STATE OF MINNESOTA
IN COURT OF APPEALS
A21-1360

State of Minnesota,
Respondent,

vs.

Raeleen Kay Johnson,
Appellant.

Filed August 29, 2022
Affirmed in part, reversed in part, and remanded
Frisch, Judge

Waseca County District Court
File No. 81-CR-20-567

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

Rachel V. Cornelius, Waseca County Attorney, Waseca, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jenna Yauch-Erickson, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Frisch, Presiding Judge; Worke, Judge; and Johnson, Judge.

SYLLABUS

In a prosecution for the false reporting of a crime under Minn. Stat. § 609.505, subd. 1 (2020), venue is proper in both the county where a false report of a crime is made and the county where a law-enforcement officer receives a false report of a crime.

OPINION

FRISCH, Judge

On direct appeal from two convictions of deprivation of parental custodial rights and one conviction for the false reporting of a crime, appellant argues that the evidence is insufficient to support her convictions for deprivation of parental custodial rights by concealment and false reporting of a crime and that the district court abused its discretion by making certain evidentiary rulings. Because venue is proper in the county where appellant made the false report, the state introduced sufficient evidence to establish the false-reporting conviction, and the district court acted within its discretion in its evidentiary rulings, we affirm in part. But because the state introduced insufficient evidence to sustain the deprivation-of-parental-custodial-rights-by-concealment conviction, we reverse in part and remand to the district court to enter judgment of conviction and impose a sentence on the other conviction of deprivation of parental custodial rights.

FACTS

Appellant Raeleen Kay Johnson and B.R. (father) are the parents of R.R.R. (the child), born in April 2012. Father has sole legal and physical custody of the child; Johnson has court-ordered parenting time with the child on Wednesdays and every other weekend. The parenting-time agreement provides in relevant part that Johnson pick the child up from daycare on Wednesday afternoons and drop the child off at daycare on Thursday mornings; on weekends when Johnson has parenting time, the agreement provides that she pick the child up from daycare on Friday afternoons and drop him off on Monday mornings. If the child is sick while in Johnson's care, Johnson must return the child to father.

During the last week of August 2020, Johnson had scheduled parenting time with the child from Wednesday afternoon (August 26) to Thursday morning (August 27), and again from Friday afternoon (August 28) to Monday morning (August 31).

On Wednesday, August 26, Johnson's mother drove Johnson to the daycare to pick up the child. When Johnson picked up the child, he was allegedly "stuffed up in his nose . . . coughing," and sick with a cold. Later, when Johnson and her mother returned to Johnson's residence in the City of Waseca, they discovered several small bruises on the child's chest. The child allegedly indicated that father caused the bruises by poking him. Father testified at trial that he did not hit, poke, or otherwise injure the child.

On Thursday morning, Johnson called the daycare and reported that the child had cold symptoms. The daycare advised Johnson to keep the child home because the child's reported symptoms were similar to COVID-19 symptoms. Johnson kept the child at her home rather than returning him to father, as specified in the custody agreement.

That same morning, father learned that Johnson had not dropped the child off at daycare. Father asked Johnson where the child was; Johnson replied that she was keeping the child at her home because he was sick. Father stated that he would pick the child up from Johnson's residence that afternoon, but Johnson indicated that she did not want father coming to her home. Father contacted Waseca police, who told him that law enforcement would not intervene. Johnson testified at trial that she did not return the sick child to father as specified in the parenting-time agreement "[b]ecause [she] believed [father] was hurting [her] son."

On Friday morning, Johnson again called the daycare to report that the child had cold symptoms, and she again was told to keep the child home. According to Johnson, the child also informed her that "he couldn't see very well and had a bad headache." Father contacted the Waseca police a second time, and he again was told that law enforcement would not intervene. However, the Waseca police informed father to call again on Monday if Johnson had not returned the child. Father later testified that he "was worried" about the child and "wasn't sure what was going on." Yet, he "let it go" because Johnson's parenting time with the child started that afternoon.

On Saturday and Sunday, the child allegedly continued to complain to Johnson that he was experiencing headaches and poor vision. Johnson testified that the child "could not see to put small things together and he ran into [the] refrigerator door." Father testified that he continued to worry about the child because the child normally calls father during Johnson's parenting time, but the child did not call him that weekend.

On Monday, Johnson did not bring the child to daycare or return the child to father. Instead, Johnson again called the daycare to report that the child still had cold symptoms. The daycare again instructed Johnson to keep the child home. Johnson stated to father that morning: "I am keeping [the child] for Make-up time being I had no Phone Contact with him for the last month." Johnson then contacted the child's former primary physician in Mankato, which is located in Blue Earth County, to schedule a medical appointment for the child on Tuesday, the following day. Also on Monday, father contacted law enforcement a third time. Sometime that day, he notified Johnson that "the police . . . are trying to make contact with you. They went to your apartment . . . to locate [the child] to

have him returned. Please respond to the police as soon as possible." Father also made a formal report to the Waseca police department.

On Tuesday morning, Johnson again did not bring the child to daycare. At approximately 9:40 a.m., father spoke with a Waseca police officer to report again that Johnson was keeping the child in violation of his custody rights. The officer indicated that he "would look into the matter."

Sometime between 10:15 and 10:40 a.m., Johnson's mother drove Johnson and the child to the child's former physician in Mankato. According to Johnson, the child still had "the headache," "cold symptoms," and trouble with his vision. At the doctor's office, Johnson reported those symptoms to the nurse, who instructed Johnson to take the child immediately to the emergency department in Mankato. The drive from the City of Waseca to Mankato is approximately 30 minutes, and the trio stayed at the doctor's office for approximately 35 minutes. Given this time frame, Johnson and the child left for the Mankato emergency department between approximately 11:20 and 11:45 a.m.

Sometime after Johnson left for Mankato, Waseca police officers visited the homes of Johnson and her mother. Police received no answer at either location. A Waseca police officer then called Johnson's father, who informed the officer that he did not know the location of Johnson or the child but "the last he saw [Johnson] and [the child] was Sunday and . . . both were fine." Johnson's father also gave the officer Johnson's cellphone number. At approximately 11:00 a.m., a Waseca police officer called Johnson and left a

voicemail, instructing her to return the officer's call. Shortly thereafter, law enforcement "pinged" Johnson's phone and located her in the Mankato area.[1]

Around noon, Johnson, her mother, and the child reached the Mankato emergency department. Johnson later testified that the emergency-department staff instructed guests and visitors to turn their phones off, and she complied with this instruction. At approximately 1:00 p.m., Johnson and the child met with an emergency-department doctor. According to Johnson, the child reported to the doctor that he "had a hard time seeing," "his vision was blurry," "he was kind of dizzy," and "he had a headache." Johnson also informed the doctor that she believed that father physically abused the child and father's abuse caused the child's vision problems. Johnson alleged that father caused bruises by hitting or poking the child, and father used cruel language toward the child. Johnson also alleged that the child had bowel and bladder accidents at father's house but not at her home. The emergency-department doctor met with the child twice in private, and the child provided similar descriptions of abuse as Johnson. Neither Johnson nor the child reported the child's alleged cold symptoms to the doctor.

