STATE OF MINNESOTA
IN COURT OF APPEALS
A12-1316

State of Minnesota,
Respondent,

vs.

Donald Ray James,
Appellant.

Filed June 3, 2013
Affirmed
Schellhas, Judge

Hennepin County District Court
File No. 27-CR-11-26020

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Michael O. Freeman, Hennepin County Attorney, Linda K. Jenny, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

David W. Merchant, Chief Appellate Public Defender, Benjamin J. Butler, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Schellhas, Presiding Judge; Kalitowski, Judge; and Worke, Judge.

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

SCHELLHAS, Judge

Appellant challenges his second-degree-assault conviction, arguing that (1) the district court erred by admitting evidence of his two prior, unspecified convictions;

(2) the prosecutor committed prejudicial misconduct; (3) the district court erred by striking some of appellant's testimony, violating his right to present a complete defense; and (4) the cumulative effect of the errors warrants reversal. We affirm.

FACTS

Respondent State of Minnesota charged appellant Donald James with felonious second-degree assault under Minn. Stat. §§ 609.222, subd. 1, .101, subd. 2, .11 (2010). Before trial, James asserted that he acted in self-defense and the state moved to admit James's two prior felony assault convictions from February 1999 and December 2002 for impeachment purposes. Over appellant's objection, the district court granted the state's motion, ruling that the court would allow admission of James's two prior convictions as unspecified convictions. A jury trial followed.

Brooklyn Park Police Department Officer Matthew Rabe and witnesses N.N., C.N., and P.O. testified for the state, and the testimony revealed James initiated an altercation with N.N. on August 19, 2011. The altercation occurred during work hours at a barbershop where both men worked. James allegedly insulted N.N. and spat on him; cornered N.N. while lunging at him with a knife; and threatened to show N.N. "what crazy is" and kill him. N.N. denied threatening James but acknowledged that, after James placed his knife in his pocket, N.N. went to his car and obtained his gun. N.N. also testified that he calmed down and did not return to the barbershop.

James called the barbershop owner as a witness, who testified that N.N. is a peaceful person. James testified on his own behalf, acknowledged his unspecified felony convictions from 1999 and 2002, and claimed that N.N. initiated the August 19

altercation. James testified that he and N.N. exchanged profanities; N.N. touched James's nose; James slapped N.N.'s hand away; and, when N.N. raised his hand "like he was about to . . . punch" James, James pushed N.N. away. James claimed that N.N. threatened to "put some hot lead in [James's] –ss," which meant to James that N.N. was going to shoot James. James then pulled out his pocket knife; held it out; and, believing that N.N.'s gun was in N.N.'s car, told N.N. that he was "not gonna allow him to get out." James eventually put his knife away, and N.N. went to his car to get his gun. James denied spitting or attempting to stab N.N.

The jury found James guilty of second-degree assault, and this appeal follows.

D E C I S I O N

Prior-Conviction Impeachment Evidence

James argues that the district court abused its discretion by allowing the state to impeach him with evidence of his two unspecified prior felony convictions. "We will not reverse a district court's ruling on the impeachment of a witness by prior conviction absent a clear abuse of discretion." *State v. Hill*, 801 N.W.2d 646, 651 (Minn. 2011) (quotation omitted). Evidence of a defendant's prior conviction is admissible for purposes of impeachment if the crime is punishable by more than one year in prison and the probative value outweighs the prejudicial effect. Minn. R. Evid. 609(a). When exercising their discretion under rule 609(a), courts must consider and weigh the *Jones* factors: (1) the impeachment value of the prior crime; (2) the date of the conviction and the defendant's subsequent history; (3) the similarity of the past crime with the charged crime (the more similarity between the past crime and the charged offense, the more

likely it is that the conviction is more prejudicial than probative); (4) the importance of the defendant's testimony; and (5) the centrality of the credibility issue. *State v. Swanson*, 707 N.W.2d 645, 654−55 (Minn. 2006) (citing *State v. Jones*, 271 N.W.2d 534, 538 (Minn. 1978)).

James contends that the district court abused its discretion by failing to consider each *Jones* factor with regard to each prior conviction. "[A] district court should demonstrate on the record that it has considered and weighed the *Jones* factors." *Id.* at 654. A district court errs when it fails to consider and weigh these factors on the record. *Id*. at 655. But an appellate court may review the *Jones* factors to determine whether the error was harmless because the conviction was admissible. *Id.*

1999 Conviction

James argues that the district court erred by not considering and weighing whether the probative value outweighed the prejudicial effect of admitting the 1999 conviction.

