2d at 744 (stating that conclusion testimony that "embraces legal conclusions" are improper). Nevertheless, the state has shown that the objected-to first question—which we emphasize was sustained by the district court—did not affect the outcome of the trial. Notably, both Schlangen and the state go to great lengths to argue whether the drug-courier testimony was improper, like citing to and arguing about the applicability of cases involving improper witness testimony such as *Williams* and *Litzau*. But these arguments do not change the end result. For the

same reasons as we stated earlier, this testimony was overshadowed by the state's substantial evidence against Schlangen.

Because the inadmissible testimony did not affect Schlangen's substantial rights, the postconviction court did not abuse its discretion in concluding the same.

III. The district court did not err by admitting Schlangen's phone call to his nephew.

Next, Schlangen argues that he is entitled to a new trial because by allowing the state to introduce the recorded jail phone call between Schlangen and his nephew, the district court admitted unnoticed and prejudicial *Spreigl* evidence.

We review a district court's decision to admit evidence of prior bad acts for an abuse of discretion. *State v. Griffin*, 887 N.W.2d 257, 261 (Minn. 2016). The erroneous admission of *Spreigl* evidence must create "a reasonable possibility that the wrongfully admitted evidence significantly affected the verdict" in order to warrant a new trial. *State v. Fardan*, 773 N.W.2d 303, 320 (Minn. 2009). The defendant bears the burden of showing that an error occurred and that the defendant was prejudiced as a result. *Griffin*, 887 N.W.2d at 261.

Minnesota Rule of Evidence 404(b) governs admission of evidence of other crimes or bad acts—often called "*Spreigl* evidence." *State v. Kennedy*, 585 N.W.2d 385, 389 (Minn. 1998). The district court may admit *Spreigl* evidence only in limited cases and this evidence may not be admitted to prove a person's character or that a person acted in conformity with a past action. Minn. R. Evid. 404(b); *State v. Ness*, 707 N.W.2d 676, 685 (Minn. 2006).

The postconviction court analyzed Schlangen's challenges[6] to the admission of the phone call with his nephew and concluded that it constituted *Spreigl* evidence, but that the call was admissible because it demonstrated a common scheme or plan.[7] But, even if the phone call constituted *Spreigl* evidence, Schlangen bears the burden of demonstrating that he was prejudiced by the admission of the evidence. *Fardan*, 773 N.W.2d at 320. For the same reasons we have discussed, the other evidence against Schlangen was strong. The phone call was not the "critical push beyond a reasonable doubt" required to make this evidence harmful. *Ness*, 707 N.W.2d at 691.

Therefore, the postconviction court did not abuse its discretion when it concluded that the errors of admitting certain testimony did not impact the verdict.[8]

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[6] Schlangen challenged the admission of the phone call in four ways: (1) there was not sufficient notice; (2) the evidence did not show a common scheme or plan; (3) the probative value of the phone call was not outweighed by its highly prejudicial nature; and (4) the admission was not harmless.

[7] Using evidence of prior bad acts to demonstrate a common scheme or plan is an exception to the general inadmissibility of *Spreigl* evidence. *Ness*, 707 N.W.2d at 685.

[8] Schlangen further argues that he is entitled to a new trial due to excessive, cumulative errors. An appellant may be entitled to a new trial if the cumulative impact of several errors taken together "had the effect of denying [the] appellant a fair trial." *State v. Yang*, 774 N.W.2d 539, 560 (Minn. 2009) (quotation omitted). Cumulative error is generally reserved for "very close factual case[s]" in which multiple errors rendered the appellant's trial fundamentally unfair. *State v. Erickson*, 610 N.W.2d 335, 340-41 (Minn. 2000) (quotation omitted). In weighing a cumulative-error argument, we consider the egregiousness of the errors and the strength of the prosecution's case. *See State v. Cermak*, 350 N.W.2d 328, 333-34 (Minn. 1984). Here, for reasons similar to those we have discussed above, Schlangen failed to demonstrate that any error fundamentally affected his trial. The prosecution had a strong case, and the isolated errors were not pervasive. Even taken cumulatively, we conclude that the errors did not deprive Schlangen of his right to a fair trial.

