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**STATE OF MINNESOTA
IN COURT OF APPEALS
A16-1335**

State of Minnesota,
Respondent,

vs.

Abdulaziz Mohamed Abukar,
Appellant.

**Filed May 22, 2017
Affirmed
Schellhas, Judge**

Anoka County District Court
File No. 02-CR-15-348

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Anthony C. Palumbo, Anoka County Attorney, Kelsey R. Kelley, Assistant County
Attorney, Anoka, Minnesota (for respondent)

Caroline Durham, Durham Law Office, St. Paul, Minnesota (for appellant)

Considered and decided by Bratvold, Presiding Judge; Schellhas, Judge; and Jesson,
Judge.

UNPUBLISHED OPINION

SCHELLHAS, Judge

Appellant challenges his permissive consecutive sentences on four counts of first-
degree aggravated robbery. We affirm.

FACTS

On July 28, 2014, while armed with a knife, appellant Abdulaziz Abukar entered a gas station and forced employees to put money into his backpack. One week later, while armed with a BB gun, Abukar entered a convenience store; pointed the BB gun at an employee; stated, “[D]o you want to die; you know I’ll kill you”; and forced the employee to empty cash registers into his backpack. Later that day, Abukar returned to the gas station that he had robbed on July 28. Still armed with the BB gun, Abukar ordered employees and customers into the interior cash-register station and forced the employees to empty cash registers into his backpack. Eleven days later, Abukar approached a group of about ten people at a bonfire in a residential backyard, pointed a silver handgun at the group, and demanded that someone give him keys to a vehicle. One person complied, and Abukar drove away in her car. Police apprehended Abukar the next day.

Respondent State of Minnesota charged Abukar with four counts of first-degree aggravated robbery in violation of Minn. Stat. § 609.245, subd. 1 (2012 & 2014), and one count of receiving stolen property in violation of Minn. Stat. § 609.53, subd. 1 (2014). Abukar was 17 years old at the time of the robberies. After the district court granted the state’s adult-certification petition, Abukar pleaded guilty to all of the first-degree aggravated-robbery counts, and the state dismissed the receiving-stolen-property count. The district court released Abukar pending sentencing.

Eight days later, Abukar robbed a liquor store in Blaine. During the robbery, he struck a store employee several times. At the sentencing hearing for his four first-degree aggravated-robbery convictions, the district court imposed consecutive presumptive

sentences of 48 months for each conviction, resulting in a total of 192 months' imprisonment. At the same hearing, Abukar pleaded guilty to one count of simple robbery for the liquor-store robbery, and the district court imposed a 48-month sentence concurrent with his first-degree aggravated-robbery sentences.

This appeal follows.

DECISION

Abukar argues that the district court's imposition of consecutive sentences for his first-degree aggravated-robbery convictions was unreasonable. Consecutive sentences for multiple first-degree aggravated-robbery convictions are permissive under the Minnesota Sentencing Guidelines. *See* Minn. Sent. Guidelines 2.F.2.a.(1).(ii), 6 (2012 & 2014). “[Appellate courts] will not disturb a district court’s decision to impose permissive consecutive sentences absent a clear abuse of discretion.” *State v. Vang*, 774 N.W.2d 566, 584 (Minn. 2009). “The district court abuses its discretion in imposing consecutive sentences when the resulting sentence unfairly exaggerates the criminality of the defendant’s conduct.” *Id.* “In determining whether a sentence has exaggerated the criminality of a defendant’s conduct, [appellate courts] will take guidance from past sentences imposed on similarly situated defendants.” *Id.* But “[i]n cases with multiple victims, consecutive sentences are rarely, if ever, disproportionate to the offense.” *State v. Ali*, 855 N.W.2d 235, 259 (Minn. 2014).

Abukar argues that the district court abused its discretion by failing to adequately consider the facts of his robberies. He specifically faults the district court for not considering the following facts: he used a knife during one robbery instead of a gun; he

used a BB gun during two of the robberies, which he maintains had “little likelihood of causing serious injury”; he used an unloaded handgun during the fourth robbery; and he caused no physical harm during any of the robberies. But Abukar cites to no authority and offers no rationale to support a proposition that any of these facts mitigates his culpability. And the record shows Abukar’s crimes were very serious. Over the course of about two weeks, Abukar terrorized over a dozen people, threatening to kill a convenience-store employee during one robbery and holding employees and customers captive in another. The facts and circumstances surrounding Abukar’s crimes do not support a conclusion that the district court’s sentence exaggerates the criminality of his conduct.

Abukar also argues that the district court did not adequately consider his age, mental health, and chemical-dependency issues at sentencing. This argument is unavailing. First, the district court explicitly addressed Abukar’s age and chemical-dependency issues, noting that Abukar was “very young, under 18 years old when the crimes were committed,” and that “[t]here are some judgment pieces, we know from brain development, that simply hadn’t kicked in, and using drugs delays those processes even further.” The court nevertheless determined that public-safety concerns outweighed those considerations. Second, although mental impairment such that the defendant “lacked substantial capacity for judgment when the offense was committed” may constitute a mitigating factor in sentencing, Minn. Sent. Guidelines 2.D.3.a.(3) (2012 & 2014), Abukar never argued to the district court that this mitigating factor was present in his case. To the contrary, when he pleaded guilty to robbing the Blaine liquor store, he told the district court that he did not

suffer from any mental-health issues. Based on this record, we cannot say that the district court abused its discretion by imposing permissive consecutive sentences.

Finally, Abukar argues that he should be resentenced because the district court informed him at his plea hearing that it intended to sentence him to no more than ten years in prison so long as he complied with the court-imposed release conditions. He argues that he complied with the release conditions, which he asserts were only that he cooperate with the presentence investigation and show up on time for sentencing. Abukar ignores the record. Before the district court released him, it explicitly informed and warned him that he “need[ed] to be law-abiding” and that failure to follow the court’s conditions would result in “a lot of prison time.” Yet shortly after his release, Abukar committed another robbery. The district court did not abuse its discretion by imposing a higher presumptive sentence because of Abukar’s failure to remain law abiding. *See State v. Delk*, 781 N.W.2d 426, 428 (Minn. App. 2010) (“This court will generally not exercise its authority to modify a sentence within the presumptive range absent compelling circumstances.” (quotation omitted)), *review denied* (Minn. July 10, 2010).

Affirmed.