

**IN THE COURT OF APPEALS OF IOWA**

No. 2-1069 / 12-0315  
Filed February 13, 2013

**STATE OF IOWA,**  
Plaintiff-Appellee,

**vs.**

**SHAMAUR LEE SIMS,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Polk County, Robert A. Hutchison (severance) and Richard G. Blane II (trial), Judges.

Defendant appeals his convictions for second-degree robbery and willful injury causing bodily injury. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Patricia Reynolds, Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Sharon K. Hall, Assistant Attorney General, John P. Sarcone, County Attorney, Jaki L. Livingston and Michael Salvner, Assistant County Attorneys, for appellee.

Heard by Eisenhauer, C.J., and Danilson and Bower, JJ.

**EISENHAUER, C.J.**

Following a jury trial, Shamaur Sims was convicted of robbery in the second degree (Kevin Stanford) and willful injury causing bodily injury (Alvaro Larios). Sims argues the evidence is insufficient to support his willful injury conviction and the district court abused its discretion in denying his motions to sever the charges and to transfer jurisdiction to the juvenile court. Sims also contends the court abused its discretion in admitting into evidence Sims's statements about prior robberies over defense counsel's relevancy objections and trial counsel rendered ineffective assistance in not objecting to the prior crimes evidence on the basis its probative value was substantially outweighed by the danger of unfair prejudice. We affirm.

**I. Background Facts and Proceedings.**

In the early afternoon of September 6, 2010, Kevin Stanford and his girlfriend, Shawn Fagen, walked to a Des Moines convenience store to buy cigarettes. Stanford used a \$100 bill and received \$86 in change. The store's surveillance video shows Sims in the store and Sims's friend, Shaquille Scheuermann, standing next to Stanford at the register. Stanford and Fagen walked back to their nearby apartment building and up an inside stairway. Scheuermann and Sims also walked up the stairway, and Scheuermann grabbed Fagen's purse, ran down the stairs, and exited the building.

Sims punched Stanford and knocked him down on a concrete landing area between the apartment floors. Stanford thought Sims was trying to knock him out and steal his money, so he kept one hand in his pocket and held onto the

money. Fagen saw Sims reach into his pocket and grab something, but neither Fagen nor Stanford saw what Sims had in his hand. Stanford believed Sims “had brass knuckles on or a roll of quarters in his hand” and estimated Sims hit him ten to fifteen times. Sims’s assault on Stanford ended when another apartment resident opened a door and Sims ran away. Stanford suffered cuts to his face, head, and hands along with bleeding and bruising. A partial shoe print in blood was later determined to be consistent with the tread pattern of Sims’s tennis shoes.

Around 8:00 p.m. the same day, the police were dispatched to investigate an assault on Alvaro Larios, who had a bleeding wound on the top of his head. After speaking with Larios, Officer Swagler drove to the 1800 block of Arlington to look for a rock or a brick with blood on it and a case of Corona beer taken from Larios, but he found neither.

A few days later, Sims agreed to be interviewed by Detective Frentress. Sims first stated Scheuermann told Sims he knew where they could get some money, they arrived at the Stanford/Fagen apartment building, Scheuermann grabbed the woman’s purse, and they both left. Upon further questioning, Sims changed his story and admitted he punched Stanford several times, allegedly because he wanted to keep Stanford from chasing Scheuermann. Finally, Sims admitted his intent was to knock out Stanford and take his money, but Sims denied using brass knuckles. Detective Frentress testified Stanford’s injuries were consistent with the use of brass knuckles.

During a second interview with Detective Frentress, Sims wrote short apology notes to Stanford and Fagen. Sims told Fagen it was a “dumb idea to snatch your belongings,” and “[y]ou guys didn’t do anything to us. We were being a couple of jerks.” Sims told Stanford it was my “and my partner’s fault and we deserve what happens to us.” Further: “I hope your wounds heal soon.”

Detective Frentress also questioned Sims about the Larios assault/robbery. Sims eventually admitted being present with Scheuermann and another person, Terrance.