IV. Schlangen's pro se supplemental brief raises only forfeited, duplicative, or otherwise unwarranted claims.

Schlangen also submitted a pro se supplemental brief. Half of the arguments are a summation of those made in the appellant's brief and are addressed above. *See State v. DeWalt*, 757 N.W.2d 282, 290 (Minn. App. 2008) (declining to address pro se arguments that are fully addressed in the public defender's appellate brief). Of the new arguments, we consider only the two arguments that rely on facts in the record or include citations to authority—that Schlangen's right to a speedy trial was violated and that he received ineffective assistance of counsel. *See id.* (declining to address pro se arguments that are dependent on facts not in evidence, or have no apparent importance, and are not supported by any legal argument or citation to authority). We address each argument in turn.

Speedy Trial Violation

The right to a speedy trial is as "fundamental as any of the rights secured by the Sixth Amendment." *State v. Windish*, 590 N.W.2d 311, 315 (Minn. 1999) (quoting *Klopfer v. North Carolina*, 386 U.S. 213, 223, 87 S. Ct. 988, 993 (1967)). In order to determine whether a delay in any given case constitutes a deprivation of the right to a speedy trial, we use the balancing test announced by the United States Supreme Court in *Barker v. Wingo*, 407 U.S. 514, 530, 92 S. Ct. 2182, 2192 (1972). The test provides that a court must consider: (1) the length of the delay; (2) the reason for the delay; (3) whether the defendant asserted his or her right to a speedy trial; and (4) whether the delay prejudiced the defendant. *Id.*; *see also State v. Widell*, 258 N.W.2d 795, 796 (Minn.1977) (adopting

the four-part *Barker* inquiry for speedy trial demands). No one factor trumps another; all are related and must be considered together with any other relevant circumstances. *Windish*, 590 N.W.2d at 315.

Schlangen was arrested on February 23, 2017, and did not demand a speedy trial until May 1, 2017. His original trial was scheduled for June 26, 2017, which was within the 60-day period established in Minnesota Rule of Criminal Procedure 11.09(b). *See Windish*, 590 N.W.2d at 315-16 (observing that, in Minnesota, delays beyond 60 days from the demand are presumptively prejudicial). His trial was ultimately held on October 11-13, 2017—after the 60-day threshold. But, his attorney requested a rule 20 examination and hearing, which were not completed until mid-September. Where a defendant's own actions caused the delay, there is no violation of the right to a speedy trial. *State v. Griffin*, 760 N.W.2d 336, 340 (Minn. App. 2009) (citation omitted); *see also State v. DeRosier*, 695 N.W.2d 97, 109 (Minn. 2005) (concluding that a delay caused in part by a rule 20 evaluation did not violate the right to a speedy trial).

Ineffective Assistance of Counsel

Schlangen also argues that he received ineffective assistance of counsel, citing his attorneys' failure to raise the other issues presented in his pro se supplemental brief.

The party alleging ineffective assistance must show that representation "fell below an objective standard of reasonableness" and "that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Gates v. State*, 398 N.W.2d 558, 561 (Minn. 1987) (quoting *Strickland v. Washington*, 466 U.S. 668, 688, 694, 104 S. Ct. 2052, 2064, 2068 (1984)).

That objective standard is defined as "representation by an attorney exercising the customary skills and diligence that a reasonably competent attorney would perform under similar circumstances." *State v. Gassler*, 505 N.W.2d 62, 70 (Minn. 1993) (quotation omitted). The supreme court has repeatedly stated that appellate courts will not review attacks on counsel's trial strategy. *See, e.g.*, *Boitnott v. State*, 631 N.W.2d 362, 370 (Minn. 2001).

Here, Schlangen appears to claim that his attorneys should have objected to the squad car video and the phone calls. But his counsel did object to much of this evidence at the contested omnibus hearing and pre-trial hearings. Schlangen's remaining accusations of ineffective assistance of counsel, such as failing to ask a different trooper who may have witnessed portions of this arrest to testify, are matters of trial strategy that we do not review. *Opsahl v. State*, 677 N.W.2d 414, 421 (Minn. 2004).

In sum, viewing this decision as a whole, the postconviction court did not abuse its discretion in denying Schlangen's petition for postconviction relief. Schlangen failed to demonstrate that his substantial rights were affected by: (1) the trooper's expert testimony; (2) the prosecutor's elicitation of expert testimony or questioning regarding Schlangen's guilt; or (3) the admission of the phone call with his nephew. Schlangen also failed to show that the cumulative effect of the district court's errors deprived him of a fair trial. And we conclude the arguments raised by Schlangen in his supplemental pro se brief are forfeited, duplicative, or otherwise do not warrant relief.

Affirmed.