

**IN THE COURT OF APPEALS OF IOWA**

No. 3-707 / 12-1086  
Filed August 21, 2013

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

**vs.**

**MATTHEW JOSEPH ELLIOTT,**  
Defendant-Appellant.

---

Appeal from the Iowa District Court for Polk County, Richard G. Blane II,  
Judge.

Matthew Elliott appeals his convictions of willful injury causing serious  
injury and child endangerment causing death following a jury trial. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Robert P. Ranschau,  
Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Thomas S. Tauber, Assistant Attorney  
General, John P. Sarcone, County Attorney, and Nan M. Horvat, Assistant  
County Attorney, for appellee.

Considered by Vogel, P.J., and Doyle and Danilson, JJ. Tabor, J. takes  
no part.

**DOYLE, J.**

On the morning of January 21, 2008, seven-month-old Alexis Gilbert was rushed to the hospital by ambulance following a 911 call. She was examined by a pediatric emergency room physician. Alexis was unresponsive and had significant head trauma. She died shortly thereafter.

Matthew Elliott was later arrested and charged with first-degree murder and child endangerment resulting in death in connection with Alexis's death. Following a jury trial, Elliott was convicted of the lesser-included offense of willful injury causing serious injury and child endangerment resulting in death. In December 2011, the Iowa Supreme Court reversed his conviction and remanded for a new trial. See *State v. Elliott*, 806 N.W.2d 660, 663-75 (Iowa 2011). After a retrial by jury in April 2012, Elliott was again convicted of willful injury causing serious injury and child endangerment resulting in death.

Elliott now appeals. He contends the district court erred in: (1) not allowing into evidence testimony regarding a prior investigation concerning State witnesses in the case; (2) finding his two prior convictions for failing to comply with the sex offender registry requirements were crimes of dishonesty and falsity and therefore admissible under Iowa Rule of Criminal Procedure 5.609(a)(2); and (3) denying his motion for judgment of acquittal. Upon our review, we affirm.

***I. Background Facts and Proceedings.***

In its 2011 opinion reversing Elliott's initial conviction, the Iowa Supreme Court set forth the following background facts, which were again established in Elliott's retrial; we recite those facts here for purposes of judicial economy:

On June 5, 2007, sixteen-year-old Kristina Gilbert gave birth to Alexis Gilbert. Kristina is one of five children born to Jean Christensen. Kristina's brothers and sisters are Alyssa Gilbert, Matthew Gilbert [(hereinafter "Matthew")], Cody Gilbert, and Benjamin (Ben) Christensen. At the time of [the first] trial in January 2009, Matthew was twenty years old, and Ben, the youngest, was eight.

Shortly after Alexis's birth, John Hill and Matthew Elliott [(hereinafter "Elliott")] moved in with Jean, Kristina, Ben, and Alexis at their home in Urbandale. Hill was a friend of the family who had previously lived with Jean, and Elliott was a friend of Hill. Although Jean did not know Elliott, she allowed him to move in because she trusted Hill. Both Elliott and Hill were away without permission from the Fort Des Moines Residential Facility when they started living with Jean and the kids.

In September 2007, Jean, Kristina, Ben, Alexis, and Elliott moved to 513 Eighth Street in West Des Moines. Jean secured the home through the West Des Moines Transitional Housing Program. Although the program stipulated only family members could live in the residence, Jean allowed Elliott to move into the home. Ben split his time living at his father's house and Jean's house. In early to mid-January 2008, Jean's eldest son, Matthew, also moved into the house. From this point on, Jean, Kristina, Matthew, Alexis, Ben, and Elliott all lived in the home.

Jean made it clear to the family and Elliott that Elliott was to leave the premises when the transitional housing inspector made his monthly inspections. Moreover, Elliott left the premises anytime an authority figure, such as the pediatric nurse, came to the home.

Elliott was unemployed while he resided at Jean's, and it became custom and practice for him to help around the house. In particular, Elliott helped care for Alexis. He performed most aspects of childcare, including feeding and changing Alexis. It was common for Alexis to sleep with Elliott on the living room couch. However, Alexis also slept with other family members from time to time.

