

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Appellee,

v.

TONY CHARLES WONDERLIN,
Appellant.

No. 2 CA-CR 2012-0422
Filed January 30, 2014

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.

NOT FOR PUBLICATION

See Ariz. R. Sup. Ct. 111(c); Ariz. R. Crim. P. 31.24.

Appeal from the Superior Court in Cochise County

No. CR201100398

The Honorable James L. Conlogue, Judge

**AFFIRMED IN PART;
REVERSED AND REMANDED IN PART**

COUNSEL

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Counsel for Appellee

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MEMORANDUM DECISION

Chief Judge Howard authored the decision of the Court, in which Presiding Judge Vásquez and Judge Miller concurred.

H O W A R D, Chief Judge:

¶1 After a jury trial, appellant Tony Wonderlin was convicted of one count of continuous sexual abuse of a child and sixteen counts of sexual exploitation of a minor. On appeal, he argues he was denied a fair trial because the prosecutor interviewed a witness alone and failed to disclose exculpatory evidence. He further argues that the statutes under which he was convicted are unconstitutionally vague and overbroad, that the jury received erroneous instructions, that insufficient evidence supported his convictions, and that the prosecutor committed misconduct in his rebuttal closing argument. For the following reasons, we vacate the trial court's rulings on the undisclosed victim statements and remand for a limited hearing to determine if the statements were material, and if so, if their nondisclosure was harmless beyond a reasonable doubt.

Factual and Procedural Background

¶2 We view the facts in the light most favorable to upholding the convictions. *See State v. Mangum*, 214 Ariz. 165, ¶ 3, 150 P.3d 252, 253 (App. 2007). Beginning in January 2011, B., at the time ten years old, began visiting Wonderlin and his girlfriend at their home, and sometimes spent the night with them. Over the course of several months, Wonderlin engaged in either oral sex or vaginal sexual intercourse with B. at least twenty-four times. Wonderlin and his girlfriend also took numerous pictures of B. naked in various positions.

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¶3 In April 2011, B. and her mother reported the abuse to the police. The police obtained a search warrant for Wonderlin's residence and found sex toys, one of which appeared in the pictures, and six cellular telephones. Forensic analysis revealed that the storage card in Wonderlin's telephone contained at least seventeen images of B., although the pictures had been deleted.

¶4 Wonderlin was charged with and convicted of one count of continuous sexual abuse of a child and sixteen counts of sexual exploitation of a minor. He was sentenced to consecutive, presumptive sentences on all counts, totaling 292 years. We have jurisdiction over his appeal pursuant to A.R.S. §§ 12-120.21(A)(1) and 13-4033(A)(1).

Victim Interview

¶5 Wonderlin first argues the prosecutor made himself a witness in the case by interviewing B. alone and the trial court therefore erred in denying his motions for disclosure of the victim's statements and to depose the prosecutor. He argues B.'s statements during the interview may have been exculpatory and also could have been used to impeach B.'s credibility. We review a court's rulings on discovery issues for an abuse of discretion. *State v. Connor*, 215 Ariz. 553, 557, ¶ 6, 161 P.3d 596, 600 (App. 2007). If the court committed any error, we determine whether the error was harmless beyond a reasonable doubt. *State v. Valverde*, 220 Ariz. 582, ¶ 11, 208 P.3d 233, 236 (2009).

¶6 Pursuant to *Brady v. Maryland*, prosecutors have a duty to disclose any exculpatory information that is "material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution." 373 U.S. 83, 87 (1963). Because impeachment evidence, if available and used effectively, "may make the difference between conviction and acquittal," it too falls within the *Brady* requirement. *United States v. Bagley*, 473 U.S. 667, 676 (1985). The disclosure obligation persists even though "[t]here is no general federal constitutional right to discovery in a criminal case," *State v. Tucker*, 157 Ariz. 433, 438, 759 P.2d 579, 584 (1988), and even when Arizona statutory and constitutional protections might otherwise

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prohibit disclosure, *State v. O'Neil*, 172 Ariz. 180, 182, 836 P.2d 393, 395 (App. 1991).

