NOT DESIGNATED FOR PUBLICATION

No. 125,515

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

STATE OF KANSAS,
Appellee,

v.

NICHOLAS M. WILLIAMS,
Appellant.

MEMORANDUM OPINION

Appeal from Sedgwick District Court; JEFFREY SYRIOS, judge. Opinion filed September 22, 2023. Affirmed.

Emily Brandt, of Kansas Appellate Defender Office, for appellant.

Matt J. Maloney, assistant district attorney, *Marc Bennett*, district attorney, and *Kris W. Kobach*, attorney general, for appellee.

Before WARNER, P.J., GARDNER and HURST, JJ.

PER CURIAM: Nicholas M. Williams appeals his conviction for aggravated robbery, arguing the district court erred by admitting at trial certain statements he had made earlier. Williams also asserts that the State presented insufficient evidence to prove his conviction and committed prosecutorial error during closing arguments. Finding no reversible error, we affirm.

Factual and Procedural Background

A robbery occurred at a motel in Wichita on October 28, 2020. The owner of the motel granted police access to surveillance footage of the incident to help them identify the perpetrator. That video shows a woman walking into the motel from an exterior door and a man following her in a short time later. Upon entering, the man shoved and repeatedly punched the woman before taking some of her belongings, including the coat and backpack she was wearing. After speaking with the victim, B.W., police identified Williams as the man in the video.

Five days after the incident, Officer Justin Bradley arrested Williams, took him to jail, and handcuffed him to a bench in the booking area. Body camera video of that encounter shows Bradley and Williams (whose head was bandaged) talking while a woman in the same booking area yelled loudly. When she cried and the room became quieter, Bradley gave Williams *Miranda* warnings, asked if he understood them, then asked whether he wanted to discuss "the aggravated robbery." Williams first responded, "Yeah, I don't even know what's going on myself." But he quickly engaged in a lively discussion with Bradley about the incident.

Bradley did not show Williams the security footage from the motel but explained that it showed Williams hitting and robbing B.W. Williams eventually admitted that he had taken the coat and backpack from her, claiming that he had given her those items for her use only while they were dating. But Williams denied hitting B.W.

Preliminary Hearing

The State charged Williams with one count of aggravated robbery. At the preliminary hearing, the State presented testimony from several witnesses. B.W. did not appear, so the State had no witness who could directly identify Williams as the

perpetrator of the robbery. But Officer Derek Ervin testified that B.W. had made an emergency call to police from the motel on the night of the robbery, reporting an incident that she had with "an ex-boyfriend." Ervin described the injuries on B.W.'s face, which included swelling, bruising, a teary-eye, and a small cut. B.W. refused EMS treatment, and Ervin never saw or spoke to her again.

After considering the testimony and arguments, and watching the surveillance footage, the district court found probable cause and bound Williams over for trial. In finding probable cause for robbery, the district court noted Williams' admission to Bradley that he had taken a jacket and backpack from B.W. As for the aggravated nature of that robbery, the district court found the video showed enough evidence of bodily harm—"The video is pretty clear. That was a full-on swing and punch to the face by a man that looks to be bigger than the woman."

Williams then interrupted the district court, interjecting that "[he was] the victim." The district court ordered Williams to stop talking, then found:

> "The State's met its burden at this point and I'm going to find that there is probable cause to believe Mr. Williams committed the crime as charged and I am going to bind him over for trial. I would also say that the video is fairly clear and it does appear to be Mr. Williams on that video from my eyes, but I don't have to rely on that even though that is evidence."

As the district court moved on to discuss scheduling, Williams interrupted again:

> "I don't care what you all do. I'm going back to my cell. This is my property. There wasn't no robbery. I got robbed. I got hit with a meat cleaver by that same dude that was standing there and didn't touch me. This is the honest to God's truth, man. I'll take a polygraph, lie detector, whatever."

Although the district court tried to quiet him, Williams kept talking and admitted that he had punched B.W.