On the morning of January 21, an ambulance took Alexis from the house on Eighth Street to the hospital. Emergency room pediatrician Dr. Steven Dawson treated Alexis upon her arrival. Alexis presented completely comatose and had significant swelling on her head, particularly the right side. Dr. Dawson described Alexis's head injury as the worst skull fracture he had ever seen in an infant. He further opined that Alexis's head had been [struck] with or against something flat. Alexis died that morning from her injuries.

Police immediately began an official investigation into the cause of Alexis's death. In her statement to police that morning,

Kristina claimed Alexis went to bed with her the night before Alexis's death. She claimed that Alexis was fine when she went to sleep and that she found Alexis in her injured condition when she awoke the next morning. She denied having any knowledge as to how Alexis sustained her injuries.

Kristina told this version of the events to a number of people on the morning of January 21, starting with Dr. Dawson at the hospital. She also relayed this version to Susan McManigal, a Department of Human Services [(DHS)] social worker; West Des Moines police detectives, Thomas Boyd and Paul Castelline; Michelle Mauro of the Polk County Medical Examiner's Office; and West Des Moines paramedics, Joy Woodward-Drake and David Dhabalt. In her bedroom, Kristina also reenacted her version of the events for Mauro, Detective Castelline, and Dr. Gregory Schmunk, the Polk County Medical Examiner. She explained not only that Alexis had slept with her in bed, but with the help of a doll, she also demonstrated how they had slept.

Kristina's brother, Matthew, told police he went to bed around 2:00 a.m. and that, prior to going to bed, he saw Alexis in the living room with Kristina. He related this story four different times. Specifically, West Des Moines police officer Matthew McCarty testified that Matthew told him he saw Kristina with Alexis at 2:00 a.m. on January 21. Matthew gave the same statement to Mauro, Detective Castelline, and McManigal.

Police also interviewed Kristina's mother, Jean, that morning. Jean's initial statement indicated that before she left the house at 5:15 a.m. she heard baby noises coming from Kristina's upstairs bedroom.

During these morning interviews, Kristina, Matthew, and Jean did not mention Elliott or that he was staying in the home at the time Alexis suffered her injuries. After their morning interviews with Kristina, Matthew, and Jean, the police initially focused their investigation on Kristina's upstairs bedroom, believing it was the crime scene.

*Elliott*, 806 N.W.2d at 663-65.

Kristina's youngest sibling, Ben, was also at the house and, as Detective Castelline put it, "had kind of gotten lost that morning with what was going on." When the officers were about to complete with their functions at the home, the DHS social worker advised Detective Castelline of eight-year-old Ben's "existence." Ben was taken to his father's truck parked outside, and Detective Castelline

interviewed Ben for a short time in the presence of the social worker and Ben's father. As a result of Ben's statements, Detective Castelline learned for the first time that Elliott also resided in the home. Additionally, based upon Ben's interview, the crime scene changed from Kristina's bedroom to the downstairs living room.

On the afternoon of January 21, Detective Castelline summoned Kristina, Matthew, and Jean to the West Des Moines police station for further questioning. Upon arriving at the police station, Detective Castelline separately interviewed Kristina, Matthew, and Jean.

Detective Castelline emphasized to Kristina, Matthew, and Jean that they needed to tell the truth and not worry about concerns they may have had about themselves or other members of the house. He stressed that the investigators knew they were not getting truthful statements as to exactly what happened and who was in the house on the morning of January 21.

In her second interview, Kristina recanted her earlier story. Kristina now claimed she went to bed without Alexis. Furthermore, Kristina claimed Alexis slept in the living room with Elliott that night. Kristina reported that she went to bed around 9:30 p.m. on January 20 and that Ben woke her up the next morning. Kristina also claimed that, after Ben told her Elliott needed her downstairs right away, she asked Ben to have Elliott come upstairs. Kristina then alleged Elliott came into her bedroom holding Alexis and said, "You got to help me. She's not breathing."

.....  
Matthew confirmed this new version of the events. Additionally, Matthew recanted his earlier statements to Officer McCarty, Detective Castelline, Mauro, and McManigal wherein he had stated he went to bed at 2:00 a.m. on January 21. Matthew also recanted his statement to Officer McCarty that he had seen Kristina holding Alexis in the living room at 2:00 a.m.