The emergency-department doctor observed no indication that the child was abused or had vision problems.[2] The doctor reported that "the conversation feels a bit led by [Johnson]" and "there is at least some over-endorsement from the [child]." Nevertheless,

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[1] To "ping" a cellphone means to obtain the location of the phone through the service carrier.

[2] According to Johnson, while at the emergency department, she saw the child "bump into" a glass door and witnessed the child inform the doctor that he had bumped into the door. The doctor made no mention of this alleged incident in his report or trial testimony.

the doctor filed a child-protection report because he is a mandated reporter, and he did not "really know what was going on from a child abuse standpoint."

At 1:00 p.m., while Johnson and the child were meeting with the emergency-department doctor, the same Waseca police officer called Johnson a second time and left another voicemail, instructing Johnson to return his call no later than 3:00 p.m. that day.

After meeting with the emergency-department doctor, Johnson and the child met with an emergency-department social worker to discuss the child-abuse allegations. Johnson again alleged that father physically abused the child and the child again corroborated Johnson's allegations, demonstrating to the social worker that father poked and hit him.

At approximately 3:40 p.m., the child was discharged from the emergency department into Johnson's care. Johnson testified that shortly after discharge she checked her phone for the first time since arriving at the emergency department and discovered the Waseca police officer's voicemail. At around 4:10 p.m., Johnson returned the officer's call. Johnson informed the officer that she had taken the child to Mankato to see a pediatrician and they then went to the emergency department. Johnson also alleged that father abused the child. The officer instructed Johnson to travel directly to the Waseca police department with the child. Johnson agreed to bring the child to the Waseca police department after stopping for food for the child.

Johnson's mother began driving back to the City of Waseca. They stopped and purchased food for the child, who ate in the car as Johnson's mother drove. Shortly thereafter, the child "gagg[ed]" and regurgitated some food, claiming that "his head hurt[]."

Johnson testified that the emergency-department discharge sheet instructed her to call the hospital if the child's symptoms worsened. Johnson believed that the child's "gagging" met these criteria, and she called the emergency department. Speaking to a triage nurse, Johnson relayed the child's symptoms, and the nurse instructed Johnson to return to the emergency department. Johnson's mother then drove back to the Mankato emergency department. Johnson did not inform the Waseca police department or any other law-enforcement authority that she was no longer returning to the City of Waseca. At 5:30 p.m., the Waseca police officer called Johnson because she had not arrived at the Waseca police department. Johnson did not answer the officer's call. The officer left a voicemail, which Johnson did not return.

At some point that evening, Johnson and the child arrived at the Mankato emergency department for a second time. They were seen by a different emergency-department doctor. Johnson again alleged that the child had vision problems, a headache, and was the victim of abuse by father. The doctor's report disagreed with Johnson's allegations, stating that the child is "clearly able to navigate his environment," had no vision problems, "was acting like a normal eight-year old," and the doctor "didn't see any injury." The doctor reported that the child "didn't offer anything unprompted," "[Johnson] would state facts about being hit and then that's when [the child] would say something, but he didn't offer it on his own."

At some point on Tuesday, father posted a message on a social-media platform alleging that Johnson had abducted the child. Later that day, Johnson's mother wrote on the same social-media platform that the child was at the Mankato emergency department, "tagged" Johnson's social-media account, and uploaded a photo of the child at the emergency department.

At approximately 10:30 p.m., Waseca police pinged Johnson's phone for a second time, discovering that the phone was in the Mankato emergency department. An officer called the emergency department, spoke with the emergency-department doctor, learned that the child was at the hospital, and placed a hold on the child. Shortly thereafter, Mankato police officers arrived at the emergency department and arrested Johnson.

On September 3, 2020, respondent State of Minnesota charged Johnson with one count of felony deprivation of parental custodial rights by concealment, pursuant to Minn. Stat. § 609.26, subd. 1(1) (2020), and one count of misdemeanor falsely reporting a crime, pursuant to Minn. Stat. § 609.505, subd. 1. In May 2021, the state amended the complaint to charge Johnson with a second count of felony deprivation of parental custodial rights, this time by violating a court order, pursuant to Minn. Stat. § 609.26, subd. 1(3) (2020).

The state made two motions in limine relevant to this appeal. In January 2021, the state moved to introduce *Spreigl* evidence of Johnson's 2019 gross-misdemeanor conviction for depriving a parent of custodial rights.[3] In that case, Johnson falsified text messages to indicate wrongly that father abused the child, and she was convicted under

[3] We refer to evidence of a defendant's prior crime, wrong, or bad act as *Spreigl* evidence. *See State v. Spreigl*, 139 N.W.2d 167 (Minn. 1965); Minn. R. Evid. 404(b).

Minn. Stat. § 609.26, subd. 1(1), of depriving father of parental rights by concealment. The state specifically argued that this prior conviction was admissible as prior-bad-acts evidence because it showed intent, motive, knowledge, absence of mistake, and rebutted Johnson's potential defenses. Johnson did not submit a memorandum in opposition to the state's *Spreigl* motion. Johnson later notified the state that she would raise the affirmative defense that she "reasonably believed that the action taken was necessary to protect the child from physical . . . assault." *See* Minn. Stat. § 609.26, subd. 2(1) (2020).

On April 21, 2021, the district court held a motion hearing on the admissibility of the *Spreigl* evidence. Shortly thereafter, the district court issued an order granting the state's *Spreigl* motion, ruling that the state's articulated purposes for introducing Johnson's prior conviction were proper, relevant, and material, and the probative value of the prior conviction was not outweighed by its potential for unfair prejudice.

Also on April 21, the state submitted a supplemental motion in limine seeking to prohibit Johnson from introducing evidence related to her allegations that father abused the child outside of the charging period of August 27 to September 1, 2020. The state argued that admission of this evidence would create a danger of unfair prejudice, confuse the issues, and mislead the jury. *See* Minn. R. Evid. 403. Johnson did not submit a memorandum in opposition to this motion.

On May 5, 2021, the district court held a hearing on the state's supplemental motion. Johnson argued that the district court should deny the state's motion because Johnson had a "long standing belief that [father] abused [the child]." Johnson stated that she planned to introduce evidence "by other witnesses that over the past several years they observed

bruises and marks and a bloody diaper on [the child], they observed him cry and stutter and say he was frightened when it was time for [the child] to be returned to his father." Johnson specifically stated that she would introduce testimony from her brother that the child told him in spring 2020 that the child "didn't want to go with [father] and that [father] hurt him," and from the police chief of a different county who allegedly "observed bruises bigger than normal on [the child's] arm around 2015 to 2016." The state argued that this evidence was stale, irrelevant, and inadmissible hearsay. The district court stated:

> [W]e're not going to go down the rabbit hole of Ms. Johnson's allegations of child abuse against [father] that have not been substantiated. That's not what this trial is about. To go down that rabbit hole would be highly prejudicial, it would confuse the jury . . . as to what is the issue[] for this trial.