Sims was charged with two counts of first-degree robbery. At Sims’s January 2012 jury trial, Detective Frentress detailed Sims’s interview statements concerning the Larios assault:

Q. After you reviewed the [Larios police incident report] and saw the physical description of the suspects . . . did you think of Mr. Sims and Mr. Scheuermann? A. Yes, I did.

Q. So, first Mr. Sims tells you that he’s not involved . . . he doesn’t know anything about it, right? A. Yes.

Q. And then you get that [Larios incident] report out in front of him, and you start challenging him with the facts in that report; right? A. Yes.

Q. What does Mr. Sims do after you describe the people involved in that robbery? A. He admits that he’s involved in the robbery.

. . . .

Q. Did Mr. Sims tell you what happened . . . ? A. Briefly, says that they meet an individual. I make the statement to him that, you know they used a brick. He said, no, it was a rock. I asked him if they’d got anything from [Larios]. I think [Sims] states, no, they did not.

I think their intent was to get some beers from the individual. The individual was carrying a box of Coronas or some beer.

. . . .

Q. And he told you the purpose for the attack was to take beer from [Larios]? A. I don’t know if that was his actual words. [Larios] had beer . . . . And [Sims] says: If I remember correctly, I think they did not get any beer from him.

....  
Q. But that was the purpose, they were going to try to take some [beer] from him? A. I don't think he really stated his purpose. So I can't say what his actual purpose was.

....  
Q. Then once you start confronting him with the evidence from [the Larios] case, all of a sudden he's there; right? A. Yes. Then he does admit his involvement in it.

Q. [Sims] makes it very clear that actually the officers have got it wrong; it wasn't a brick, it was a rock that [Terrance] used; right? A. Yes.

....  
Q. So he never admits that he did anything to [Larios] with a rock; isn't that correct? A. Correct.

Against the advice of counsel, and after being informed the State would seek to introduce evidence of other crimes if Sims "tries to say that the intent of that group confronting Mr. Larios was not for the intent to take property from him," Sims elected to testify. Sims admitted to having a felony conviction involving dishonesty. Sims testified he and Scheuermann were cutting grass on September 6, 2010, and they stopped at the convenience store. Sims was outside the store talking on his phone when Scheuermann told him he knew where they could make some money. Sims thought Scheuermann meant they would be cutting more grass. At the Stanford/Fagen apartment building, Scheuermann mentioned looking for "Mike" to see about work. While Sims was walking up the stairs, he passed Stanford and Fagen, and then Sims heard Fagen say "there's no money in there." Sims looked back and thought Stanford looked mad. Stanford was going down the stairs, and Sims thought Stanford was going to chase after Scheuermann. Sims hit Stanford to keep him from hurting Scheuermann. When Stanford struck back at Sims, Sims became so mad that he "kind of like black[ed] out" and swung hard at Stanford, knocking him

down. During cross-examination, Sims acknowledged he did not mention “blacking out” at any point during his interview with Detective Frentress. Sims also stated, “By that time [Stanford] said that he was going to call the cops. I was already leaving out the door.” Sims denied having anything in his hands during his fight with Stanford. Sims testified he “didn’t even know a robbery was going to happen” and he thought Scheuermann was looking for mowing jobs or other work. Further, when Sims hit Stanford it was not his intent to cause him a serious injury.

Sims also testified to playing basketball with Scheuermann and Terrance several hours after the Stanford incident. Terrance was upset over losing the basketball game. As Sims and Scheuermann walked to Scheuermann’s house, they encountered Larios dinking and talking with friends. Terrance took out his anger over the basketball game on Larios and began arguing with him before picking up a rock and throwing it at Larios. When this happened, Sims turned around and walked home. Sims testified he had no idea Larios was going to be robbed; rather, Sims was in the wrong place at the wrong time. Sims stated he did not know who took the beer.