Rule 609(b) generally renders evidence of a conviction inadmissible for impeachment purposes if "more than ten years" have passed between "the date of the conviction or the release of the witness from the confinement imposed for that conviction, whichever is the later date," Minn. R. Evid. 609(b), and "the date of the charged offense," *State v. Ihnot*, 575 N.W.2d 581, 585 (Minn. 1998). A conviction is only admissible under rule 609(b) if the district court "determines, in the interests of justice, that the probative value of the conviction supported by specific facts and circumstances substantially outweighs its prejudicial effect."

Here, the prosecutor conceded that James's 1999 conviction was "slightly outside the 10 years contemplated by Rule 609," but the district court made no finding, in the interests of justice or otherwise, that the probative value of the conviction, supported by specific facts and circumstances, substantially outweighed its prejudicial effect. We therefore conclude that the district court abused its discretion by admitting evidence of James's 1999 conviction for impeachment purposes. We analyze the court's error under the harmless-error rule.

Under the harmless-error rule, when a defendant "alleges an error that does not implicate a constitutional right," the defendant "must prove there is a reasonable possibility that the wrongfully admitted evidence significantly affected the verdict." *State v. Matthews*, 800 N.W.2d 629, 633 (Minn. 2011) (quotations omitted). Moreover, because we conclude below that the district court did not abuse its discretion by admitting James's 2002 conviction for impeachment purposes, we conclude that James has failed to show that a reasonable possibility exists that the admission of his unspecified 1999 conviction significantly affected the verdict. Under the harmless-error rule, "[a]ny error that does not affect substantial rights must be disregarded," Minn. R. Crim. P. 31.01, and we therefore decline to reverse James's conviction on that ground. *See State v. Hofmann*, 549 N.W.2d 372, 376 (Minn. App. 1996) (concluding that improperly admitted evidence of a more-than-ten-year-old conviction was harmless error when court had properly admitted evidence of six other convictions), *review denied* (Minn. Aug. 6, 1996); *see also State v. Sims*, 526 N.W.2d 201, 202 (Minn. 1994) (stating that, even if court erred by admitting prior conviction based on determination that it involved dishonesty, error

would be "harmless error beyond a reasonable doubt" because "the other prior convictions were independently and properly admissible").

2002 Conviction

Although the district court accurately recited all five *Jones* factors, it only considered and weighed two of the factors on the record and therefore we agree with James that the court erred.

Regarding factor one, the impeachment value of the prior crime, the district court stated that the conviction was "relevant to seeing the entire person." *See Hill*, 801 N.W.2d at 651 ("Impeachment through prior convictions allows the fact-finder to make credibility determinations by seeing the whole person to judge better the truth of his testimony." (quotations omitted)). As to factor three, the similarity between the past crime and the charged crime, the court determined that the crimes of second- and third-degree assault were too similar. The court was correct. "[I]f the prior conviction is similar to the charged crime, there is a heightened danger that the jury will use the evidence not only for impeachment purposes, but also substantively." *State v. Williams*, 771 N.W.2d 514, 519 (Minn. 2009) (quotation omitted). To avoid the danger of undue prejudice to James, the court therefore ruled that the 2002 assault conviction could be admitted only as an unspecified felony conviction. The court's ruling was proper. *See Hill*, 801 N.W.2d at 651 (stating, in case involving similar past and charged crimes, that rule 609(a) "does not prohibit impeachment through an unspecified felony conviction so long as the impeaching party can make a threshold showing that the underlying conviction falls into one of the two categories of admissible convictions under Rule 609(a)").

