STATE OF MINNESOTA

IN SUPREME COURT

A19-1464

Court of Appeals

Moore, III, J.
Concurring, Gildea, C.J.

State of Minnesota,

Appellant,

vs.

Bryan Morgan Holl,

Respondent.

Filed: November 17, 2021
Office of Appellate Courts

Keith M. Ellison, Attorney General, Peter Magnuson, Assistant Attorney General, Saint Paul, Minnesota; and

Matti R. Adam, Itasca County Attorney, Grand Rapids, Minnesota, for appellant.

Cathryn Middlebrook, Chief Appellate Public Defender, Benjamin J. Butler, Assistant State Public Defender, Saint Paul, Minnesota, for respondent.

S Y L L A B U S

1. The plain language of Minnesota Statutes § 634.03 (2020) requires a defendant's confession to be corroborated by independent evidence reasonably tending to prove that the specific offense charged has been committed.

2. Because the State failed to introduce evidence independent of respondent's confession that reasonably tended to prove that one specific incident of criminal sexual conduct was committed, respondent cannot be convicted of that specific charge because his confession to it was not sufficiently corroborated.

Affirmed.

O P I N I O N

MOORE, III, Justice.

This case asks us to determine what type of and how much evidence is necessary under Minnesota Statutes § 634.03 (2020) to corroborate a defendant's confession to and sustain a conviction for the offense charged. In this case, respondent Bryan Morgan Holl confessed to committing multiple acts of criminal sexual conduct against his minor stepdaughter, including one incident when the two were scouting for deer in Itasca County. The State charged Holl with five counts of criminal sexual conduct, including one count based on his confession to the deer-scouting incident. A jury found him guilty of all five charges. In a 2-1 published decision, the court of appeals affirmed Holl's convictions in part, but as to the conviction based on the deer-scouting incident, the court of appeals reversed based on a lack of independent evidence corroborating Holl's confession to that specific incident. We granted the State's petition for review. Because we agree that Minn. Stat. § 634.03 requires a defendant's confession to be corroborated by independent evidence reasonably tending to prove that the specific offense charged was committed, and because the State failed to introduce such evidence to corroborate Holl's confession to the deer-scouting incident, we affirm the decision of the court of appeals.

FACTS

In January 2017, Holl's 13-year-old stepdaughter C.D. was hospitalized in Illinois for two weeks due to self-harm, depression, anxiety, and suicidal thoughts. During her hospitalization, C.D. revealed that Holl had sexually abused her. According to C.D., Holl sexually assaulted her on multiple occasions when she was between the ages of 9 and 10.

A social worker with experience interviewing underage sexual assault victims interviewed C.D. two days after her release from the hospital. During the interview, C.D. vividly recalled being sexually abused by Holl numerous times while he lived with her and her mother. C.D. also told the social worker about a recent Facebook message Holl sent her in which he apologized for sexually abusing her.[1]

Three days after C.D.'s interview with the social worker, a law enforcement investigator with the Itasca County Sheriff's Office went to Holl's home in Nashwauk and interviewed Holl about C.D.'s claims. During the interview, Holl confessed to sexually abusing C.D. on multiple occasions, beginning when she was ten years old.[2] The first incident Holl described was taking a shower with C.D. Over the course of the interview, Holl admitted to showering with C.D. at least four times. Holl told the investigator about another incident in his bedroom when C.D. touched Holl's penis and he touched her vagina. Holl then described an incident when he and C.D. were deer scouting in the woods and she

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[1] In the message, Holl confessed to sexually abusing C.D. in broad general terms but did not discuss any specific incidents.

[2] Before the trial, Holl moved to suppress his confession by arguing that his statements were coerced. The district court denied the suppression motion and that ruling is not at issue on appeal.

held his penis while he urinated. Finally, Holl told the investigator about an incident when he masturbated under a deer print blanket while watching a movie with C.D. and she proceeded "to come over and help" until he ejaculated. Holl denied having sexual intercourse with C.D. or having C.D. perform oral sex on him. Holl told the investigator that he did not remember ever digitally penetrating C.D.'s vagina, but admitted it was "possible."

In March 2017, the State charged Holl with one count of criminal sexual conduct in the first degree. *See* Minn. Stat. § 609.342, subd. 1(h)(iii) (2018). The complaint alleged that Holl committed multiple acts of sexual penetration against C.D. over a period of almost three years during which time he had a significant relationship with C.D. who was then under the age of 16.[3] In August of 2018, the State amended its complaint to charge Holl with five separate counts of criminal sexual conduct against C.D. In count I, the charge at issue in this case, the State charged Holl with second-degree criminal sexual conduct, *see* Minn. Stat. § 609.343, subd. 1(g) (2018), based on Holl's description of C.D. holding his penis while he urinated when they were deer scouting. In count II, the State charged Holl with second-degree criminal sexual conduct under the same statute based on the deer print blanket masturbation incident he described during the police interview. In count III, the State charged Holl with second-degree criminal sexual conduct, also under Minn. Stat. § 609.343, subd. 1(g), based on the bedroom encounter Holl described in his confession. In count IV, the State charged Holl with first-degree criminal sexual conduct based on the

[3] A significant relationship exists when the perpetrator is "the complainant's parent, stepparent, or guardian." Minn. Stat. § 609.341, subd. 15(1) (2020).

same incident referenced in count III but under a different statute, *see* Minn. Stat. § 609.342, subd. 1(a) (2018), for sexually penetrating C.D. while she was under 13 years of age and he was more than 36 months older.[4] Finally, count V of the amended complaint restated the charge from the original complaint, first-degree criminal sexual conduct under Minn. Stat. § 609.342, subd. 1(h)(iii).

