The summaries of the Colorado Court of Appeals published opinions constitute no part of the opinion of the division but have been prepared by the division for the convenience of the reader. The summaries may not be cited or relied upon as they are not the official language of the division. Any discrepancy between the language in the summary and in the opinion should be resolved in favor of the language in the opinion.

SUMMARY
November 12, 2026

2026 COA 82

No. 21CA1859, *People v. Redwine* — Crimes — Murder in the Second Degree — Child Abuse Resulting in Death

A division of the court of appeals upholds Mark Allen Redwine's conviction for second degree murder, § 18-3-103(1), C.R.S. 2026, and child abuse resulting in death, § 18-6-401(1)(a), (7)(a)(I), C.R.S. 2026.

COLORADO COURT OF APPEALS **2026 COA 82**

Court of Appeals No. 21CA1859
La Plata County District Court No. 17CR343
Honorable Jeffrey R. Wilson, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Mark Allen Redwine,

Defendant-Appellant.

JUDGMENT AFFIRMED

Division II
Opinion by JUDGE FOX
Martinez* and Bernard*, JJ., concur

Announced November 12, 2026

Philip J. Weiser, Attorney General, William G. Kozeliski, Senior Assistant Attorney General, Denver, Colorado, for Plaintiff-Appellee

Rebecca E. Woodman, Alternate Defense Counsel, Kansas City, Missouri, for Defendant-Appellant

*Sitting by assignment of the Chief Justice under provisions of Colo. Const. art. VI, § 5(3), and § 24-51-1105, C.R.S. 2026.

¶ 1 Defendant, Mark Allen Redwine, appeals his judgment of conviction for second degree murder, § 18-3-103(1), C.R.S. 2026, and child abuse resulting in death, § 18-6-401(1)(a), (7)(a)(I), C.R.S. 2026. We affirm.

I. Background

¶ 2 D.R., Redwine's teenage son with his ex-wife Elaine Hall, disappeared in November 2012 after arriving at Redwine's home in Vallecito, Colorado, for a court-ordered visit. D.R. lived with Hall in Colorado Springs, but he occasionally spent time with Redwine. D.R. and Redwine's relationship was strained in the months before D.R.'s disappearance, primarily due to D.R.'s 2011 discovery of photos depicting Redwine eating feces out of a diaper while wearing women's clothing. D.R. found the photos while borrowing Redwine's laptop. C.R., D.R.'s brother, took photos of the laptop screen and testified that D.R. was "disgusted" and "lost any reason . . . to look up to [Redwine] that day." D.R. also told Hall's divorce attorney that the photographs made him uncomfortable around Redwine.

¶ 3 In August 2012, while on a road trip with Redwine, D.R. texted C.R.: "Hey, send me those poop pics of papa because he gave me a

speech about [you and mom] being a bad example and I want to show him who he really is." D.R. asked several times, but C.R. refused to send them because he did not want to "fuel a bigger fire." After the road trip, D.R. seldom communicated with Redwine until the scheduled November visit.

¶ 4 Redwine retrieved D.R. from the local airport on November 18, 2012. D.R. immediately asked if he could spend the night at his friend R.N.'s house, but Redwine declined. The pair then went to Walmart and McDonald's, where D.R. was "standoffish." They then drove to Redwine's home in Vallecito. D.R. texted friends that evening and told R.N. he planned to see him early the next morning, and D.R.'s phone last registered on a cell tower at 9:37 p.m. near Redwine's house. A neighbor later testified that Redwine's porch light was on at 2 a.m., which was unusual.

¶ 5 The afternoon of November 19, Redwine contacted Hall and asked if she had heard from D.R. Hall said no. Redwine explained that he saw D.R. that morning and he was "fine," but that D.R. apparently left home while Redwine was out running errands and failed to respond to calls and texts. Redwine notified the police of D.R.'s disappearance, and authorities searched for D.R. that

evening. Redwine cooperated with law enforcement but did not participate in the search or request updates.

¶ 6 Redwine's November 26 written statement to the police detailed the November 18 stops at Walmart and McDonald's and disclosed that he and D.R. tossed a football and "roughhoused a little," watched a movie, and then went to bed around 10 p.m. Redwine said that D.R. was in bed the next morning but was not home at 11:30 a.m. when he returned from running his errands.

¶ 7 Redwine's story remained consistent until November 29, when police executed a search warrant at his home. Officers explained to Redwine that they were looking for signs that D.R. may have been injured, and Redwine disclosed for the first time that D.R. "had a cold sore on his lip that was oozing blood." Redwine explained that when he and D.R. were tossing a football, it hit D.R.'s lip and he spat blood on the floor. The search uncovered D.R.'s blood in the living room.

¶ 8 The case garnered media attention. Hall spoke on the Dr. Phil television show and True Crime Radio, the photos of Redwine eating feces appeared on Facebook, and local newspapers published Hall's belief that Redwine "had something to do with [D.R.]'s

disappearance." Law enforcement also focused their suspicions on Redwine and interviewed him regularly. Redwine was cooperative but exhibited questionable behavior, including transferring money out of D.R.'s bank account and saying "[D.R.]'s not up here" when search efforts changed to Middle Mountain Road (a remote area near Redwine's home). And B.R. — D.R.'s half-brother — reported a conversation in which Redwine used the term "blunt force trauma" several times.