We conclude that the district court's failure to make an on-the-record analysis of the remaining *Jones* factors was harmless error because James's 2002 conviction was admissible under a complete *Jones* analysis. *See Swanson*, 707 N.W.2d at 650, 655 (stating that district court's erroneous failure to make record of *Jones* analysis was "harmless" "because the convictions were admissible," examining the five *Jones* factors). The conviction had impeachment value. "[T]he mere fact that a witness is a convicted felon holds impeachment value." *Hill*, 801 N.W.2d at 652 (quotations omitted). James's testimony was important. As in *Hill*, his "testimony would provide a contrasting version of events from that presented by the State." *Id.* at 653. And James's credibility was a central issue, especially given his assertion that he acted in self-defense. *See State v. Pendleton*, 725 N.W.2d 717, 729 (Minn. 2007) ("If credibility is a central issue in the case, the fourth and fifth *Jones* factors weigh in favor of admission of the prior convictions." (quotation omitted)). Only the date-and-history factor disfavored admission of the conviction. *See State v. Leecy*, 294 N.W.2d 280, 282 (Minn. 1980) (stating that an eight-year-old aggravated-assault conviction had little probative value); *State v. Hochstein*, 623 N.W.2d 617, 624 (Minn. App. 2001) ("This factor weighs in favor of exclusion because appellant's 1991 conviction was approximately nine years old at the time of trial."), *review vacated* (Minn. July 24, 2001); *cf. State v. Davis*, 735 N.W.2d 674, 680 (Minn. 2007) ("[R]ecent convictions can enhance the probative value of older convictions by placing them within a pattern of lawlessness, indicating that the relevance of the older convictions has not faded with time.").

Because four of the five *Jones* factors favored admission of the 2002 conviction, we conclude that the district court did not abuse its discretion by admitting the conviction for impeachment purposes.

Cautionary Instruction on Prior-Conviction Impeachment Evidence

James argues that, although the district court "gave a proper cautionary instruction with its final instructions" regarding the prior-conviction impeachment evidence, the court erred by failing to provide a cautionary instruction at the time that it admitted the evidence. James did not ask for such an instruction when the district court admitted the evidence and, therefore, we review the matter for plain error. *See State v. Word*, 755 N.W.2d 776, 787 (Minn. App. 2008) (applying plain-error review to unobjected-to failure to provide limiting instruction when admitting prior-conviction-impeachment evidence). An appellate court, "[i]n applying plain-error review, . . . will reverse only if (1) there is error, (2) the error is plain, and (3) the error affected the defendant's substantial rights." *State v. Hayes*, 826 N.W.2d 799, 807 (Minn. 2013).

We conclude, as we did in *Word*, that although the failure to give an unrequested, mid-trial instruction before admission of prior-conviction impeachment evidence "may have been plain error, the question is whether it was prejudicial." 755 N.W.2d at 787; *see State v. Bissell*, 368 N.W.2d 281, 283 (Minn. 1985) (noting that, when admitting *Spreigl* evidence, district court should "on its own . . . give a limiting instruction . . . when the evidence is admitted" and that "[t]he same reasoning underlying the requirement[] . . . applies in the case of Rule 609 impeachment evidence"); *but see*

Hayes, 826 N.W.2d at 808 ("[O]rdinarily it is not plain error for the trial court to fail to *sua sponte* give an instruction." (quotations omitted)).

Under the third plain-error-review prong, the defendant has the "heavy burden," *State v. Hokanson*, 821 N.W.2d 340, 356 (Minn. 2012) (quotations omitted), to prove that "the error is prejudicial . . . [by] prov[ing] that there is a reasonable likelihood that the error had a significant effect on the jury's verdict," *State v. Scruggs*, 822 N.W.2d 631, 642 (Minn. 2012) (quotation omitted). A district court's failure to give an unrequested cautionary instruction when admitting prior-conviction-impeachment evidence is not prejudicial when the court provides "a limiting instruction . . . to the jury at the end of the trial" and the state makes "little use of the evidence." *Word*, 755 N.W.2d at 787; *see also Bissell*, 368 N.W.2d at 283 (concluding that court's refusal to give *requested* cautionary instruction when rule 609(a) evidence was admitted was not prejudicial because court gave instruction with final jury instructions and no one suggested that evidence should be used for purpose other than determining defendant's credibility).

Here, James concedes that, during its final jury instructions, the district court properly instructed the jury about its consideration of the prior-conviction impeachment evidence. Moreover, the prosecutor made little use of the impeachment evidence. We conclude that reversal is unwarranted due to James's failure to satisfy his heavy burden to show that the absence of the mid-trial cautionary instruction had a reasonable likelihood to significantly affect the verdict.