The district court granted the state's motion, ruling that Johnson would not be allowed to introduce evidence of alleged child abuse occurring outside of the charging period.

In May 2021, the district court held a three-day jury trial. The jury returned guilty verdicts for all three counts. In July 2021, the district court held a sentencing hearing. The district court convicted Johnson of each of the three counts but found that the two convictions for deprivation of parental custodial rights arose from a single behavioral incident. Therefore, the district court sentenced Johnson to one count of felony deprivation of parental custodial rights by concealment and the count of falsely reporting a crime. The district court sentenced Johnson to a stay of execution of one year and one day and placed Johnson on four years' probation.

Johnson appeals.

ISSUES

I. Did sufficient evidence support Johnson's convictions?

II. Did the district court abuse its discretion in its evidentiary rulings?

ANALYSIS

Johnson argues that the evidence is not sufficient to sustain two of her convictions and the district court abused its discretion by making certain evidentiary rulings, necessitating a new trial. We address each issue in turn and conclude that insufficient evidence supports Johnson's conviction for deprivation of parental custodial rights by concealment, venue is proper in the county where Johnson falsely reported a crime, and the district court acted within its discretion in its evidentiary rulings.

I. Insufficient evidence supports Johnson's conviction of deprivation of parental custodial rights by concealment, but sufficient evidence supports her conviction of falsely reporting a crime.

Johnson argues that the evidence is not sufficient to prove that she "concealed" the child from father within the meaning of Minn. Stat. § 609.26, subd. 1(1), and that the state failed to prove the essential element of venue for her false-reporting conviction.

In considering a claim of insufficient evidence, our review "is limited to a painstaking analysis of the record to determine whether the evidence, when viewed in the light most favorable to the conviction, was sufficient" to allow the jury to reach its verdict. *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989). "Because the meaning of a criminal statute is intertwined with the issue of whether the State proved beyond a reasonable doubt that the defendant violated the statute, it is often necessary to interpret a criminal statute

when evaluating an insufficiency-of-the-evidence claim." *State v. Vasko*, 889 N.W.2d 551, 556 (Minn. 2017). "We review issues of statutory interpretation de novo." *Id.*

When reviewing the evidence presented at trial, we must assume that "the jury believed the state's witnesses and disbelieved any evidence to the contrary." *State v. Moore*, 438 N.W.2d 101, 108 (Minn. 1989). We will not disturb the verdict if the jury, acting with due regard for the presumption of innocence and for the requirement of proof beyond a reasonable doubt, could reasonably conclude that the defendant was guilty of the charged offense. *Bernhardt v. State*, 684 N.W.2d 465, 476-77 (Minn. 2004). The state must prove beyond a reasonable doubt every fact necessary to support the charged crime. *In re Winship*, 397 U.S. 358, 364 (1970).

In reviewing the evidence presented, we "carefully examine the record to determine whether the facts and the legitimate inferences drawn from them would permit the factfinder to reasonably conclude that the defendant was guilty beyond a reasonable doubt." *State v. Waiters*, 929 N.W.2d 895, 900 (Minn. 2019) (quotation omitted). If the state used circumstantial evidence to prove an element of the offense, we apply a heightened standard of review to the evidence underlying that element. *State v. Porte*, 832 N.W.2d 303, 309 (Minn. App. 2013). Circumstantial evidence is "evidence from which the factfinder can infer whether the facts in dispute existed or did not exist." *State v. Harris*, 895 N.W.2d 592, 599 (Minn. 2017) (quotation omitted). "[I]ntent is a subjective state of mind usually established only by reasonable inference from surrounding circumstances." *State v. Slaughter*, 691 N.W.2d 70, 77 (Minn. 2005) (quotation omitted).

In doing so, we review the sufficiency of circumstantial evidence by conducting a two-step analysis. *State v. German*, 929 N.W.2d 466, 472 (Minn. App. 2019). First, we identify the circumstances proved by the state. *State v. Silvernail*, 831 N.W.2d 594, 598 (Minn. 2013). We "assume that the jury resolved any factual disputes in a manner that is consistent" with the verdict. *State v. Moore*, 846 N.W.2d 83, 88 (Minn. 2014). Second, we determine whether the circumstances proved are consistent with guilt and inconsistent with any rational hypothesis other than guilt. *Loving v. State*, 891 N.W.2d 638, 643 (Minn. 2017). We do not defer to the fact-finder's choice between reasonable inferences. *Silvernail*, 831 N.W.2d at 599. We must reverse the conviction if a reasonable inference other than guilt exists. *Loving*, 891 N.W.2d at 643. But we will uphold the verdict if the circumstantial evidence forms "a complete chain" that leads "directly to the guilt of the defendant as to exclude beyond a reasonable doubt any reasonable inference other than guilt." *State v. Peterson*, 910 N.W.2d 1, 7 (Minn. 2018) (quotation omitted).

A. The trial evidence is insufficient to establish that Johnson deprived father of his custodial rights by concealment.

Johnson argues that her conviction for depriving father of his custodial rights by concealment must be reversed because the state failed to prove that she "concealed" the child from father. We agree.

1. The statutory act of concealment requires that Johnson intended to hide the child from father.

The district court convicted Johnson of depriving a parent of custodial rights by concealing the child from father under Minn. Stat. § 609.26, subd. 1(1), which provides: "Whoever *intentionally* . . . *conceals* a minor child from the child's parent where the action

manifests an intent substantially to deprive that parent of parental rights" is guilty of a felony. (Emphasis added.) Paragraph 1 of the subdivision prohibits a person from depriving another of parental rights by "conceal[ing]" a child, while paragraph 3 of the subdivision criminalizes behavior by a person who "takes, obtains, retains, or fails to return a minor child from or to the parent in violation of a court order." Minn. Stat. § 609.26, subd. 1(1), (3). Concealment under the statute, therefore, necessarily requires some affirmative act more than wrongfully "retain[ing]" or "fail[ing] to return" a child in violation of a court order. *See State v. Fitman*, 811 N.W.2d 120, 124 (Minn. App. 2012) ("[T]he legislature saw concealing a child as separate from, not synonymous with, taking, obtaining, retaining, or failing to return a child.").