> "I understand you the judge, man. I understand you the judge, Syrios. You're looking at this video and you seen me punch her like that. Yeah, I punched her. I'm going to admit to that, because she hit me."

Defense counsel then asked to stop the hearing, and the district court had Williams escorted out of the courtroom. Defense counsel noted for the record that Williams had made his statement when not under oath or testifying.

Pretrial Proceedings

Williams later filed a motion in limine to exclude the admission he had made at the preliminary hearing to punching the victim. Williams argued that his statements were inadmissible because:

- The hearing was almost over when he made the statement;
- the statement was an extraneous statement made in response to the court's observation that it could see Williams on the security video;
- Williams was not under oath when the statement was made; and
- the statement was highly prejudicial.

The district court denied Williams' motion, finding his statement admissible.

Williams separately moved to exclude the statements he had made to Bradley after being Mirandized. The district court held a *Jackson v. Denno* hearing to consider this issue. Bradley testified that when he got Williams to the booking area, he took him into an enclosed "breathalyzer room," and read him his *Miranda* rights. When asked to

explain that process, Bradley replied, "I read the *Miranda* rights off our WPD yellow card, asked him if he understood each of the rights I had read to him. He stated yes. Then I asked him if he would like to answer any questions regarding the incident and he agreed to." Bradley also testified that Williams never suggested that he did not understand his rights or that he did not wish to speak with Bradley.

After reviewing Bradley's body camera video several times, the district court found that Bradley had not followed best practices when giving Williams the *Miranda* warnings. Still, crediting Bradley's testimony, the district court found that Bradley gave the *Miranda* warnings to Williams and that Williams said he understood them. The court thus ruled that Williams' statements after receiving the *Miranda* warnings had been made voluntarily and were admissible at trial.

Trial

Williams objected to the admission of both statements at trial—those made at the preliminary hearing and those made to the officer. The parties conferred with the district court outside the jury's presence about Williams' preliminary hearing statements. Williams again requested that the statements be excluded, amended, or redacted. If redacted, Williams asked the district court to allow the jury to consider only the following statement: "Yeah, I punched her. I'm going to admit to that, because she hit me." And if amended, Williams asked that the following statements be added:

> "[Williams]: I don't care what you all do. . . . This is my property. There wasn't no robbery. I got robbed. I got hit with a meat cleaver by that same dude that was standing there and didn't touch me. This is the honest to God's truth, man. I'll take a polygraph, lie detector, whatever."

The district court denied Williams' objection and allowed the State to admit the following: "I understand you the judge, man. I understand you the judge, Syrios. You're looking at this video and you seen me punch her like that. Yeah, I punched her. I'm going to admit to that, because she hit me."

The district court also allowed the State to publish a portion of the preliminary hearing transcript, which included the admissible lines. Williams objected, arguing the jury might infer from its format that he was under oath when he made the statement. The district court offered to explain to the jury that he was not under oath; it also found that it would be appropriate for the prosecutor to make a similar note before requesting publication. But ultimately, the prosecutor was allowed to simply state to the jury that the exhibit was "a statement made by the defendant at a previous hearing."

Verdict and Sentencing

After considering all the evidence, the jury convicted Williams as charged. Before sentencing, Williams moved for a durational departure, but the district court denied that motion and sentenced Williams to a controlling 247-month prison term.

Williams timely appeals, challenging his conviction.

Denial of Williams' Motion to Exclude Statement Made at the Preliminary Hearing

Williams first challenges the district court's denial of his motion to exclude his statement from the preliminary hearing. He lists multiple grounds to show the court abused its discretion. The State challenges each of these claims as unpreserved, unsupported, or mischaracterizing the evidence. We generally agree that Williams restates arguments that failed with the district court without supporting them on appeal with pertinent authority.