During the jury trial, C.D. testified about Holl's sexual assaults, including the couch and bedroom incidents. She did not testify, however, about the deer-scouting incident that Holl confessed to and that the State charged in count I. Instead, C.D. described a sexual assault during "duck season" when Holl digitally penetrated her vagina while they sat inside of his truck. *Id.*[5]

The jury found Holl guilty of all five charges. The district court sentenced Holl to 60 months in prison on count I, 91 months in prison on count II, and 306 months in prison on count IV, with all the sentences to run concurrently. The district court did not sentence Holl on counts III or V.

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[4] The State described the first four charges in the amended complaint as: "Incident #1 in the woods while deer scouting," "Incident #2 on couch in living room at residence," and "Incident #3 in bedroom at residence" (listed for count III and count IV).

[5] C.D. also testified about new incidents of sexual abuse that she had not previously reported to the social worker or law enforcement. She described oral sexual intercourse with Holl, a "strip bowling" incident, and her use of drugs and alcohol provided by Holl. The additional testimony was unexpected and caught both Holl's attorney and the prosecutor by surprise. Holl moved for a mistrial based on the new testimony given by C.D. because the State had not disclosed the information to the defense prior to trial. The district court denied the motion and that ruling is not at issue in the appeal to our court.

Holl raised multiple issues on appeal, including that the evidence was insufficient to support his conviction on count I because the State failed to present independent evidence to corroborate his confession to the deer-scouting incident. In a 2-1 decision, the court of appeals reversed Holl's conviction on count I. *State v. Holl*, 949 N.W.2d 461, 472 (Minn. App. 2020). The court of appeals reasoned that the State "was . . . required to prove . . . the deer scouting incident specifically, but failed to provide evidence other than Holl's confession to support it." *Id.* at 469. Accordingly, the court of appeals determined that the corroboration requirement of Minnesota Statutes § 643.03 was not satisfied. *Id.* at 468–70. The dissent, however, asserted that the majority "conflated the admissibility of Holl's confession . . . with a broader conclusion that there is insufficient evidence as to the overall veracity of the confession." *Id.* at 472 (Hooten, J., concurring in part and dissenting in part) (emphasis omitted). The dissent would have affirmed the conviction "[b]ecause the state has provided corroborative evidence for the threshold admissibility determination described in Minn. Stat. § 634.03." *Id.* at 474 (Hooten, J., concurring in part and dissenting in part). We granted the State's request for review.

ANALYSIS

The issues this case presents concern the type and amount of evidence necessary under Minnesota's codification of the common law corpus delicti rule, Minn. Stat. § 634.03 (2020), to corroborate a defendant's confession and sustain a conviction for the offense charged. The statute reads in its entirety:

> *A confession of the defendant shall not be sufficient to warrant conviction without evidence that the offense charged has been committed;* nor can it be given in evidence against the defendant whether made in the course of

> judicial proceedings or to a private person, when made under the influence of fear produced by threats.

Minn. Stat. § 634.03 (emphasis added). This case asks us to define the statutory phrase, "evidence that the offense charged has been committed."[6]

The court of appeals concluded that "[c]onfessions to multiple charged offenses require sufficient evidence corroborating either the commission of each offense or their attendant facts and circumstances to support an inference of trustworthiness sufficient to sustain the conviction." *Holl*, 949 N.W.2d at 464. The State disagrees with the court of appeals' decision to reverse Holl's conviction, arguing that the court applied an "overly restrictive" view in considering whether the attendant facts and circumstances of Holl's confession are sufficiently corroborated to ensure it is trustworthy. The trustworthiness standard the State proposes would evaluate the sufficiency of confessions based on the trustworthiness of the confession itself and not require corroboration by independent evidence that the crime was actually committed. Holl opposes the application of a

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[6] In the split court of appeals decision, the dissenting judge concluded that the issue is whether "the state has provided corroborative evidence" to meet "the threshold admissibility determination described in Minn. Stat. § 634.03." *Holl*, 949 N.W.2d at 474 (Hooten, J. concurring in part and dissenting in part). The formulation of the corpus delicti corroboration rule as a matter of admissibility, as opposed to a measure of evidence sufficiency, is a debate that has occurred in other states. *See* 1 *McCormick on Evidence* § 145 (Robert P. Mosteller ed., 8th ed. 2020). Section 634.03, however, addresses the admissibility of a confession in the second part of the statute, which is not at issue here. We recently addressed this separate part of the statute in *State v. McCoy*, 963 N.W.2d 472 (Minn. 2021). In *McCoy*, we distinguished the sufficiency part of the statute because it requires " 'evidence that the offense charged has been committed' " for a confession alone to be *sufficient to convict* a defendant, *id*. at 477 n.1 (quoting Minn. Stat. § 634.03), while the admissibility part of the statute requires *exclusion* of "confessions made under circumstances where the inducement to speak was such that it is doubtful that the confession was true." *Id*. at 484.

trustworthiness standard and argues that the plain language of the statute requires the State to present independent evidence that the specific offense charged was actually committed to corroborate a confession to each offense.