¶7 “[E]vidence is material only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different.” *Bagley*, 473 U.S. at 682. Likewise, impeachment evidence is material and must be disclosed if “the likely impact on the witness’s credibility would have undermined a critical element of the prosecution’s case.” *United States v. Payne*, 63 F.3d 1200, 1210 (2d Cir. 1995). Despite the erroneous nondisclosure of evidence, however, constitutional error occurs “only if there is a reasonable probability that, had the [impeachment] evidence been disclosed, the result of the proceeding would have been different.” *Tucker*, 157 Ariz. at 438, 759 P.2d at 584. Additionally, the nondisclosure of impeachment evidence does not require a new trial if the evidence “merely furnishes an additional basis on which to impeach a witness whose credibility has already been shown to be questionable.” *Payne*, 63 F.3d at 1210. If, however, a trial court fails to review the requested information pursuant to timely request by the defense, the case must be remanded to the trial court with instructions to review the evidence. *Pennsylvania v. Ritchie*, 480 U.S. 39, 58 (1987); *United States v. Alvarez*, 358 F.3d 1194, 1209 (9th Cir. 2004).

¶8 Here, the prosecutor interviewed the victim the day before trial began. As a result of that interview, the prosecutor moved to dismiss three counts against Wonderlin on the first day of trial. But he did not reveal specifically what statements B. had made that caused him to move for dismissal of the counts. The prosecutor described the interview as lasting at most fifteen minutes and consisting of simply discussing “the Indictment, count by count” with B., after which he concluded “three counts should be dismissed.” The prosecutor also stated he had not recorded the interview or taken any notes. The trial court granted the prosecutor’s motion to dismiss the three counts and denied Wonderlin’s request for disclosure of the victim’s statements.

¶9 Because the prosecutor failed to state with greater specificity what B. said, we are unable to determine whether the statements were exculpatory as to the remaining counts, or whether

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they may have offered critical impeachment evidence. Based on the prosecutor's dismissal of three charges after his interview with B., it is possible that the prosecutor's testimony about what B. said during their isolated interview "might result in exonerating the defendant." See *State v. Jessen*, 134 Ariz. 458, 462, 657 P.2d 871, 875 (1982); see also *Bagley*, 473 U.S. at 676. The court thus abused its discretion in denying Wonderlin's motions to disclose B.'s statements and to depose the prosecutor. See *Jessen*, 134 Ariz. at 462, 657 P.2d at 875.

¶10 We therefore remand the case to the trial court to conduct a hearing to review the prosecutor's conversation with B. See *Ritchie*, 480 U.S. at 58; *Alvarez*, 358 F.3d at 1209; cf. *State v. Peterson*, 228 Ariz. 405, ¶ 19, 267 P.3d 1197, 1203 (App. 2011). If the court determines B. made material statements that could have affected the outcome of the trial, it must order a new trial. See *Ritchie*, 480 U.S. at 58; *Alvarez*, 358 F.3d at 1209. If, on the other hand, the court determines that B.'s statements were not material to the remaining counts against Wonderlin, or if the nondisclosure was harmless beyond a reasonable doubt, Wonderlin's convictions will stand, and he may again seek appellate relief based on that denial. See *Ritchie*, 480 U.S. at 58; *Peterson*, 228 Ariz. 405, ¶ 19, 267 P.3d at 1203 (remand for limited proceedings, rather than vacating sentence, appropriate where limited hearing "most efficiently resolves the issues at hand and preserves [defendant's] right to seek relief from the court's ruling on remand").

¶11 We note that the errors we find here are an unnecessary by product of the prosecutor's decision to interview the victim alone. As the American Bar Association (ABA) and courts around the country have long observed, "a prosecutor is in a difficult situation if he must seek leave to withdraw and substitute other counsel so that he might take the stand to relate what . . . [a] witness . . . said to him." American Bar Association, *Criminal Justice Prosecution Function and Defense Function Standards* § 3-3.1(g) & cmt. (3d ed. 1993) (hereinafter "ABA Standards"); see also ER 3.7, Ariz. R. Prof'l Conduct, Ariz. R. Sup. Ct. 42. Although few cases deal with the situation in which a victim has offered exculpatory evidence during a private interview, the same complications may arise as

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when the prosecutor wishes to offer testimony to impeach the defendant.