"The admission of evidence involves several legal considerations: determining relevance; identifying and applying legal principles including rules of evidence; and weighing prejudice against probative value. [Citation omitted.]" *State v. Levy*, 313 Kan. 232, 237, 485 P.3d 605 (2021). Even if relevant, a district court may exclude evidence if the evidence presents a risk of undue prejudice which substantially outweighs its probative value. Appellate courts review whether the district court should have excluded relevant evidence as prejudicial for an abuse of discretion. *State v. Garcia*, 315 Kan. 366, 378-79, 508 P.3d 394, *cert. denied* 143 S. Ct. 287 (2022).

We address Williams' first two claims of error together. They are:

- His statement was not a confession and was instead a "parroting" of the district court's observation that he was the person in the video, making it inadmissible under K.S.A. 60-442 (precluding judges from testifying as a witness at trial); and
- The district court was like a witness at trial, so by admitting the statement, the district court violated Williams' Sixth Amendment right to confrontation.

K.S.A. 60-442 states, "Against the objection of a party, the judge presiding at the trial may not testify in that trial as a witness." Williams does not claim that the district court provided direct testimony and instead suggests that the district court provided the functional equivalent of witness testimony. Although several jurisdictions recognize such a rule, see, e.g., *United States v. Andasola*, 13 F.4th 1011, 1015 (10th Cir. 2021), Williams cites no authority showing the functional equivalent rule applies here.

More importantly, Williams did not object to the admission of his statement based on K.S.A. 60-442 at trial, so we decline to review this claim. See *State v. King*, 288 Kan. 333, 349, 204 P.3d 585 (2009) (stressing the importance of following legislative mandate in K.S.A. 60-404, requiring dismissal of claims of trial error which lack timely and specific objections).

Williams next contends that because his statement reflected an observation made by the district court, the district court should have recognized that the jury would perceive it as highly credible so should have excluded it as unduly prejudicial. Williams concedes that a confession to an element of a crime is not necessarily more prejudicial than probative but argues that when a confession "brings with it the court's observation," it must be found inadmissible. Williams argues the jury likely inferred from his statement that the district court had identified him from the video.

But Williams does not support this point, and his speculation about what the jury inferred is not a reasonable inference based on the evidence. His admitted statement does not naturally indicate that the district court made such a finding. But even if admitting this statement were prejudicial, Williams' admission to hitting the victim was highly probative—we find no error in the court's balancing of those factors and we do not reweigh evidence on review.

Williams next challenges the district court's admission and publication of his preliminary hearing statement, arguing:

- the district court violated the rules of evidence for admitting the preliminary hearing statement because Williams was not an unavailable witness nor was he afforded the right of cross-examination at the preliminary hearing; and
- allowing the prosecutor to present the hearing transcript to the jury inappropriately indicated that Williams had made the statement when under oath.

Generally, a witness' preliminary hearing testimony may be admitted at trial when (1) the witness is unavailable and (2) the defendant was afforded the right of cross-examination at the preliminary hearing. K.S.A. 60-460(c); *State v. Alderdice*, 221 Kan. 684, Syl. ¶ 1, 561 P.2d 845 (1977). "The Sixth Amendment right of confrontation is satisfied if the accused confronted the witnesses against him at any stage of the

proceedings in the same case and has had an opportunity of cross-examination. [Citations omitted.]" *State v. Martinez-Diaz*, 63 Kan. App. 2d 363, 376-77, 528 P.3d 1042 (2023). But these rules do not apply here to Williams' statement—neither he nor the district court was a witness at the preliminary hearing. Williams has cited no legal authority that would warrant our expanding the confrontation rules to our facts. And here, as above, Williams failed to raise to the district court his argument that admission of his statement violated his Sixth Amendment right to confrontation. Williams argues in his reply brief that although he failed to preserve this claim, we should still review it. But we do not generally consider arguments raised for the first time on appeal or in reply briefing, so we do not consider this one.

Williams also claims that by publishing his preliminary hearing statements in a transcript form at trial, the district court incorrectly suggested to the jury that he had made the statement under oath; this put him "in an impossible position" of choosing between letting the jury believe that he had incriminated himself under oath or testifying at trial to explain his statement. But Williams fails to show that the district court abused its discretion in either admitting his statement, or in the way it permitted his statement to be published to the jury.

