

IN THE COURT OF APPEALS OF IOWA

No. 22-0719
Filed March 6, 2024

STATE OF IOWA,
Plaintiff-Appellee,

vs.

FREDRICK WILLIAMS,
Defendant-Appellant.

Appeal from the Iowa District Court for Black Hawk County, David P. Odekirk, Judge.

The defendant appeals his convictions for first-degree murder and abuse of a corpse, raising evidentiary challenges and a challenge to the sufficiency of the evidence. **AFFIRMED.**

Elizabeth Araguás and Bryan Mugge of Nidey Erdahl Meier & Araguás, PLC, Cedar Rapids, for appellant.

Brenna Bird, Attorney General, and Bridget A. Chambers, Assistant Attorney General, for appellee.

Heard by Bower, C.J., Chicchelly, J., and Gamble, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2024).

GAMBLE, Senior Judge.

Fredrick Williams appeals his convictions for first degree murder, a class “A” felony, in violation of Iowa Code section 707.2(1)(a) (2018), and abuse of a corpse—mutilate, disfigure, dismember, a class “D” felony, in violation of section 708.14(1)(a). He argues that the district court improperly admitted hearsay evidence and evidence of prior-bad-acts and that the convictions were not supported by substantial evidence. Upon our review, we affirm.

I. Background Facts and Proceedings

From the evidence presented at trial, a jury could have found the following facts. Williams and his wife Lakisha Williams¹ married on Valentine’s Day 2017. The pair had a volatile relationship from the beginning. Prior to getting married, Lakisha began working at Grainger Industrial Services (Grainger) in April 2016; she worked 7:30 a.m. to 4:00 p.m., Tuesdays through Saturdays. At various times, Lakisha’s coworkers at Grainger observed a handprint and bruising on Lakisha’s neck and arms; a black eye; broken blood vessels in one of her eyes; and frequent, loud arguments on the phone with “Fred.” They also felt that she looked scared and upset and would wear sunglasses to cover up the broken blood vessels and black eye. Coworkers were so worried about Lakisha that they offered transfers to other offices and encouraged her to report the injuries to the employee assistance program. Lakisha did speak with Brendan Caffery, a security and loss prevention manager at Grainger, via phone on January 11, 2018, and Caffery

¹ We refer to Lakisha by her first name to prevent confusion.

noted that she sounded very upset and scared and was crying during the conversation.

Lakisha went missing on Saturday, January 20, 2018—less than a year into her marriage to Williams. That day, a coworker, Zuhra Hodzic, overheard Lakisha arguing on the phone with Williams. Another coworker described the conversation as pretty heated. Lakisha received seventy phone calls from Williams throughout the workday; she called him five times. They also exchanged fifty-one text messages. Lakisha finished her shift at Grainger around 4:00 p.m. and got into a taxi. The taxi took her to a pawn shop, Money and More, where she got out and went inside. Williams also drove to the pawn shop in his black Chrysler Pacifica SUV and followed Lakisha into the shop. The taxi drove away. After realizing that she left her purse in the taxi, Lakisha called the taxi company back and the dispatcher, Monika Bray, agreed to bring the purse back to Lakisha. Lakisha then crossed the street and went into a Casey's convenience store; Williams did the same. Security footage from the store showed Williams inside at 4:51 p.m. Bray arrived in a different taxi to return Lakisha's purse and gave Lakisha a ride back to her apartment. Lakisha was crying, and Bray thought she was scared. Bray could hear that Lakisha was being screamed and yelled at on the phone. Bray also saw a black truck following her.

Cell phone data was consistent with Lakisha being inside of her apartment from 5:08 p.m. onward. It also showed Williams's phone was also in the area of Lakisha's apartment at the same time. A neighbor, Jenny Ball, backed her car into Williams's black Pacifica around 7:00 p.m. that night and went to knock on the apartment door to tell Williams. Ball knocked at least three times and waited.