¶12 The better practice is to conduct victim interviews in the presence of a third party to avoid the foreseeable complications that arose here. As the ABA explained,

[a]fter written statements are secured by investigators, it is proper under our system, and indeed wise, for the prosecutor to interview such witnesses personally, not only to verify the investigator's report but to become familiar with the personality of the witness in order to anticipate how the witness will react on the stand. Here again, the prosecutor should take the precaution of having an investigator or other third person present.

ABA Standards, *supra*, § 3-3.1 cmt.; see also *State v. Williams*, 136 Ariz. 52, 57, 664 P.2d 202, 207 (1983); *State v. Alfano*, 701 A.2d 1296, 1300-01 (N.J. Super. Ct. App. Div. 1997). We commend these practices to the prosecutor in this case.

¶13 Wonderlin also argues the trial court erred in denying his motion to disqualify the prosecutor from further prosecuting the case. However, he has failed to develop any argument on this issue in his opening brief, and has therefore waived it. See *State v. Bolton*, 182 Ariz. 290, 298, 896 P.2d 830, 838 (1995) ("Failure to argue a claim on appeal constitutes waiver of that claim.").

Vagueness and Overbreadth¹

¶14 Wonderlin next argues that A.R.S. §§ 13-3551 and 13-3553, the statutes under which he was convicted for sexual exploitation of a minor for possessing sixteen photos of child

¹Because his remaining claims, if meritorious, would require we dismiss the charges or vacate the verdicts, we address them rather than staying the remainder of the appeal.

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pornography, are unconstitutionally vague and overbroad and violate the First Amendment. Because he did not raise this argument below, we review only for fundamental, prejudicial error. *State v. Valverde*, 220 Ariz. 582, ¶ 12, 208 P.3d 233, 236 (2009); *State v. Holder*, 155 Ariz. 83, 85, 745 P.2d 141, 143 (1987) (fundamental error principle also applies to claims of constitutional error). But he fails to argue that any constitutional infirmity in the statute resulted in fundamental error, and has therefore waived this argument on appeal. See *State v. Moreno-Medrano*, 218 Ariz. 349, ¶ 17, 185 P.3d 135, 140 (App. 2008).

¶15 Moreover, although he claims the statutes are unconstitutional as applied to him, he fails to address which photographs he claims were constitutionally protected. Accordingly, he has waived that argument. See *Bolton*, 182 Ariz. at 298, 896 P.2d at 838. And to the extent he challenges the facial validity of the statute, despite his attempt to distinguish *State v. Hazlett*, he fails to explain why we should depart from our conclusion in that case that the “specific limited definitions for the terms ‘exploitive exhibition’ and ‘sexual conduct’” do not infringe on First Amendment protections and are not facially vague or overbroad. 205 Ariz. 523, ¶¶ 23-28, 73 P.3d 1258, 1265-66 (App. 2003). Accordingly, we reject his argument.

Jury Instructions

¶16 Wonderlin next argues the trial court gave erroneous jury instructions on the sexual exploitation of a minor charges because the instructions did not “adequately define the elements of the crime.” Because he did not raise this argument below, we review only for fundamental, prejudicial error. *State v. Kemper*, 229 Ariz. 105, ¶ 4, 271 P.3d 484, 485 (App. 2011). But Wonderlin neither supports his argument with citation to legal authority nor demonstrates how the instructions, which he concedes followed the statutory language, prejudiced him. He has therefore waived this argument on appeal. See *State v. Cons*, 208 Ariz. 409, ¶ 18, 94 P.3d 609, 616 (App. 2004); see also Ariz. R. Crim. P. 31.13(c)(1)(vi).

¶17 Moreover, even if we address his apparent arguments, he has not shown any error. Wonderlin first argues the instructions

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were erroneous because the statute is unconstitutional. But we have rejected that argument above. To the extent Wonderlin argues that the instructions were erroneous because they allowed the jury to convict him without finding that he knowingly possessed the photographs, he fails to address the instruction the jury received which stated “[t]he crime of sexual exploitation of a minor under the age of 15 requires proof that the defendant . . . [k]nowingly received or possessed any visual depiction in which a minor was engaged in exploitive exhibition or other sexual conduct.” The instructions defined “knowingly” as “mean[ing] that a defendant acted with awareness of or belief in the existence of conduct or circumstances constituting an offense. It does not mean that a defendant must have known that the conduct is forbidden by law.” We presume the jury followed its instructions. *State v. Reyes*, 232 Ariz. 468, ¶ 7, 307 P.3d 35, 38 (App. 2013). Accordingly, Wonderlin has failed to demonstrate any error.