After Sims’s direct testimony and before the State’s cross-examination, the State argued Sims’s testimony addressed intent and sought to “question Sims in regards to his statements regarding other robberies he was involved in with these kids.” The State asserted such evidence is permissible to show intent as well as absence of mistake or accident. Defense counsel argued the evidence should be excluded under Iowa Rule of Evidence 5.404 because it was

not relevant to motive, opportunity, preparation, plan, or other concepts. The State responded:

Now the story is that [Sims] was unaware that Mr. Larios was going to be assaulted at all. I think that the jury has not been given a clear picture about what [Sims] has admitted to and what was actually going on, and [Sims] has opened the door for me to clarify what the situation is.

These robberies were going on all summer long . . . . He knows what happens or what is going to happen because he's actively participated in them in the past.

So for [Sims] to say that it wasn't about stealing anything from Mr. Larios and that it wasn't his intent to steal money . . . from Kevin Stanford or Shawn Fagen . . . it's not consistent with what [Sims] has admitted to in his interviews and his prior actions regarding the style of robberies throughout the summer.

The district court advised defense counsel to object as needed and ruled:

There's no question that Mr. Sims's testimony, even though he did not directly deny intent, that with his testimony as to both of these incidents that he was—he leaves the impression that he was simply at the wrong place at the wrong time, and he's definitely opened the door.

[Rule] 5.404(b) allows the State to present evidence that would refute that as far as intent and lack of mistake and [Sims] has certainly put these in issue by his testimony.

We discussed it thoroughly. And this case is as strong a case as I have seen or been involved with that now allows the State to go into those issues not only in cross-examination but in rebuttal testimony.

I have limited amount. I have to rely on [the prosecutor] only to go into issues that he can prove or things that were stated by Mr. Sims in his earlier statements . . . . But also anything that the investigation shows that this was simply a series of events.

And [the State is] going to have to show that these were similar events but also with similar people . . . .

On cross-examination, Sims admitted being with Scheuermann and other friends in August 2010, when a Hispanic man was assaulted outside the Asian Food store. Sims admitted participating in this assault by kicking the victim in the

head but claimed no knowledge of a robbery of the victim. He said he later learned the victim's injuries resulted in the victim being in a vegetative state.

During the State's rebuttal, Detective Frentress described Sims's interview admissions regarding his involvement in other robberies during the summer months:

Q. When you spoke with Mr. Sims on September 10, 2010, did you ask him any specific questions about other robberies that he had been involved with? A. I did. I phrased the question something along the lines of, "You've been involved in other things; what else have you been involved in?" At that time he gave me an answer.

....

A. This was a case that there was no follow-up done because we couldn't find a victim. This was an Asian male . . . . [W]e were unable to locate a victim or anything linking [Sims] to it other than his own admission in my interview.

It was [Sims], a guy named Chris Lamay, Shaquille Scheuermann was with him. I don't recall any of the other names

....

Q. What did Mr. Sims tell you happened to this Asian man?

....

A. . . . I know it was along the lines that the individual was hit, I think a cellphone was maybe taken . . . .

Q. Did Mr. Sims go into detail about any other robberies besides this Asian male you weren't able to identify? A. I had asked him questions about an involvement where I had a case with a Hispanic male who was left unconscious outside the Asian Food Mart. We confronted him about that.

....

[Sims] went into great detail about it was him, Shaquille Scheuermann, Jerray Scott, [Jermaine] Ware . . . Kevin Scott . . . were involved in that assault.

Q. So is it fair to say that Mr. Sims went through a couple different fact patterns in detail about how certain robberies were executed? A. Yes. They generally stemmed around money. Some of them, as in the first robbery we talked about here today [Stanford/Fagen] with [Scheuermann] making the comment, I know where we can get some money, [Sims] makes the statement with the Hispanic male that was left unconscious that Kevin Scott said, I need some money. So they all went as a group back to this Hispanic male.



Q. Did you ever ask a question of Mr. Sims how often he was involved in robberies like this? A. I had asked what his involvement was, how many of these was he doing. He never came out and said specifically how many of these robberies he was doing.