Finally, Williams challenges the district court's denial of his request to modify his statement or limit its scope. But Williams merely recounts the requests that he made in the district court and summarily alleges that the district court erred in denying them. But again, Williams cites no legal authority to show that reversal is warranted. Although the district court could have granted Williams' request to modify or limit the scope of the statement before admitting it, we cannot say that no reasonable person or judge would have declined to do so, as this judge did. We thus find no abuse of discretion in admitting or publishing Williams' statement made at the close of the preliminary hearing.

Denial of Williams' Motion to Suppress His Inculpatory Statements to Police

We next examine Williams' argument that his statements to police were made involuntarily so should have been excluded.

The voluntariness of a waiver of a defendant's *Miranda* rights is a question of law that appellate courts determine de novo based on the totality of the circumstances. Appellate courts assess whether a *Miranda* waiver was knowing, voluntary, and intelligent under a totality of the circumstances test. *State v. Parker*, 311 Kan. 255, 257-58, 459 P.3d 793 (2020). And using a case-by-case evaluation, we determine whether the government impermissibly used coercion in obtaining a statement. See *State v. Swanigan*, 279 Kan. 18, 44, 106 P.3d 39 (2005). This court determines the voluntariness of a statement by considering the following nonexclusive factors:

> "'(1) the accused's mental condition; (2) the manner and duration of the interrogation; (3) the ability of the accused to communicate on request with the outside world; (4) the accused's age, intellect, and background; (5) the fairness of the officers in conducting the interrogation; and (6) the accused's fluency with the English language.' [Citation omitted.]" *State v. Stone*, 291 Kan. 13, 21, 237 P.3d 1229 (2010) (quoting *State v. Johnson*, 286 Kan. 824, 836, 190 P.3d 207 [2008]).

And as explained in *State v. Sharp*, 289 Kan. 72, 81, 210 P.3d 590 (2009), even one factor could lead us to find involuntariness:

> "'These factors are not to be weighed against one another . . . , with those favorable to a free and voluntary confession offsetting those tending to the contrary. Instead, the situation surrounding the giving of a confession may dissipate the import of an individual factor that might otherwise have a coercive effect. Even after analyzing such dilution, if any, a single factor or a combination of factors considered together may inevitably lead to a conclusion that under the totality of circumstances a suspect's will

> was overborne and the confession was not therefore a free and voluntary act. [Citations omitted.]'"

We review the factual underpinnings of the district court's decision for substantial competent evidence. We will not reweigh evidence, assess witness credibility, or resolve conflicting evidence. *State v. Vonachen*, 312 Kan. 451, 463-64, 476 P.3d 774 (2020). "An appellate court accepts as true the evidence and all inferences drawn therefrom that support the trial court's findings. . . . The key inquiry is whether the statement is a product of the accused's free and independent will. [Citation omitted.]" *State v. Jackson*, 280 Kan. 16, 36, 118 P.3d 1238 (2005).

Voluntary Waiver of Miranda

Williams focuses his claim on the voluntariness of his *Miranda* waiver. When he gave his statements to the officer, Williams was handcuffed to a bench, had a bandage around his head, and was distracted by a woman screaming loudly behind him. He claims that when Bradley first asked if he would talk about the crime that he was arrested for, he was unaware why he was arrested or what incident Bradley wanted to discuss.

Williams also attacks Bradley's credibility and implies that Bradley either did not notify him of his *Miranda* rights or intentionally read them in a way that prevented him from hearing or understanding them. Williams claims that Bradley "speed-read though the *Miranda* warnings, not pausing to make sure [he] understood each one." The video confirms that Bradley read the warnings quickly and did not pause after stating each right to ask Williams whether he had understood them. This is likely why the district court found Bradley had not used best practices when giving the *Miranda* warnings. Williams also emphasizes that Bradley was the only witness who testified on this matter and some of his testimony conflicted with the circumstances shown on the body camera footage.