When Williams answered, he only opened the door a couple of inches, but Ball was able to see that the apartment was dark inside and that Williams's eyes were glazed over. Ball saw the black Pacifica parked in the same spot in the apartment building parking lot until early on the morning of Monday, January 22; it was gone by Monday evening. There were no phone calls between Lakisha and Williams on January 21 or 22; Williams sent one text message to Lakisha on January 21. However, between 12:13 p.m. and 1:57 p.m. on January 21, six outgoing calls were made from Lakisha's phone to banks and credit card companies. Cell phone data showed that Lakisha's phone remained in the same area through 3:40 p.m. on January 21. On the evening of January 21, Greg Brost was confronted by a heavysset Caucasian man with a gun while Brost was at a local cemetery, Garden of Memories. Brost described the man's vehicle as a black four-door sedan. There was another person in the vehicle. Brost's description of the gunman was similar to the brother of Williams's paramour with whom Williams was staying. Cell phone data was consistent with Williams being in the area of Garden of Memories at the same time. On January 23, Williams met with his parole officer, Dan Blaylock, and told Blaylock that he had not seen Lakisha in two days but did not seem concerned.

By Thursday, January 25, three people requested help locating Lakisha. First, after Lakisha did not report to work for an overtime shift on Monday, January 22, or her regular shift the next day, Caffery requested that the Waterloo Police Department perform a welfare check at Lakisha's apartment. Two Waterloo police officers, Ben Bloker and Rob Michael, checked the apartment the following day. Lakisha's mother, Peggy Owens, let the officers into the apartment. No one was home, and a neighbor told them that no one had been home since the

weekend. Owens noticed that the bed was made and the TV was on, which Owens found strange as Lakisha hardly ever made her bed. Then, on January 24, Owens and Lakisha's father, Fredrick Burnside, called the Waterloo Police Department to report Lakisha missing. The next day, Owens, Burnside, and Lakisha's aunt went in person to the Waterloo Police Department to ask for help finding Lakisha. No one had made any reports before then; Williams never reported Lakisha missing.

On January 25, three Waterloo Police Investigators interviewed Williams. At the interview, he said that on Saturday, January 20, he sent flowers to Lakisha at work. She kept texting him throughout the day, and he agreed to pick her up after work at 4:00 p.m. He asked that they get an annulment of their marriage, and Lakisha agreed. After work, however, Lakisha ordered a taxi and took the taxi to the pawn shop. She then went to the convenience store, where Williams thought that she was just wasting time until the courthouse closed for the day. After arriving back at Lakisha's apartment, Williams saw all of his belongings packed up in three bags. He took the bags and left. He came back around 3:00 a.m. and spoke with Ball. After a few minutes, Williams left; he never saw Lakisha again. When he sent her a text message on Sunday, January 21, she did not respond. Williams denied ever physically abusing Lakisha, stating explicitly that he never gave her a concussion. He insisted that Lakisha was in a psychiatric hospital rather than missing.

The next day, January 26, around 3:30 p.m. Waterloo Police learned that a body had been found at Garden of Memories wrapped in bedding and a white plastic trash bag with a black pull tie; the wrists and one ankle of the decedent were wrapped in blue painter's tape. The bedding included a black and white

Aztec-print comforter, black polka dot fitted sheet, and a multicolor polka dot fleece blanket. The body had been badly burned, and the ground and brush around the body was also burned. The body was identified as Lakisha's, and an autopsy revealed a bruise inside her mouth and findings indicating strangulation and blunt force injuries to her face and head; the medical examiner determined that the cause of death was asphyxia. Police searched Williams's paramour's apartment and located a white Glad flexsteel trash bag with a black drawstring as well as a gas container in the garage that contained some gasoline and was missing a cap..

The officers also searched Lakisha's apartment. In Lakisha's apartment they found blue painter's tape, white Glad flexsteel trash bags with black pull ties, and the same black and white Aztec print comforter, black polka dot fitted sheet, and multicolor polka dot fleece blanket as found with Lakisha's body. Police also found a white Glad flexsteel trash bag among Williams's things at his paramour's apartment. According to cell phone data, Williams's cell phone was around the cemetery around 8:24 p.m. on January 21; Williams traveled there around 7:45 p.m. and left around 8:34 p.m. This was about the time Brost observed a black four-door vehicle at the cemetery.

By 9:51 p.m. on January 26, cell phone data placed Williams's cell phone just north of Rochester, Minnesota. Sometime in the early morning hours on January 27, Williams's cell phone stopped transmitting data because it was dead or turned off. Around 3:50 a.m. on January 27, St. Paul Police Officers impounded Williams's black Pacifica; it was parked in front of Williams's sister's residence in St. Paul, Minnesota. A search of the vehicle returned nothing of relevance. Around 6:30 p.m. on January 27, St. Paul Police performed a traffic stop of a different

vehicle that Williams was riding in. After discovering that Williams had an outstanding felony warrant and was currently on probation, officers took him into custody.