I said, "Is it one a month? One every couple weeks? One a week?" and after I said one a week, he said, "Yeah, that's about right."

Q. So [Sims] believed it was about once a week that he was involved in one of these types of robberies? A. I can't say specifically . . . but it was something along the lines to one to maybe one every two weeks, somewhere within there that he had guesstimated that they were doing these robberies.

Q. Detective Frentress, did Mr. Sims give you any information about any robberies that he wasn't involved in? A. No.

Sims appeals his convictions for robbery in the second degree (Kevin Stanford) and willful injury causing bodily injury (Alvaro Larios).

## **II. Sufficiency of Evidence—Willful Injury Causing Bodily Injury.**

The jury was instructed:

The State must prove all of the following elements of Willful Injury Causing Bodily Injury:

1. On or about the 6th day of September, 2010, the Defendant individually, or someone he aided and abetted, assaulted Alvaro Larios.

2. The Defendant individually, or someone he aided and abetted, specifically intended to cause a bodily injury to Alvaro Larios.

3. The Defendant individually, or someone he aided and abetted, caused a bodily injury to Alvaro Larios.

The crime charged requires a specific intent. Therefore, before you can find the Defendant "aided and abetted" the commission of the crime, the State must prove the Defendant either had such intent or "aided and abetted" with the knowledge the others who directly committed the crime had such specific intent. If the defendant did not have the specific intent or knowledge the others had such specific intent, he is not guilty by aiding and abetting.

Sims challenges the State's proof he assaulted or aided and abetted Terrance in assaulting Larios. Sims argues the evidence shows only he was present for the assault but had no prior knowledge of any plan.<sup>1</sup>

We review challenges to the sufficiency of the evidence to support a conviction for corrections of errors at law. *State v. Williams*, 695 N.W.2d 23, 27 (Iowa 2005). The jury's verdict is binding upon a reviewing court unless there is an absence of substantial evidence in the record to sustain it. *Fenske v. State*, 592 N.W.2d 333, 343 (Iowa 1999). Substantial evidence is evidence upon which a rational finder of fact could find a defendant guilty beyond a reasonable doubt. *State v. Rohm*, 609 N.W.2d 504, 509 (Iowa 2000). "[W]e view the evidence in the light most favorable to the State, including legitimate inferences and presumptions which may fairly and reasonably be deduced from the evidence in the record." *State v. Leckington*, 713 N.W.2d 208, 213 (Iowa 2006). In ruling on sufficiency challenges, we do not resolve conflicts in the evidence, assess the credibility of witnesses, or weigh evidence. *State v. Nitcher*, 720 N.W.2d 547, 559 (Iowa 2006). Additionally, the jury is "free to reject certain evidence and credit other evidence." *Id.* at 556.

In reaching our conclusion, we review the events of the entire day. Sims admitted to Detective Frentress that in the afternoon of September 6, after

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<sup>1</sup> We find no merit to Sims's claim the district court used the wrong standard in its denial of Sims's motion for judgment of acquittal. In moving for a directed verdict, defense counsel argued the State failed to make a "prima facie" case for first-degree robbery because Larios did not testify and Sims, in his admissions, "did say that he was present [during the Larios assault] but only that he was merely present and nothing beyond that." The court detailed the State's evidence supporting the elements of the charge and concluded by repeating defense counsel's terminology. Sims does not argue how the court's language differs from the substantial evidence standard.

Scheuermann snatched the purse, Sims assaulted Stanford with the intent of taking Stanford's money. Sims's apology letter refers to his "partner," Scheuermann. The assault on Larios occurred early in the evening of the same day with Sims and Scheuermann both present. During his interview, Sims mentioned "the intent" was to get beer from Larios, but Sims did not tell Detective Frentress his actual purpose. A reasonable juror could reject Sims's claim Terrance was angry over a basketball game and the assault on Larios was unexpected. "[R]esolving conflicts in the evidence is for the jury and the jury could believe all, some, or none of the testimony." *State v. Forsyth*, 547 N.W.2d 833, 836 (Iowa Ct. App. 1996). Accordingly, substantial evidence supports Sims's conviction for willful injury causing bodily injury.