Prosecutorial Misconduct

James argues that the prosecutor committed misconduct when cross-examining him by asking "were-they-lying" questions and misusing prior-conviction impeachment evidence. An appellate court "review[s] prosecutorial misconduct to determine whether the conduct, in light of the whole trial, impaired the defendant's right to a fair trial." *State v. Milton*, 821 N.W.2d 789, 802 (Minn. 2012) (quotations omitted). Although James's counsel objected to some of the prosecutor's questions and statements, his counsel did not object to the questions on the basis that they constituted impermissible "were-they-lying" questions nor did he object to the statements on the basis that the prosecutor improperly used the prior-conviction impeachment evidence. *See State v. Rodriguez*, 505 N.W.2d 373, 376 (Minn. App. 1993) ("An objection must be specific as to the grounds for challenge."), *review denied* (Minn. Oct. 19, 1993).

For unobjected-to alleged prosecutorial misconduct, an appellate court utilizes a "modified plain error test," under which "the defendant has the burden of proving that an error was made and that the error was plain" and, "[i]f the defendant is able to satisfy this burden, the burden shifts to the State to demonstrate that the error did not affect the defendant's substantial rights." *Id.* (quotations omitted).

"Were-They-Lying" Questions

> "Were they lying" questions, in general, are questions the state poses to a criminal defendant on cross-examination. Typically, the prosecutor will first ask the defendant if he heard the testimony of one or more of the state's witnesses. Then the prosecutor will ask the defendant if the witnesses' testimony was accurate. If the defendant states that the witnesses' testimony was not accurate, the prosecutor will ask

> the defendant to comment on the veracity of the witnesses' testimony by asking the defendant, "Were they lying?"

State v. Pilot, 595 N.W.2d 511, 516 n.1 (Minn. 1999). "Generally, questions designed to elicit testimony from one witness about the credibility of another have no probative value and are considered improper and argumentative." *State v. Simion*, 745 N.W.2d 830, 843 (Minn. 2008). But "were-they-lying" questions are "permissible . . . when the defendant holds the issue of the credibility of the state's witnesses in central focus," *State v. Caine*, 746 N.W.2d 339, 359 (Minn. 2008) (quotations omitted), "through either an express or unmistakably implied accusation that a witness has testified falsely," *State v. Leutschaft*, 759 N.W.2d 414, 416–17 (Minn. App. 2009), *review denied* (Minn. Mar. 17, 2009).

Motive to Lie

James argues that the prosecutor erred by asking whether he knew why witnesses P.O. or C.N. might want "to lie, to frame you for something you didn't do" or "lie to get you in trouble." We disagree. "[T]he state is free to argue that particular witnesses were or were not credible," *State v. McCray*, 753 N.W.2d 746, 752 (Minn. 2008) (quotation omitted), and, "[f]or the purpose of attacking the credibility of a witness, evidence of bias, prejudice, or interest of the witness for or against any party to the case is admissible," Minn. R. Evid. 616. In that light, the prosecutor's questions were not "were-they-lying" questions; rather, they were permissible questions about whether P.O. or C.N. were biased against James. *Cf. State v. Johnson*, 699 N.W.2d 335, 339 (Minn. App. 2005) ("[T]he district court did not abuse its discretion by allowing the state to cross-examine

[the defendant] about his probationary status to show that he had a motive to lie."), *review denied* (Minn. Sept. 28, 2005).

Central Focus

James argues that the prosecutor erred by stating to James in response to his denial that he spit on N.N. after P.O. testified that James spit on N.N., "So [P.O.] was also lying about that fact." We agree. "Questions that seek to elicit from a witness testimony that another witness was lying . . . may be asked only when credibility is held in central focus through either an express or unmistakably implied accusation that a witness has testified falsely." *Leutschaft*, 759 N.W.2d at 416–17; *see State v. Morton*, 701 N.W.2d 225, 235 (Minn. 2005) (concluding that prosecutor's "'where they lying' questions" were erroneous when, although "Morton contradicted [the witnesses'] testimony" and "denied having committed the crime," "Morton did not put the witnesses' credibility at issue" when "he did not state or insinuate that they were deliberately falsifying" their testimony). Here, the prosecutor's question was erroneous because James did not place P.O.'s credibility in central focus by simply denying spitting on N.N. after P.O. testified to the contrary.