As Kristina and Matthew had done, Jean also changed her story during her afternoon interview. Initially, Jean reported that she heard baby noises coming from Kristina's upstairs bedroom on the morning of January 21. However, Jean later claimed that, although she originally said she had heard baby noises, she was not one hundred percent certain she had heard them.

*Id.* at 665-66.

Elliott was charged with first-degree murder and child endangerment resulting in death. He was convicted by a jury of willful injury causing serious injury and child endangerment resulting in death. Following the reversal of that conviction by the Iowa Supreme Court and remand, Elliott was charged by new trial information in April 2012 with willful injury causing serious injury and child endangerment resulting in death in connection with Alexis's death.

Prior to the retrial, Elliott filed motions concerning the admissibility of certain evidence at trial. Relevant here are two of the district court's evidentiary rulings.

First, Elliott requested he be allowed to present evidence of a prior DHS investigation involving Matthew and Jean. Elliott's offer of proof concerning that investigation established the following. In 2003, Jean's infant granddaughter, A.R., was left in her care. Jean subsequently left the infant and her other children in the care of Matthew, then fifteen-years-old. A.R.'s mother noticed something was wrong with A.R. when she picked the child up. She took A.R. to the hospital, and it was discovered the child had suffered a skull fracture. DHS initiated an investigation to determine what had happened to the child after Jean, Matthew, and the other children present denied any knowledge as to what had happened. Ultimately, Matthew later confessed to law enforcement that the child had been put on the top bunk of a bunk bed and was injured after rolling off the bunk.

Elliott explained he sought to introduce this evidence to show Kristina's family, specifically Jean, was aware of what type of investigation occurred when

there was an injury to a child to show motive, opportunity, intent, and prior knowledge to explain Kristina's family's course of conduct. Elliott stated the evidence would not be offered to show a propensity for Matthew to commit crimes, and Elliott confirmed his defense strategy had not changed to point a finger at Matthew as the person responsible for Alexis's death in the present case. The district court found evidence of the 2003 investigation was not admissible under Iowa Rules of Criminal Procedure 5.403 and 5.404(b).

Second, Elliott requested that any testimony or evidence relating to his prior criminal history be excluded as irrelevant or unfairly prejudicial. Elliott had a previous conviction for sexual exploitation of a minor and was thereafter required to register as a sex offender. Elliott subsequently signed a Notification of Registration Requirements in October 2006, which notified him, among other things, that he was required to register his residence with the sheriff in the county of his residence within five days of his establishment of a residence, defined in Iowa Code section 692A.1 (2005) as "the place where a person sleeps." Elliott provided an address to the sheriff as his "current address," but the sheriff later learned Elliott never slept at that address. Elliott was then charged with and later pled guilty in 2007 to failure to comply with the sex offender registry requirements pursuant to Iowa Code sections 692A.2, .3, and .7, for giving a false address. After the first murder trial, Elliott was charged with and pled guilty in 2009 to failure to comply with the sex offender registry requirements, second offense, pursuant to Iowa Code sections 692A.2, .3, and .7 (2007), after he left the Fort Des Moines Residential Correctional Facility and failed to register his new

address.<sup>1</sup> Elliott conceded his status as a probationer with a warrant for leaving the residential facility was admissible to explain how he came to reside with the Christiansen-Gilbert family, but he requested all other evidence and testimony relating to his convictions be excluded. The State resisted.

The district court ruled that naming the crimes Elliott had been convicted of in testimony or evidence at trial would be improper but agreed his status as a probationer with a warrant was admissible to explain how he came to reside with the Christiansen-Gilbert family. Additionally, the court ruled that if Elliott testified, the State would be permitted to impeach Elliott's testimony with his two prior convictions for failure to comply with the sex offender registry requirements under rule 5.609(a)(2). The court explained that Elliott's registering a false address was relevant to his character for truth and honesty. It also found that his later failure to register when he knew he was required to do so involved elements of deceit and stealth relating directly to his character for truth and honesty. However, the court determined the State could not specifically ask Elliott what crimes he had previously been convicted of, limiting the form of the State's potential impeachment questions to asking Elliott if, "in 2007, he was convicted of a crime that involves dishonesty and/or false statement and that he was convicted in 2009 of the same crime that involves dishonesty and/or false statement."

