

IN THE SUPREME COURT OF THE STATE OF IDAHO

Docket No. 53609

STATE OF IDAHO,

Plaintiff-Respondent,

V.

FREDERICK WILLIAM HARDT,

Defendant-Appellant.

Boise, June 2026 Term

Opinion filed: October 14, 2026

Melanie Gagnepain, Clerk

Appeal from the District Court of the Fourth Judicial District of the State of Idaho,
Ada County. Patrick Miller, District Judge.

The judgment of conviction is vacated and the case is remanded.

Erik R. Lehtinen, State Appellate Public Defender, Boise, for Appellant. Sally J. Cooley argued.

Raúl R. Labrador, Idaho Attorney General, Boise, for Respondent. Allison C. Jaros argued.

MOELLER, Justice.

Frederick William Hardt was lawfully arrested pursuant to an outstanding arrest warrant. During his arrest, law enforcement found methamphetamine in the left pocket of his jacket, marijuana in the right pocket of his jacket, and a tube containing residue in the right pocket of his pants. He was subsequently charged with possession of methamphetamine (a felony), possession of marijuana, and possession of drug paraphernalia.

Hardt was homeless at the time of his arrest. As part of his defense, he intended to testify to the jury that he obtained the jacket he was wearing from a homeless shelter and was unaware of the items in its pockets. Prior to trial, the district court issued a ruling that barred Hardt from presenting any evidence of where he got the jacket because it would reveal that Hardt was homeless at the time of the offense. The court excluded the evidence under Idaho Rule of Evidence 403.

reasoning that its probative value was outweighed by the risk of unfair prejudice because revealing Hardt's homelessness might elicit the jury's sympathy.

Hardt's case went to trial and an Ada County jury found him guilty of possession of methamphetamine. The district court sentenced Hardt to a seven-year unified sentence, consisting of a fixed term of one and one-half years followed by an indeterminate term of five and one-half years. Hardt now appeals the judgment of conviction, arguing that because possession of methamphetamine requires proof that he was aware that he possessed the methamphetamine, the court's exclusion of evidence concerning how he came into possession of the jacket prevented him from introducing highly probative evidence addressing an element of the crime charged. Therefore, he maintains that, due to the court's error, he was denied his constitutional right to present a defense.

I. FACTUAL AND PROCEDURAL BACKGROUND

On January 13, 2023, Boise Police cited eight individuals, including Hardt, for disorderly conduct because they were loitering and sleeping near a daytime homeless shelter after it was closed. While Hardt was being cited, police discovered that he had an outstanding arrest warrant for possession of paraphernalia and disorderly conduct. Consequently, law enforcement took him into custody and found the following items on his person: a piece of a metal tube in his right pants pocket, which the officers believed to be drug paraphernalia; 2.74 grams of marijuana in his right jacket pocket; and 22.09 grams of small white crystals in his left jacket pocket, which were later confirmed to be methamphetamine.

Hardt was wearing three jackets when he was searched, including the jacket in which the controlled substances were found. He claimed that he got the jackets from a homeless shelter. Hardt was charged with one felony, possession of methamphetamine (with a persistent violator enhancement), and two misdemeanors, possession of marijuana and possession of drug paraphernalia.

About ten days before trial, the parties met with the trial judge in chambers to, among other things, discuss the admissibility of certain evidence. Because this meeting did not take place on the record, we have no transcript of what was said. The parties later summarized the meeting on the record prior to the beginning of the trial. The State explained:

The State in that in-chambers conversation with Your Honor had asked specifically about -- there had been some comments [Hardt] made during his

interaction with law enforcement regarding needles and whether or not he had needles on his person and where they might be.

The State felt that information was pertinent to the particular type of charges that he is charged with. The [c]ourt had found that it was not necessarily more probative than prejudicial. But it was the understanding, at least, that if Defense Counsel was going to present an argument where [Hardt] was claiming he got his clothes from another location or didn't know what was in his clothes, that the State would then be allowed to ask questions regarding the needles that he thought he had in his possession.