Although we have discussed the proper application of Minn. Stat. § 634.03 on a handful of occasions over the last 170 years, we have never specifically interpreted its language. *See, e.g.*, *In re Welfare of M.D.S.*, 345 N.W.2d 723, 736 (Minn. 1984) (concluding "the State has met its burden of producing corroborating evidence" without analyzing the language of Minn. Stat. § 634.03); *State v. Heiges*, 806 N.W.2d 1, 13–14 (Minn. 2011) (same); *State v. McLarne*, 150 N.W. 787, 789 (Minn. 1915) (concluding that "the evidence, apart from the admission of defendant" was "too attenuated to prove the corpus delicti"); *State v. Laliyer*, 4 Minn. 368, 375–78 (1860) (concluding that the statute requires evidence "outside of the defendant's confessions" to show that the charged offense was committed). We have generally explained that the statute serves two functions: "[I]t discourages coercively acquired confessions and requires that admissions and confessions from defendants are reliable." *Heiges*, 806 N.W.2d at 10; *see also M.D.S.*, 345 N.W.2d at 735 (describing the purposes of Minn. Stat. § 634.03); *State v. Azzone*, 135 N.W.2d 488, 493 (Minn. 1965) (same). To answer the questions presented in this case, however, we must now interpret the language in the statute and clarify the rule of law.

I.

Statutory interpretation is a question of law, which we review de novo. *State v. Jones*, 848 N.W.2d 528, 535 (Minn. 2014). Our analysis begins by considering whether the statutory language at issue is ambiguous. *Roberts v. State*, 945 N.W.2d 850, 853 (Minn.

2020). If the language of the statute is not ambiguous on its face, we abide by the plain language of the statute. *Id.* If, however, the language of the statute is ambiguous, meaning "it is subject to more than one reasonable interpretation," we use the applicable canons of construction to ascertain the statute's meaning and "resolve the ambiguity." *State v. Thonesavanh*, 904 N.W.2d 432, 435 (Minn. 2017) (citations omitted) (internal quotation marks omitted). Additionally, given the long history of the corpus delicti rule at common law, to understand the statute and the parties' arguments regarding how we have previously applied it, we may consider the historical backdrop of its enactment. *See State v. Anderson*, 666 N.W.2d 696, 698 (Minn. 2003) (interpreting Minnesota's codification of common law felony-murder by examination of its "historical context").

A.

The statute codifying the corpus delicti rule in Minnesota was originally enacted as a territorial statute in 1851 and remains largely unchanged.[7] The corpus delicti rule, which is Latin for "the body of the crime," has its roots in 17th century English common law. *State v. Dern*, 362 P.3d 566, 576 (Kan. 2015) (explaining the origins of the doctrine); David A. Moran, *In Defense of the Corpus Delicti Rule*, 64 Ohio St. L.J. 817, 826–27 (2003) (same). The rule generally requires the State to "introduce evidence independent of an extrajudicial confession to prove that the confessed crime actually occurred." *Allen v.*

[7] *Compare* Minn. Rev. Stat. (Terr.) ch. 132, § 240 (1851) (prohibiting conviction based on a confession "without proof that the offence charged has been committed"), *with* Minn. Gen. Stat. ch. 73, tit. XI, § 93 (1866) (prohibiting conviction based on a confession "without *evidence* that the offense charged has been committed" (emphasis added)), *and* Minn. Stat. § 634.03 (1941) (same).

Commonwealth, 752 S.E.2d 856, 859 (Va. 2014). It seeks to ensure the State "has established the occurrence of a crime before introducing the statements or confessions of the accused to demonstrate that the accused committed the crime." *Commonwealth v. Taylor*, 831 A.2d 587, 590 (Pa. 2003).

Most scholars attribute the foundation of the corpus delicti rule, at least in part, to a 1661 English decision called *Perrys' Case*. Moran, *supra* at 828; *see generally Perry's Case*, 14 How. St. Tr. 1312 (Eng. 1661). In that case, John Perry, after interrogation by English officials, confessed to murdering his master William Harrison. 14 How. St. Tr. at 1313–16. During the trial, the Crown presented Perry's confession as evidence of the murder but was unable to provide any other evidence to show that Perry committed the crime, and Harrison's body was never found. *Id.* at 1318–19. Perry was convicted and then executed based only on his confession.[8] *Id.* at 1319. A few years later, however, Harrison reappeared and explained that he had not been murdered but was instead kidnapped and sold into slavery. *Id.* at 1319–22. The execution of Perry and his family, all innocent people, led some English courts to require that convictions based on confessions be supported by some form of independent evidence. Moran, *supra* at 828−29.

In the United States, the corpus delicti rule was adopted and expanded upon. *See, e.g.*, *id.*; *Opper v. United States*, 348 U.S. 84, 89 (1954) (explaining that courts in the United States have "gone further in that direction than has the common law of England" in their version of the corpus delicti rule); *Isaacs v. United States*, 159 U.S. 487, 490 (1895)

[8] Perry's confession also implicated his mother and brother, who were also executed. *Id.*

(applying the corpus delicti rule in a murder case); *Allen*, 752 S.E.2d at 859 (explaining the adoption and application of the corpus delicti rule in Virginia); *Forde v. Commonwealth*, 57 Va. (16 Gratt.) 547, 550 (1864) (same); *Tucker v. State*, 59 So. 941, 941 (Fla. 1912) (applying the corpus delicti rule in an animal larceny case). Reasons for adoption of the rule included avoiding wrongful convictions, discouraging law enforcement from forcibly extracting involuntary confessions from defendants, and ensuring that confessions are reliable. *See, e.g.*, *Smith v. United States*, 348 U.S. 147, 153 (1954); *Dern*, 362 P.3d at 577; *People v. LaRosa*, 293 P.3d 567, 572 (Colo. 2013); *see also* 1 *McCormick on Evidence* § 145 (Robert P. Mosteller ed., 8th ed. 2020). As the Pennsylvania Supreme Court summarized, the traditional "grounds on which the rule rests are the hasty and unguarded character [that] is often attached to confessions and admissions and the consequent danger of a conviction where no crime has in fact been committed." *Taylor*, 831 A.2d at 590 (citation omitted) (internal quotation marks omitted). In this case, Holl contends that we should apply this traditional interpretation of corpus delicti and require a confession to be corroborated by independent evidence showing that the crime actually occurred.