¶ 9 In June 2013, D.R.'s partial remains were found on an all-terrain vehicle trail off Middle Mountain Road. In August 2013, Human Remains Detection Dog Handler Carren Corcoran and her cadaver dog Molly searched Redwine's home to detect human remains. Molly alerted to a cadaver scent in the living room, the washing machine, and Redwine's pickup truck, and on the clothes Redwine wore on November 18-19, 2012.

¶ 10 In November 2015, hikers found D.R.'s skull roughly two miles from the first recovery site on Middle Mountain. Forensic anthropologists concluded that the injuries on D.R.'s skull were consistent with blunt force trauma and knife wounds, ruling out

any suggestion that an animal attacked D.R. Law enforcement deemed D.R.'s death a homicide.

¶ 11 In July 2017, after a grand jury indictment, Redwine was arrested and charged with second degree murder, § 18-3-103(1), and child abuse resulting in death, § 18-6-401(1)(a), (7)(a)(I). A jury found Redwine guilty as charged in July 2021, and the court sentenced him to forty-eight years in the Department of Corrections' custody.

¶ 12 Redwine raises several issues on appeal. He argues that the trial court erred by (1) denying his change of venue motion; (2) admitting evidence of specific incidents of alleged misconduct in violation of CRE 404(b); (3) admitting expert testimony without proper foundation; and (4) admitting evidence obtained through the cadaver dog's warrantless search of his home. He further contends that (5) the trial judge exhibited pervasive bias and prejudice against him and defense counsel, and (6) the prosecutor's comments during closing argument amounted to prosecutorial misconduct. Finally, Redwine asserts cumulative error. We address, and reject, each argument in turn.

II. Venue Change

A. Additional Background

¶ 13 D.R.'s disappearance gripped Vallecito and the surrounding La Plata County community. The Durango Herald (Herald) published over 150 articles about the case, the feces photos spread online, and many Facebook users publicly accused Redwine of killing D.R. Redwine also appeared on the Dr. Phil show in February 2013, where Dr. Phil asked him — and Redwine declined — to take a polygraph test in front of a live audience. Redwine then became the subject of online death threats after some 13,000 people viewed his post-arrest press conference.

¶ 14 Before trial, Redwine moved to change venue because of presumed prejudice. He argued that he could not receive a fair trial in La Plata County "due to the massive, pervasive, and prejudicial pre-trial publicity, and because there is a nexus between the prejudicial pre-trial publicity and the local jury pool." He pointed to La Plata County's small population of 55,589 people, public sympathy for D.R. and hatred for Redwine, and the volume of articles the Herald had printed about the case.

¶ 15 The trial court denied Redwine's motion. Acknowledging that the case generated significant publicity, the court observed that the media frenzy had dwindled in the six years since D.R.'s disappearance. The court also pointed to difficulties with determining the number of Herald readers. Significantly, the court recognized the far-reaching nature of social media and concluded that it was not possible to know how many "potential jurors from La Plata County" — versus people in other counties — saw or engaged with derogatory Facebook posts. Finally, the court noted that it had sealed or redacted inflammatory documents, thereby limiting juror exposure to highly prejudicial information. Thus, the court concluded that Redwine had failed to meet his high burden of showing presumed prejudice.

¶ 16 The court employed several procedural safeguards during jury selection, which began eight years after D.R.'s disappearance: It called a much larger jury pool than normal, asked all potential jurors to complete a detailed questionnaire concerning their knowledge of the case, and conducted individual voir dire of the 115 potential jurors who returned the questionnaire. Fifty-one

prospective jurors remained after this process, and the court proceeded to general voir dire.

¶ 17 Redwine maintains on appeal that pretrial publicity imperiled the trial court's ability to seat an impartial jury, so the court's failure to change venue deprived him of a fair trial. The People counter that media coverage lacked inflammatory detail and was years old by the time of trial, and, moreover, the court employed effective safeguards during jury selection. We agree with the People.

B. Standard of Review

¶ 18 We review a trial court's venue change denial for an abuse of discretion. *People v. Hankins*, 2014 COA 71, ¶ 6. A court abuses its discretion when its ruling is manifestly arbitrary, unreasonable, or unfair, or when it misapplies the law. *People v. Zapata*, 2016 COA 75M, ¶ 20, *aff'd*, 2018 CO 82.

C. Applicable Law and Analysis

¶ 19 "A trial court must strike the proper balance between the right to trial by a panel of impartial jurors and the right of the public and press under the First Amendment." *Hankins*, ¶ 10. Pretrial publicity may undermine the defendant's possibility of seating an

impartial jury; to avoid this prejudice, the court may order a change of venue. *Id.* "However, 'pretrial publicity does not alone trigger a due process entitlement to a change of venue. Rather, we will presume prejudice only in extreme circumstances.'" *Id.* (citation omitted).

¶ 20 When seeking a venue change, the defendant must show that either (1) pretrial publicity was so massive, pervasive, and prejudicial that it created a presumption that the defendant will be denied a fair trial; or (2) the publicity created actual prejudice and hostility in the jury panel. *Id.* at ¶ 11. The critical inquiry for our review of a trial court's denial of a venue change request is whether the trial court did in fact preserve the accused's right to a fair trial. *People v. Harlan*, 8 P.3d 448, 468 (Colo. 2000), *overruled on other grounds by People v. Miller*, 113 P.3d 743 (Colo. 2005).