### **III. Severance of Charges.**

Sims argues the district court erred in denying his motion to sever the two counts, and the court's denial was unfairly prejudicial to him. Iowa law permits multiple charges arising from multiple transactions or occurrences constituting parts of a "common scheme or plan" to be prosecuted in a single trial unless the trial court determines otherwise for good cause shown. Iowa R. Crim. P. 2.6(1) (multiple offenses). Sims argues the record does not show a common scheme or plan or show the acts were the result of a single or continuing motive.

Our review of a district court's refusal to sever multiple charges against a single defendant is for abuse of discretion. *State v. Elston*, 735 N.W.2d 196, 198 (Iowa 2007). To be successful, Sims must prove his "interest in severance was

greater than the State's interest in judicial economy." *State v. Hajtic*, 724 N.W.2d 449, 457 (Iowa 2006).

Factors developed to aid our analysis of the existence of a "common scheme or plan" include modus operandi, continuing motive, and temporal and geographic proximity. *State v. Lam*, 391 N.W.2d 245, 249-50 (Iowa 1986). Scheuermann's theft of Fagen's purse and Sims's contemporaneous assault on Stanford were motivated by the desire to obtain cash. Later that *same day*, Sims and Scheuermann were together when Terrance struck Larios in the head in order to obtain beer. In both incidents, Sims and his companions were on foot when the victims they randomly encountered were assaulted during attempts to obtain property. We conclude the circumstances surrounding the two charges were linked by a common motive or scheme.

Additionally, Sims has not proven he was prejudiced by the consolidated trial. The district court instructed the jury to determine Sims's guilt or innocence separately on each first-degree robbery count.<sup>2</sup> See *State v. Simpson*, 438 N.W.2d 20, 21 (Iowa Ct. App. 1989) (stating the jury is presumed to follow its instructions and cautionary instructions are usually sufficient to remove danger of prejudice). The jury's verdict, finding Sims guilty of *different* lesser-included offenses, demonstrates the jury followed the instructions and compartmentalized

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<sup>2</sup> Instruction No. 5 states:

The Defendant has been charged in two counts. This is just a method for bringing each of the charges to trial. If you find the Defendant guilty or not guilty on one of the two counts, you are not to conclude the Defendant is guilty or not guilty on the other count. You must determine whether the Defendant is guilty or not guilty separately on each count.

the evidence presented. We conclude the trial court did not abuse its discretion in refusing to separate the charges for trial.

#### **IV. Other Crimes Evidence.**

Sims argues the district court erred in allowing evidence of prior assaults and robberies.

##### **A. Relevance.**

Sims asserts this evidence was not relevant to show his intent. Our rules of evidence provide:

Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that the person acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

Iowa R. Evid. 5.404(b). The goal of the rule is “to exclude evidence that serves no purpose except to show the defendant is a bad person, from which the jury is likely to infer he or she committed the crime in question.” *State v. Rodriguez*, 636 N.W.2d 234, 239 (Iowa 2001). Therefore, such evidence is admissible when it is relevant to a legitimate issue other than a general propensity to commit wrongful acts. *State v. Cox*, 781 N.W.2d 757, 761 (Iowa 2010).

“We review a district court’s evidentiary rulings regarding the admission of prior bad acts for abuse of discretion.” *Id.* at 760. “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.’” *Id.* (quoting *Rodriguez*, 636 N.W.2d at 239).

We conclude the challenged evidence is relevant to establish Sims's intent and lack of mistake during the Stanford and Larios robberies. During Sims's direct testimony he claimed to have no knowledge of Scheuermann's plan to rob Fagen or Stanford and also claimed he assaulted Stanford in defense of Scheuermann. Similarly, as to the Larios assault, Sims denied knowledge, participation, and intent to steal. The district court did not abuse its discretion in ruling the State should be allowed to question Sims about his admitted presence and involvement in similar robberies with Scheuermann in which random victims were assaulted and money/property was taken. Such evidence is relevant to rebut Sims's testimony he was simply in the wrong place at the wrong time *twice* on September 6, 2010.