In 1954, the United States Supreme Court rejected the traditional corpus delicti rule for federal crimes and adopted a new rule known as the trustworthiness standard. *See Opper*, 348 U.S. at 93; *Smith*, 348 U.S. at 156; *United States v. Calderon*, 348 U.S. 160, 163–64 (1954). In three cases decided on the same day, the Supreme Court decided that confessions no longer had to be corroborated by independent evidence, but instead the prosecution is required to produce "substantial independent evidence which would tend to establish the trustworthiness of the statement" or confession. *Opper*, 348 U.S. at 93; *see*

also Smith, 348 U.S. at 156; *Calderon*, 348 U.S. at 161, 168. For a confession to be sufficiently corroborated under the trustworthiness standard, "the essential facts admitted" must "justify a jury inference of their truth." *State v. Parker*, 337 S.E.2d 487, 493–94 (N.C. 1985). The trustworthiness standard differs from the traditional formulation of the corpus delicti rule by focusing on the content and context of the confession and the facts rather than simply looking to whether there is evidence, completely independent of the confession, showing that the crime was committed. *Id.* at 492 ("[T]he adequacy of corroborating proof is measured not by its tendency to establish the corpus delicti but by the extent to which it supports the trustworthiness of the admissions"). This trustworthiness standard is what the State would have us use to satisfy the corroboration requirement in Minn. Stat. § 634.03.

B.

Against this historical backdrop, we turn to the interpretation of Minn. Stat. § 634.03. On its face, we are unable to find ambiguity within the plain language of the statute. The statutory language, in line with the historic corpus delicti rule, plainly requires the State to present "evidence that the offense charged has been committed." Minn. Stat. § 634.03. There is no language within Minn. Stat. § 634.03 implicitly referring to the trustworthiness of the confession itself. We therefore reject the State's argument that the plain language of the statute somehow incorporates a trustworthiness standard into the corroboration requirement for confessions because that proposed interpretation is not reasonable.

We acknowledge, however, that our more recent precedent discussing Minn. Stat. § 634.03 has been unclear on this point. For example, in *State v. Lalli*, 338 N.W.2d 419, 420 (Minn. 1983), we clearly stated that "[t]he requirement that the *corpus delicti* be established by evidence independent of the confession is codified at Minn. Stat. § 634.03 (1982)." But a few months later, our *M.D.S.* decision introduced the Supreme Court's trustworthiness standard in concluding that the State introduced sufficient evidence in that case to satisfy Minn. Stat. § 634.03. In *M.D.S.*, the defendant confessed to and was convicted of felony murder, under an aiding and advising liability theory. 345 N.W.2d at 728–29. On appeal, she argued "that the State produced insufficient evidence to corroborate her own inculpatory statement." *Id.* at 735. After citing to Minn. Stat. § 634.03, we relied exclusively on the federal trustworthiness standard from *Smith* and *Opper* and stated, "not all or any of the elements" of a crime have "to be individually corroborated but could be sufficiently substantiated by independent evidence of attending facts or circumstances from which the jury may infer the trustworthiness of the confession." *Id.* (citation omitted) (internal quotation marks omitted).

Similarly, in *Heiges* the defendant confessed to and was convicted of murdering her newborn. 806 N.W.2d at 3–5. She argued on appeal that the State failed to produce sufficient evidence to satisfy the requirements of Minn. Stat. § 634.03. *Heiges*, 806 N.W.2d at 13. In affirming her conviction, we reiterated the standard set forth in *M.D.S.* that a confession can be corroborated by evidence tending to show the trustworthiness of the statement, such as evidence of attending facts or circumstances. *Id.*

The federal trustworthiness standard, however, is absent from the plain language of Minn. Stat. § 634.03. Thus, the implicit adoption of a trustworthiness standard in *M.D.S* and *Heiges* was done without any textual support in the statute.[9] During oral argument, the State suggested that we should nevertheless put a "gloss" on our interpretation of Minn. Stat. § 634.03 and follow our *M.D.S.* and *Heiges* decisions by formally adopting the trustworthiness standard. But we are not permitted to "rewrite a statute" or add additional