Furthermore, there was conversation that the status -- the homelessness status of Mr. Hardt was not going to be mentioned. I believe both parties are in agreement on that at this point.

Defense counsel responded with her own perspective:

We understand the aspect of if we are going to raise the defense of where he got the clothes or that he did not know, that we would essentially be opening the door.

....

As far as talking about his status as homeless, I wouldn't say we're in agreement but we acknowledge that the [c]ourt has ruled that we are not able to bring that up.

The district court then confirmed that it had earlier ruled that evidence of Hardt's homeless status would not be allowed under Idaho Rule of Evidence 403, reasoning that such evidence would be more prejudicial than probative because it would elicit sympathy for Hardt from the jury. Importantly, the court recognized: "[Y]ou have objected or have asked that that evidence be allowed, and I have so far not allowed that."

After the State had completed its case-in-chief at trial, the district court dismissed the misdemeanor charge for possession of marijuana pursuant to a defense motion under Idaho Criminal Rule 29 (motion for judgment of acquittal). During the defense's presentation of its evidence, Hardt testified. He abided by the district court's ruling and did not discuss where he got the jacket or reveal that he was homeless at the time of his arrest. However, he testified that he did not know he had methamphetamine in his jacket pocket and was surprised when it was discovered. Following deliberations, the jury found him guilty of possessing methamphetamine, but acquitted him on the charge of possessing drug paraphernalia. Prior to proceeding to Phase II of the trial, Hardt admitted to the persistent violator enhancement.

The district court sentenced Hardt to a unified seven-year sentence, with the first one and one-half years fixed, and the following five and one-half years indeterminate. Hardt timely

appealed from his judgment of conviction. He also filed an Idaho Criminal Rule 35 motion requesting leniency, which was denied by the district court. Hardt then filed an amended notice of appeal.

The Court of Appeals affirmed the judgment of conviction. *State v. Hardt*, No. 51135, 2025 WL 2742480 (Idaho Ct. App. Sept. 26, 2025). The Court of Appeals concluded that Hardt had preserved the issue of whether the district court erred by excluding evidence of his homeless status to explain where he got the jacket. *Id.* at *2. It also rejected the State's argument that Hardt had invited the alleged errors. *Id.* at *3. However, it ruled that the district court did not abuse its discretion when it concluded that the probative value of evidence of Hardt's homelessness was outweighed by its prejudicial effect under Idaho Rule of Evidence 403. *Id.* Finally, the court rejected Hardt's claim that his right to present a defense under the Sixth and Fourteenth Amendments of the United States Constitution had been denied because the district court properly applied Rule 403. *Id.* at *4. Hardt subsequently petitioned this Court for review, which we granted.

II. STANDARDS OF REVIEW

"When reviewing a case on petition for review from the Court of Appeals this Court gives due consideration to the decision reached by the Court of Appeals, but directly reviews the decision of the trial court." *State v. Schmierer*, 159 Idaho 768, 770, 367 P.3d 163, 165 (2016).

"The question of whether evidence is relevant is reviewed de novo, while the decision to admit relevant evidence is reviewed for an abuse of discretion." *State v. Ogden*, 171 Idaho 258, 266, 519 P.3d 1198, 1206 (2022) (quoting *State v. Hall*, 163 Idaho 744, 781, 419 P.3d 1042, 1079 (2018)). A trial court's other evidentiary rulings are generally reviewed by this Court for an abuse of discretion. *State v. Chambers*, 166 Idaho 837, 840, 465 P.3d 1076, 1079 (2020). In determining whether a district court abused its discretion, this Court considers four factors:

Whether the trial court: (1) correctly perceived the issue as one of discretion; (2) acted within the outer boundaries of its discretion; (3) acted consistently with the legal standards applicable to the specific choices available to it; and (4) reached its decision by the exercise of reason.

Lunneborg v. My Fun Life, 163 Idaho 856, 863, 421 P.3d 187, 194 (2018).

III. ANALYSIS

A. Hardt properly preserved the issue of whether the district court erred in excluding evidence of his homeless status and where he got his jacket, and he was not barred from asserting his claims on appeal by the invited error doctrine.