In *Fitman*, we defined the term "to conceal" as used in section 609.26, subdivision 1(1), as "to hide or keep from observation, discovery, or understanding; keep secret." *Id.* at 123 (quoting *The American Heritage Dictionary* 304 (2d ed. 1985)). We stated that "[c]oncealing children requires actively hiding them or attempting to keep another from discovering their whereabouts." *Id.* And we noted that this subdivision of the statute is intended to criminalize "parental kidnapping" where, for example, someone "go[es] into 'hiding' with the children, thereby preventing a parent from discovering the children's whereabouts." *Id.* at 124.

Accordingly, to sustain her conviction of depriving another of parental rights by concealment, the state must prove beyond a reasonable doubt that Johnson intended to hide the child from father.

2. The circumstances proved demonstrate a reasonable hypothesis other than that Johnson intended to conceal the child from father.

The state agrees that it relied entirely on circumstantial evidence to prove that Johnson intended to conceal the child from father. In evaluating whether the circumstantial evidence is sufficient to sustain the conviction, we first determine the circumstances proved and then assess, based on those circumstances, whether there exists a reasonable hypothesis other than guilt. *Silvernail*, 831 N.W.2d 598-99.

The state proved the following circumstances. Johnson wrongfully retained the child on Thursday, August 27; Friday, August 28; Monday, August 31; and Tuesday, September 1, in violation of father's custodial rights. Between Thursday, August 27 and Tuesday, September 1, father had no contact with the child, even though the child usually calls father at least once during mother's weekend visitation periods. Father attempted to regain custody of the child by emailing Johnson multiple times and repeatedly contacting the Waseca police. Father was "worried about [the child]" and "did not know where [Johnson or the child] were at." Father "had no idea when [Johnson] was going to try to return [the child], if ever," and he was specifically concerned that Johnson may have left the state and taken the child to Texas.

Law enforcement also repeatedly attempted to contact Johnson, to no avail. Waseca police officers telephoned Johnson once on Monday, August 31, and three times on Tuesday, September 1, at 11:00 a.m., 1:00 p.m., and 5:30 p.m. Johnson did not answer the calls. A Waseca police officer left voicemails for Johnson on Tuesday at 11:00 a.m. and 1:00 p.m., instructing Johnson to contact Waseca police as soon as possible, and no later

than 3:00 p.m. that day. Johnson did not contact Waseca police until after 4:00 p.m., and in that call she agreed to the officer's request that she immediately return with the child to the Waseca police department. Johnson did not go to the Waseca police department or return to Waseca. Instead, Johnson brought the child back to the Mankato emergency department. At 5:30 p.m., when the officer called Johnson again, she did not answer and never returned the call. And while the child was at the Mankato emergency department, in response to an allegation posted by father on a social-media platform that Johnson abducted the child, Johnson's mother published the child's whereabouts on the same social-media platform, uploaded a picture of the child at the emergency department, and "tagged" Johnson.

We next consider whether the circumstances proved are consistent with Johnson's guilt and preclude any rational hypothesis inconsistent with guilt. *Loving*, 891 N.W.2d at 643. In so doing, we do not defer to the jury's choice between reasonable inferences. *Silvernail*, 831 N.W.2d at 599. We must reverse the conviction if a reasonable inference other than guilt exists. *Loving*, 891 N.W.2d at 643.

Based on these circumstances proved, there exists a reasonable hypothesis other than that Johnson intended to conceal the child from father. On Thursday and Friday, Johnson informed father that the child was sick and would be staying at her home. The circumstances proved do not show that Johnson concealed the location of the child from father from Thursday through Sunday. On Monday, the record indicates that Johnson retained the child at her home but is silent as to their activities during the day. The state claims that the circumstances proved on Tuesday are only consistent with a rational

hypothesis of guilt because Johnson did not answer repeated telephone calls from the police and father was unaware of the child's whereabouts. But concealment is not the only rational hypothesis consistent with the circumstances proved. On Tuesday, Johnson brought the child to multiple medical providers in Mankato. The fact that Johnson brought the child to a pediatrician, then to the emergency department, and then returned to the emergency department, supports a rational hypothesis inconsistent with concealment—namely, that Johnson intended to retain the child in order to obtain medical treatment for the child, but did not intend to hide the child from father. Moreover, the publication of the child's location and photo at the Mankato emergency department on a social-media platform in response to father's abduction allegation is also consistent with a rational hypothesis other than concealment. And we observe that nothing prevented father from traveling to the Mankato emergency department to locate the child upon learning of the child's whereabouts at a public place.[4]

[4] The state also summarily argues that our nonprecedential decision, *State v. Fellner*, allows us to conclude that Johnson telling father on Thursday, "I do not want you coming to my residence" constitutes concealment. No. A13-2038, 2014 WL 6724770 (Minn. App. Dec. 1, 2014), *rev. denied* (Minn. Feb. 17, 2015). We disagree. As noted above, Johnson's statement that she did not want father coming to her residence does not evidence an affirmative intent to conceal the child from father. And the facts of *Fellner* are significantly more egregious than the facts here. There, the father rejected and blocked the mother's calls, denied her entry into his brother's home, where he briefly kept the children, and left for Texas with the children without informing the mother where he was going or where the children were. *Id.* at *1-2. Thus, the father's actions in *Fellner*, unlike Johnson's actions here, aligned with the purpose of the statute to criminalize "parental kidnapping." *Fitman*, 811 N.W.2d at 124.

Accordingly, the circumstances proved reasonably support a hypothesis that Johnson retained the child to seek medical treatment for the child rather than an intent to hide the child from father. We therefore reverse Johnson's conviction under Minn. Stat. § 609.26, subd. 1(1).[5]

B. Venue for the false-reporting conviction is proper.

Johnson next argues that the state failed to introduce sufficient evidence of venue for her conviction of falsely reporting a crime pursuant to Minn. Stat. § 609.505, subd. 1. Johnson specifically argues that the statute only allows for venue in the county where the offender made the false report, and the statute does not provide for venue in the county where the law-enforcement officer received the false report. Johnson also argues that even if venue were proper in the county where the false report was received, the evidence was not sufficient to establish that the Waseca police officer was actually located in Waseca County when he received Johnson's false report. Johnson does not contest that the state proved beyond a reasonable doubt that she falsely reported a crime to a law-enforcement officer.

A defendant has a constitutional right to be prosecuted in "the county or district wherein the crime shall have been committed." Minn. Const. art. I, § 6; *see State v. Larsen*, 442 N.W.2d 840, 842 (Minn. App. 1989). The state must prove beyond a reasonable doubt that the charged offense occurred in the charging county. *State v. Bahri*, 514 N.W.2d 580,

[5] Johnson also argues, and the state agrees, that the district court erred by entering convictions to two counts of depriving a parent of custodial rights when both offenses concerned only a single behavioral incident. *See* Minn. Stat. § 609.04, subd. 1 (2020). In light of our disposition, we need not and decline to address this argument.