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[9] Despite the implicit adoption of the trustworthiness standard, the outcome of both *M.D.S.* and *Heiges* is consistent with the plain language of Minn. Stat. § 634.03. The juvenile defendant in *M.D.S.* confessed to and was convicted of murder, under an aiding and advising theory of liability, while committing felony damage to criminal property. 345 N.W.2d at 725. We concluded that the State produced independent evidence to show that the underlying crime had been committed and the defendant's involvement in it. *Id.* at 735–36. In evaluating whether the defendant's confession was sufficiently corroborated, we analyzed evidence that included testimony from numerous witnesses that she had directed the other defendants to the victim's house, she was the only one who knew its location, the bullets found at various crime scenes all three defendants had allegedly driven by were consistent with the defendant's description of the weapon, and the property damage to those places. *Id.* We ultimately concluded that the defendant was properly convicted of felony murder because the State "produce[d] enough evidence to identify [the] defendant and to bolster and substantiate her own admissions." *Id*. at 735. We did not uphold the defendant's conviction based on her confession alone nor did we rely solely on a determination of whether her confession was trustworthy. *Id.* Instead, we conducted a broader inquiry as is required under Minn. Stat. § 634.03. *Id.*

Similarly, in *Heiges*, we upheld a second-degree murder conviction because "[t]he State submitted *evidence independent* of Heiges's confessions" that sufficiently showed that Heiges had given birth, the newborn was alive at birth, and the newborn was then drowned. 806 N.W.2d at 13 (emphasis added). Our analysis in that case focused on the independent pieces of evidence presented by the State such as DNA evidence in the bathroom that could have belonged to Heiges, her boyfriend, or their baby; testimony from her boyfriend that he cleaned up blood from the bathroom after she told him "It's done"; and testimony from numerous witnesses tending to show that she had been pregnant. *Id.* at 13–14. Thus, although we discussed trustworthiness in these two cases, the outcome in both cases was consistent with the requirement in Minn. Stat. § 634.03 that confessions be corroborated by independent evidence reasonably tending to prove that the crime was committed.

statutory language. *Laase v. 2007 Chevrolet Tahoe*, 776 N.W.2d 431, 438 (Minn. 2009). To incorporate a trustworthiness standard into the statutory language of Minn. Stat. § 634.03 would require us to add words into the statute that do not exist.[10]

The State urges us to reject the historic corpus delicti corroboration rule in favor of a "trustworthiness" analysis. The State notes, as the Supreme Court did in *Smith*, that because the "foundation" of the corroboration rule—concerns about "untrue confessions"—imposes a "restriction on the power of the jury to convict," the application of the rule "should be scrutinized lest the restrictions it imposes surpass the dangers which gave rise to them." *Smith*, 348 U.S. at 153.

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[10] This decision is supported by our other applications of the corpus delicti rule where we remained steadfast to the statutory text of Minn. Stat. § 634.03 and found independent evidence to support a defendant's confession without discussion of its trustworthiness. For example, in *State v. Voss*, we looked for independent evidence that larceny had been committed to uphold the conviction for stealing six hogs to which the defendant had confessed. 255 N.W. 843, 845 (Minn. 1934) (relying on a decision addressing an earlier version of section 634.03, Minn. Gen. Stat. ch. 92 § 8462 (1913)). In *State v. Sellers*, we overturned a conviction for keeping ferrets without a permit because the State was unable to produce independent evidence to corroborate the defendant's confession. 507 N.W.2d 235, 236 (Minn. 1993). And in *State v. Koskela*, we affirmed a burglary conviction because the State produced independent evidence to corroborate the defendant's confession, including witness testimony and other "circumstances surrounding the offense." 536 N.W.2d 625, 629 (Minn. 1995); *see also McLarne*, 150 N.W. at 789 (concluding the evidence other than the defendant's conviction was "too attenuated" to uphold an arson conviction); *State v. Nordstrom*, 178 N.W. 164, 165 (Minn. 1920) (upholding a conviction for the illegal manufacture of alcohol because evidence independent of the confession was provided); *State v. Vaughn*, 361 N.W.2d 54, 56–57 (Minn. 1984) (affirming a conviction for transferring stolen property because there was evidence independent of the confession showing that the property was stolen, such as tags and labels still attached to clothing items); *State v. Glaze*, 452 N.W.2d 655, 659–60 (Minn. 1990) (relying on evidence independent of "numerous confessions" to uphold three murder convictions).

The State's position is grounded in policy concerns regarding the application of the corpus delicti rule. Courts adopting the federal trustworthiness standard in other states have based their decisions on the perceived weaknesses of the common law corpus delicti rule and its purportedly dated justifications. *Compare Opper*, 348 U.S. at 93, *and Smith*, 348 U.S. at 156, *with LaRosa*, 293 P.3d at 573–74, *and State v. Mauchley*, 67 P.3d 477, 483–85 (Utah 2003). According to these other state courts, the corpus delicti rule has inadequately served its "limited function" of protecting innocent people from the consequences of their false confessions—in particular, people who suffer from a mental disease or deficiency, those who lack fluency in the language in which they confess, and those who fail to comprehend the legal significance of their actions and words. *LaRosa*, 293 P.2d at 573; *Mauchley*, 67 P.3d at 483. The other state courts further assert that the corpus delicti rule does not actually protect innocent individuals from being wrongly convicted when they falsely confess to committing a crime committed by another. *Mauchley*, 67 P.3d at 483*; Parker,* 337 S.E.2d at 494 ("It does nothing, however, to ensure that the confessor is the guilty party."). Analysis of the rule, according to these courts, is limited to whether a crime occurred instead of whether a confession was true or false. *Mauchley*, 67 P.3d at 484. Additionally, the other state courts note that procedural safeguards such as the warning established by *Miranda v. Arizona*, 384 U.S. 436 (1966), render the historic corpus delicti rule redundant. *Mauchley*, 67 P.3d at 486–87; *Parker*, 337 S.E.2d at 494. Some of these courts have also denounced the corpus delicti rule as a " 'hard-and-fast rule[] . . . as likely to obstruct the punishment of the guilty as . . . to

safeguard the innocent.' " *State v. Lucas*, 152 A.2d 50, 57 (N.J. 1959) (quoting *McCormick on Evidence* 230 n.5 (1954)).