---

<sup>1</sup> In 2009, the Iowa legislature enacted new statutes relating to the sex offender registry. See 2009 Iowa Acts ch. 119. In that legislation, Iowa Code sections 692A.1 through 692A.16 were repealed and the new sections codified at sections 692A.101 through 692A.130. See *id.* §§ 1-30, 31. Section 692A.104 now sets forth the registration process for sex offenders, and section 692A.111 sets forth penalties for failing to comply with the sex offender registry statutes. See Iowa Code §§ 692A.104, .111 (2009).



A jury trial commenced in April 2012. The same general State witnesses, including Detective Castelline, Kristina, Jean, and Matthew, testified as they had in the first trial. However, in this trial, Ben's testimony was given through his deposition, as agreed by the parties.<sup>2</sup> At the time of this deposition, Ben was eleven-years-old. He testified at this deposition that on the morning of Alexis's death, Alexis had slept with Elliott. He testified that after he awakened, he went to the living room, and he saw Elliott was awake "and it looked like Alexis wasn't." He testified Elliott told him to go get Kristina, so he went upstairs to get her. After waking Kristina, he went back downstairs and told Elliott Kristina wanted him to come upstairs. He testified Elliott then took Alexis upstairs. He testified Alexis was not moving or anything, like she was still asleep. He testified he next heard Kristina scream a loud scream, and he thought there was something wrong. He testified Elliott was trying to get out of the house, and he saw him leave before the police got there. Ben testified he heard a knock on the door, and he let the responders into the house. Ben admitted on cross-examination that, at the first trial, he answered many of those questions, "I don't remember." He testified he was telling the truth at the deposition about what he saw the day Alexis died, but he also testified he was telling the truth when he testified at the first trial. Ben's father testified Ben did not talk to Jean, Matthew, or Kristina before he talked to

---

<sup>2</sup> At the initial trial, "the State attempted to present Ben's testimony via closed-circuit television. However, Ben was reluctant to respond to the State's questions, claiming he did not remember what he had said to police or in his prior deposition." *Elliott*, 806 N.W.2d at 666. The district court then allowed Detective Castelline to testify about the substance of his initial interview of Ben. *Id.* at 666, 669. On appeal, our supreme court ruled the testimony was hearsay, and the error of the evidence's admission was not harmless, resulting in the reversal of Elliott's conviction and a remand. *Id.* at 667-74.

Officer Castelline the day of Alexis's death, but he also testified he had no personal knowledge as to what was said or done with Ben before he arrived.

Additionally, Elliott took the stand. The essence of his testimony was that the original stories given by Kristina, Matthew, and Jean were the true story of what had happened that morning—Alexis had slept with Kristina that night. He testified the next morning, he heard Kristina scream and rushed to her room. He testified he saw Alexis on Kristina's bed, and he knew by looking at Alexis something was wrong. He testified Matthew called 911, and he realized he needed to leave the house because the authorities would be there, and it would cause problems for the family if he were there. He testified he did not remember seeing Ben that morning. On cross-examination, Elliott was impeached by the State with his two prior convictions for failure to comply with the sex offender registry requirements in the limited form permitted by the district court.

The jury found Elliott guilty of willful injury causing serious injury and child endangerment resulting in death. Elliott now appeals.

## ***II. Discussion.***

On appeal, Elliott contends the district court erred in: (1) not allowing into evidence testimony regarding a 2003 DHS investigation concerning Jean and Matthew; (2) finding his two convictions for failing to comply with the sex offender registry requirements were crimes of dishonesty and falsity, and therefore admissible under Iowa Rule of Criminal Procedure 5.609(a)(2); and (3) denying his motion for judgment of acquittal. We address his arguments in turn.

**A. 2003 DHS Investigation.**

We review the district court's evidentiary rulings for an abuse of discretion. See *State v. Huston*, 825 N.W.2d 531, 536 (Iowa 2013). "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. Redmond*, 803 N.W.2d 112, 117 (Iowa 2011) (citation omitted). "A ground or reason is untenable when it is not supported by substantial evidence or when it is based on an erroneous application of the law." *State v. Rodriguez*, 636 N.W.2d 234, 239 (Iowa 2001).