The State asserts on appeal that Hardt is barred from arguing that the district court abused its discretion in excluding evidence related to (1) his homelessness and (2) where he got the jacket because “he declined to present the evidence in question pursuant to an agreement with the prosecution and because the invited error doctrine bars this claim.” Hardt replies that the agreement was based on the district court’s prior ruling excluding evidence regarding his homeless status. He also states that he never waived his continuing objection to the court’s ruling.

“[A] party preserves an issue for appeal by [(1)] properly presenting the issue with argument and authority to the trial court below and noticing it for hearing or [(2)] a party preserves an issue for appeal if the trial court issues an adverse ruling. Both are not required.” *State v. Miramontes*, 170 Idaho 920, 924–25, 517 P.3d 849, 853–54 (2022) (emphasis omitted). “Generally, this Court will not consider an alleged error on appeal unless a timely objection to the alleged error was made at trial.” *State v. Sheahan*, 139 Idaho 267, 277, 77 P.3d 956, 966 (2003).

The invited error doctrine “prevents a party who ‘caused or played an important role in prompting a trial court’ to make a particular decision from ‘later challenging that decision on appeal.’” *State v. Ogden*, 171 Idaho 843, 853, 526 P.3d 1013, 1023 (2023) (quoting *State v. Blake*, 133 Idaho 237, 240, 985 P.2d 117, 120 (1999)). See also *State v. Barr*, 166 Idaho 783, 786, 463 P.3d 1286, 1289 (2020) (explaining that a party who “invit[es] district court action” is estopped from challenging the action on appeal).

Turning first to the issue of preservation, we hold that Hardt preserved this issue for appeal. Below, Hardt’s counsel objected to the district court’s ruling excluding the evidence that Hardt was homeless at the time of the incident. Unfortunately, the entire conversation is not in the record because it took place in chambers and off the record; however, defense counsel reasserted her objection on the record, stating: “As far as talking about his status as homeless, I wouldn’t say we’re in agreement, but we acknowledge that the [c]ourt has ruled that we are not able to bring that up.” The court acknowledged Hardt’s previous objection in chambers, responding: “So from the record standpoint, I think it would stand that *you have objected* or have asked that evidence be allowed, and I have so far not allowed that.” (Emphasis added). Thus, because Hardt timely objected to the district court’s adverse ruling, the issue is preserved for appellate review.

Furthermore, Hardt did not invite any potential error by the district court in excluding this evidence. In *Barr*, this Court held that because the defendant took no position on an issue, “he did not urge the court to take action, nor did he play an important role in prompting the court to give the sentence it did.” *Id.* at 786, 463 P.3d at 1289. Here, Hardt did not contribute to the error by urging the court to take the action he now challenges or by refraining from taking a position on the issue; rather he actively objected to the ruling that he now challenges on appeal. Contrary to the State’s argument, Hardt only agreed to refrain from presenting evidence of where he obtained the jacket *after* the district court already made its ruling excluding evidence of his homelessness. Defense counsel’s cooperation with the State in faithfully following a court order that she previously opposed is not tantamount to inviting the error. In fact, it is precisely the type of professional conduct expected of an officer of the court. Thus, we conclude that the State has failed to establish that Hardt invited error.

B. The district court abused its discretion under Idaho Rule of Evidence 403 by preventing Hardt from explaining that he acquired the jacket from a homeless shelter.

On appeal, Hardt contends that the district court abused its discretion by applying Idaho Rule of Evidence 403 to exclude evidence of where he obtained his jacket. He argues that because knowledge is an essential element of possession of a controlled substance, evidence that he had recently received the jacket from a homeless shelter and was unaware of its contents was highly probative and, thus, relevant to his defense. He contends that excluding his testimony about how he obtained his jacket violated Rule 403 because its probative value far outweighed the risk of unfair prejudice to the State, even if it incidentally disclosed his homeless status. The State counters that disclosing Hardt’s homeless status had no bearing on any element of the charged crimes and would only elicit the jury’s sympathy and cause confusion.