Williams is correct that Bradley erred in saying the interview occurred in a "breathalyzer room," as the video shows it occurred in a larger booking room.

The video shows that Williams kept his head down while receiving his *Miranda* warnings, so it is unsurprising that the viewer cannot hear his responses. Still, Bradley testified that Williams answered affirmatively when asked whether he understood each of his rights that Bradley had read to him. And the district court credited Bradley's testimony when ruling on this issue. Because we cannot reweigh evidence, assess witness credibility, or resolve conflicting evidence, *Vonachen*, 312 Kan. at 463-64, we are bound to the district court's credibility finding.

Williams also suggests that Bradley was being deceptive during their discussion, but he does not state how. Our review of the record fails to show any deception. Rather, after being read his *Miranda* rights, Williams promptly began talking and did so at length and in detail about the incident at the motel. And as the district court noted in its ruling, before reading Williams his *Miranda* rights, Bradley told Williams he did not have to speak with him. Assertions of deception are unsupported.

Prosecutor's Remarks During Closing Arguments

Next, we address Williams' assertion that the prosecutor committed prejudicial error in the closing argument.

Appellate courts use a two-part test to evaluate claims of prosecutorial error: error and prejudice. *State v. Sherman,* 305 Kan. 88, 109, 378 P.3d 1060 (2016).

> "To determine whether prosecutorial error has occurred, the appellate court must decide whether the prosecutorial acts complained of fall outside the wide latitude afforded prosecutors to conduct the State's case and attempt to obtain a conviction in a manner that

> does not offend the defendant's constitutional right to a fair trial. If error is found, the appellate court must next determine whether the error prejudiced the defendant's due process rights to a fair trial. In evaluating prejudice, we simply adopt the traditional constitutional harmlessness inquiry demanded by *Chapman* [*v. California*, 386 U.S. 18, 87 S. Ct. 824, 17 L. Ed. 2d 705 (1967)]. In other words, prosecutorial error is harmless if the State can demonstrate 'beyond a reasonable doubt that the error complained of will not or did not affect the outcome of the trial in light of the entire record, *i.e.*, where there is no reasonable possibility that the error contributed to the verdict.'" *Sherman*, 305 Kan. at 109 (quoting *State v. Ward*, 292 Kan. 541, Syl. ¶ 6, 256 P.3d 801 [2011]).

We review prosecutorial error claims arising out of comments made during closing argument even when they do not bring a timely objection. We may, however, consider the presence or absence of an objection as a part of our analysis of the alleged error. See *State v. Bodine*, 313 Kan. 378, 406, 486 P.3d 551 (2021). Here, no objection was made during trial to the statements challenged on appeal.

In making closing arguments, a prosecutor may discuss the evidence and draw inferences from it. *State v. Tahah*, 302 Kan. 783, 788, 358 P.3d 819 (2015). The State may argue the evidence shows a defendant is guilty so long as the prosecutor does not state a personal opinion about the guilt or innocence of the offender. *State v. King*, 308 Kan. 16, 30, 417 P.3d 1073 (2018). A prosecutor cannot offer a personal opinion about the credibility of a witness because such comments amount to unsworn, unchecked testimony, and the determination of the truthfulness of a witness is exclusively within the province of the jury. *King*, 308 Kan. at 30-31 (quoting *State v. Akins*, 298 Kan. 592, Syl. ¶ 6, 315 P.3d 868 [2014]).