These latter concerns are particularly present when the charged crime lacks a tangible injury or when the victim is a vulnerable individual unable to testify, such as an infant, a young child, or someone with a mental disability. *LaRosa*, 293 P.3d at 574; *Mauchley*, 67 P.3d at 484. In *State v. Ray*, for example, the Washington Supreme Court relied on "nearly 100 years of well-settled case law" to reverse the conviction of a defendant who confessed to forcing his three-year-old daughter to fondle his penis on the grounds that the "facts in this case, independent of Defendant's confession, do not establish the corpus delicti of child molestation." 926 P.2d 904, 905, 907 (Wash. 1996). A concurring justice characterized the corpus delicti rule as "an anachronism that has outlived its usefulness" and noted that "in cases as the one before us, infanticide or child abuse by suffocation, where independent evidence of the crime may be virtually unattainable, it is contrary to the interests of justice to permit the corpus delicti rule to prevent the trier of fact from considering a confession." *Id.* at 908, 910 (Tallmadge, J., concurring).

We recognize that there are sound policy reasons both for and against interpreting Minn. Stat. § 634.03 to include a trustworthiness standard, but we are not the appropriate body to add language to a statute. The Minnesota Legislature adopted and codified the common law corpus delicti rule over a century ago and we must interpret it as written. *State v. Carson*, 902 N.W.2d 441, 446 (Minn. 2017) (explaining that public policy concerns "should be directed to the Legislature because we must read this state's laws as they are,

not as some argue they should be" (citation omitted) (internal quotation marks omitted)).[11] As mentioned previously, the court of appeals applied, in part, a trustworthiness analysis of the evidence independent of Holl's confession, in an attempt to synthesize section 634.03 with our *M.D.S.* and *Heiges* decisions. *Holl*, 949 N.W.2d at 470 ("[I]n our view, the evidence was insufficient to allow the jury to infer the *trustworthiness of Holl's confession* to the deer-scouting incident and reach a guilty verdict on this count." (emphasis added)). In that regard, the court of appeals erred.

We now hold that the plain language of Minn. Stat. § 634.03 requires the State to present evidence independent of a confession that reasonably tends to prove that the specific crime charged in the complaint actually occurred in order to sustain the defendant's conviction. *State v. Nordstrom*, 178 N.W. 164, 165 (Minn. 1920); *see also State v. Hansen*, 174 N.W.2d 697, 699 (Minn. 1970) (acknowledging that to satisfy section 634.03, "the evidence need only reasonably prove" that the crime was committed). Notably, "Minn. Stat. § 634.03 does not require that each element of the offense charged be individually corroborated." *Heiges*, 806 N.W.2d at 13. And circumstantial evidence can still be construed as sufficient independent evidence for corroboration. *Lalli*, 338 N.W.2d at 420.

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[11] While we have "the power to recognize and abolish common law doctrines," *Lake v. Wal-Mart Stores, Inc.*, 582 N.W.2d 231, 233 (Minn. 1998), this power does not extend to statutory provisions that codify the common law. Other jurisdictions that have adopted the trustworthiness standard operate under a common law version of the corpus delicti rule, whereas we are bound by the statutory language of Minn. Stat. § 634.03. *See LaRosa*, 293 P.3d at 577 (deciding to abandon a common law corpus delicti rule and replacing it with the trustworthiness standard); *People v. Mitchell*, 732 N.W.2d 534, 535–37 (Mich. 2007) (Markman, J. dissenting) (arguing that the Michigan Supreme Court should review its common law corpus delicti rule and consider adopting the trustworthiness standard).

For cases involving multiple offenses, however, the confession to each *charged offense* must be individually corroborated by independent evidence that the particular offense occurred.

II.

We now turn to the evidence presented by the State in this case and consider whether it sufficiently corroborates Holl's confession to the deer-scouting incident as charged by the State in count I. The parties disagree regarding the applicable standard of review. We have not adopted a definitive standard for reviewing the application of Minn. Stat. § 634.03. The State argues that we should use a deferential sufficiency of the evidence standard, but Holl advocates for using a de novo standard of review.

We agree with Holl. First, because the jury was never presented with an instruction related to the corroboration requirement in section 634.03 and therefore did not consider whether the evidence was sufficient to satisfy the statute, it would be inappropriate to defer to the jury under a sufficiency of the evidence standard. Second, conducting de novo review of the application of the statute is consistent with how we address questions of whether statutory requirements have been met. *See, e.g.*, *State v. Pakhnyuk*, 926 N.W.2d 914, 920 (Minn. 2019) (applying de novo review to a claim that challenged the sufficiency of the evidence that depended on the meaning of the statute); *In re Knops*, 536 N.W.2d 616, 620 (Minn. 1995) (stating that "whether evidence is sufficient to prove an overt act" as required by a statute "is a legal question and is subject to de novo review"). Thus, we review the application of Minn. Stat. § 634.03 to the facts of this case on a de novo basis.