582 (Minn. App. 1994), *rev. denied* (Minn. June 15, 1994). We have previously held that the Minnesota Legislature "codified" this right to venue "as an essential element of every criminal offense." *State v. Pierce*, 792 N.W.2d 83, 85 (Minn. App. 2010) (citing Minn. Stat. § 627.01, subd. 1 (2020)).

Venue is proper "where *any* element of the offense was committed." Minn. Stat. § 627.01, subd. 2 (2020) (emphasis added). "Venue is determined by all the reasonable inferences arising from the totality of the surrounding circumstances." *State v. Carignan*, 272 N.W.2d 748, 749 (Minn. 1978). Venue may be proved by circumstantial evidence. *State v. Frost*, 200 N.W. 295, 295 (1924); *Larsen*, 442 N.W.2d at 842. We review questions of venue de novo. *State v. Daniels*, 765 N.W.2d 645, 648-49 (Minn. App. 2009), *rev. denied* (Minn. Aug. 11, 2009).

1. Venue is proper in both the county where the false report was made and the county where the report was received.

Johnson argues that venue was only proper in the county where she made the false report—Blue Earth County. She cites to other criminal statutes that specifically provide for venue in both the county where the offending communication was sent and the county where the offending communication was received. *See* Minn. Stat. § 609.749, subd. 1b(b) (2020) (providing that a violation of a harassment restraining order "may be prosecuted at the place where any call is made *or received*" (emphasis added)); Minn. Stat. § 518B.01, subd. 14a (2020) (providing that a violation of a domestic-abuse no-contact order "may be prosecuted . . . at the place where any call is made *or received*" (emphasis added)). Johnson theorizes that by not specifying that venue is proper in the county where the false report

was received, section 609.505 provides only for venue in the county where Johnson made the false report. We disagree.

Minnesota statutes section 609.505, subdivision 1, provides that "[w]hoever informs a law enforcement officer that a crime has been committed . . . knowing that the person is a peace officer . . . , [and] knowing that it is false and intending that the officer shall act in reliance upon it, is guilty of a misdemeanor." We review questions of statutory interpretation de novo. *State v. Thonesavanh*, 904 N.W.2d 432, 435 (Minn. 2017).

The purpose of statutory interpretation is to "ascertain and effectuate the intention of the legislature." Minn. Stat. § 645.16 (2020). The first step in statutory interpretation is to determine whether the language in the statute is ambiguous. *Thonesavanh*, 904 N.W.2d at 435. A statute is ambiguous if it is subject to more than one reasonable interpretation. *Id.* We construe words and phrases "according to rules of grammar and according to their common and approved usage." Minn. Stat. § 645.08(1) (2020); *see Larson v. State*, 790 N.W.2d 700, 703 (Minn. 2010). We do not examine statutory language in isolation; rather, we read and interpret all the provisions in the statute as a whole. *State v. Riggs*, 865 N.W.2d 679, 683 (Minn. 2015). "If the legislature's intent is clearly discernable from plain and unambiguous language, statutory construction is neither necessary nor permitted and we apply the statute's plain meaning." *State v. Stay*, 935 N.W.2d 428, 430 (Minn. 2019) (quotation omitted). "If, after considering these principles, we conclude that the statute is subject to more than one reasonable interpretation, then it is ambiguous." *State v. Pakhnyuk*, 926 N.W.2d 914, 920 (Minn. 2019) (quotation omitted).

If the statute is ambiguous, "we may apply canons of construction to resolve the ambiguity." *Id.* (quotation omitted).

We conclude that section 609.505, subdivision 1, unambiguously provides for venue in both the county where Johnson made the false report *and* the county where the officer received the false report.

The statute criminalizes the act of falsely "inform[ing]" a law-enforcement officer that a crime has been committed. Minn. Stat. § 609.505, subd. 1. "To inform" means "[t]o impart information to." *The American Heritage Dictionary of the English Language* 901 (5th ed. 2011). The act of "impart[ing] information" inherently requires that one party affirmatively communicate information to another, who in fact receives that information. *See id.* Therefore, the act of informing under the statute necessarily includes two components—the making of a false report and the receipt of that false report. Stated differently, an essential element of the crime is the receipt of the false report by a law-enforcement officer. Because venue is proper in the county where any element of the offense was committed, Minn. Stat. § 627.01, subd. 2; *Pierce*, 792 N.W.2d at 85, we hold that venue is proper under Minn. Stat. § 609.505, subd. 1, in both the county where a false report of a crime is made and the county where a law-enforcement officer receives a false report of a crime.

This holding is consistent with our reasoning in *Pierce*. There, Pierce was subject to an order for protection (OFP) requiring that he have no contact "of any sort" with the victim, including "by any electronic means." 792 N.W.2d at 84; *see* Minn. Stat. § 518B.01, subd. 6(a)(10) (2008). Pierce sent the victim an email from a county other than Hennepin

and was charged with violating the OFP in Hennepin County, where the victim resided. *Pierce*, 792 N.W.2d at 84-85; *see* Minn. Stat. § 518B.01, subd. 14 (2008). On appeal, Pierce argued that "when a person sends an electronic communication that allegedly violates an OFP . . . , venue for his prosecution is proper *only* in the county from which he sent the communication." *Pierce*, 792 N.W.2d at 85-86 (emphasis added). We disagreed, explaining that "the elements of Pierce's offense include both his sending and the receiving of his e-mail. . . . [C]ommunicative 'contact,' like all contact, occurs when the connection linking the participants is made." *Id.* at 86. We held that "[t]he implicit element of Pierce's connection with [the victim] makes relevant the location where [the victim] received the e-mail," "Because [the victim's] responsive opening [of the email] was part of Pierce's contact, and therefore also was an element of his offense of violating the OFP, the place of the offense for venue purposes included the county of receipt."[6] *Id.* at 86-87.

Because Minn. Stat. § 609.505, subd. 1, requires that the offender "inform" a police officer of a false report, the plain language of the statute necessarily provides that an element of the offense occurs in both the county where the false report was made *and* the county where the false report was received by the police officer. Therefore, venue is proper in Waseca County, the location where the Waseca police officer received Johnson's false report, and in Blue Earth County, the location where Johnson made the false report.

[6] Following our decision in *Pierce*, the legislature amended the OFP statute to include a specific provision authorizing venue "where any call is made *or received*." Minn. Stat. § 518B.01, subd. 14a (2020) (emphasis added); *see* 2013 Minn. Laws ch. 47, § 2, at 3.

2. Circumstantial evidence establishes that the Waseca police officer to whom the false report was made was located in Waseca County at the time that Johnson made the false report.

Johnson argues that even if Waseca County was a proper venue for the false-reporting charge, the state introduced insufficient evidence to establish that the officer to whom Johnson made the false report was actually located in Waseca County at the time that she made the false report. We disagree.