1. Presumed Prejudice

¶ 21 To determine whether pretrial publicity created a presumption of prejudice, courts consider the source of news stories, the extent and specificity of certain facts, the volume and intensity of the coverage, the manner of presentation, the publication of incriminating facts inadmissible at trial, the proximity to the time of

the trial, the size and type of the locale, and the victim's reputation. *Hankins*, ¶ 12. "These factors must establish that publicity is so 'ubiquitous and vituperative that most jurors in the community could not ignore its influence.'" *Id.* at ¶ 13 (citation omitted).

¶ 22 This standard is difficult to meet. In *People v. Munsey*, 232 P.3d 113, 121 (Colo. App. 2009), local media published about ninety articles on the case. Several articles appeared on the front page of print sources and contained inflammatory commentary, and one source published a cartoon suggesting the defendant be hanged. *Id.* The county had a meager population of 23,000, yet a division of this court discerned no error in the trial court's denial of the defendant's venue change request. *Id.* at 123. And the supreme court held in *Harlan*, 8 P.3d at 469, that the defendant was not entitled to a venue change even when "there was an impressive amount of publicity created by the defendant's offenses" because a significant passage of time decreased the prejudicial effect of pretrial publicity. Much of the publicity in that case occurred roughly one year before trial. *Id.*

¶ 23 Notably, in a first degree murder case, the supreme court concluded that pretrial publicity was not pervasive and prejudicial

even when seventy percent of county residents subscribed to a newspaper that had published nearly 100 articles about the case. *People v. Botham*, 629 P.2d 589, 597 (Colo. 1981), *superseded by rule as stated in, Rojas v. People*, 2022 CO 8. These articles detailed the investigation, described the victims' bodies, and discussed the community's relief after the defendant's arrest. *Id.* at 596. The court held that this did not create a presumption of prejudice, but the defendant's right to a fair trial had been violated because voir dire revealed actual prejudice. *Id.* at 600-01.

¶ 24 Here, jury selection began eight years after D.R. disappeared — a much larger time gap than that in *Harlan*, 8 P.3d at 469. This substantial passage of time decreased any potential harmful effect of publicity. *See id.* Moreover, Redwine could not reliably establish how many La Plata residents read the Herald daily, undermining his speculation that much of the county read the prejudicial articles. *Cf. Botham*, 629 P.2d at 597 (noting that seventy percent of residents subscribed to a local newspaper). Significantly, most hateful comments directed at Redwine came from Facebook, and Facebook reaches far beyond county — or even national — bounds. The trial court was not persuaded that a change in venue would

have facilitated finding impartial jurors when Coloradans outside of La Plata County also knew about the case; thus, the trial court concluded that pretrial publicity was not so massive, pervasive, and prejudicial as to create a presumption of prejudice. *See Munsey*, 232 P.3d at 123; *Botham*, 629 P.2d at 597.

¶ 25 Because the pretrial publicity in this case presents less concerns than those cases where the venue change denial was upheld, we conclude that the trial court acted within its discretion by finding that the pretrial publicity did not create a presumption of prejudice.

2. Actual Prejudice

¶ 26 Absent "presumed prejudice, the defendant must show actual prejudice — a nexus between pretrial publicity and a panel of partial jurors." *Hankins*, ¶ 18. If an extensive voir dire reveals that jurors can set aside their opinions, courts decline to find actual prejudice. *Id.*

¶ 27 Here, the trial court vetted potential jurors by providing a detailed questionnaire and conducting individual voir dire. *See id.* Our independent review of the returned questionnaires reveals that the impaneled jurors — in contrast to those who were dismissed —

had limited or no knowledge about the case, and those who had read articles or seen Facebook posts only learned facts that were admitted at trial. These jurors agreed they could follow all jury instructions, whereas dismissed individuals answered "no" or "not sure." Redwine fails to show an actual nexus between pretrial publicity and juror impartiality. Ultimately, a panel of impartial jurors was seated and Redwine was not deprived of a fair trial. Therefore, the trial court did not abuse its discretion by denying his venue change request. *See id.*; *cf. Botham*, 629 P.2d at 600-01 (concluding that actual prejudice — evidenced in voir dire — deprived the defendant of a fair trial).

III. Specific Instances of Conduct

A. Additional Background

¶ 28 In June 2013, shortly after D.R.'s partial remains were found, two women drove to Redwine's home, intending to confront him. After a brief exchange, one woman, who had seen the photographs of Redwine eating feces, called him "a shit eating piece of shit." The women said that in response, Redwine grabbed a split log, raised it in an attack position, and advanced toward the women (the log incident). Before Redwine could reach the car, the women drove off.

¶ 29 The prosecution moved to admit the photos and log incident under CRE 404(b), arguing that this prior act of violence indicated Redwine became enraged when confronted with the photos and showed Redwine's potential motive to kill D.R. Noting that months earlier D.R. had asked C.R. for the photos with the intent of confronting Redwine, the prosecution theorized that the photos fueled conflict on November 18, 2012. The motion argued that the evidence was relevant beyond any character inferences because it showed D.R. was aware of the photos and willing to use them against Redwine, and Redwine became upset to the point of violence when confronted with the photos. Redwine opposed the motion.