¶18 Wonderlin also conflates “motive” with “purpose” to argue, apparently, that because the state did not need to prove Wonderlin’s motive in possessing the photos, it allowed the jury to convict him “without any evidence of his personal *mens rea*.” But as discussed above, the jury was instructed that it needed to determine whether Wonderlin “knowingly” possessed the photos, thus requiring them to find the element Wonderlin claims was lacking. Again, he does not address why this instruction was insufficient to meet the scienter requirement he claims was lacking or why we should not presume the jury followed its instruction. *See id.*; *State v. Frustino*, 142 Ariz. 288, 294, 689 P.2d 547, 553 (App. 1984) (instructing jury on definition of “knowingly” satisfies scienter element of crime); *see also New York v. Ferber*, 458 U.S. 747, 765 (1982) (“[C]riminal responsibility may not be imposed without some element of scienter on the part of the defendant.”). His argument is therefore meritless.

Sexual Exploitation of a Minor Charges

¶19 Wonderlin next argues that insufficient evidence supported the jury’s verdicts on sixteen counts of sexual exploitation of a minor pursuant to § 13-3553(A) because no evidence showed he

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“knowingly” possessed the exploitive photographs.² We review de novo whether sufficient evidence was presented at trial to support a conviction. *State v. Mwandishi*, 229 Ariz. 570, ¶ 6, 278 P.3d 912, 913 (App. 2012). In doing so, “we view the evidence in the light most favorable to supporting the verdict and will reverse only if there is a complete absence of substantial evidence to support the conviction.” *State v. Ramsey*, 211 Ariz. 529, ¶ 40, 124 P.3d 756, 769 (App. 2005), quoting *State v. Sullivan*, 187 Ariz. 599, 603, 931 P.2d 1109, 1113 (App. 1996). Evidence is “substantial if reasonable persons could differ on whether it establishes a fact in issue.” *Id.*

¶20 In relevant part, § 13-3553(A) requires the state to show that the defendant “knowingly . . . possess[ed] . . . any visual depiction in which a minor is engaged in exploitive exhibition or other sexual conduct.” Knowledge may be inferred by circumstantial evidence. *State v. Jensen*, 217 Ariz. 345, ¶¶ 7, 18, 173 P.3d 1046, 1050, 1052-53 (App. 2008) (child pornography found in temporary internet folders, together with history of searches associated with child pornography, sufficient to show defendant knowingly received images).

¶21 Police found the cellular telephone which contained the photographs in Wonderlin’s home and identified it as belonging to Wonderlin based on its contents. Additionally, B. testified that each photograph had been taken in Wonderlin’s home by either

²Wonderlin additionally argues that the photographs are not exploitive under the definition of the statute. However, his Rule 20, Ariz. R. Crim. P., motion in the trial court was only based on the argument the state did not show that he “knowingly” possessed the photographs. And in the trial court Wonderlin conceded that the photographs “are what the prosecutor said they are.” “[A]n objection on one ground does not preserve the issue on another ground.” *State v. Lopez*, 217 Ariz. 433, ¶ 4, 175 P.3d 682, 683 (App. 2008). Therefore, we review only for fundamental error. See *State v. Henderson*, 210 Ariz. 561, ¶ 19, 115 P.3d 601, 607 (2005). But because Wonderlin has failed to argue the alleged error was fundamental, he has waived review of this issue. See *Moreno-Medrano*, 218 Ariz. 349, ¶ 17, 185 P.3d at 140.

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Wonderlin or his girlfriend during the time Wonderlin sexually abused B. And the forensic expert who retrieved the deleted images from the telephone testified that the photographs had been taken using either Wonderlin's or his girlfriend's cellular telephone, and each telephone contained the same seventeen images.

¶22 Wonderlin contends there was no evidence presented that he knew the deleted images were on the storage card in the telephone or that he ever saw the deleted photos. But a jury could reasonably infer that Wonderlin knowingly had possessed the images based on their presence on the storage card of a telephone found in Wonderlin's home which contained information identifying it as Wonderlin's, B.'s testimony that Wonderlin took three of the pictures, and her testimony that the remainder were taken in Wonderlin's home during the time he repeatedly sexually abused her. *See Jensen*, 217 Ariz. 345, ¶ 18, 173 P.3d at 1052-53.