In its opinion reversing Elliott's initial conviction, our supreme court, knowing the admissibility of the 2003 DHS investigation would be an issue in the retrial, instructed the following analysis for this issue upon remand:

On retrial, the court should analyze this evidence under rule 5.404(b). Rule 5.404(b) is a rule of exclusion. Rule 5.404(b) contains examples of noncharacter theories for the admissibility of evidence of prior wrongs or acts. They include "proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident."

In order for this evidence to be admissible, Elliott must articulate a noncharacter theory of relevance. If Elliott establishes a noncharacter theory, then the court must determine whether the evidence of other wrongs or acts "is relevant and material to a legitimate issue in the case, other than a general propensity to commit wrongful acts." If the court determines the evidence is relevant and material to a legitimate issue in dispute, then the court must determine whether the probative value of the evidence of the other wrongs or acts is substantially outweighed by the danger of unfair prejudice to the State. In doing so,

the court should consider the need for the evidence in light of the issues and the other evidence available to [Elliott], whether there is clear proof Matthew committed the prior bad acts, 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.

The court must exclude the evidence if the evidence's probative value is substantially outweighed by the danger of unfair prejudice.

*Elliott*, 806 N.W.2d at 675 (internal citations omitted).

Elliott argued on retrial that evidence regarding the 2003 investigation should be admissible to show “proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident” under rule 5.404(b) to show that Jean was familiar with how DHS and the police investigate allegations of suspected child abuse. Elliott further argued the investigation should be admissible to show motive, intent, preparation, and planning that Jean and her children conspired to blame Elliott for the death of Alexis. Elliott alternatively argued the investigation was relevant to show bias on the part of Jean, Matthew, and Kristina. Although these theories are noncharacter in nature, we agree with the district court that Elliott failed to show relevance or materiality.

Elliott has never explained how anything Jean, Matthew, and possibly Kristina learned during the 2003 investigation would have further contributed to his theory the three conspired to blame him for Alexis's death or led to a bias on the parts of Jean, Matthew, or Kristina. We agree with the district court that Elliott's “claim of a ‘conspiracy’ theory to direct the investigation toward Elliott is completely different than the 2003 investigation. In 2003, there [was] no evidence that [Jean] attempted to direct the investigation away from Matthew by pointing at another suspect.” Here, there is no question that Elliott's conspiracy theory was presented at trial through cross-examination of Jean, Matthew, and

Kristina. Elliott has failed to show how the prior DHS investigation would have, in any way, added to “showing the complete story” of Alexis’s death.

Additionally, we agree that even if the evidence was somehow minimally relevant, it was properly excluded by the district court under Iowa Rule of Criminal Procedure 5.403. Rule 5.403 provides that, “[a]lthough relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time.” Here, any limited probative value of evidence concerning the 2003 investigation was substantially outweighed by the danger of unfair prejudice or confusion of the issues. Matthew was not on trial for the 2003 injury, and introduction of that investigation would only serve to confuse or mislead the jury to suspect Matthew inflicted Alexis’s injuries, even if Elliott never made that suggestion to the jury. For these reasons, we do not find the district court’s exclusion of the 2003 DHS investigation evidence was unreasonable. We therefore find the district court did not abuse its discretion in excluding the evidence, and we affirm on this issue.

***B. Elliott’s Prior Criminal Convictions.***

We review rulings on the admission of prior crimes evidence under rule 5.609(a) for an abuse of discretion. *Redmond*, 803 N.W.2d at 117; *State v. Harrington*, 800 N.W.2d 46, 48 (Iowa 2011). “A court abuses its discretion when its discretion is based upon erroneous application of the law or not supported by substantial evidence.” *Harrington*, 800 N.W.2d at 48.

