

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0074**

In the Matter of the Welfare of:
P. C. U., Child.

**Filed August 30, 2021
Affirmed
Smith, Tracy M., Judge**

Cottonwood County District Court
File No. 17-JV-19-57

Cathryn Middlebrook, Chief Appellate Public Defender, Sara L. Martin, Assistant Public Defender, St. Paul, Minnesota (for appellant P.C.U.)

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

Nicholas A. Anderson, Cottonwood County Attorney, Windom, Minnesota (for respondent State of Minnesota)

Considered and decided by Florey, Presiding Judge; Jesson, Judge; and Smith, Tracy M., Judge.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

Appellant P.C.U. challenges his juvenile delinquency adjudication for second-degree criminal sexual conduct involving multiple acts against his younger half-sister, C.S. P.C.U. argues that he is entitled to a new trial because the district court deprived him of his right to present a defense by prohibiting him from questioning C.S. and her father about

C.S.'s alleged prior false allegations of sexual assault and by sustaining objections to other questions meant to impeach C.S.'s credibility. We affirm.

FACTS

Respondent the State of Minnesota filed a delinquency petition against P.C.U., charging him with three counts of criminal sexual conduct. The state alleged that, between 2015 and 2019, P.C.U. committed multiple sexual acts against C.S. when she was between the ages of five and eight. The case was tried to the district court.

At trial, C.S. testified regarding three specific incidents of sexual abuse, one occurring when P.C.U. was showering and the other two occurring in C.S.'s bedroom. P.C.U. then cross-examined C.S., and the district court sustained objections by the state to several questions. Relevant here, the district court sustained objections to questions regarding alleged incidents in which C.S. falsely accused two other people of sexual abuse and objections to several questions regarding C.S.'s credibility. At P.C.U.'s request, the district court admitted the transcript of the CornerHouse interview as a prior inconsistent statement.

C.S.'s father also testified at trial, as P.C.U.'s witness. The father's longtime girlfriend has a son, S. S. is one of the two people who P.C.U. alleges were falsely accused by C.S. On direct examination, P.C.U. also asked C.S.'s father questions about S., but the district court sustained the state's objections.

Following closing arguments, the district court found P.C.U. guilty of three counts of criminal sexual conduct. In its written findings, the district court said that it found C.S.'s testimony credible. The district court adjudicated P.C.U. delinquent for one count of

second-degree criminal sexual conduct, in violation of Minn. Stat. § 609.343, subd. 1(h)(iii) (2016), and placed P.C.U. on probation until his 19th birthday.

P.C.U. appeals.

DECISION

P.C.U. argues that he was deprived of his constitutional right to present a complete defense when the district court excluded testimony that he sought to elicit from C.S. and her father at trial.¹

A criminal defendant has a constitutional right to present a complete defense. *California v. Trombetta*, 476 U.S. 479, 485, 104 S. Ct. 2528, 2532 (1984); *State v. Richards*, 495 N.W.2d 187, 191 (Minn. 1992). While not all rights enjoyed by criminal defendants apply to juveniles, juvenile-court proceedings “must satisfy the basic requirements of due process and fairness.” *In re Welfare of J.C.P., Jr.*, 716 N.W.2d 664, 668 (Minn. App. 2006) (quotation omitted), *review denied* (Minn. Oct. 17, 2006). Among these basic due-process requirements is the right to counsel, confrontation, and cross-examination. *Id.*

Evidentiary rulings are within the district court’s “sound discretion,” and we do not reverse evidentiary rulings “absent a clear abuse of discretion.” *See State v. Ali*, 855 N.W.2d 235, 249 (Minn. 2014). “A district court abuses its discretion when its decision is

¹ In his appellate brief, P.C.U. also asserts that the district court wrongly excluded testimony that he wanted to elicit from his and C.S.’s mother. But P.C.U. does not identify questions to which the district court sustained objections or otherwise point us to the place in the transcript that identifies specifically the testimony that he sought to elicit from the mother. We thus do not address P.C.U.’s arguments that relate to the mother’s testimony.

based on an erroneous view of the law or is against logic and the facts in the record.” *State v. Hallmark*, 927 N.W.2d 281, 291 (Minn. 2019) (quotation omitted). When the district court’s evidentiary ruling results in the erroneous exclusion of defense evidence in violation of the defendant’s constitutional rights, the verdict must be reversed unless the error was harmless beyond a reasonable doubt. *See State v. Post*, 512 N.W.2d 99, 102 (Minn. 1994).

Testimony Regarding Alleged Prior False Allegations

P.C.U. first argues that the district court erred by excluding testimony that P.C.U. attempted to elicit from C.S. and from her father that C.S. made false accusations of sexual abuse against two other people—a student at her school and S. When P.C.U. sought to elicit the testimony at trial, the state objected on the basis of the rape shield law. *See* Minn. Stat. § 609.347 (2020); Minn. R. Evid. 412. The district court sustained the objections.

With respect to the alleged false allegation against a student, P.C.U. challenges the district court’s rulings on the following questions posed by P.C.U. to C.S. on cross-examination:

Q: Did you ever accuse another student at your school of touching you in the privates?

••••

Q: Did you ever tell a lie about a student at your school touching your privates?

With respect to the alleged false accusation against S., P.C.U. challenges the district court’s rulings on questions posed to C.S. and to her father. On cross-examination of C.S., and after establishing that C.S. was interviewed regarding sexual assault by P.C.U., P.C.U. asked her the following about the recorded CornerHouse interview:

Q: [D]uring that series of questions, did you ever talk about [S.]?

And, when C.S.'s father testified, P.C.U. asked him the following questions about S.:

Q: Now has there been any type of restraining order relating to [S.]?