**B. Ineffective Assistance of Counsel.**

Sims also argues trial counsel provided ineffective assistance in failing to object to the other crimes evidence on the grounds the probative value of the evidence was substantially outweighed by the danger of unfair prejudice. Noting the court did not engage in an analysis regarding probative value versus unfair prejudice, Sims argues his testimony he kicked "a man in the head, whom ended up in a vegetative state was highly dramatic and prejudicial." Sims asserts this evidence likely persuaded the jury inappropriately to find he had the intent to commit a theft regarding Stanford and was involved in the assault against Larios. Sims seeks a new trial.

"Ineffective-assistance-of-counsel claims have their basis in the Sixth Amendment to the United States Constitution." *State v. Vance*, 790 N.W.2d 775,

785 (Iowa 2010). We review de novo. *Nguyen v. State*, 707 N.W.2d 317, 323 (Iowa 2005). To prevail, Sims must prove by a preponderance of the evidence his trial attorney failed to perform an essential duty and this failure resulted in prejudice. *State v. Straw*, 709 N.W.2d 128, 133 (Iowa 2006). Courts always have the option to decide the claim on the prejudice prong without deciding whether the attorney performed deficiently. *State v. Maxwell*, 743 N.W.2d 185, 196 (Iowa 2008). We believe the record is adequate to resolve the issue. See *State v. Truesdell*, 679 N.W.2d 611, 616 (Iowa 2004).

Under our rules, relevant evidence should be excluded if its probative value is substantially outweighed by the danger of unfair prejudice. *State v. Taylor*, 689 N.W.2d 116, 124 (Iowa 2004). The factors to be considered in the district court's balancing process are "the need for the evidence in light of the issues and other evidence available," whether there is clear proof, "the strength or weakness of the evidence on the relevant issue," and the degree to which the jury "will be prompted to decide the case on an improper basis." *Id.*

To successfully prove he was prejudiced by counsel's breach of duty, Sims must demonstrate "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Strickland v. Washington*, 466 U.S. 668, 694 (1984). The governing question is "whether there is a reasonable probability that, absent the errors, the fact finder would have had a reasonable doubt respecting guilt." *Id.* at 695. Where the evidence of guilt is overwhelming, we will find no prejudice. See *id.* at 696; *State*

*v. Carey*, 709 N.W.2d 547, 559 (Iowa 2006) (stating the “most important factor under the test for prejudice is the strength of the State’s case”).

Regarding Stanford, we conclude Sims cannot establish counsel’s failure to object resulted in *Strickland* prejudice. Fagen and Stanford testified Scheuermann grabbed Fagen’s purse and ran off with it while Sims repeatedly hit Stanford in the head even after knocking him down. Sims admitted to Detective Frentress that his intent was to knock out Stanford and take his money. Sims also wrote apology letters to both Fagen and Stanford implying his knowing participation in the robbery plan with his “partner,” Scheuermann. The State’s case against Sims was overwhelming. Accordingly, the exclusion of the prior crimes evidence would not reasonably have changed the outcome. It is not reasonably probable a more specific objection from defense counsel to exclude the prior crimes evidence would have resulted in a different verdict.

Regarding Larios, we likewise conclude Sims cannot establish counsel’s failure to object resulted in *Strickland* prejudice. While the victim did not testify, a picture of his head injury was submitted to the jury. Sims specified a rock was used after Detective Frentress stated, “a rock or brick.” Sims’s admitted participation in the prior assaults is similar to his admission to assaulting Stanford, which was on the same day as the Larios assault. With the exception of the serious injury evidence, the remaining evidence was not detailed or of the type that would likely elicit an emotional response from the jury. The fact the other crimes evidence consisted of admissions by Sims convincingly established the prior crimes or acts were committed by Sims.