¶ 30 The trial court found the evidence admissible under CRE 404(b) and *People v. Spoto*, 795 P.2d 1314 (Colo. 1990). It reasoned that the evidence showed Redwine's motive and "lack of self-control" and was logically relevant to the theory that Redwine "became violently enraged when confronted with what . . . society would consider deviant sexual behavior." The court acknowledged that the evidence could lead the jury to believe that Redwine had a bad moral character, but it concluded that "[t]he probative value . . . is very high, it explains why the defendant, who loved his son, could

have been responsible for his son's death." To remedy any risk of unfair prejudice, the court provided the jury with the following limiting instruction:

> The court admitted certain evidence for a limited purpose. You are again instructed that you cannot consider that evidence except for the limited purpose I told you about when it was admitted. In this case, one type of such evidence includes testimony and evidence relating to certain photographs and the defendant's reaction when confronted about such photographs. Evidence concerning the photographs were [sic] admitted into evidence for two purposes. The first was to allow the prosecution to attempt to prove that the defendant became violent when confronted by others with the photograph[s]. The second reason such evidence was admitted was to allow the prosecution to attempt to prove motive.

¶ 31 Redwine maintained through counsel that he loved D.R., he would never hurt him, and D.R.'s behavior was ordinary teenage angst. He further blamed Hall for the strained father-son relationship.

¶ 32 At trial, the prosecution elicited another instance of Redwine's conduct when questioning Betsy Horvath — Redwine's first ex-wife — about a statement Redwine made nearly thirty years earlier. Horvath testified that on a camping trip, Redwine said that

their remote camping spot would be a good place "to get rid of a body." She explained that she remembered this statement years later because it caused her fear. Over defense counsel's CRE 401, 402, 403, and 404 objections, the trial court merely asked the prosecutor if he was "going any further" with this line of questioning and overruled the objections.

¶ 33 Redwine argues on appeal that the photos, the log incident, and Horvath's testimony are improper character evidence and that the trial court erred under CRE 404(b) and *Spoto* in admitting all three instances of conduct. We conclude that the court properly admitted the photos and log incident but abused its discretion by allowing Horvath's testimony. We further conclude, however, that this error was harmless.

B. Standard of Review

¶ 34 A trial court has broad discretion to determine the admissibility of evidence based on its relevance, probative value, and prejudicial impact. *People v. Morse*, 2023 COA 27, ¶ 39. We review these evidentiary rulings for an abuse of discretion, applying the standard articulated above. We review nonconstitutional errors preserved by proper objection for harmless error and will disregard

the error unless it "substantially influenced the verdict or affected the fairness of the trial proceedings." *Hagos v. People*, 2012 CO 63, ¶ 12 (citation omitted).

C. Applicable Law and Analysis

¶ 35 "Evidence of any other crime, wrong, or act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in conformity with the character." CRE 404(b)(1). However, such evidence is admissible for nonpropensity proof of "motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident." CRE 404(b)(2).

¶ 36 Before admitting evidence of other acts, the court must consider whether (1) the evidence relates to a material fact; (2) the evidence is logically relevant — i.e., tends to make the existence of a material fact more or less probable; (3) the evidence's relevance is independent of any impermissible character inference; and (4) the probative value of the evidence is substantially outweighed by the danger of unfair prejudice under CRE 403. *Spoto*, 795 P.2d at 1318. The third prong "does not demand the absence of the prohibited inference but only that the proffered evidence be logically

relevant independent of that inference." *People v. Rowe*, 2012 COA 90, ¶ 44.

¶ 37 We agree with the trial court that the photos and log incident satisfy all four *Spoto* prongs. Redwine and D.R.'s relationship, Redwine's response to the photos, and Redwine's possible motive for harming D.R. were material facts. It follows that the evidence was logically relevant because it explained their strained relationship and underpinned the prosecution's theory that Redwine became enraged when confronted with the photos. The evidence was also relevant independent of any prohibited inference because it refuted Redwine's contention that Hall and "teenage angst" fueled their tense father-son dynamic. *See id.* (concluding that evidence satisfied *Spoto*'s third prong because it refuted the defendant's contrary assertions); *see also People v. Cross*, 2023 COA 24, ¶ 24 (evidence that the defendant "had previously reacted in an angry and controlling manner after overhearing the victim's plans to leave him" placed the charged offense in perspective).

¶ 38 Although the evidence was unfavorable, the trial court acted within its discretion by concluding that the evidence's probative value was not substantially outweighed by the danger of unfair

prejudice under CRE 403. *See Rowe*, ¶ 45. And the trial court mitigated any risk when it instructed the jury that the evidence was admissible only to show Redwine's response to the photos and potential motive for harming D.R. — not to show that Redwine was a violent or deviant person generally. Absent evidence to the contrary, we presume the jury understood and followed this limiting instruction. *See People v. Stellabotte*, 2016 COA 106, ¶ 30, *aff'd on other grounds*, 2018 CO 66.

¶ 39 Turning to Horvath's testimony, we conclude that the trial court abused its discretion by asking the prosecutor if he planned to "go[] any further" and summarily overruling defense counsel's Rule 401, 402, 403, and 404 objections. *See People v. Welsh*, 80 P.3d 296, 304 (Colo. 2003) ("The trial court must address any appropriate objection and articulate the reasoning for its decision."). But even if erroneously admitted, the testimony was but a brief moment in a three-week trial, and we fail to see how this isolated incident undermined the fundamental fairness of the proceedings. Thus, any error was harmless. *See Hagos*, ¶ 12; *see also People v. Daley*, 2021 COA 85, ¶ 98 ("[T]hat improperly admitted testimony was brief and fleeting supports a conclusion that it was harmless.").