On January 28, Waterloo Police Investigators traveled to St. Paul to interview Williams. When the investigators interviewed Williams, he provided a story that was at odds with the reports from Lakisha's coworkers and neighbors and the cell phone data. According to Williams, his sister asked him to come to St. Paul because she was having a get-together that weekend; he arrived on Friday evening. He did not know that Lakisha was missing at that time; he only knew that her mom was concerned about her. Williams was not worried because he often went days without hearing from her; he assumed she was in the psychiatric ward. When the investigators asked about the local cemetery, Williams insisted he did not know what the cemetery had to do with Lakisha.

The State charged Williams via trial information with first-degree murder and abuse of a corpse. Prior to trial, Williams filed a motion in limine, requesting an order excluding evidence of prior bad acts, in particular any witness testimony "about allegations of prior bad acts that were relayed by the decedent to them." He also requested an order excluding the same testimony, asserting it was hearsay. Williams filed a supplemental motion in limine, arguing that "[a]ny testimony of alleged prior bad acts of the defendant based on alleged statements of the decedent are inadmissible hearsay." At the hearing on the motion, Williams conceded that "there is stuff in there . . . where they might talk about her demeanor or they might talk about things that they physically saw or that they physically heard or overheard. There are things that may not qualify as hearsay because they're

not offered for the truth of the matter asserted” The district court ruled on the motions, granting Williams’s requests in part and denying them in part by ruling that testimony based on statements of others was excluded but testimony based on statements by Lakisha or the witness’s personal observations was not.

The case came to a jury trial. At trial Williams objected to the following seven pieces of testimony as hearsay evidence and prior-bad-act evidence:

(1) Owens testified that she saw a cut on top of Lakisha’s head and that Lakisha told her Williams “had hit her in the head with a crowbar.” On cross-examination, Owens testified that she only saw a picture of the head injury in a Facebook post that her sister showed her and that her sister told her Lakisha said that Fred hit her with a crowbar.

(2) Christine Peters, a customer-experience supervisor at Grainger, testified that Lakisha told her that she once woke up with a gun in her face and another time was hit in the back of the head and had a bad headache; Peters also testified that Lakisha told her that Williams caused the broken blood vessel in her eye.

(3) Caffery testified that Williams was verbally abusive towards Lakisha and that Lakisha had told him about verbal abuse that occurred during the January 11 phone call.

(4) Hodzic testified that when she heard Lakisha on the phone with Williams on January 20, she heard Williams “using the B word, the W word, you’re cheating on me, you’re using me and I mean, it was screaming. Everybody could hear it.”

(5) Alexis Limon, another Grainger employee, testified that Lakisha would fight on the phone with Williams and that Lakisha had gotten into a fight with Williams and he had held a gun to her head and threatened to kill her.

(6) Jeanne Wood, a human resource manager at Grainger, testified that Williams had tried to strangle Lakisha once and held a gun to her head twice.

(7) Debra Baker, another Grainger employee, testified that Lakisha told her that her head hurt, that she thought she might have a concussion, and that Williams had hit her in the head pretty hard.

Baker also testified, without objection, that Lakisha told her that her husband held a gun to her head. And Williams did not object to Bray's testimony of her observations of Lakisha seeming scared and answering phone calls from Williams or Williams following Bray back to Lakisha's apartment on January 20.

At the close of the State's evidence, Williams moved for a judgment of acquittal, and the district court denied the motion. The jury found Williams guilty as charged. Williams moved for a new trial, arguing that the verdicts were based on improper hearsay and character evidence. The district court denied the motion in April and sentenced Williams to life imprisonment without the possibility of parole on the first-degree-murder conviction and five years of imprisonment on the abuse-of-a-corpse conviction. The district court ordered the sentences to run consecutively. Williams appeals.

II. Discussion

Williams raises two arguments on appeal. First, he challenges some of the district court's evidentiary rulings, asserting that the district court admitted improper hearsay and character evidence. Second, he argues that there is not sufficient evidence to support the verdicts.