As a threshold matter, we agree with Johnson that the state introduced no direct evidence that the Waseca police officer was located in Waseca County at the time of her false report. Thus, we assess the sufficiency of the evidence using the circumstantial-evidence test.

We again begin with the circumstances proved. On Tuesday, September 1, Johnson spoke to a Waseca police officer by phone and made a false report. During the call, the officer asked her four times to bring the child *to him* at the *Waseca police department*. When Johnson affirmed that she would go to the Waseca police department, the officer stated, "Okay, *we'll* see you shortly." (Emphasis added.) The officer testified at trial that he specifically asked Johnson to come "*to us*" at the Waseca police department so that the officer could personally assess the child:

> THE STATE: What did you ultimately ask [Johnson] to do?
> OFFICER: Come straight to the Waseca Police Department, not to go anywhere else, but come straight to us so that I could see [the child].
>
> THE STATE: Why did you want to see [the child]?
> OFFICER: Because I wanted to make sure that there were no bruises and that he was safe.

THE STATE: You wanted to assess it for yourself?
OFFICER: Yes, I did.

We take judicial notice of the fact that the City of Waseca and the Waseca police department are located in Waseca County.

Next, we determine whether there exists any reasonable hypothesis inconsistent with guilt. The circumstances proved establish only one reasonable explanation as to the Waseca police officer's whereabouts at the time that Johnson falsely reported a crime: He was in Waseca County. The officer's call transcript and trial testimony unequivocally show that he was an on-duty Waseca police officer at the time of the call, and he was nearby the Waseca police department, if not at the police department, at the time of the call. The officer repeatedly instructed Johnson to come "straight to the Waseca Police Department" and "not to go anywhere else" but to "come straight *to us*" so that *he* could see the child *for himself*. (Emphasis added.) There is no reasonable interpretation of the officer's statements other than to conclude that he was at or near the Waseca police department in Waseca County at the time he received Johnson's false report. Johnson's theory that the on-duty Waseca police officer was in some county *other* than Waseca County is without support and is not a reasonable hypothesis from the circumstances proved.

The circumstances proved here are thus distinguishable from the circumstances proved in *State v. Pierce*, discussed above. In *Pierce*, after holding that Minn. Stat. § 518B.01 provided for venue in both the location where the OFP violator contacted the victim *and* where the victim received the contact, we determined that there was insufficient evidence to establish that the victim did, in fact, receive the contact in Hennepin County.

792 N.W.2d at 90. There, the only evidence in the record supporting the theory that the victim received Pierce's email in Hennepin County was the fact that she kept her computer in her Minneapolis home. *Id.* at 88. But we concluded that a reasonable hypothesis from the circumstances proved was that the victim's computer was portable, and there was no affirmative evidence in the record to establish that the victim did receive the communication at her home. *Id.* at 88-89 ("At most, one might speculate from various stray references that [the victim] was at home in Minneapolis when she opened the e-mail, but the evidence falls far short of excluding all other reasonable possibilities beyond a reasonable doubt."). We explained that, "On the limited trial record, [the victim] might have opened the e-mail anywhere in Minnesota." *Id.* at 89.

Unlike the circumstances in *Pierce*, the circumstances proved here do not suggest that the police officer could have been "anywhere in Minnesota" when he received Johnson's false report. *Id.* The only reasonable hypothesis based on proof that an on-duty Waseca police officer repeatedly requested that Johnson "come straight to us" at the Waseca police department is that the officer was in Waseca County when he received the false report.

Because venue was proper in Waseca County and there is sufficient circumstantial evidence in the record to establish that Johnson's false report was received by a Waseca police officer in Waseca County, we affirm the false-reporting conviction.

II. The district court did not abuse its discretion in its evidentiary rulings.

Johnson argues that the district court abused its discretion by precluding her from introducing evidence to suggest that father abused the child outside of the August 27 to

September 1, 2020 charging period and by allowing the state to introduce *Spreigl* evidence of her prior 2019 conviction.[7] We disagree.

"We afford the district court broad discretion when ruling on evidentiary matters, and we will not reverse the district court absent an abuse of that discretion." *Doe 136 v. Liebsch*, 872 N.W.2d 875, 879 (Minn. 2015); *see State v. Riddley*, 776 N.W.2d 419, 424 (Minn. 2009). A district court abuses its discretion if it misapplies the law, makes findings unsupported by the record, or resolves discretionary questions in a manner that is contrary to logic and the facts on record. *Bender v. Bernhard*, 971 N.W.2d 257, 262 (Minn. 2022). "When the admissibility of evidence is challenged on appeal, we defer to the district court's exercise of discretion in the conduct of the trial, and we will not lightly overturn a district court's evidentiary ruling." *State v. MacLennan*, 702 N.W.2d 219, 235 (Minn. 2005).

A. The district court acted within its discretion by excluding evidence of purported child abuse occurring outside of the charging period.

Johnson argues that the district court denied her constitutional right to present a defense when it excluded purported evidence that father abused the child during the time outside of the charging period. Johnson specifically argues that the district court's evidentiary ruling foreclosed her ability to introduce evidence that would have established her affirmative defense that she had a "reasonable belief" that father abused the child, and

[7] Johnson also argues that the district court abused its discretion by excluding evidence that she was a good mother. *See* Minn. R. Evid. 404(a)(1) (permitting evidence of a person's character pertinent to the offense). Whether Johnson is a good mother is not relevant to any element of the crimes charged or defenses asserted, and the district court did not abuse its discretion by excluding such impermissible character evidence as irrelevant.

therefore her action "was necessary to protect the child." Minn. Stat. § 609.26, subd. 2(1). We disagree.

"[D]ue process requires that every defendant be afforded a meaningful opportunity to present a complete defense." *State v. Fraga*, 898 N.W.2d 263, 271 (Minn. 2017) (quotation omitted); *see also Washington v. Texas*, 388 U.S. 14, 19 (1967) ("[T]he right to present a defense . . . is a fundamental element of due process of law."). "The defendant has the right to present the defendant's version of the facts." *State v. Munt*, 831 N.W.2d 569, 583 (Minn. 2013) (quotation omitted). But the defendant must still "comply with procedural and evidentiary rules designed to ensure both fairness and reliability." *Id.* (quotation omitted). "Thus, even when a defendant alleges that [her] inability to present a defense violates [her] constitutional rights, evidentiary questions are reviewed for abuse of discretion." *State v. Henderson*, 620 N.W.2d 688, 698 (Minn. 2001).

Even when relevant, evidence "may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury." Minn. R. Evid. 403. Minnesota courts "have affirmed a district court's decision to exclude evidence where the evidence was speculative and confusing or not supported by an offer of proof." *State v. Garland*, 942 N.W.2d 732, 748 (Minn. 2020) (quotations omitted).