IV. Cadaver Dog Testimony

A. Additional Background

¶ 40 Cadaver dogs are trained to detect decaying human tissue. As mentioned, law enforcement employed handler Corcoran and her cadaver dog Molly to search Redwine's home after D.R.'s partial remains were found. Molly alerted several times throughout the search.

¶ 41 Redwine moved to suppress all evidence pertaining to Molly and Corcoran. He argued that (1) cadaver dogs are unreliable; (2) information about Molly was incomplete; (3) Molly's alerts were not corroborated by other evidence; and (4) Molly's search did not occur within a reasonable time after D.R. disappeared. The prosecution responded by supplying Molly's certifications and training records, which indicated a ninety-one percent reliability rate and only one false alert in seven years. The prosecution also provided Corcoran's resume, reports detailing Corcoran and Molly's experience together, and nearly 300 additional pages of training records documenting Molly's past searches.

¶ 42 Pursuant to *People v. Shreck*, 22 P.3d 68 (Colo. 2001), the court held a hearing to determine whether it could properly admit

Corcoran's testimony. Over three days, the court received evidence about cadaver dogs generally and heard about Corcoran's qualifications and Molly's reliability. Corcoran testified that she had been handling dogs since 1995, was certified in cadaver search guidelines and criteria, and had testified as an expert six times. Corcoran further explained that she began training Molly in 2007, Molly had previously alerted to areas where human remains had been (but were no longer) present, and Molly was trained to avoid "cuing" — i.e., alerting to a false positive based on handler behavior. Corcoran never suggested that she was an expert in the scientific principles underlying decaying tissue scent detection. Defense counsel cross-examined Corcoran and presented his own witness against her, who opined that decaying body odors do not last for more than a week and a dog could not reliably detect such odors after a body is removed.

¶ 43 Following the hearing, the trial court issued an order with its findings on Molly's reliability, Corcoran's qualifications, the testimony's usefulness to the jury, and CRE 403 considerations. In

doing so, the court analyzed the following *Brooks v. People*, 975 P.2d 1105 (Colo. 1999), factors, as modified for cadaver dogs[1]:

- Is the dog a breed with acute powers of scent?
- Has the dog been trained to find the scent of human remains?
- Has the dog been reliable at finding human remains?
- Was the dog searching in a location that the dog could reasonably be expected to find the scent of human remains?
- Did the attempt at finding the scent of human remains occur within a reasonable amount of time considering the ability of the dog?
- Is the dog-sniff evidence corroborated by other evidence?
- Does the evidence survive CRE 403?

The trial court analyzed these factors before determining that Corcoran's testimony was admissible.

¶ 44 Redwine argues on appeal that cadaver dog testimony is scientific — not experience based — and that the trial court applied

---

[1] In *Brooks v. People*, 975 P.2d 1105, 1106 (Colo. 1999), general scent-tracking dogs were at issue, not cadaver dogs.

the incorrect legal standard when finding Corcoran's testimony admissible. We disagree.

B. Standard of Review

¶ 45 We review a trial court's evidentiary rulings for an abuse of discretion, applying the standard articulated *supra* Part II.B.

C. Applicable Law and Analysis

¶ 46 CRE 702 governs the admissibility of expert testimony. The rule provides, "If scientific, technical, or *other specialized knowledge* will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, *experience*, training, or education" may testify in the form of an opinion. CRE 702 (emphasis added). Before such testimony reaches the jury, the court must consider the (1) reliability of the principles underlying the testimony; (2) qualifications of the witness; and (3) usefulness of the testimony to the jury. *Shreck*, 22 P.3d at 82-83. The court must also conduct an analysis under CRE 403. *Id.* at 83.

¶ 47 Experience-based testimony is "governed by a conventional CRE 702 and CRE 403 analysis." *Brooks*, 975 P.2d at 1106. If the trial court "finds that testimony on the subject indicated would be

useful to the jury, and concludes the witness is qualified to opine on such matters, the court must then apply its discretionary authority under CRE 403." *Id.* at 1114. *Shreck* extended the *Brooks* analysis to all expert testimony, not just experience-based expert testimony, *Shreck*, 22 P.3d at 77, so to the extent Redwine argues that the trial court should have applied *Shreck* instead of *Brooks*, Redwine misunderstands the law. The trial correctly relied on the *Brooks* factors to determine admissibility under CRE 702 and CRE 403.

¶ 48 And the trial court did not err by admitting Corcoran's testimony. Indeed, the "two focal points of the CRE 702 inquiry are the 'reliability and relevance of the proffered evidence,'" *People v. Cooper*, 2021 CO 69, ¶ 46 (quoting *Shreck*, 22 P.3d at 70), and the court held a three-day *Shreck* hearing to determine just that. Both parties offered cadaver dog evidence, and defense counsel extensively cross-examined Corcoran. Considering Corcoran's experience, Molly's documented training, and Molly's ability to reliably find where human remains had been after they had been removed, we conclude that the trial court acted within its discretion in finding Corcoran's testimony reasonable and reliable. We

recognize that the trial court is in a superior position to evaluate the competence of an expert witness and determine whether that witness's opinions would be helpful to the jury. *Id.* at ¶ 44. Consequently, we discern no error.