A. Evidentiary Challenges

We begin with Williams's evidentiary challenges.² We generally review evidentiary rulings, such as a challenge to evidence of prior bad acts, for an abuse of discretion. *Powers v. State*, 911 N.W.2d 774, 780 (Iowa 2018). "An abuse of discretion occurs when the trial court exercises its discretion 'on grounds or for reasons clearly untenable or to an extent clearly unreasonable.'" *State v. Rodriquez*, 636 N.W.2d 234, 239 (Iowa 2001) (citation omitted). However, "[w]e review evidentiary rulings on hearsay for errors at law." *State v. Skahill*, 966 N.W.2d 1, 8 (Iowa 2021).

Williams asserts that the district court admitted improper character evidence and hearsay, which necessitates a new trial. Specifically, Williams alleges that the testimony by Owens, Peters, Caffery, Hodzic, Limon, and Wood was impermissible character evidence established by hearsay. Because the district court has no discretion to admit hearsay evidence not subject to any exception, see *State v. Veverka*, 938 N.W.2d 197, 202 (Iowa 2020), we begin with a hearsay analysis, then turn to the prior bad acts, and return to a harmless error analysis regarding hearsay to conclude.

1. *Hearsay*. First, Williams asserts that the seven pieces of evidence are hearsay and thus the court had no discretion to admit them. Hearsay is an out-of-

² The State argues that Williams failed to preserve error for our review because he did not identify the specific evidence that he challenges and the portion of the transcript where it can be found. See Iowa R. App. P. 6.903(2)(g)(1) ("Each division [of the appellant's brief] shall include . . . [a] statement addressing how the issue was preserved for appellate review, with references to the places in the record where the issue was raised and decided."). We elect to bypass the error-preservation challenge and address the merits.

court statement offered “into evidence to prove the truth of the matter asserted in the statement.” Iowa R. Evid. 5.801(c); see also *State v. Dullard*, 668 N.W.2d 585, 589–90 (Iowa 2003) (stating a statement is not hearsay if it is not offered to prove the truth of the matter asserted). A statement can be an oral or written assertion or even nonverbal conduct if intended as an assertion.³ Iowa R. Evid. 5.801(a). Hearsay is not admissible unless an exception applies. See Iowa R. Evid. 5.802. And any hearsay that the district court improperly admits is presumed to be prejudicial unless the substantial rights of the defendant were not affected. *State v. Sullivan*, 679 N.W.2d 19, 29 (Iowa 2004). However, we need not consider whether a hearsay exception applies when evidence “is not offered to show the truth of the matter asserted” because then it is not hearsay. *State v. Plain*, 898 N.W.2d 801, 812 (Iowa 2017).

Some of the evidence that Williams challenges is not hearsay. The statements by Hodzic about the overheard phone calls involving screaming and yelling are not hearsay because they were not offered for the truth of the statements made in the phone calls. *State v. Newell*, 710 N.W.2d 6, 18 (Iowa 2006) (finding that evidence that a witness heard raised voice is not hearsay). The statements by Caffrey and Wood that Lakisha was afraid are likewise not hearsay as they describe non-assertive conduct. *Id.* (finding that evidence of a witness appearing scared, nervous, or stressed was not hearsay because it “did not contain any out-of-court statements admitted for the truth of the matter asserted,

³ Nonverbal conduct amounts to a statement when it conveys information; for example, if someone acts out prior events to explain what happened to them, that amounts to a nonverbal assertion or statement. See *State v. Dessinger*, 958 N.W.2d 590, 599 (Iowa 2021).

only evidence of the witnesses' observations"). In addition, Bray's observations of Lakisha appearing scared and being screamed at and hearing yelling on the phone and Caffery hearing Lakisha crying while he talked to her on the phone are not hearsay as they are nonverbal conduct not intended as an assertion. Finally, any direct observations of injuries to Lakisha—including those by Owens, Limon, and Baker—are not hearsay as those direct observations are not out-of-court statements. See Iowa R. Evid. 5.602 (stating that a witness may testify to a matter of which the witness has personal knowledge).

Some of the additional challenged evidence is admissible under an exception to the rule against hearsay for statements of a then-existing mental, emotional, or physical condition. See Iowa R. Evid. 5.803(3). Under Iowa Rule of Evidence 5.803(3), hearsay statements are admissible to show "the declarant's then-existing state of mind (such as motive, intent, or plan) or emotional, sensory, or physical condition (such as mental feeling, pain, or bodily health)" These statements are relevant to demonstrate Williams's motivation for killing Lakisha as "a murder victim's statements falling within the state of mind exception to the hearsay rule are highly relevant to show the status of the victim's relationship to the defendant." *State v. Thompson*, 982 N.W.2d 116, 121 (Iowa 2022) (citation omitted); accord *State v. Richards*, 809 N.W.2d 80, 95 (Iowa 2012). Furthermore, they are relevant to demonstrate Lakisha's mental feelings and pain. Each of the remaining pieces of evidence relate to Lakisha's description of the threats and injuries to her by Williams. They described her emotional or physical condition at the time, including her descriptions of a bad headache and broken blood vessels. In this way, although hearsay, they fall underneath the exception for then-existing

mental, emotional, or physical condition, and the district court did not err in admitting them.