In count I, the State charged Holl with second-degree criminal sexual conduct under Minn. Stat. § 609.343, subd. 1a(g). Specifically, the complaint alleged that Holl committed second-degree criminal sexual conduct "when the two were scouting for deer in Itasca County" and that C.D. held Holl's penis while he urinated. The description of the charged offense was based solely on Holl's confession during the police interview. Therefore, to meet the requirements of Minn. Stat. § 634.03 and convict Holl of the charge, the State needed to present evidence independent of that confession and reasonably tending to prove that Holl sexually assaulted C.D. "in [the] woods while deer scouting."

The State argues that it presented three pieces of independent evidence to sufficiently corroborate Holl's confession to the deer-scouting incident. First, the testimony given by C.D. regarding the other sexual assaults by Holl. Second, the testimony given by C.D. that Holl touched her sexually during "duck season." And third, the general lack of coercion surrounding Holl's confession. We address each in turn.

A.

The State's first argument is that Holl's confession to the deer-scouting incident is corroborated by his confession to other sexual assaults and C.D.'s testimony regarding multiple incidents of sexual abuse. According to the State, our *M.D.S.* decision established that a confession to other crimes is sufficient corroboration that a different confessed-to crime has occurred. Holl counters that just because other crimes occurred does not necessarily mean that the deer scouting incident occurred. According to Holl, the vivid details the victim provided about other occurrences of sexual abuse highlight the lack of corroboration surrounding the deer-scouting incident.

We reject the State's first argument. Evidence of other crimes is generally prohibited as substantive evidence to prove the defendant's character, though it can be used "for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident." Minn. R. Evid. 404(b)(2).[12] This evidence is typically insufficient to establish that another crime has been committed and we therefore hold that Minn. Stat. § 634.03's corroboration requirement cannot be fulfilled simply by introducing evidence of other offenses.

Moreover, having now expressly rejected the trustworthiness standard, we disagree with the State's application of our *M.D.S.* decision. In *M.D.S.*, we upheld a defendant's conviction based on a defendant's confession to the crime and independent evidence that showed the crime had been committed. 345 N.W.2d at 735–36. We highlighted evidence that other crimes had been committed on the same night as the murder, which corroborated the sequence of events surrounding the felony murder. *Id.* The case, however, involved a sequence of crimes over the course of one evening that resulted in a conviction for one crime. *Id.* at 726–28. In contrast, the State here has presented no evidence that the deer-scouting incident occurred on the same day as one of the other charges, nor is there any allegation that the other sexual assaults were part of a sequence of events involving the deer-scouting incident. There is a discernable difference between a series of offenses that occur within the course of one evening when there is independent evidence for each

[12] Notably, the State did not provide notice of its intent to offer *Spriegl* evidence under Rule 404(b)(2) regarding Holl's alleged participation in other uncharged or charged criminal sexual conduct involving C.D. to prove the deer-scouting incident. *See State v. Spriegl*, 139 N.W.2d 167, 169–73 (Minn. 1965).

individual offense, as compared to multiple offenses occurring over a series of years when no independent evidence supports one of the individual offenses. This distinction is especially true when a sequence of events in a single evening can provide temporal context for a confessed crime.

Holl further argues that vague accusations of other sexual assaults do not support the specific charge leveled against him. We agree and are not persuaded that C.D.'s general testimony about numerous sexual assaults is sufficient to corroborate Holl's confession to the deer-scouting incident. During trial, C.D. testified that she was assaulted multiple times and vividly described numerous sexual assaults. At no point, however, did she testify to anything resembling the specific and graphic facts Holl described when he confessed to the deer-scouting incident. Therefore, we reject the State's first argument that C.D.'s testimony describing other sexual assaults sufficiently corroborated Holl's confession to the deer-scouting incident.

B.

The State's second argument fares no better. The State asserts that the victim's testimony about sexual abuse during duck season corroborates Holl's confession to the deer-scouting incident because both situations involve hunting, and it is possible that the victim simply confused the details. Holl argues that C.D.'s testimony about the duck-season incident is separate and distinct from the deer-scouting incident to which he confessed.

At trial, C.D. testified about a sexual assault by Holl during duck season. According to C.D.'s testimony, the sexual assault happened inside of Holl's truck and Holl assaulted

her by digitally penetrating her vagina. By contrast, Holl confessed to sexually assaulting C.D. in the woods while scouting for deer by having C.D. hold his penis while he was urinating. Holl's confession and C.D.'s testimony differ in three major ways: the type of hunting, the specific location of the sexual assault, and the type of sexual assault. We are unable to reconcile these key factual differences, and therefore we hold that C.D.'s testimony to an assault while duck hunting is insufficient to corroborate Holl's confession to the deer-scouting incident.[13]

C.

Finally, the State argues that because Holl's confession was not coerced, it is sufficiently corroborated. Holl counters that a lack of coercion is irrelevant for determining whether there is "evidence that the offense charged has been committed." Minn. Stat. § 634.03. We agree with Holl.