Williams argues that during closing arguments, the prosecutor improperly stated personal opinions about what he saw in the surveillance footage, concluding that the force Williams used was enough to convict him of aggravated robbery. In determining whether a particular statement falls outside the wide latitude given to prosecutors, we

consider the context in which the statement was made, rather than analyzing it in isolation. *State v. Thomas*, 307 Kan. 733, 744, 415 P.3d 430 (2018). We thus consider the statements that Williams challenges (italicized below) within the broader argument that the prosecutor made to the jury:

> "So we watched the video again. Is the initial slam of her into the wall necessary for him to take that backpack and coat back? Is the kick on the ground a necessary act to take those objects back? Is that huge punch that resulted in [B.W.] bleeding necessary to take that coat and backpack back? No, it's not. *These were unnecessary acts of violence committed in the course of this robbery which make it aggravated.*
>
> "You go over the other elements. Nicholas Williams knowingly took property from the person of [B.W.]. He told you on Officer Bradley's Axon he was taking that stuff back because he thought it was his, although he also testified -- not testified. Excuse me. He said to the officer that he gave that to her to use in the course of their relationship. He can't just take it back by violence. That's not how it works.
>
> "The taking was by force. Did you see any force in that video? *I'd say there's a lot of force in that video.* She was overcome by that force as he was trying to get those objects." (Emphases added.)

Specific phrases can be problematic. In *State v. Charles*, 304 Kan. 158, 174-75, 372 P.3d 1109 (2016), *abrogated on other grounds by State v. Huey*, 306 Kan. 1005, 399 P.3d 211 (2017), our Supreme Court suggested that prosecutors replace the use of "'I believe'" and "'I think'" statements with "'the evidence shows'" or "'I submit'" or a similar phrasing. Later, in *King*, the court clarified that a prosecutor's saying "'I believe'" and "'I think'" when making evidentiary conclusions during closing argument amount to impermissible conveyances of the prosecutor's opinion to the jury. 308 Kan. at 32-33.

Under this standard, we find the prosecutor's statements challenged here to be impermissible conveyances of opinion. We thus review these statements for harmless error. See *Chapman v. California*, 386 U.S. 18, 24, 87 S. Ct. 824, 17 L. Ed. 2d 705

(1967) (If error is found, the appellate court must next determine whether the error prejudiced the defendant's due process rights to a fair trial.).

Prejudice, Harmless Error

Prosecutorial error is harmless if the State can demonstrate "'beyond a reasonable doubt that the error complained of will not or did not affect the outcome of the trial in light of the entire record, *i.e.*, where there is no reasonable possibility that the error contributed to the verdict.' [Citation omitted.]" *Sherman*, 305 Kan. at 109.

The State asserts that the prosecutor's statements did not affect the verdict because the jurors watched the surveillance video at trial and were able to assess for themselves whether Williams used the force necessary for aggravated robbery. Also, after the prosecutor made the erroneous statements, he reminded the jury during rebuttal to decide the evidence for themselves, thus mitigating any suggestion that the prosecutor's opinion mattered.

Additionally, the district court properly instructed the jury to limit any considerations given to counsels' remarks and disregard any unsupported statements: "Statements, arguments, and remarks of counsel are intended to help you in understanding the evidence and in applying the law, but they are not evidence. If any statements are made that are not supported by evidence, they should be disregarded." The district court also properly instructed the jury on the State's burden of proof and Williams' presumed innocence: "The State has the burden to prove Nicholas Williams is guilty. Nicholas Williams is not required to prove he is not guilty. You must presume that he is not guilty unless you are convinced from the evidence that he is guilty."

Juries are generally presumed to have followed the instructions given by the district court. *State v. Rogers*, 276 Kan. 497, 503, 78 P.3d 793 (2003). Likewise, the

instructions are a relevant consideration for appellate courts when assessing whether a jury was misled by a prosecutor's alleged improper comments. See *State v. Huddleston*, 298 Kan. 941, 956, 318 P.3d 140 (2014). Because there is no indication to the contrary, we presume the jury followed the instructions given by the district court by disregarding the prosecutor's alleged erroneous statements and holding the State to its burden of proof.