Williams asserts that certain statements by Owens, Peters, and Baker attributing Lakisha's injuries to him are hearsay not subject to any exception. We agree that the portions of their testimony attributing Lakisha's injuries to Williams were offered to prove some of Williams's prior bad acts and were inadmissible hearsay. See *State v. Wilson*, No. 10-0727, 2011 WL 1584719, at *6 (Iowa Ct. App. Apr. 27, 2011) (finding that only evidence of the victim's state of mind and demeanor were admissible under the then-existing mental, emotional, or physical condition exception); *Newell*, 710 N.W.2d at 19 ("The most troublesome hearsay statements erroneously admitted are Gillen's assertions that a large bruise on her head was caused by being head-butted by the defendant."). Of all the evidence establishing Williams's prior bad acts, the statements of Owens, Peters, and Baker attributing Lakisha's injuries to him should not have been admitted.

2. Prior Bad Acts. Second, Williams claims the State used evidence of his prior-bad-acts to prove propensity, and thus that evidence was inadmissible. Iowa Rule of Evidence 5.404(b)(1)⁴ prohibits the use of "[e]vidence of a crime, wrong, or other act . . . to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character." However, "[t]his evidence may be admissible for another purpose such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or

⁴ We quote rule 5.404(b) as it was phrased at the time of trial. Since that time, the rule has been amended and rephrased.

lack of accident.” Iowa R. Evid. 5.404(b)(2). To determine whether the evidence should be admitted, we follow a three-step test:

- (1) “the evidence must be relevant and material to a *legitimate* issue in the case other than a general propensity to commit wrongful acts”;
- (2) “there must be clear proof the individual against whom the evidence is offered committed the bad act or crime”; and
- (3) “if the first two prongs are satisfied, the court must then decide if [the evidence’s] probative value is substantially outweighed by the danger of unfair prejudice to the defendant.”

State v. Richards, 879 N.W.2d 140, 145 (Iowa 2016) (alteration in original) (quoting *Sullivan*, 679 N.W.2d at 25).

The State contends the challenged evidence was relevant to prove an essential element of murder in the first degree, i.e., specific intent to kill. Indeed, evidence of prior acts of violence towards a spouse are relevant to demonstrate motive and intent. *State v. Taylor*, 689 N.W.2d 116, 128 (Iowa 2006). More specifically, “the defendant’s prior conduct directed to the victim of a crime, whether loving or violent, reveals the emotional relationship between the defendant and the victim and is highly probative of the defendant’s probable motivation and intent in subsequent situations.” *Id.* at 125; *accord id.* (“The most obvious example of the legitimate use of prior-bad-acts evidence is the admission of evidence of a defendant’s prior assaults of a victim in a prosecution of the defendant for the subsequent murder of the victim.”). The jury instructions related the same rationale. At the same time, although motive and intent are valid noncharacter theories of admissibility, “the State may only utilize other acts evidence to prove intent if intent is legitimately disputed.” *Richards*, 879 N.W.2d at 148; *see also* Iowa R. Evid. 5.402 (“Irrelevant evidence is not admissible.”).

Here, Williams placed his intent at issue by claiming in his police interview that he only was with Lakisha on January 20 and in her apartment that evening to ask for an annulment. *Richards*, 879 N.W.2d 146 (finding that when the defendant's claim was that he only wanted to talk to his wife but he was charged with domestic abuse assault, intent was at issue); accord *Taylor*, 689 N.W.2d at 127 (finding that "[e]vidence reflecting the nature of the relationship between the defendant and the victim would be crucial to a fact finder resolving the inconsistencies"). His claimed reason for being with her conflicted with the intent required for the first-degree murder conviction, therefore making intent a legitimate issue. In addition, the State charged Williams with first-degree murder and the lesser-included charges of second-degree murder, voluntary manslaughter, and involuntary manslaughter. Each of those charges required proof of an essential element of intent, and for that reason the type of intent was at issue. See *Newell*, 710 N.W.2d at 21 (finding that prior-bad-acts evidence was relevant and admissible to prove malice aforethought); accord *Richards*, 809 N.W.2d at 93–94. Thus, because intent was at issue at trial, the first step is fulfilled.