V. Molly's Warrantless Sniff Search

A. Additional Background

¶ 49 Officers called Redwine on August 5, 2013, to share their intention to take Molly onto his property. Redwine gave them permission to do so. When an officer asked if they could go inside the residence, Redwine explained that he was "on the road driving . . . to Illinois" and he was "the only one with a key and that the house was completely closed up." Redwine said that when he returned home, they could bring Molly inside.

¶ 50 Officers referred to Molly as a scent dog throughout the conversation and did not specify that Molly tracked human remains. One officer admitted that this may have led Redwine to believe that Molly tracked only live human scent, but the officer's understanding of scent dogs was also "rudimentary" and he "assumed they're all-purpose and they do everything."

¶ 51 Officers arrived at Redwine's property and noticed an open second-story window. Then, while sniffing the perimeter of the house, Molly alerted and indicated that she wanted to go inside. Corcoran suggested that they obtain a warrant or Redwine's consent to enter his home, so the officers called Redwine again. They advised Redwine that Molly had picked up on a scent emanating from inside and asked if they could enter through the open second-floor window, but Redwine responded that he did not want the house damaged. The officers assured him that they would repair any damage, and Redwine agreed, "as long as [the police] left everything the way it was, that it was okay for [them] to enter." Inside, Molly alerted to the scent of human remains in several locations.

¶ 52 Redwine moved to suppress Molly's alerts, arguing that his consent was the result of deceptive police tactics and therefore involuntary. The trial court found that Redwine "knew his rights," was not "coerced in any manner," and gave voluntary consent.

¶ 53 On appeal, Redwine maintains that his consent was invalid and the evidence must be suppressed. We disagree.

B. Standard of Review

¶ 54 Appellate review of a suppression ruling involves a mixed question of law and fact. *Leyba v. People*, 2021 CO 54, ¶ 11. We defer to the trial court's factual findings unless clearly erroneous and review the trial court's legal conclusions de novo. *Id.*

C. Applicable Law and Analysis

¶ 55 People have the right to be free from unreasonable searches and seizures. Colo. Const. art II, § 7. "The right generally prohibits warrantless searches of a person's property," but a warrantless search is constitutionally permissible when it is conducted following voluntary consent. *People v. Munoz-Gutierrez*, 2015 CO 9, ¶ 16. "Consent is voluntary if it is 'the product of an essentially free and unconstrained choice by its maker,'" and involuntary "when police overbear the consenting party's will and critically impair the party's 'capacity for self-determination.'" *Id.* at ¶¶ 16-17 (citations omitted). The prosecution bears the burden of proving voluntariness by clear and convincing evidence. *People v. Zamora*, 940 P.2d 939, 942 (Colo. App. 1996).

¶ 56 "Consent may be voluntary even when the person is not aware of or is misinformed as to the search's purpose." *Id.* Courts

recognize that "ruses are a sometimes necessary element of police work and have held that deception standing alone does not invalidate consent; it is one factor to be considered in assessing the totality of the circumstances." *Id.*

¶ 57 Here, there is no evidence that police overbore Redwine's will or impaired his ability to grant consensual access to his home. *See Munoz-Gutierrez*, ¶ 17. Rather, officers asked for permission without suggesting that Redwine must comply with their request to enter through the second-story window. *See id.* ("Undue influence includes promises, threats, and intrusive or threatening police conduct."). That Redwine initially consented to only an exterior search of his property further suggests that Redwine knew he had the right to deny access, even after the officers agreed to repair any damage to the window.

¶ 58 The police were also forthcoming about Molly's alerts and disclosed their intent to follow her lead. Redwine's argument that his consent was involuntary because the police referred to Molly as a "scent dog" instead of a "cadaver dog" is unavailing because there is no evidence the officers intentionally misled Redwine on this fact; Molly is indeed a scent dog, and an officer testified that he thought

this was an all-encompassing term. *Cf. Zamora*, 940 P.2d at 943 (concluding that a home search was valid even though the police "partially misrepresented their purpose" by saying they were investigating a domestic dispute at an adjacent apartment instead of a rape in which the defendant was a suspect). This refutes Redwine's claim that the police intentionally blinded him "to the search's real purpose." Accordingly, we conclude that Redwine validly consented and the trial court did not err by denying Redwine's motion to suppress.

VI. Judicial Bias

A. Additional Background

¶ 59 Judge Jeffrey Wilson presided over Redwine's trial. Redwine argues — for the first time on appeal — that Judge Wilson's pervasive bias deprived him of a fair trial. To support this assertion, Redwine directs us to the following conduct:

- correcting defense counsel when counsel referred to Redwine by his first name and reminding counsel that last names have been the courtroom rule "ever since you've started here";

- remarking "that kind of objection just highlights it if you're trying not to show it to the jury," when defense counsel objected to the prosecutor's use of the word "eventually";
- allowing C.R. to continue testifying over defense counsel's "asked and answered" objections, despite acknowledging that the topic was covered the day before;
- telling defense counsel "[t]hat's not the way I told you to do it," and "don't ask it that way," when defense counsel attempted to impeach C.R.;
- saying "I'm not [going to] let you . . . do this . . . I'm not going to let you go through every possible thing," when defense counsel extensively cross-examined an officer about the lack of cleaning supplies in Redwine's home;
- interrupting defense counsel when counsel sought to elicit testimony already in evidence, even though the prosecution did not object;
- acting "as the prosecutor's advocate" by articulating a response to defense counsel's objections rather than asking the prosecutor to respond;

- remarking "I understand the hearsay rule, [counsel], and you don't have to argue with me after I've made a ruling, and if you keep doing it, I'm [going to] get more upset than I am right now," when defense counsel argued testimony was offered for the truth of the matter asserted *after* the judge ruled the testimony was not hearsay; and
- telling defense counsel that he needed to be "a little quicker on [his] feet" after he lodged an untimely objection.