Additionally, the jury's rejection of the Larios alternative, more-serious charges of first-degree robbery, second-degree robbery, and willful injury causing serious injury, leads to the conclusion the evidence of the Asian Food store victim's very serious injury did not elicit an emotional response from the jury as it considered the evidence of the Larios assault. Finally, the court instructed the jury<sup>3</sup> on the limited use of the other crimes evidence, and we recognize limiting instructions may help nullify the danger of prejudice. *State v. Delaney*, 526 N.W.2d 170, 176 (Iowa Ct. App. 1994).

Accordingly, Sims has not shown the probability of a different result sufficient to undermine our confidence in the outcome. See *Maxwell*, 743 N.W.2d at 196. Sims has failed to prove his ineffective-assistance-of-counsel claim.

#### **V. Transfer to Juvenile Court.**

As a child age sixteen or older charged with a forcible felony, Sims is subject to the jurisdiction of adult court "unless the court transfers jurisdiction of the child to the juvenile court upon motion and for good cause." See Iowa Code

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<sup>3</sup> Instruction No. 15 stated:

Evidence has been received concerning other wrongful acts alleged to have been committed by the Defendant. The Defendant is not on trial for those acts.

This evidence must be shown by clear proof, and can only be used to show intent, absence of mistake or accident, or common scheme.

If you find the other wrongful acts (1) occurred; (2) were so closely connected in time; and (3) were committed in the same or similar manner as the crime charged, so as to form a reasonable connection between them, then and only then may such other wrongful acts be considered for the purpose of establishing intent, absence of mistake or accident, or common scheme.

§ 232.8(1)(c) (2009). Sims bears the burden of showing good cause. See *State v. Neitzel*, 801 N.W.2d 612, 618 (Iowa Ct. App. 2011).

Sims's motion to transfer involved the Stanford and Larios first-degree robbery charges and charges of attempted murder, first-degree robbery, and willful injury causing serious injury in the Asian Food store assault. Sims argues the court erred in failing to transfer jurisdiction and asserts "the nature and the circumstances of the offense were mitigated by the involvement of others," and Sims's juvenile probation officer "considered Sims a moderate risk at the time of the hearing." We review for abuse of discretion. *Id.*

In ruling on a motion to transfer to juvenile court, the district court considers, among other factors: "(1) the nature and circumstances of the act; (2) the child's prior involvement with juvenile authorities and response to past rehabilitation efforts; and (3) the programs and facilities available for rehabilitation and treatment in the adult and juvenile courts." *Id.*

Sims's probation officer testified Sims was working within his second juvenile deferral program at the time the five charged felonies occurred. Further:

My determination . . . not to support the waiver is [based on] the seriousness of the charges. We're looking at two counts of robbery, first . . . . And this potentially—in my mind, this potentially represented serious harm to someone in the community.

Then the fact that even more serious charges at that point in time had been filed and alleged one month prior suggests to me that it's a pattern of criminal thinking and behavior rather than an isolated event.

. . . .

It also appears that the victims [were] chosen randomly rather than some extenuating circumstances that had been going on. And then strong consideration for me was given to what was the best, what was appropriate, for [Sims] given the potential length of time juvenile court would have jurisdiction.

The allegations . . . represent, again, criminal thinking and behaviors and most likely the presence of attitudes, values, and skill deficits that would be difficult to remedy in the length of time [juvenile court services] has, which could be less than two years at best . . . .

The district court noted the “juvenile court has previously utilized a variety of resources to rehabilitate [Sims] without success.” Further, Sims’s conduct, despite the prior services, “has escalated in severity and frequency” indicating any additional services “would have to be more intense and for a significantly longer time frame.” The court ruled Sims, at age sixteen years and eight months, would “age-out of juvenile court jurisdiction before rehabilitative services are likely to be effective. The best interests of [Sims] and the community/public are served by retaining jurisdiction in the district court.”

We conclude the district court considered the appropriate factors and did not abuse its discretion in denying Sims’s motion to transfer to juvenile court.

**AFFIRMED.**