Next, regarding clear proof offered by the State, "it is not required that the prior act be established beyond a reasonable doubt, nor is corroboration necessary; instead, all that is required is sufficient proof to prevent the jury from engaging in speculation or drawing inferences based on mere suspicion." *State v. Goodson*, 958 N.W.2d 791, 800 (Iowa 2021) (cleaned up) (citation omitted). Testimony by a credible witness can satisfy the requirement of sufficient proof. *Rodriguez*, 636 N.W.2d at 243. Here, the State offered testimony by eyewitnesses who described their own observations of bruising, a black eye, broken blood

vessels, and attempted concealment of the injuries by Lakisha. They also related their impressions that she was scared, worried, and crying when speaking with or about Williams, and in that way offered more than mere suspicion. For these reasons, the second step is also fulfilled. Even without any reference to the testimony of Owens, Peters, and Baker there was clear proof of prior bad acts.

Lastly, if the court determines prior-bad-acts evidence “is relevant to a legitimate factual issue in dispute, the court must then decide if its probative value is *substantially* outweighed by the danger of unfair prejudice to the defendant.” *Taylor*, 689 N.W.2d at 124 (quoting *Sullivan*, 679 N.W.2d at 25). “Unfair prejudice arises when the evidence would cause the jury to base its decision on something other than the proven facts and applicable law, such as sympathy for one party or a desire to punish a party.” *Id.* In other words, unfair prejudice means that a decision is made on an *improper* basis. *Rodriquez*, 636 N.W.2d at 240. Regarding the evidence’s probative value, we look to “the need for the evidence in light of the issues and the other evidence available to the prosecution, . . . the strength or weakness of the evidence on the relevant issue, and the degree to which the fact finder will be prompted to decide the case on an improper basis.” *Taylor*, 689 N.W.2d at 124. On this step, Williams insists that this evidence permitted the jury to determine guilt based on propensity, and therefore, the last step is not fulfilled. We disagree. The State offered the evidence to establish Williams’s motivation and intent to kill Lakisha.

And the State also offered evidence of bruising and asphyxiation in the autopsy of Lakisha’s body and a connection between the death and the eventual burning of the corpse in order to conceal the bruising and marks demonstrating

strangulation. Evidence of broken blood vessels in Lakisha's eye, bruising on her neck, and frequent, loud, and confrontational phone calls between Lakisha and Williams demonstrate Williams's intent. It also rebuts his claim that his intent was merely requesting an annulment on January 20. See *State v. Ernst*, 954 N.W.2d 50, 56–57 (Iowa 2021) (finding inference of guilt from defendant's false story). Furthermore, because Williams challenged his intent to kill Lakisha, the probative value of prior bad acts evidence was strong. For these reasons, we conclude the probative value of the evidence of prior bad acts on the issue of intent is not substantially outweighed by the danger of unfair prejudice or proof that Williams had a bad character or propensity for violence. Lastly, we note that the jury was given a cautionary instruction that they were only able to use the prior-bad-acts evidence "for another purpose such as proving the defendant . . . had the intent or motive to injure Lakisha Williams" and such an instruction mitigated against unfair prejudice to Williams. See *Plain*, 898 N.W.2d at 815. Accordingly, we find the district court did not abuse its discretion in admitting the evidence.

3. *Harmless Error*. Finally, returning to the hearsay analysis for the few statements we find should have been excluded, the admission of hearsay does not warrant reversal and remand for a new trial when other admissible evidence overwhelmingly establishes guilt. Iowa R. Evid. 5.103(a) ("A party may claim error in a ruling to admit or exclude evidence only if the error affects a substantial right of the party"); *Newell*, 710 N.W.2d at 20; see also *Richards*, 879 N.W.2d at 145 (holding even if the district court abused its discretion in admitting prior-bad-acts evidence, reversal will not be warranted if the error was harmless.).