¶ 60 Judge Wilson later instructed the jury that the court necessarily interacts with the parties, and that the jury "may not draw any inferences about the accused's guilt from the differences, if any, that you perceive in the [c]ourt's treatment of the lawyers for the defense and the prosecution."

¶ 61 We conclude that while Judge Wilson was impatient at times, he was maintaining courtroom order and expediting the presentation of evidence during a lengthy trial. Nothing in the record suggests overt hostility. Thus, Redwine's unpreserved judicial bias claim fails.

B. Standard of Review

¶ 62 Redwine's counsel did not object to Judge Wilson presiding over the trial and did not timely move for his disqualification. As a result, he has waived any argument that Judge Wilson should have recused himself based on the *appearance* of partiality, as opposed to actual bias or prejudice. *See People v. Dobler*, 2015 COA 25, ¶ 7; *see also People in Interest of A.G.*, 262 P.3d 646, 650 (Colo. 2011) (reasoning that because "the concern is the reputation of the judiciary rather than protection of the parties," litigants may waive disqualification based on an appearance of impropriety); *People v. Jennings*, 2021 COA 112, ¶ 26 (explaining that a "claim of actual judicial bias cannot be waived").

¶ 63 We review questions of disqualification de novo. *Jennings*, ¶ 27. "Judicial bias against a criminal defendant constitutes structural error requiring reversal." *People v. Schupper*, 2014 COA 80M, ¶ 56.

C. Applicable Law and Analysis

¶ 64 Criminal defendants have the right to an unbiased judge. *People v. Palermo*, 2026 COA 12, ¶ 10. A judge "shall be disqualified to hear or try a case if . . . [h]e is in any way interested

or prejudiced with respect to the case, the parties, or counsel." § 16-6-201(1)(d), C.R.S. 2026. Relatedly, the Colorado Code of Judicial Conduct provides that a judge should disqualify himself "in any proceeding in which the judge's impartiality might reasonably be questioned," including when the judge has "a personal bias or prejudice concerning a party." C.J.C. 2.11(A)(1).

¶ 65 "Legal rulings in a case are, by themselves, insufficient to demonstrate a bias or prejudice against a party." *People v. Thoro Prods. Co.*, 45 P.3d 737, 747 (Colo. App. 2001), *aff'd*, 70 P.3d 1188 (Colo. 2003). Even rulings that are "erroneous, numerous[,] and continuous[] are not sufficient in themselves to show bias or prejudice." *Schupper*, ¶ 58 (citation omitted). And "[j]udicial remarks during the course of a trial that are critical or disapproving of . . . counsel, the parties, or their cases, ordinarily do not support a bias or partiality challenge." *In re People in Interest of A.P.*, 2022 CO 24, ¶ 31 (quoting *Liteky v. United States*, 510 U.S. 540, 555 (1994)). Rather, disqualification "is necessary only where the judge's manifestation of hostility or ill will toward an attorney indicates the absence of impartiality required for a fair trial." *Jennings*, ¶ 30.

¶ 66 In *People v. Vialpando*, 809 P.2d 1082, 1084-85 (Colo. App. 1990), a division of this court held that the trial judge demonstrated prejudice against the defense by curtailing the defendant's right to object to testimony; revealing his pro-prosecution bias when he said, "Very well done, Mr. [Prosecutor]"; telling defense counsel to "sit down" after making an objection; and responding to defense counsel's query whether her objection was sustained or overruled with "[i]t's neither." This conduct — paired with nearly fifty additional instances identified by the defendant — evidenced judicial bias that deprived the defendant of a fair trial. *Id.* at 1085.

¶ 67 Redwine argues that Judge Wilson committed the "same infractions" here. We disagree. Viewed in isolation, some of the conduct Redwine highlights appears troubling. But context reveals that Judge Wilson was attempting to expedite protracted testimony and explain his rulings when defense counsel disagreed. As to Redwine's allegation that Judge Wilson acted as the prosecutor's advocate by responding to defense counsel's objections, this occurred when defense counsel objected to evidence Judge Wilson had already allowed. And unlike the judge in *Vialpando*, who made arbitrary rulings and expressed clear bias for the prosecution and

contempt for the defense, Judge Wilson grounded his rulings in applicable law or courtroom rules. Finally, to the extent Judge Wilson may have responded more sternly to defense counsel than to the prosecutor, this does not amount to judicial bias. *See People v. James*, 40 P.3d 36, 44 (Colo. App. 2001) (rejecting an allegation of disparate treatment based on the trial judge "not respond[ing] as vociferously" to the prosecutor as to defense counsel because the argument relied on "meager differences" that "d[id] not demonstrate judicial bias"), *overruled on other grounds by McDonald v. People*, 2021 CO 64.