The test for factual relevance is straightforward and well known: “Evidence is relevant if: (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action.” I.R.E. 401. The test for legal relevance under Idaho Rule of Evidence 403 is more nuanced and requires a balancing of interests. Rule 403 provides that a “court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.” I.R.E. 403. Here, although we do not know what was originally said in chambers, the district court analyzed the issue on the record as follows:

THE COURT: . . . I think the context which it was discussed in chambers was that if [Hardt] were to testify, which I'm sure you've probably not made that decision yet, but if he were to testify, he might testify or hypothetically will be testifying that he was homeless. He got the clothes at a homeless shelter, and then I think the next phrase is common for clothes at homeless shelters to have different things in them. And I thought that was a little bit too -- I didn't think that it was that probative, and I thought the prejudicial effect of trying to gain sympathy otherwise would outweigh that, so I would steer you away from that.

The Rule 403 balancing test requires that otherwise relevant evidence be excluded when its probative value is *substantially* outweighed by the risk of unfair prejudice. “This Court has stated that unfair prejudice requires that ‘evidence . . . be excluded if it invites inordinate appeal to lines of reasoning outside of the evidence or emotions which are irrelevant to the decision making process.’ ” *State v. Chambers*, 166 Idaho 837, 844, 465 P.3d 1076, 1083 (2020) (alteration in original) (quoting *State v. Rhoades*, 119 Idaho 594, 604, 809 P.2d 455, 465 (1991)). While it should be axiomatic that probative evidence typically has a prejudicial effect on the side opposing it, this is not the determining factor. “While the disputed evidence is undoubtedly prejudicial, the inquiry for this Court is whether the evidence is *unfairly* prejudicial.” *State v. McGrath*, 169 Idaho 656, 665–66, 501 P.3d 346, 355–56 (2021).

In *State v. Samuel*, the defendant was charged with murdering his father and asserted that he acted in self-defense. 165 Idaho 746, 753–54, 452 P.3d 768, 775–76 (2019). He sought to have his mother testify that she had observed his fear of his father, but the district court excluded the testimony. *Id.* at 772, 452 P.3d at 794. Its reasoning was that there was already other “independent evidence” of his fear and stated that the testimony would be “more prejudicial than probative” *Id.* On appeal, this Court held that the district court abused its discretion. *Id.* at 773, 452 P.3d at 795. Although the trial court appeared to view the testimony as cumulative, it did not identify the independent evidence on which its conclusion rested. *Id.* This Court emphasized that Rule 403 permits the exclusion of evidence when the danger of unfair prejudice substantially outweighs its probative value and explained that “[s]imply stating that the probative value is outweighed by the unfair prejudice is insufficient.” *Id.*

On de novo review, we conclude that the evidence that Hardt obtained the jacket from a homeless shelter was relevant and bore directly on an element of the offense, because it (1) related to the knowledge element and (2) supported his theory of the case; thus, its probative value is substantial and was entitled to full consideration under the Rule 403 balancing test the district court did not complete. Although the district court considered the potential risk that evidence of

homelessness might create sympathy for Hardt, it did not make a finding that the danger of unfair prejudice *substantially outweighed* the evidence's probative value, nor did it explain why the heightened Rule 403 threshold for exclusion was met. Hardt was charged with possession of methamphetamine in violation of Idaho Code section 37-2732(c). "This Court has held that 'the offense requires a general intent, that is, the knowledge that one is in possession of the substance' whether it be marijuana, cocaine, or another controlled substance." *Blake*, 133 Idaho at 240, 985 P.2d at 120 (quoting *State v. Fox*, 124 Idaho 924, 926, 866 P.2d 181, 183 (1993)). The State bore the burden of proving beyond a reasonable doubt that Hardt had knowledge that there was methamphetamine or a controlled substance in his jacket pocket. Hardt's testimony that he obtained the jacket from a homeless shelter was highly relevant and probative because it could have cast reasonable doubt in the minds of some jurors on whether he knew that he was in possession of a controlled substance.