As we previously noted, the plain language of Minn. Stat. § 634.03 expresses a bright-line rule adopted by the Legislature that a confession, standing alone, is not sufficient to support a conviction of a charged crime. A lack of coercion in obtaining a confession is not independent "evidence that the offense charged has been committed," as

[13] We are aware that duck season and deer season in Minnesota both take place in the fall. Duck season runs from late September to late November. *Waterfowl Hunting*, Minn. Dep't. of Nat. Resources, https://www.dnr.state.mn.us/hunting/waterfowl/index.html (last visited Nov. 9, 2021). Meanwhile, deer season occurs in November with exceptions for archers and children. *Deer Hunting*, Minn. Dep't of Nat. Resources, https://www.dnr.state.mn.us/hunting/deer/index.html (last visited Nov. 9, 2021). The overlap between these two seasons, however, is insufficient for us to conclude that C.D.'s testimony to the duck-season sexual penetration incident can corroborate Holl's confession to the deer-scouting sexual contact.

the plain language of the statute requires. Minn. Stat. § 643.03. While coercion could be relevant to the admissibility portion of Minn. Stat. § 634.03 as we explained in our recent case on that issue, *State v. McCoy*, 963 N.W.2d 472, 484 (Minn. 2021), our precedent provides no support for the State's argument that coercion is relevant to the sufficiency of a confession to support a conviction under the statute.[14] Accordingly, we reject the State's third argument.

Ultimately, we acknowledge the historic criticisms of the corpus delicti rule[15] and the specific acute criticism of the doctrine's application in cases like this, involving the proof of unwitnessed crimes against children. *See, e.g.*, *Ray*, 926 P.2d at 910 (Talmadge, J. dissenting) (highlighting the "serious impediment" the corpus delicti rule can cause when there are "youthful victims of crime who cannot give voice to the fact of the crime against

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[14] In making this argument, the State relies on language from *State v. Azzone*, which we cited to in *M.D.S* for the proposition that section 634.03 is meant to "discourage[] coercively acquired confessions and make[] the admission reliable." *M.D.S.*, 345 N.W.2d at 735; *see Azzone,* 135 N.W.2d at 493 ("One object of section 634.03 is to discourage invasions of the constitutional rights of accused persons to be free from undue pressure to confess exerted by law enforcement authorities."). However, in *McCoy*, we explained that this commentary in *Azzone* was dicta because it was not necessary to the ultimate holding of the case, which focused on interpreting Minn. Stat. § 634.04 (2020), requiring corroboration of accomplice testimony. *See McCoy*, 963 N.W.2d at 484. Additionally, the State's citation to *Heiges* for the proposition that the "trustworthiness of … [Holl's] confession" may be "bolstered by the circumstances surrounding that confession," including the lack of coercion, is a reiteration of the trustworthiness standard interpretation of section 634.03 which we have now expressly rejected.

[15] Legal scholars such as federal judges Learned Hand and Richard Posner have questioned whether the corpus delicti rule "has in fact any substantial necessity in justice," *Daeche v. United States*, 250 F. 566, 571 (2d Cir. 1918) (Hand, J.), and have commented that the rule was "[n]ever well adapted to its purpose . . . ." *United States v. Kerley*, 838 F.2d 932, 940 (7th Cir. 1988) (Posner, J.).

them"); *People v. McMahan*, 548 N.W.2d 199, 207 (Mich. 1996) (Boyle, J. dissenting) (decrying the "socially aberrant result[s]" that can occur under the traditional corpus delicti rule). While serious policy concerns exist regarding the application of the historic corpus delicti rule in cases involving children, it is not our job to rewrite statutes "under the guise of statutory interpretation." *Laase*, 776 N.W.2d at 438. Instead, "[i]t is our job . . . to interpret and apply criminal statutes as written." *State v. Hayes*, 826 N.W.2d 799, 805 n.1 (Minn. 2013). The "public policy concern should be directed to the Legislature because we must read this state's laws as they are, not as some argue they should be." *Axelberg v. Comm'r of Pub. Safety*, 848 N.W.2d 206, 212 (Minn. 2014) (citing *In re Estate of Karger,* 93 N.W.2d 137, 142 (Minn. 1958) ("What the law ought to be is for the legislature.")). Because the State decided to charge count I in the criminal complaint against Holl based on the specific details of the deer-scouting incident and then failed to present any independent evidence to corroborate Holl's confession to that particular incident, we agree with the court of appeals that Holl's conviction on count I must be vacated.

CONCLUSION

For the foregoing reasons, we affirm the decision of the court of appeals.

Affirmed.

C O N C U R E N C E

GILDEA, Chief Justice (concurring).

I agree with the majority's interpretation of Minn. Stat. § 634.03 (2020), in section I(B). I further agree with the application of that interpretation to the facts of this case in section II. But I write separately because the majority's historical analysis of the corpus delicti rule in section I(A) is unnecessary to the disposition of this case. As the majority notes, nothing in the plain text of section 634.03 could reasonably be read to create a trustworthiness exception to the statute's requirement that confessions be corroborated by independent evidence.

Because the plain text of the statute resolves this case, we need not—indeed, we *may* not—examine the historical circumstances under which the statute was adopted. *See* Minn. Stat. § 645.16 (2020) ("[T]he occasion and necessity of the law" and "the circumstances under which it was enacted" may be considered only "[w]hen the words of a law are not explicit."); *see also State v. Townsend*, 941 N.W.2d 108, 110 (Minn. 2020) ("If the statutory language is plain and unambiguous, we do not engage in any further construction.").[1]

For that reason, I agree that we should affirm the decision of the court of appeals, but I do not join section I(A) of the majority's decision.

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[1] To justify its discussion of section 634.03's historical context in the absence of textual ambiguity, the majority relies on *State v. Anderson*, 666 N.W.2d 696, 698–99 (Minn. 2003). There, we looked to the common law to interpret the statutory phrase "felony offense." We looked to the common law because that phrase carried a particular meaning at common law. The majority identifies no such statutory term of art here that requires resorting to a review of the historical background of the corpus delicti rule.