Here, the district court did not abuse its discretion when it excluded evidence that was speculative, confusing, hearsay, and unsupported by a specific offer of proof. At the May 5, 2021 motion hearing, Johnson asserted that she intended to introduce evidence to support her "long standing belief that [father] abused [the child]." Johnson claimed that

she would introduce testimony by "other witnesses" who would indicate that "over the past several years they observed bruises and marks and a bloody diaper on [the child], they observed him cry and stutter and say he was frightened when it was time for [the child] to be returned to his father." Of these "other witnesses," Johnson identified only her brother, to whom the child allegedly stated in spring 2020 that he "didn't want to go with [father] and that [father] would hurt him," and the police chief of a different county who allegedly "observed bruises bigger than normal on [the child's] arm around 2015 to 2016."

The district court's exclusion of this evidence under rule 403 was not an abuse of discretion. Johnson's offer of proof regarding the alleged evidence that she intended to introduce lacked specificity and detail. She did not, for example, identify any witness who saw "a bloody diaper" on the child or any specific time frame during which the alleged bruises, marks, or bloody diaper occurred. And the district court reasonably ruled that the child's alleged statements occurring far outside of the charging period, including to Johnson's brother, constituted inadmissible hearsay. Johnson argues on appeal that such statements were excited utterances, subject to the hearsay exception under Minn. R. Evid. 803(2). But Johnson made no offer of proof to demonstrate the circumstances under which these alleged statements were made. Without some offer of proof that the child's statements were related to "a startling event or condition made while the [child] was under the stress of the excitement caused by the event or condition," we cannot conclude that the district court abused its discretion. Minn. R. Evid. 803(2). And even if Johnson's allegation that a police chief witnessed "bruises bigger than normal" constituted an offer of proof, those observations were at least four years prior to the offense here and did not

reasonably tend to show that *father* abused the child or support the alleged reasonableness of Johnson's belief that father was abusing the child in August 2020. The district court acted well within its discretion by excluding this nonspecific, stale, speculative, hearsay, and confusing evidence.

To that end, we disagree with Johnson's characterization that she was denied her constitutional right to present an affirmative defense. Notwithstanding the district court's evidentiary ruling, the record shows that the district court permitted Johnson to introduce significant evidence to support her contention that she "reasonably believed" that her action "was necessary to protect the child." Minn. Stat. § 609.26, subd. 2(1). Johnson herself testified at length to the child's alleged bruises, headaches, vision troubles, bowel and bladder problems when in father's care, and the child's physical demonstrations to the doctors and social worker that father physically harmed the child. Johnson also introduced testimony from her mother and sister, who corroborated her allegations that the child had headaches and bruises. Under these circumstances, we cannot conclude that Johnson was denied the opportunity to present her defense or that the district court abused its discretion by ruling to exclude similar evidence that did not relate to the charging period.

B. The district court acted within its discretion by allowing the state to introduce *Spreigl* evidence of Johnson's prior offense.

Johnson argues that the district court abused its discretion by allowing the state to admit *Spreigl* evidence of her prior offense for depriving father of custodial rights by concealment, of which she was convicted in 2019. Specifically, Johnson argues that the state and the district court failed to identify a proper purpose for the *Spreigl* evidence, the

evidence was irrelevant and immaterial, and the danger of unfair prejudice outweighed any probative value of the evidence. We disagree.

Spreigl prior-bad-acts evidence "is not admissible to prove the character of a person in order to show action in conformity therewith." Minn. R. Evid. 404(b)(1). "It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake." *Id.* The principal concern with the admission of *Spreigl* evidence is that "it might be used for an improper purpose, such as suggesting that the defendant has a propensity to commit the crime or that the defendant is a proper candidate for punishment for his or her past acts." *State v. Ness*, 707 N.W.2d 676, 685 (Minn. 2006).

Accordingly, the state must meet certain requirements to admit evidence of prior bad acts in a criminal prosecution. The state must give notice of intent to offer the evidence, the evidence must be "relevant to an identified material issue other than conduct conforming with a character trait," the prior bad act must be proved by clear and convincing evidence, and the probative value of the prior bad act must not be outweighed by its potential for unfair prejudice to the defendant. Minn. R. Evid. 404(b)(2). In addition, "the district court must identify the precise disputed fact to which the *Spreigl* evidence would be relevant." *Ness*, 707 N.W.2d at 686 (quotation omitted). "The district court should not simply take the prosecution's stated purposes for the admission of other-acts evidence at face value. Instead, the court should . . . look to the real purpose for which the evidence is offered." *Id.* (quotation omitted). "If the admission of evidence of other crimes . . . is a close call, it should be excluded." *Id.* at 685. Johnson does not contest that the state gave

proper notice of intent to offer the evidence and that the 2019 conviction was proved by clear and convincing evidence.

We review the district court's admission of *Spreigl* evidence for an abuse of discretion. *Ture v. State*, 681 N.W.2d 9, 15 (Minn. 2004). Johnson bears the burden of showing the district court's error and resulting prejudice of the admission of *Spreigl* evidence. *Ness*, 707 N.W.2d at 685.

1. The district court identified proper purposes for the *Spreigl* evidence.

Our review of the record indicates that the state identified multiple proper purposes for introducing the *Spreigl* evidence and that the district court acted within its discretion by admitting the evidence for those purposes.

The *Spreigl* evidence was probative of Johnson's intent. At trial, the state was required to prove multiple aspects of Johnson's intent beyond a reasonable doubt, including that Johnson intended to conceal the child from father, that Johnson intended to keep the child and deprive father of his parental rights, and that Johnson intentionally made a false report to law enforcement. As noted above, "intent is a subjective state of mind usually established only by reasonable inference from surrounding circumstances." *Slaughter*, 691 N.W.2d at 77 (quotation omitted).

Johnson argues that intent was not a proper purpose because Johnson did not contest her intent to retain the child in violation of the parental-rights agreement. We disagree. The record does not show that Johnson conceded the element of intent at any point prior to or during the trial, forcing the state in its case-in-chief to establish her intent beyond a

reasonable doubt. We note that Johnson did not argue in response to the state's *Spreigl* motion that she avowed not to contest at trial that she intended to retain the child. And, despite Johnson's arguments to the contrary on appeal, our review of the trial transcript indicates that Johnson *did* contest the element of intent. In her closing argument, Johnson's counsel specifically argued to the jury:

> The state has to prove beyond a reasonable doubt that [Johnson] intentionally and actively hid [the child] from his dad . . . . You'll be instructed that the state has to prove beyond a reasonable doubt that she did not act with that intention, and *they've just failed to do that in this case*.

(Emphasis added.) Thus, the *Spreigl* evidence was proper to prove Johnson's intent, a contested issue at trial.

