

*This opinion is nonprecedential except as provided by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
A23-0333**

State of Minnesota,
Respondent,

vs.

Douglas Frederick Gratz,
Appellant.

**Filed March 4, 2024
Affirmed
Wheelock, Judge**

Watonwan County District Court
File No. 83-CR-21-286

Keith Ellison, Attorney General, Jacob Campion, Assistant Attorney General, St. Paul, Minnesota; and

Julie Kelley, Watonwan County Attorney, St. James, Minnesota; and

Travis J. Smith, Special Assistant County Attorney, Slayton, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Julie Loftus Nelson, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Wheelock, Presiding Judge; Smith, Tracy M., Judge;
and Gaïtas, Judge.

NONPRECEDENTIAL OPINION

WHEELOCK, Judge

Appellant challenges his conviction for felony harassment, arguing that the district court obtained an inadequate waiver of his right to a jury trial on the previous-convictions element. We affirm.

FACTS

In June 2021, appellant Douglas Frederick Gratz placed multiple calls to a medical clinic in Mankato in which he used profanity and threatened to rape, kill, set on fire, and drown the staff who answered the phone. Security called the police, and officers went to Gratz's apartment and arrested him. Because this would be Gratz's third harassment offense in ten years, respondent State of Minnesota charged him with felony harassment in violation of Minnesota Statutes section 609.749, subdivision 4(b) (2020).

Before trial, the parties submitted a written stipulation that Gratz had two previous qualified domestic-violence-related-offense convictions within ten years of the current offense, and the state submitted certified copies of Gratz's prior convictions. The district court questioned Gratz on the record about the stipulation before obtaining a waiver of his right to a jury trial on the previous-convictions element. In October 2022, a jury found Gratz guilty of felony harassment.

Gratz appeals.

DECISION

Gratz argues that the district court did not obtain an adequate waiver of his right to have a jury determine the previous-convictions element of felony harassment because the

district court (1) did not inform him of his right to have a jury decide the element and (2) incorrectly explained the previous-convictions element.¹ The state responds that, even if the district court did not obtain a valid waiver, Gratz benefitted from not having evidence of his previous convictions presented to the jury and that any error did not affect his substantial rights.

The United States and Minnesota Constitutions guarantee a defendant the right to a jury trial on every element of a criminal offense punishable by incarceration. *State v. Kuhlmann*, 806 N.W.2d 844, 848 (Minn. 2011). But a defendant may waive this right as to one or more elements by stipulation so long as the waiver is constitutionally valid. *State v. Hinton*, 702 N.W.2d 278, 281 (Minn. App. 2005), *rev. denied* (Minn. Oct. 26, 2005). Waivers must be knowing, intelligent, and voluntary. *Kuhlmann*, 806 N.W.2d at 848. To ensure constitutional validity, Minnesota Rule of Criminal Procedure 26.01, subdivision 1(2)(a), requires the following when a defendant gives a waiver: (1) the waiver must be personal; (2) the waiver must be written or given on the record; (3) the court must advise the defendant of their right to trial by jury; and (4) the defendant must have an opportunity to consult with counsel.

Gratz challenges only the third requirement, asserting that his waiver was inadequate because the district court failed to advise him properly of his right to a jury trial

¹ Gratz also argues in a supplemental brief that he received ineffective assistance of counsel, but we decline to address this claim because we do not consider pro se claims on appeal that are unsupported by argument or legal authority “unless prejudicial error is obvious on mere inspection.” *State v. Taylor*, 869 N.W.2d 1, 22 (Minn. 2015) (quotation omitted).

on the previous-convictions element in two ways. First, Gratz argues that the district court erred by failing to inform him that he had a right to have a jury decide the previous-convictions element and by instead stating that, by signing the stipulation, Gratz was agreeing “that the State doesn’t have to provide evidence to the jury to prove beyond a reasonable doubt that you had two or more convictions.” Second, Gratz argues that the district court erred by referring to the previous-convictions element as involving “crime-of-violence” convictions instead of “qualified domestic-violence-related-offense” convictions.

Because Gratz did not raise the alleged errors to the district court, we review them for plain error. Minn. R. Crim. P. 31.02; *Kuhlmann*, 806 N.W.2d at 852. When conducting a plain-error review, we must determine whether there was (1) an error, (2) that was plain, and (3) that affected the defendant’s substantial rights. *Kuhlmann*, 806 N.W.2d at 852. An error is plain when it is clear or obvious. *Id.* at 853. If the plain error affected the outcome of the case, then it affected the defendant’s substantial rights. *See id.* at 852-53. If all three prongs of plain-error review are met, we consider “whether reversal is required to ensure the fairness, integrity, or public reputation of the judicial proceedings.” *State v. Coleman*, 957 N.W.2d 72, 77 (Minn. 2021) (quotation omitted). “Under the plain error rule, if [an appellate court] find[s] that any one of the requirements is not satisfied, [it] need not address any of the others.” *State v. Lilienthal*, 889 N.W.2d 780, 785 (Minn. 2017) (quotation omitted).

Here, we need not consider whether either alleged error constituted plain error because, even if the district court plainly erred, neither alleged error affected Gratz’s

substantial rights. The state submitted certified copies of the prior convictions, which prove the convictions as a matter of law. *See* Minn. Stat. § 609.041 (2020); *State v. Craig*, 807 N.W.2d 453, 468 (Minn. App. 2011) (concluding that an invalid waiver of the prior-convictions element was harmless when the state submitted certified copies of prior convictions), *aff'd on other grounds*, (Minn. Feb. 27, 2013). Therefore, the prosecution could have proved the previous-convictions element beyond a reasonable doubt. Gratz does not dispute that he had two previous qualified domestic-violence-related-offense convictions, and indeed, he concedes that this court could conclude that the allegedly invalid waiver was harmless.

Because any error in the district court's explanation of the waiver did not affect the outcome of the case, we conclude that Gratz's substantial rights were not affected.

Affirmed.