Moreover, while the district court's reasoning that evidence of his homelessness could elicit sympathy may be valid, the resulting prejudice to the State is not self-evident. We recognize that reasonable minds may differ as to both the relevance of evidence concerning homelessness and its potential to elicit either sympathy *or* antipathy, and those judgments ordinarily fall within the district court's discretion. The problem here, however, is that the district court appears to have stopped after concluding that the evidence could be prejudicial to the State. It did not complete the required Rule 403 analysis by explaining why the potential for unfair prejudice *substantially outweighed* the evidence's significant probative value. Thus, the district court abused its discretion by excluding the evidence without applying the proper Rule 403 analysis.

C. The State has not established that excluding evidence that Hardt obtained the jacket at a homeless shelter was harmless.

Because this Court has determined that the district court erred by excluding evidence suggestive of Hardt's homeless status, and Hardt timely objected to the exclusion, we must now determine whether the error was harmless.

The State argues that any potential error was harmless because "the evidence that Hardt willfully possessed the methamphetamine was overwhelming" and that "the probative force of the alleged error was minimal and did not contribute to the verdict." It also claims that Hardt has provided little detail regarding what evidence he would have presented if not for the error. Hardt asserts that, while the State presented evidence as to Hardt's possession of the methamphetamine, it did not present evidence as to Hardt's knowledge. Moreover, Hardt argues that the district court's

ruling “eliminated [his] ability to present highly probative evidence regarding his knowledge of the substances the State alleged that he knowingly possessed.” Accordingly, considering the lack of evidence in the record concerning Hardt’s knowledge, an essential element of the crime, and the highly probative nature of the excluded evidence, Hardt asserts that the error was not harmless.

“Harmless error is ‘error unimportant in relation to everything else the jury considered on the issue in question, as revealed in the record.’ ” *State v. Al Muthafar*, 174 Idaho 882, 890, 560 P.3d 1029, 1037 (2024) (quoting *State v. Garcia*, 166 Idaho 661, 674, 462 P.3d 1125, 1138 (2020)). “Harmless error review was created to prevent . . . miscarriages of justice, and to prevent trial verdicts from being reversed on mere technical violations that did not affect the ultimate disposition of the case.” *State v. Perry*, 150 Idaho 209, 220, 245 P.3d 961, 972 (2010). “A defendant appealing from an objected-to, non-constitutionally-based error shall have the duty to establish that such an error occurred, at which point the State shall have the burden of demonstrating that the error is harmless beyond a reasonable doubt.” *Id.* at 222, 245 P.3d at 974. If the error was not harmless, “reversal is required.” *State v. Campbell*, 168 Idaho 164, 173, 481 P.3d 118, 127 (2021) (citing *Perry*, 150 Idaho at 224, 245 P.3d at 976).

This Court utilizes a two-part analysis when considering whether erroneous decisions concerning the admission or exclusion of evidence were harmless. We consider “(1) the probative force of evidence untainted by error against a defendant and (2) the weight of the untainted evidence against the probative force of the error itself.” *State v. Fox*, 170 Idaho 846, 863, 517 P.3d 107, 124 (2022) (citation modified). “When the effect of the error is minimal compared to the probative force of the record establishing guilt ‘beyond a reasonable doubt’ without the error, it can be said that the error did not contribute to the verdict rendered and is therefore harmless.” *State v. Garcia*, 166 Idaho 661, 674, 462 P.3d 1125, 1138 (2020) (citing *Yates v. Evatt*, 500 U.S. 391, 404–05 (1991), *disapproved on other grounds by Estelle v. McGuire*, 502 U.S. 62 (1991)). “While a reviewing court might quantify the probative force of the record as a whole as ‘overwhelming evidence’ of guilt . . . the probative force of the *error* must be weighed as well.” *Id.* at 674–75, 462 P.3d at 1138–39.