The *Spreigl* evidence was also proper to rebut Johnson's affirmative defense. At trial, Johnson argued that she did not return the child to father because of her claimed reasonable belief that father abused the child. *See* Minn. Stat. § 609.26, subd. 2(1). Thus, Johnson herself placed the reasonableness of that belief at issue. Her prior offense and 2019 conviction—for depriving father of his custodial rights by falsifying messages that ostensibly showed that father abused the child—was relevant and material as to whether Johnson's alleged belief that father was abusing the child in 2020 was reasonable.

The district court in its *Spreigl* order expressly determined that Johnson's prior conviction could be used to prove, among other things, intent and to rebut her potential defenses, and that the *Spreigl* evidence was relevant and material to the state's case. Because we agree that these are proper purposes for use of *Spreigl* evidence, the district

court did not abuse its discretion in identifying "the precise disputed fact to which the *Spreigl* evidence would be relevant." *Ness*, 707 N.W.2d at 686 (quotation omitted).

2. The district court acted within its discretion by ruling that the probative value of the *Spreigl* evidence outweighed the danger of unfair prejudice.

Johnson argues that the district court also abused its discretion by ruling that the probative value of the *Spreigl* evidence outweighed its potential for unfair prejudice. In the context of the admission of *Spreigl* evidence, "prejudice does not mean the damage to the opponent's case that results from the legitimate probative force of the evidence; rather, it refers to the unfair advantage that results from the capacity of the evidence to persuade by illegitimate means." *State v. Welle*, 870 N.W.2d 360, 366 (Minn. 2015) (quotation omitted). Johnson argues that the probative value of the evidence relating to her 2019 conviction was outweighed by its potential for unfair prejudice because the evidence showed a general propensity or disposition to commit the same crime. We disagree.

The evidence of the 2019 conviction was relevant and probative to show Johnson's intent in 2020 and that her belief in 2020 that father was abusing the child was not reasonable. The state did not dwell on this evidence; instead, it summarily referred to the prior conviction in its opening statement; it introduced the conviction during trial; and in the middle of a closing argument that spanned 23 transcript pages, the state compared the evidence at trial showing that Johnson "violated a court order . . . having previously made false allegations against the same father regarding the same child, she deprived that same parent before of his child and is doing it again." We do not discern that these brief

references over the course of the entire trial yielded an unfair advantage to the state that resulted from the potential of the *Spreigl* evidence to persuade by illegitimate means.

In addition, like in *Welle*, the district court instructed the jury on how to evaluate the 2019 conviction at the time it was entered into evidence and during final jury instructions. The district court instructed, "Members of the jury, you are about to hear evidence of occurrences from 2019 . . . . This evidence is being offered for the limited purpose of assisting you in determining whether the defendant committed those acts with which the defendant is charged in the complaint." The district court then cautioned the jury, "This evidence is not to be used to prove the character of the defendant, or that defendant acted in conformity with such character." "We presume that juries follow instructions given by the court and thereby recognize the effectiveness of curative instructions." *State v. Gatson*, 801 N.W.2d 134, 151 (Minn. 2011) (quotation omitted); *see also Welle*, 870 N.W.2d at 366 (citing *State v. James*, 520 N.W.2d 399, 405 (Minn. 1994)). We therefore presume that the district court's limiting instructions reduced the potential for unfair prejudice attributed to this evidence, and we do not discern that the district court abused its discretion by concluding that the probative value of the *Spreigl* evidence outweighed the potential for unfair prejudice.

Finally, even if the district court abused its discretion by admitting the *Spreigl* evidence, we will affirm the conviction unless Johnson can establish that she was prejudiced by the erroneous admission of the evidence. *See Welle*, 870 N.W.2d at 366. "Our role is to examine the entire trial record and determine whether there is a reasonable

possibility that the wrongfully admitted evidence significantly affected the verdict." *State v. Bolte*, 530 N.W.2d 191, 198 (Minn. 1995) (quotation omitted).

Here, the state's case for Johnson's guilt was overwhelming. Johnson concedes on appeal that she intended to deprive father of his custodial rights by retaining the child in contravention of the parenting-time order. Although Johnson alleges that her reasonable belief that father was abusing the child amounted to a proper purpose for doing so, the evidence at trial established otherwise. No evidence at trial supported Johnson's theory that father was abusing the child when she deprived him of his parental rights. Johnson instead theorized at trial that because the child allegedly had vision problems and small bruises, father *must* have abused the child. But multiple doctors and a social worker testified that they observed no evidence of child abuse, no vision problems, and no injuries to the child at all. The doctors instead noted that the child "act[ed] like a normal eight-year old" and "didn't offer anything [about being abused] unprompted." The evidence also established that Johnson's explanations for her wrongful retention of the child were inconsistent and continually shifting. Johnson testified that the child experienced cold symptoms and she repeatedly informed the daycare of these symptoms to keep the child home with her, but she did not inform the emergency-department doctors of the child's cold symptoms and the doctors did not independently observe such symptoms. And despite multiple contacts with the daycare center, father, and law enforcement during the time that Johnson deprived father of his custodial rights, Johnson identified multiple reasons for withholding the child *other than* father's alleged abuse of the child, including that she was "keeping him for Make-up time" because she "had no Phone Contact with him for the last

month." In light of the overwhelming evidence at trial establishing Johnson's guilt, we conclude that there is no reasonable probability that the state's use of the *Spreigl* evidence significantly affected the verdict.

Accordingly, the district court acted within its discretion by concluding that the *Spreigl* evidence had material and relevant proper purposes and the probative value of the *Spreigl* evidence did not outweigh its potential for unfair prejudice. Alternatively, even if the district court wrongly admitted the *Spreigl* evidence, any error in the admission or use of the *Spreigl* evidence was harmless as it had no reasonable effect on the verdict.

DECISION

The record contains insufficient evidence to support Johnson's conviction of depriving father of his custodial rights by concealment because the circumstances proved are consistent with a reasonable hypothesis other than that Johnson intended to hide the child from father. This conviction is therefore reversed, and the case is remanded to the district court to enter judgment of conviction and impose a sentence for Johnson's other deprivation-of-parental-custodial-rights conviction, related to the violation of the parenting-time order.

We hold that venue for falsely reporting a crime is proper in both the county where the false report was made and the county where the law-enforcement officer received the false report. The record contains sufficient evidence to support Johnson's conviction for false reporting of a crime because the circumstances proved show that the Waseca police officer was located in Waseca County when Johnson made the false report, and these

circumstances are not consistent with any other reasonable hypothesis. Therefore, we affirm Johnson's false-reporting conviction.

Finally, the district court did not abuse its discretion in its evidentiary rulings by excluding allegations of child abuse arising outside of the charging period or by admitting *Spreigl* evidence of Johnson's 2019 conviction for deprivation of parental rights by concealment, and therefore, no new trial is warranted.

Affirmed in part, reversed in part, and remanded.