Williams asserts and we agree that the portions of the testimony of Owens, Peters, and Baker attributing Lakisha's injuries to Williams were offered to prove some of Williams's prior bad acts and were inadmissible hearsay. See *Newell*, 710 N.W.2d at 19. But we find the admission of these statements was harmless as other evidence already established essentially the same facts. *State v. Griffin*, No. 22-0472, 2024 WL 111684, at *9 (Iowa Ct. App. Jan. 10, 2024) (“[T]he erroneously admitted hearsay will not be considered prejudicial if substantially the same evidence is properly in the record.” (quoting *Newell*, 710 N.W.2d at 19)); Iowa R. Evid. 5.103(a)(1)(A) (“A party may claim error in a ruling to admit or exclude evidence only if the error affects a substantial right of the party and [the party] [t]imely objects or moves to strike”). Eyewitnesses testified to their own non-hearsay observations of Lakisha's injuries and her emotions when she talked with or about Williams. And Baker's testimony, without objection, that Lakisha told her she woke up with a gun to her head was cumulative of Peters's testimony.

Likewise, admissible evidence overwhelmingly established Williams's guilt. See *Newell*, 710 N.W.2d at 19 (“[N]o prejudice will be found where the evidence in support of the defendant's guilt is overwhelming.”). Through testimony by Bray, the jury learned that Williams had yelled at Lakisha, followed her, and that Lakisha appeared very scared of him. See *Thompson*, 982 N.W.2d at 123 (finding that the challenged testimony “was interwoven with admissible direct evidence demonstrating the nature of their relationship” and therefore any error was harmless); accord *Richards*, 809 N.W.2d at 95 (finding that any error was harmless as “there was plenty of non-hearsay evidence” that the defendant abused the victim). Testimony by Grainger employees related their direct observations of

Lakisha looking scared and upset, wearing sunglasses to conceal broken blood vessels in her eye, a handprint and bruising on her neck and arms, and the overheard frequent, loud, and confrontational phone calls between Lakisha and Williams. Williams did not object to this evidence, and it established essentially the same facts as the testimony by Owens, Peters, and Baker. Williams also did not object to other evidence establishing his guilt including the descriptions of the matching bedding in Lakisha's apartment and on her body, the white Glad flexsteel trash bags with black ties in both Lakisha's apartment and his paramour's, the cell phone data demonstrating that his phone was in the area of Garden of Memories cemetery on January 21 as was a black four-door vehicle similar to his Chrysler Pacifica, Ball's testimony that Williams was in Lakisha's apartment on January 20 and his eyes appeared glazed over, and his travel to Minnesota on the day that police discovered Lakisha's body.

Viewing the record as a whole, we are convinced the few hearsay statements that were improperly admitted over a proper objection did not affect Williams's substantial rights. The error was harmless. *See State v. Krogman*, 998 N.W.2d 141, 155 (Iowa 2023). For these reasons, we find that Williams's evidentiary objections do not warrant a new trial.

B. Sufficiency of the Evidence

Next, Williams challenges the sufficiency of the evidence supporting the guilty verdicts. We review the sufficiency of the evidence supporting convictions for correction of errors at law. *State v. Crawford*, 974 N.W.2d 510, 515 (Iowa 2022). We affirm when the verdict is supported by substantial evidence, meaning "the quantum and quality of evidence is sufficient to 'convince a rational fact finder

that the defendant is guilty beyond a reasonable doubt.” *State v. Banes*, 910 N.W.2d 634, 637 (Iowa Ct. App. 2018) (citation omitted). In conducting our review, we consider the evidence in the light most favorable to the verdict, including all reasonable inferences that may be fairly drawn from the evidence. *Id.* However, “[e]vidence is not insubstantial merely because we may draw different conclusions from it; the ultimate question is whether it supports the finding actually made, not whether the evidence would support a different finding.” *State v. Lacey*, 968 N.W.2d 792, 800–01 (Iowa 2021) (citation omitted). We do not “resolve conflicts in the evidence, to pass upon the credibility of witnesses, to determine the plausibility of explanations, or to weigh the evidence; such matters are for the jury.” *State v. Brimmer*, 983 N.W.2d 247, 256 (Iowa 2022) (citation omitted).

Jury instructions become the law of the case for purposes of reviewing the sufficiency of evidence on appeal when not objected to at trial. *Banes*, 910 N.W.2d at 639. There were no objections to any of the jury instructions made, and, here, the jury instructions for first-degree murder required the State to prove:

1. Between the dates of January 20, 2018 and January 26, 2018 the defendant deprived Lakisha . . . of oxygen.
2. Lakisha . . . died as a result of the deprivation of oxygen.
3. The defendant acted with malice aforethought.
4. The defendant acted willfully, deliberately, premeditatedly and with a specific intent to kill Lakisha

Williams maintains that the State failed to prove that he was the person that killed Lakisha because without the prior-bad-acts and hearsay evidence, the evidence against Williams is sparse and even with that evidence, the evidence was not substantial.