.....

Q: How 'bout some kind of contract where there was supposed to be a no contact order between [S.] and [C.S.]?

.....

Q: [H]as your daughter [i.e., C.S.] ever told you she made false claims about somebody else about sexual abuse?

P.C.U. argues that the district court improperly sustained objections to these questions. He contends that the evidence that he sought to elicit related to prior false allegations of sexual assault and that evidence of false allegations was not barred by the rape shield law but rather was admissible under our decision in *State v. Goldenstein*, 505 N.W.2d 332 (Minn. App. 1993), *review denied* (Minn. Oct. 19, 1993).

In *Goldenstein*, we determined that a defendant's constitutional right to present a complete defense includes, in certain circumstances, the right to present evidence of prior false allegations by the alleged victim. *See Goldenstein*, 505 N.W.2d at 340. Admissible evidence of prior false allegations may be used both to attack the credibility of the complainant and as substantive evidence that the current offense did not occur. *Id.* For the evidence of prior false reports of sexual abuse to be admissible, however, the district court must first make a "threshold determination" that there is a reasonable probability that the falsity exists. *Id.*

P.C.U. brought no pretrial motion asking the district court to make the threshold determination that the alleged prior accusations were probably false. P.C.U. argues, though,

that he should have been permitted to inquire about the alleged false allegation against S. because C.S. admitted in her CornerHouse interview that the allegation was false. As for the alleged false allegation against a student, P.C.U. argues it should have been admitted because “[t]he defense was not given the opportunity to have the court make a determination” regarding that allegation “because the court sustained the objection without hearing argument from the parties.”

We reject the argument that the defense had no opportunity to obtain a determination regarding the claimed allegation against a student. P.C.U. did not bring a pretrial motion to obtain the threshold determination that the allegation was probably false, and he provides no explanation for why he did not do so. Moreover, P.C.U. does not point us to where in the trial transcript he sought but was denied the opportunity to make an offer of proof regarding that allegation. “Where a party makes no offer of proof at trial, a reviewing court can have no basis for holding that exclusion of evidence was reversible error.” *State v. Gerring*, 378 N.W.2d 94, 96 (Minn. App. 1985). The district court did not abuse its discretion by sustaining objections to questions regarding the alleged false allegation against a student. *See id.*

As for the questions regarding S., we likewise disagree that the district court abused its discretion by excluding the testimony. After objections were sustained to P.C.U.’s questions of C.S. about S., P.C.U. argued to the district court that evidence of a false allegation against S. was admissible because C.S. acknowledged in her CornerHouse interview that she made that false allegation. P.C.U. cited to C.S.’s brief statement in her interview that her mother “one time . . . said to blame it on [S.] so [her] brother wouldn’t

get in trouble” and that “[t]hat was the first time that [she] tell on [S.]” P.C.U. points to no other place in the record supporting his claim that he established that C.S. made a false allegation against S. Although the brief statement by C.S. in the CornerHouse interview is some evidence supporting the existence of a false allegation against S., in context—when no other statements in the interview addressed S. and P.C.U. presented no other evidence of a false allegation against him—we cannot conclude that the district court abused its discretion by excluding the evidence.

General Impeachment Questions

P.C.U. also argues that the district court abused its discretion by sustaining objections to questions intended to impeach C.S.’s credibility. On cross-examination of C.S., P.C.U. asked her whether her guardian ad litem had ever talked to her about lying, and C.S. said, “Yes.” P.C.U. then asked the following questions:

Q: [S]o do you think that [the guardian ad litem] was correct in what she was saying about you and lying?

....

Q: What was the issue about the lying?

The state objected, and the district court sustained the objections.

The district court did not abuse its discretion in sustaining the state’s objections. P.C.U. claims that he was using these questions to elicit information about C.S.’s reputation for dishonesty. Minn. R. Evid. 608(b) allows for inquiries into the “[s]pecific instances of the conduct of the witness” on cross-examination if the conduct is probative of the witness’s character for truthfulness. But P.C.U.’s questions did not relate to any specific instances when C.S. lied; instead, the questions generally referenced C.S.’s “issue about

the lying.” Thus, the district court did not abuse its discretion in sustaining the state’s objections to these questions.

Later in his cross-examination, P.C.U. also asked C.S. the following regarding the CornerHouse interview:

Q: [I]f we have the video of you saying that it was [P.C.U.]’s hand [that touched you], is that video a lie?

....

Q: [I]f we saw a video of you saying [P.C.U. touched you with his hand], would it just be not true?

The district court sustained the state’s objections.

Again, the district court did not abuse its discretion. Whether a video was “lying” or whether something would or would not be true if C.S. “saw a video” are questions that would be hard for any witness to understand, much less a nine-year-old child. The district court did not abuse its discretion by sustaining objections to those questions.

In any event, the exclusion of any of the testimony sought through these general impeachment questions was harmless beyond a reasonable doubt. *See Post*, 512 N.W.2d at 102. The district court heard evidence that C.S. had lied on occasion, saw inconsistencies between C.S.’s CornerHouse interview and her trial testimony, and heard testimony from the mother that in some respects was inconsistent with C.S.’s. Yet the district court nevertheless found C.S.’s trial testimony credible. The attempted additional impeachment of C.S. would have not have meaningfully added to the already present impeachment evidence, and the exclusion of that additional evidence does not warrant reversal. *See State v. Garden*, 404 N.W.2d 912, 916 (Minn. App. 1987) (concluding that minor inconsistencies

between a victim's testimony and prior statements was not a basis for reversal), *review denied* (Minn. June 28, 1987).

Affirmed.