Iowa Rule of Evidence 5.609(a)(2) provides: “For the purpose of attacking the credibility of a witness . . . [e]vidence that any witness has been convicted of a crime *shall* be admitted if it involved *dishonesty or false statement*, regardless of the punishment.” (Emphasis added.) Our supreme court has recently confirmed that rule “5.609(a)(2) gives the district court no discretion to exclude a witness’s prior conviction *if it involves dishonesty or false statement*. Prior convictions that involve dishonesty or false statement are automatically admissible for impeachment purposes.” *Harrington*, 800 N.W.2d at 51 (emphasis added). Consequently, if Elliott’s prior convictions for failure to comply with the sex offender registry requirements involve dishonesty or false statements, the convictions were automatically admissible for impeachment purposes if Elliott testified. *See id.*

On appeal, Elliott argues his prior convictions for failure to comply with the sex offender registry requirements did not “involve dishonesty and false statements.” He urges this court to look only at the elements needed to prove the crime alleged to be one involving dishonesty or false statement, and not the crime’s underlying facts, to determine if the crime is one involving dishonesty or false statement. Our supreme court has employed the “elemental” test to determine whether specific categories of crimes meet the criteria of dishonesty or false statement. *See State v. Gavin*, 328 N.W.2d 501, 502-03 (Iowa 1983); *State v. Zaehring*, 325 N.W.2d 754, 756 (Iowa 1982).

As Elliott’s argument goes, if the elements needed to prove one’s failure to follow the registration process do not involve dishonesty or false statement, then

admission of his convictions as impeachment was not mandatory under rule 5.609(a)(2).

Elliott does not direct us to, nor do we find, any Iowa authority discussing “dishonesty” and its relation to the crime of failing to comply with the statutory sex offender registry requirements for purposes of impeachment of credibility. Failure to comply with sex offender registry requirements may be committed in many ways. While dishonesty in the form of deception or false statement might actually be present in some failure to register cases, this is not an element expressly or impliedly required by any of the various forms of Iowa Code section 692A.104, or its predecessor, section 692A.3.

The district court concluded it was not bound by a strict application of the “elemental” test. It found

it appropriate and, in most circumstances, necessary to view the underlying facts and circumstances to determine whether a criminal conviction by a defendant involves dishonesty and false statement. When done so, as here, the trial court may appropriately determine whether a particular crime involves dishonesty and/or false statement and falls under Iowa Rule of Evidence 5.609(a)(2).

We conclude the district court did not abuse its discretion in so finding. We recognize our supreme court has been wary of requiring trial courts to delve too deeply into whether a particular offense involves dishonesty based on the manner in which it was committed. See *Zaehring*, 325 N.W.2d at 758 (rejecting an “underlying facts” approach to admissibility of prior convictions because such an approach “would spin off satellite minitrials delving into contested details surrounding a prior crime”); see also *Gavin*, 328 N.W.2d at 502 (noting it has “used the ‘elemental’ test to determine whether specific categories of

crimes met the [*State v. Martin*, 217 N.W.2d 536 (Iowa 1974),] criteria of dishonesty”). But, our supreme court has not prohibited such a practice; rather, it appears the court tacitly approves of such a practice. See *Gavin*, 328 N.W.2d at 502 (“The record does not indicate the details of the [defendant’s prior conviction of escape.]”); *Zaehring*, 325 N.W.2d at 756 (“Absent direct involvement of one or more of [the elements delineated in *Martin*, deceit, fraud, cheating, or stealing,] in the offense [of delivery of marijuana], the conviction is inadmissible for purposes of impeachment.”).

In looking beyond the statutory elements of Elliott’s failure to register offenses, the district court viewed the underlying facts to determine whether the offenses involved dishonesty or false statements. In finding Elliott’s first offense was founded upon his giving a false address to the sheriff for registration upon the sex offender registry, the court concluded the factual basis for this crime charged was a false statement. Elliott collected his second offense while he was on the lam after failing to return to the Fort Des Moines Residential Facility. Regarding Elliott’s second offense, the court found

these facts would support a finding that Elliott knew he was supposed to reregister, but for obvious reasons he did not want to be apprehended, so he failed to comply. He was attempting to avoid the very legislative purpose of the sex offender registry—to keep track of known sex offenders. This constitutes an element of deceit and stealth which goes to [Elliott’s] character for truth and honesty, and that he is dishonest.