¶23 Wonderlin also asserts that there was no evidence to show that he had been present when his girlfriend took pictures of B. But being present when exploitative photographs are taken is not an element of § 13-3553(A). Substantial evidence therefore supported Wonderlin's convictions for sexual exploitation of a minor. *See Ramsey*, 211 Ariz. 529, ¶ 40, 124 P.3d at 769.

Continuous Sexual Abuse Charge

¶24 Wonderlin next argues the trial court erred in denying his motion for a judgment of acquittal made pursuant to Rule 20, Ariz. R. Crim. P., because insufficient evidence supported his conviction for continuous sexual abuse under A.R.S. § 13-1417. Wonderlin asserts the state did not establish the abuse occurred over a period of "three months or more" as required by § 13-1417(A).

¶25 As stated above, we review de novo whether sufficient evidence supported the verdict, *Mwandishi*, 229 Ariz. 570, ¶ 6, 278 P.3d at 913, and, viewing the evidence in the light most favorable to upholding the verdict, "will reverse only if there is a complete absence of substantial evidence to support the conviction." *Ramsey*, 211 Ariz. 529, ¶ 40, 124 P.3d at 769, quoting *Sullivan*, 187 Ariz. at 603, 931 P.2d at 1113. Moreover, in a continuing sexual abuse case a

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child need not “specify precise date[s], time[s], [and] place[s],” so long as the child can “describe the kind of acts committed, the number of acts (‘e.g., twice a month or every time we went camping’), and the general time period.” *See id.* ¶ 44, quoting *People v. Jones*, 270 Cal. Rptr. 611, 623 (1990).

¶26 At trial, B. testified that Wonderlin had engaged in sexual intercourse with her “over [twelve] times” and had performed oral sex on her “[twelve] times” in the “months” before she and her mother reported the abuse to police. Police also found a gift label addressed to B., in honor of her birthday in mid-January, signed “love aunt April and uncle Tony” inside Wonderlin’s and his girlfriend’s home. This evidence supports the inference that the abuse began at least in mid-January 2011 and continued until B. and her mother reported the abuse to the police on April 30, 2011.

¶27 Based upon B.’s testimony and the birthday label found by police, a reasonable juror could infer that Wonderlin had sexually abused B. over a period of three months or more. And because reasonable minds could differ on whether the evidence established the requisite time span, it is substantial. *See Ramsey*, 211 Ariz. 529, ¶ 43, 124 P.3d at 769. Therefore substantial evidence supported Wonderlin’s conviction, and the trial court did not err in denying his Rule 20 motion. *See id.* ¶ 44.

¶28 Wonderlin alternatively argues the prosecutor misstated the law to the jury during his closing arguments by stating that § 13-1417 only required that the three acts occur at some point during a three-month period, rather than occurring over the duration of three months or more. We will reverse a conviction based on improper argument only if the defendant can show that the statement was improper and that the jury was probably influenced by the argument. *State v. Moody*, 208 Ariz. 424, ¶ 151, 94 P.3d 1119, 1155 (2004). Pursuant to § 13-1417(A), a person commits continuous sexual abuse of a child by “engag[ing] in three or more acts [of abuse]” “over a period of three months or more in duration.”

¶29 During his rebuttal closing argument, the prosecutor stated that the jury needed to find that the acts of abuse “just . . . ha[ve] to happen during a period of three months or more. It

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doesn't say that the first act has to happen on the very first day of the bracket." Following Wonderlin's objection to the prosecutor's characterization of the law, the trial judge proposed a modified jury instruction to clarify that the acts "must have been committed over a period of three months or more in duration." Wonderlin did not object to these modified instructions, which were provided to the jury in writing, and he does not argue that they were insufficient to cure any problem with the prosecutor's argument. We presume the jury followed its instructions, and therefore even assuming the prosecutor misstated the law, Wonderlin has failed to show he was prejudiced by it. *See State v. Dann*, 205 Ariz. 557, ¶ 48, 74 P.3d 231, 245 (2003) (we presume juries follow curative instructions).