Peaceful Character

James argues that the prosecutor erred during the following colloquy:

> PROSECUTOR: You heard [the barbershop owner] say he knew [N.N.] for 12, 13 years, correct?
> JAMES: Yes, sir.
> PROSECUTOR: He characterized [N.N.] as a peaceful individual, correct?
> JAMES: Yes, he did. But he—
> PROSECUTOR: Thank you.

> JAMES:—he didn't ask him straight forward, he—
> PROSECUTOR: *Oh, so . . . your witness is lying as well. Is that what you're saying?*
> JAMES: He answered it, but he—
> PROSECUTOR: *Well, answer my question. Are you telling this jury that [the barbershop owner] is lying as well?*
> JAMES: No, sir.
>
> . . . .
>
> DEFENSE COUNSEL: Objection . . . counsel's testifying.
> PROSECUTOR: Withdrawn.

(Emphasis added.) We agree and reject the state's argument that the prosecutor was simply attempting to clarify whether James claimed that the barbershop owner was a liar. And we disagree with the state that the prosecutor did not err because James opened the door to questions about N.N.'s peacefulness. *See State v. Bailey*, 732 N.W.2d 612, 622 (Minn. 2007) ("Opening the door occurs when one party by introducing certain material creates in the opponent a right to respond with material that would otherwise have been inadmissible." (quotation omitted)). Whether the prosecutor could question James regarding N.N.'s peacefulness is immaterial to whether the prosecutor could ask James "were-they-lying" questions.

We conclude that the prosecutor's "were-they-lying" questions as to whether James spit on N.N. and N.N.'s peacefulness were plainly erroneous. *See Morton*, 701 N.W.2d at 235 (concluding that prosecutor plainly erred by asking "'were they lying' questions" that "shifted the jury's focus by creating the impression that the jury must conclude that these two witnesses were lying in order to acquit Morton"). But we decline to reverse on that basis because no reasonable likelihood exists that the prosecutor's

questions significantly affected the verdict. *See State v. Hohenwald*, 815 N.W.2d 823, 834–35 (Minn. 2012) (stating that state satisfies burden to show prosecutorial misconduct does not affect defendant's substantial rights by "showing that there is no reasonable likelihood that the absence of the misconduct in question would have had a significant effect on the verdict" (quotation omitted)). "When considering whether an error had a significant effect on the verdict," an appellate court "consider[s] the strength of the evidence against the defendant, the pervasiveness of the improper suggestions, and whether the defendant had an opportunity to (or made efforts to) rebut the improper suggestions." *Id.* at 835 (quotation omitted).

Here, the jury's determination that James's assault of N.N. with a knife with the intent to cause N.N. fear of immediate bodily harm or death is supported by overwhelming evidence from the state's three eyewitnesses. During its final instructions to the jury, the district court stated: "The arguments or other remarks of attorneys . . . are not evidence in this case." *See State v. Vang*, 774 N.W.2d 566, 578 (Minn. 2009) ("We assume that the jury followed the court's instructions and properly considered the evidence."). And the prosecutor restricted his comments about lying during his closing argument to whether a witness had a motive to lie.

Prosecutor's Alleged Misuse of Prior-Conviction Impeachment Evidence

The prosecutor asked James, "And you didn't hear [N.N.] impeached with any felony convictions did you?" And after James answered, the prosecutor stated, "Because he doesn't have any." James argues that the prosecutor's question and statement "at least implied that James, who had a criminal history, must not be peaceful." We are not

persuaded. The supreme court has stated that a prosecutor engaged in "gratuitous character attacks that exceeded the permissible inference of impeachment created by Minn. R. Evid. 609" for, among other reasons, "rais[ing] defendant's criminal past outside the credibility context." *State v. DeWald*, 463 N.W.2d 741, 744–45 (Minn. 1990). But here, read in the context of James's implication that two of the state's eyewitnesses and his own witness, the barbershop owner, had lied during their testimony, the prosecutor was likely attempting to bolster the credibility of its most important eyewitness, N.N., rather than implying that James was not a peaceful person because of his prior convictions.

We conclude that the prosecutor did not err and therefore did not commit misconduct.

Complete-Defense Right

James argues that the district court violated his right to present a complete defense by striking his testimony that he believed N.N.'s alleged threat to shoot him because he had heard N.N. similarly threaten two prior employees of the barbershop.