The district court concluded rule 5.609(a)(2) permitted such impeaching evidence. We agree. Moreover, the court limited the form of State’s potential impeachment questions to asking Elliott if, “in 2007, he was convicted of a crime



that involves dishonesty and/or false statement and that he was convicted in 2009 of the same crime that involves dishonesty and/or false statement.” Additionally, the court instructed the jurors that they could only use the evidence of these prior convictions for its bearing on Elliott’s credibility. We find the court did not abuse its discretion in finding Elliott’s convictions for failure to comply with the sex offender registry requirements was a crime involving dishonesty or false statement. Accordingly, we affirm on this issue.

***C. Sufficiency of the Evidence.***

We review challenges to the sufficiency of evidence for correction of errors at law. *State v. Sanford*, 814 N.W.2d 611, 614-15 (Iowa 2012).

In reviewing challenges to the sufficiency of evidence supporting a guilty verdict, courts consider all of the record evidence viewed “in the light most favorable to the State, including all reasonable inferences that may be fairly drawn from the evidence.” “[W]e will uphold a verdict if substantial record evidence supports it.” We will consider all the evidence presented, not just the inculpatory evidence. Evidence is considered substantial if, when viewed in the light most favorable to the State, it can convince a rational jury that the defendant is guilty beyond a reasonable doubt. “Inherent in our standard of review of jury verdicts in criminal cases is the recognition that the jury [is] free to reject certain evidence, and credit other evidence.”

*Id.* at 615 (alterations in original) (internal citations omitted). Moreover, when reviewing a sufficiency-of-the-evidence claim, we do not venture into an evaluation of a witness’s credibility. *State v. Smith*, 508 N.W.2d 101, 102 (Iowa Ct. App. 1993). It is for the jury to determine credibility, though an exception to this rule exists if the testimony is “so impossible and absurd and self-contradictory that it should be deemed a nullity by the court.” *Id.* at 103 (internal quotation marks and citation omitted).

Elliott asserts the trial court erred in denying his motion for judgment of acquittal. He asserts the evidence was insufficient to prove he had care and control of Alexis Gilbert on the night in question or that he caused the injuries to Alexis, elements of the crimes of willful injury causing serious injury and child endangerment causing death. See Iowa Code §§ 708.4(1), 726.6(1), 726.6(4) (2007). Elliott again presents the evidence in terms of a conspiracy by Jean, Matthew, and Kristina to accuse Elliott of the crime. However, Elliott presented this theory to the jury, and he even showed Jean, Matthew, and Kristina had all lied to the officers on at least one occasion. The jury clearly rejected Elliott's theory, and we cannot say that Jean, Matthew, and Kristina's testimony on their changed stories, however imprudent it was to lie in the first instance, was "so impossible and absurd and self-contradictory that it should be deemed a nullity."

Furthermore, even without Jean, Matthew, and Kristina's testimony of changed stories, the testimony of Ben and Detective Castelline supports their version of the events. Detective Castelline testified he had already had both Kristina and Matthew tell him Alexis had slept with Kristina that night. He testified that it was Ben's interview at the house, before Ben had talked to Jean, that introduced Elliott into the picture. Although Ben admitted he had testified at the first trial he did not remember in response to many of the questions asked of him, the jury was free to accept his later testimony. Viewing the evidence in the light most favorable to the State, including Ben and Detective Castelline's testimony of the events the morning of Alexis's death, along with the corresponding later statements of Jean, Matthew, and Kristina and with all reasonable inferences that

can be fairly drawn from this evidence, we find substantial evidence in the record supports the jury's verdict. We therefore affirm on this issue.

***III. Conclusion.***

Upon our review, we conclude the district court did not abuse its discretion in excluding evidence and testimony of a prior Department of Human Services investigation involving State witnesses in the case. Additionally, we find the district court reasonably found Elliott's two prior convictions for failing to comply with the sex offender registry requirements were crimes of dishonesty and falsity and therefore admissible under Iowa Rule of Criminal Procedure 5.609(a)(2). The description of each conviction was limited to "involving dishonesty or false statement," so the jury was unaware the convictions were related to sex offender registry offenses. We therefore conclude the district court did not abuse its discretion in its rulings on this issue. Finally, viewing the evidence in the light most favorable to the State and with all reasonable inferences that can be fairly drawn from this evidence, we find substantial evidence in the record supports the jury's verdict. Accordingly, we affirm Elliott's convictions of willful injury causing serious injury and child endangerment causing death.

**AFFIRMED.**