Prosecutorial Misconduct

¶30 Wonderlin lastly argues the trial court erred in failing to grant sua sponte a mistrial because the prosecutor's comments during his rebuttal closing argument constituted prosecutorial misconduct. However, Wonderlin did not move for a mistrial either during or following the trial. He has therefore forfeited the right to relief for all but fundamental, prejudicial error. *See State v. Henderson*, 210 Ariz. 561, ¶¶ 19-20, 115 P.3d 601, 607-08 (2005).

¶31 To show reversible misconduct, the defendant must establish "that the prosecutor's misconduct 'so infected the trial with unfairness as to make the resulting conviction a denial of due process.'" *State v. Hughes*, 193 Ariz. 72, ¶ 26, 969 P.2d 1184, 1191 (1998), quoting *Donnelly v. DeChristoforo*, 416 U.S. 637, 643 (1974). We consider whether the cumulative effect of the misconduct "permeates the entire atmosphere of the trial." *Id.*

¶32 When one party raises an improper or irrelevant argument, "the other party may have a right to . . . respond[] with comments . . . on the same subject." *State v. Edmisten*, 220 Ariz. 517, ¶ 23, 207 P.3d 770, 777 (App. 2009), quoting *Pool v. Superior Court*, 139 Ariz. 98, 103, 677 P.2d 261, 266 (1984) (alterations in *Edmisten*). And attorneys are afforded "wide latitude" in their closing arguments. *Moody*, 208 Ariz. 424, ¶ 180, 94 P.3d at 1159, quoting *State v. McDaniel*, 136 Ariz. 188, 197, 665 P.2d 70, 79 (1983); *Edmisten*, 220 Ariz. 517, ¶ 23, 207 P.3d at 777.

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¶33 During Wonderlin’s closing argument, he argued that “unlike . . . Sandusky, the whole Penn State thing,” where there were “a bunch of victims,” thus making it “hard to plant the ideas” in their heads, here there was only one victim and no other witnesses. In the prosecutor’s rebuttal closing argument, he stated “Yeah, there were a lot of victims [in the Sandusky case], but I don’t have but one victim here that I know of, but aren’t there more victims coming out? Don’t we hear about more victims? So, may we not hear about more victims of Tony Wonderlin?”

¶34 Wonderlin asserts this reference to other potential victims was improper. But Wonderlin chose to discuss the lack of other victims and compare this case to that of Jerry Sandusky. The prosecutor’s comments were a direct response to the door Wonderlin opened by comparing the single victim in his case to the multiple victims in the Sandusky case and fell within the “wide latitude” afforded attorneys during closing arguments. *Moody*, 208 Ariz. 424, ¶ 180, 94 P.3d at 1159; *Edmisten*, 220 Ariz. 517, ¶ 23, 207 P.3d at 777.

¶35 Moreover, Wonderlin has failed to demonstrate that this comment prejudiced him in any way. He rests only on the assertion the comment was “improper.” But the jurors were cautioned that “[w]hat the lawyers said is not evidence,” and told not to “be influenced by sympathy or prejudice.” We presume jurors follow their instructions. *See State v. Nelson*, 229 Ariz. 180, ¶ 45, 273 P.3d 632, 642 (2012). Accordingly, Wonderlin has failed to meet his burden of showing that any error occurred or that it “so infected the trial with unfairness as to make the resulting conviction a denial of due process.” *Edmisten*, 220 Ariz. 517, ¶ 23, 207 P.3d at 777, *quoting State v. Harrod*, 218 Ariz. 268, ¶ 35, 183 P.3d 519, 529 (2008). The trial court therefore did not abuse its discretion by failing to order a mistrial sua sponte. *See State v. Ellison*, 213 Ariz. 116, ¶ 61, 140 P.3d 899, 916 (2006) (trial court does not err by failing to order mistrial sua sponte absent fundamental error); *see also State v. Laird*, 186 Ariz. 203, 207, 920 P.2d 769, 773 (1996) (“Sua sponte mistrials can raise double jeopardy issues. If a party wants a mistrial, it ordinarily must ask for one.”) (citation and emphasis omitted).

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Disposition

¶36 For the foregoing reasons, we affirm Wonderlin's convictions and sentences, subject to remand for review of B.'s statements to the prosecutor.