In *Rambo*, the defendant appealed a district court’s decision to exclude extended video footage showing that his gun only discharged when he was actively being tased by officers. *State v. Rambo*, 173 Idaho 272, 276–78, 540 P.3d 974, 978–80 (2023). He planned to use this footage to establish that the discharge was accidental. *Id.* at 282, 540 P.3d at 984. The district court ruled

that the evidence was not relevant; thus, it did not engage in a Rule 403 balancing test. *Id.* On appeal, this Court held that, while the district court erred by failing to conduct a Rule 403 analysis, the error was harmless. *Id.* at 282–84, 540 P.3d at 984–86. This Court reasoned that the probative value of the untainted evidence that the jury did consider (including body camera footage from seven officers of the events before the gun was discharged, testimony from the officers, and expert testimony regarding the effect of the taser on the defendant) was very high. *Id.* at 283, 540 P.3d at 985. Conversely, the probative value of the extended video footage was low, as officers already testified that Rambo’s gun had not discharged a second time. *Id.* at 283–84, 540 P.3d at 985–86.

Here, by contrast, the State has not established beyond a reasonable doubt that the district court’s error in excluding the evidence did not contribute to the verdict. The State claims that the evidence it adduced at trial was “overwhelming.” It points to evidence that Hardt had a “methamphetamine pipe” with residue in his pocket. However, Hardt testified that the metal tube was a tent pole, an item a homeless person might reasonably carry, and that he did not use it to smoke methamphetamine. Regardless, the jury acquitted him of the charge of possession of drug paraphernalia; thus, we cannot assume that its presence would have supported the verdict. The State also points to the marijuana found in his jacket pocket. However, the district court ruled that there was insufficient evidence to sustain a conviction for possession of marijuana and dismissed the charge. While Hardt admitted that he owned other items found in his pockets, including a phone cord, flashlight, multiple lighters, sunglasses in a case, and some loose change, he also testified that he just recently “put whatever [he] had in [his] other pocket into that pocket.”

Hardt’s testimony regarding where he got the jacket is critically related to the crime charged—it supports his claim that he was unaware of the methamphetamine in his pocket. At trial, the State argued that Hardt knew that he possessed the methamphetamine because it was in the pocket of a jacket he was wearing: “So you know that [Hardt] had possession of the methamphetamine and he also had possession of the pipe because they were in his pockets.” The State also noted “it would be kind of surprising that he didn’t know that also in his pockets were methamphetamine and a pipe.” While the State appears to conflate the methamphetamine found *in his jacket* with the pipe found *in the pocket of his pants*, the State’s assertion on appeal that Hardt could have testified that the jacket was not his without mentioning where he got the jacket is still unpersuasive. Because the district court excluded evidence of where he got the jacket, Hardt could not counter these inferences the jury was asked to make by explaining that he recently

obtained the jacket from a homeless shelter or that it is common in his experience for clothing obtained from homeless shelters to have various items in the pockets. Of course, whether to believe Hardt's explanation was a matter for the jury to decide. It is not at all implausible that if Hardt had been able to testify that he received the jacket from a homeless shelter, the jury may have had reasonable doubt as to whether he was aware of the methamphetamine in his jacket and thus found him not guilty. Accordingly, following the two-prong harmless error analysis—i.e., measuring the probative force of the record the jury actually heard against the probative force of the wrongly excluded evidence—we conclude that the probative force of the error outweighs the probative force of the record untainted by error. *See Fox*, 170 Idaho at 863, 517 P.3d at 124. Because knowledge of possession is an essential element of the crime charged, we hold that the State has not proven beyond a reasonable doubt that the district court's exclusion of evidence was harmless.

In light of our holding, it is unnecessary for us to address Hardt's argument that his Sixth and Fourteenth Amendment right to present a defense was violated. Because we are remanding this case on evidentiary grounds, "principles of constitutional avoidance require us to refrain from answering constitutional questions that are unnecessary for the resolution of the issue." *State v. Campbell*, 177 Idaho 209, ___, 587 P.3d 211, 221 (2026).

IV. CONCLUSION

For the foregoing reasons, we vacate Hardt's judgment of conviction and remand for proceedings consistent with this opinion.

Chief Justice BRODY, Justices BEVAN, ZAHN, and MEYER CONCUR.