"Evidentiary rulings of the district court will not be overturned absent a clear abuse of discretion, even when constitutional rights are implicated." *State v. Pendleton*, 706 N.W.2d 500, 510 (Minn. 2005). "Under the due process clauses of the Fourteenth Amendment of the United States Constitution and Article I, Section 7 of the Minnesota Constitution, every criminal defendant has the right to be . . . afforded a meaningful opportunity to present a complete defense." *In re Source Code Evidentiary Hearings in Implied Consent Matters*, 816 N.W.2d 525, 540 (Minn. 2012) (quotation omitted). "That

right encompasses . . . 'the right to present the defendant's version of the facts . . . to the jury so it may decide where the truth lies.'" *State v. Jones*, 753 N.W.2d 677, 695 (Minn. 2008) (quoting *Washington v. Texas*, 388 U.S. 14, 19, 87 S. Ct. 1920, 1923 (1967)).

Relevant evidence is generally admissible, but irrelevant evidence is inadmissible. Minn. R. Evid. 402. A valid self-defense claim requires a defendant to "come forward with evidence" showing "the existence of reasonable grounds" for the defendant's "actual and honest belief that he was in imminent danger of death or great bodily harm." *State v. Radke*, 821 N.W.2d 316, 324 (Minn. 2012). "If it can be established that the accused knew at the time of the alleged crime of prior violent acts by the victim, such evidence is relevant as tending to show a reasonable apprehension on the part of the accused." *State v. Bland*, 337 N.W.2d 378, 383 (Minn. 1983) (quotation omitted).

Here, James made no offer of proof about any details of N.N.'s past alleged threat to the two employees. *Cf. State v. Richardson*, 670 N.W.2d 267, 277 (Minn. 2003) ("Where a defendant complains that the exclusion of evidence was error, an offer of proof provides the evidentiary basis for a trial court's decision."). James provided no indication of when or where N.N. made the alleged threat or what happened before or after N.N. allegedly did so. We conclude that the district court did not clearly abuse its discretion by striking James's subject testimony as irrelevant.

Even if the district court had so abused its discretion, reversal would be unwarranted because, even if James's stricken testimony's damaging potential had been fully realized, the error would have been "harmless beyond a reasonable doubt," *State v. Jones*, 753 N.W.2d 677, 695 (Minn. 2008) (quotations omitted), because "the verdict

rendered [would be] surely unattributable to the error," *Hokanson*, 821 N.W.2d at 350 (quotations omitted). A valid self-defense claim requires a defendant to "come forward with evidence" showing "the absence of a reasonable possibility of retreat to avoid the danger." *Radke*, 821 N.W.2d at 324. Here, James did not testify that he lacked a reasonable possibility to retreat to avoid the danger that he alleges N.N. caused. *See State v. Matthews*, 301 Minn. 133, 135, 221 N.W.2d 563, 565 (1974) (concluding that, although district court was "unduly restrictive" when admitting evidence of victim's prior assaults of defendant, error was not prejudicial when "defendant ma[d]e no attempt to retreat"). Indeed, overwhelming evidence indicates that James not only did not retreat but rather escalated the altercation, cornering N.N. with James's knife. *See Hawes v. State*, 826 N.W.2d 775, 786 (Minn. 2013) ("Overwhelming evidence of the defendant's guilt is often a very important factor in determining whether the error was harmless beyond a reasonable doubt."). Moreover, James was able to explain his conduct to the jury, testifying that, before N.N. allegedly threatened James, N.N. screamed at James and raised his hand "like he was about to . . . punch" James. James also testified that he had seen N.N.'s gun in N.N.'s car in 2009 and twice in the barbershop between 2009 and the August 19, 2011 altercation. The barbershop owner partially corroborated that testimony.

Cumulative-Error Effect

James argues that the cumulative effect of the trial errors warrants reversal. We disagree. "[I]n rare cases, . . . the cumulative effect of trial errors can deprive a defendant of his constitutional right to a fair trial when the errors and indiscretions, none of which alone might have been enough to tip the scales, operate to the defendant's prejudice by

producing a biased jury." *State v. Davis*, 820 N.W.2d 525, 538–39 (Minn. 2012) (quotation omitted). We conclude that the erroneously admitted 1999 conviction and two improper "were-they-lying" questions do not warrant reversal because we observe no indication that their cumulative—but otherwise not prejudicial effect—biased the jury.

Affirmed.