The jury instructions for abuse of a corpse required the State to prove:

1. Between the dates of January 20, 2018 and January 26, 2018, the defendant did:
 - a. mutilate, disfigure, or dismember the corpse of Lakisha . . . ; or
 - b. hide or bury the corpse of Lakisha
2. Said act was done with the specific intent to conceal a crime.

On this point, Williams argues that, because the State failed to present substantial evidence that he killed Lakisha, the State also failed to offer substantial evidence that he abused her corpse.

However, for both convictions Williams seems to argue that because there was no direct evidence in the form of DNA evidence on the body or in Williams's car or eyewitness testimony of Williams killing Lakisha, there was not sufficient evidence to support either conviction. But direct and circumstantial evidence are equally probative. *Ernst*, 954 N.W.2d at 57; Iowa R. App. P. 6.904(3)(p). And the State presented the jury with overwhelming evidence of Williams's guilt.

The jury heard supporting a finding that Williams followed Lakisha to Money and More, Casey's, and back to her apartment; Lakisha seemed scared and was declining to answer Williams's constant phone calls during that time. Ball testified that she saw Williams in the apartment that evening and that his black Pacifica was parked outside and did not move until two days later. When police searched the apartment, they found blue painter's tape, the same bedding as they would eventually recover from Lakisha's body, and the same white Glad flexsteel trash bags with black drawstrings as wrapped around the bedding; police also found gasoline and a white Glad flexsteel trash bag with a black drawstring at Williams's paramour's apartment. The jury also heard of the abrupt change in frequency of phone communication between Williams and Lakisha—from seventy phone calls

on the last day Lakisha was seen to no phone calls the next; there was also a drop from fifty-one text messages on January 20 to only one text message sent on January 21. Cell phone data placed Williams's phone in the area of Lakisha's apartment through Monday, January 22 and in the area of Garden of Memories cemetery on that Monday evening. It also pointed towards Minnesota, where police eventually arrested Williams for violating probation and an outstanding felony warrant. Williams was the last person seen with Lakisha before her body was discovered.

Finally, the jury could have considered Williams's inconsistent stories as evidence supporting his convictions. See *State v. Cox*, 500 N.W.2d 23, 25 (Iowa 1993) ("A false story told by a defendant to explain or deny a material fact against him is by itself an indication of guilt and the false story is relevant to show that the defendant fabricated evidence to aid his defense."); *State v. Smith*, No. 07-1406, 2008 WL 3916768, at *3 (Iowa Ct. App. Aug. 27, 2008) ("A defendant's inconsistent statements are probative circumstantial evidence from which the jury may infer guilt."). It also could have factored in Williams's travel to Minnesota as evidence of his guilt. See *State v. Wilson*, 878 N.W.2d 203, 211 (Iowa 2016) ("It is well-settled law that the act of avoiding law enforcement after a crime has been committed may constitute circumstantial evidence of consciousness of guilt that is probative of guilt itself."). Here, Williams's timeline for speaking with Ball is different than Ball reported. Williams also insisted that Lakisha was at a psychiatric hospital rather than missing, even though Williams did not call any hospitals and police found no evidence she was ever in a psychiatric ward. The jury also may have considered that while Williams nearly ceased communicating with Lakisha,

he never reported her missing to law enforcement and seemed unconcerned to Officer Blaylock. Finally, Brost testified a man fitting the description of the brother of Williams's paramour pointed a gun at him at the cemetery where Lakisha's hidden and burned corpse was later found. There was another person in the black four-door vehicle, and cell phone data established Williams's phone was in the area at the time. Even without eyewitness testimony or DNA evidence recovered from the body or the black Pacifica, we find that substantial evidence supports both of Williams's convictions.

III. Conclusion

Other than the harmless error noted above, we conclude the challenged statements are either non-hearsay or fall under the exception to the rule against hearsay for then-existing mental, emotional, or physical conditions. The district court did not abuse its discretion in admitting evidence of prior bad acts. And because we find substantial evidence supports both convictions, we affirm.

AFFIRMED.