VII. Prosecutorial Misconduct

A. Additional Background

¶ 68 Redwine next argues that the prosecutor made several improper comments during closing argument. He first contends that the prosecutor impermissibly opined on Redwine's guilt when he said, "We are here today because [Redwine] killed [D.R.]" and Redwine "is guilty of murder." Redwine then posits that the prosecutor embraced pejoratives that inflamed the jury by referring to Redwine as a "murderer" and undermined his presumption of innocence by "faulting" him for going to trial. Finally, Redwine

argues that by (1) portraying him as "an angry and isolated father"; (2) suggesting that D.R. wished to sever their relationship; and (3) arguing that Redwine "put a knife . . . into his son" and cleaned up the blood, the prosecutor relied on facts not in evidence.

¶ 69 We conclude that the prosecutor used permissible rhetorical devices and, accordingly, discern no error.

B. Standard of Review

¶ 70 Redwine's counsel objected only once during closing, generally claiming that the prosecutor was arguing facts not in evidence. Because Redwine's counsel did not contemporaneously object to the statements Redwine challenges on appeal, we review for plain error. *See People v. Conyac*, 2014 COA 8M, ¶ 53. Under this standard, the defendant bears the burden of establishing that at the time the error arose, "it was so clear cut and so obvious that a trial judge should have been able to avoid it without benefit of objection." *Id.* at ¶ 54. The defendant must also establish that the error was substantial, such that it "undermined the fundamental fairness of the trial itself so as to cast serious doubt on the reliability of the conviction." *Id.*

¶ 71 "Plain error review for prosecutorial misconduct requires us to examine the totality of the circumstances, with particular attention to the exact language used, the nature of the misconduct, the surrounding context, and the strength of the other evidence of guilt." *People v. Dominguez-Castor*, 2020 COA 1, ¶ 86. A court's failure to remedy prosecutorial misconduct amounts to plain error only if the misconduct was "flagrantly, glaringly, or tremendously improper." *Id.* (citation omitted).

C. Applicable Law and Analysis

¶ 72 In closing argument, "it is improper for a prosecutor to use arguments 'calculated to inflame the passions and prejudices of the jury.'" *People v. Nerud*, 2015 COA 27, ¶ 57 (citation omitted). The prosecutor must refrain from "speaking to the jury in the first person as though he were the victim" or asking jurors to "imagine themselves in the place of the victim." *People v. Manyik*, 2016 COA 42, ¶¶ 27-28 (citation omitted). However, a prosecutor may use rhetorical devices and "engage in oratorical embellishment and metaphorical nuance." *People v. Mendenhall*, 2015 COA 107M, ¶ 78 (citation omitted). "Such rhetoric is only improper if it 'induce[s] the jury to determine guilt on the basis of passion or prejudice, inject[s]

irrelevant issues into the case, or accomplish[es] some other improper purpose.'" *Id.* (citation omitted).

¶ 73 Here, the prosecutor permissibly argued that Redwine killed D.R. based on evidence that (1) Redwine and D.R. had a strained relationship; (2) officers found trace amounts of D.R.'s blood in Redwine's home; (3) Molly alerted several times at D.R.'s property; and (4) Redwine was the last person to see D.R. alive. *See People v. Villa*, 240 P.3d 343, 358 (Colo. App. 2009) ("[T]he prosecutor's statement asking the jury to '[f]ind [defendant] guilty, because he is guilty' . . . ask[ed] the jury to make a reasonable inference that defendant was guilty based on the evidence presented at trial."). Similarly, the prosecutor based his statement that Redwine "put a knife . . . into his son" on the presence of serrated knife marks on D.R.'s skull. *See Domingo-Gomez v. People*, 125 P.3d 1043, 1051-52 (Colo. 2005) (a prosecutor may argue reasonable inferences based on the evidence).

¶ 74 As for Redwine's allegation that the prosecutor faulted Redwine for going to trial, the record shows that the prosecutor merely highlighted Redwine's failure to take accountability — not that Redwine was guilty because he exercised his constitutional

right to a jury trial. *Cf. Howard-Walker v. People*, 2019 CO 69, ¶ 44 (concluding that the prosecutor committed misconduct because his statement, "there is only one person in this room that could tell you where all of those items are now and he won't," implied that the defendant was guilty because he exercised his Fifth Amendment right to remain silent (emphasis omitted)). Accordingly, we discern no "flagrantly, glaringly, or tremendously improper" comments constituting plain error. *Dominguez-Castor*, ¶ 86 (citation omitted).

VIII. Cumulative Error

¶ 75 Finally, Redwine contends that even if none of the alleged errors individually warrant reversal, we should reverse his conviction based on the errors' cumulative prejudicial effect. We decline to do so.

¶ 76 We review claims of cumulative error de novo. *Howard-Walker*, ¶ 22. Cumulative error occurs when "[n]umerous formal irregularities, each of which in itself might be deemed harmless, may in the aggregate show the absence of a fair trial, in which event a reversal would be required." *Id.* at ¶ 24 (citation omitted). But cumulative error "requires that numerous errors be committed, not merely alleged." *Conyac*, ¶ 152. Because we have concluded that

the trial court erred only once (with respect to Horvath's testimony), the cumulative error principle is not implicated. *See People v. Valdez*, 2017 COA 41, ¶ 51.

IX. Disposition

¶ 77 The judgment is affirmed.

JUSTICE MARTINEZ and JUDGE BERNARD concur.