Based on our review of the evidence, the arguments, and the instructions, we are confident that the prosecutor's statements had little, if any, effect on the jurors' assessment of the physical force that Williams displayed. The video shows the extent of the force and violence used against B.W. and provides strong evidence incriminating Williams. Additionally, the prosecutor's rebuttal statements mitigated the harm of its earlier errors. And the court's instructions did the same. In addition, although not determinative, defense counsel's failure to object to the prosecutor's statements also supports our conclusion that the prosecutor's errors were harmless. See *State v. Lowery*, 308 Kan. 1183, 1211-12, 427 P.3d 865 (2018). We find, beyond a reasonable doubt, that the prosecutor's comments did not affect the outcome.

Sufficient Evidence Supporting Williams' Conviction

Williams next contends that insufficient evidence supports the verdict because the alleged victim was never identified. In determining whether sufficient evidence supports a conviction, this court reviews the evidence in the light most favorable to the State to determine whether a rational fact-finder could have found the defendant guilty beyond a reasonable doubt. *State v. Aguirre*, 313 Kan. 189, 209, 485 P.3d 576 (2021). We will not reweigh evidence, resolve conflicts in the evidence, or pass on the credibility of witnesses. 313 Kan. at 209.

A conviction may be supported, in whole or in part, by circumstantial evidence. *State v. Lopez*, 36 Kan. App. 2d 723, 725, 143 P.3d 695 (2006). Verdicts may be

supported by circumstantial evidence if such evidence provides a basis for a reasonable inference by the factfinder about the fact in issue. Circumstantial evidence need not exclude every other reasonable conclusion to be sufficient. *State v. Logsdon*, 304 Kan. 3, 25, 371 P.3d 836 (2016). This court will find insufficient evidence to support a conviction only when "the testimony is so incredible that no reasonable fact-finder could find guilt beyond a reasonable doubt." *State v. Meggerson*, 312 Kan. 238, 247, 474 P.3d 761 (2020).

After trial, Williams moved for a judgment of acquittal, arguing the State had failed to prove the identity of the victim. The district court denied the motion. He raises the same argument here. Williams correctly notes that B.W. did not testify at the preliminary hearing or at trial. He also claims that none of the State's witnesses testified that they had any contact with B.W. and no one described her appearance. Williams also alleges that he was the only person who may have identified B.W. as the victim, but he did so during an interrogation and then identified a woman that he only believed, but did not know, was B.W. He also claims that because during the interrogation he was not shown the video of the incident, "he could not have identified [B.W.]."

The State persuasively refutes Williams' characterization of the evidence. As it explains, Williams made several statements to Bradley which identify B.W. as the victim. Bradley asked Williams whether he knew B.W., identifying the victim by her full name (which we omit here), but Bradley incorrectly pronounced B.W.'s first name. Williams nodded his head yes and says "Rene." Bradley asks whether "she" goes by "Rene," and Williams responds that she does, refuting Williams' argument that no evidence shows that B.W. and Rene are the same person. Then, Bradley asks how to pronounce her first name and Williams does so. Bradley again asks if it is B.W. (stating her full first and last name) and Williams responded by repeating both names and saying "yes." Williams also told Bradley that B.W. was his ex-girlfriend. And their discussion indicated that Williams had knowledge about the incident at the motel on October 28.

Also, after Bradley told Williams that the surveillance video showed him hitting B.W. in the motel hallway and taking her belongings, Williams admitted taking a coat and backpack. Williams again explained that he had dated B.W. and had given her those items when they were together.

Williams thus provided Bradley substantial information that identified B.W. as the victim and linked him and B.W. to the crime at the motel. Viewed in the light most favorable to the State, we find sufficient evidence supporting Williams' conviction.

Cumulative Error

Williams argues that the cumulative effect of the trial errors deprived him of a fair trial and thus requires reversal. Multiple trial errors, when considered together, may require reversal of the defendant's conviction when the totality of the circumstances establish that the defendant was substantially prejudiced by the errors and denied a fair trial. *State v. Alfaro-Valleda*, 314 Kan. 526, 551, 502 P.3d 66 (2022).

But we have already considered the prosecutorial errors and have found them to be harmless. No other errors have been shown, which, combined with the prosecutorial error, could produce prejudice.

Affirmed.