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Minn. Stat. § 480A.08, subd. 3 (2016).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-1393**

State of Minnesota,
Respondent,

vs.

Robert Lee Ranzy, Jr.,
Appellant.

**Filed April 30, 2018
Affirmed
Hooten, Judge**

Ramsey County District Court
File No. 62-CR-16-7650

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

John Choi, Ramsey County Attorney, Thomas R. Ragatz, Assistant County Attorney, St. Paul, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jennifer Lauermann, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Hooten, Presiding Judge; Johnson, Judge; and Kirk, Judge.

UNPUBLISHED OPINION

HOOTEN, Judge

Appellant challenges his sentence, contending that the district court abused its discretion in denying his motion for a downward dispositional and durational departure

because he is amenable to probation, and because the district court failed to consider his durational departure motion. We affirm.

FACTS

Appellant Robert Lee Ranzy, Jr. pleaded guilty to making a threat of violence, in violation of Minn. Stat. § 609.713, subd. 1 (2016). On October 15, 2016, Ranzy told his adult son that he would hit him in the mouth and break his jaw. He intended the statement to be a threat.

Ranzy argued at his sentencing hearing for a downward dispositional or durational departure. The district court denied the motions and sentenced Ranzy to 27 months in accordance with the sentencing guidelines. This appeal followed.

D E C I S I O N

I. Downward Departure

We review the denial of a motion for a downward departure for an abuse of discretion. *State v. Pegel*, 795 N.W.2d 251, 253 (Minn. App. 2011). “A district court must impose the presumptive guidelines sentence absent identifiable, substantial, and compelling circumstances justifying departure. Substantial and compelling circumstances are those which make the facts of a particular case different from a typical case.” *State v. Johnson*, 831 N.W.2d 917, 925 (Minn. App. 2013) (quotations and citation omitted), *review denied* (Minn. Sept. 17, 2013). “[I]t would be a rare case which would warrant reversal of the refusal to depart.” *State v. Kindem*, 313 N.W.2d 6, 7 (Minn. 1981). The district court does not need to provide an explanation for the sentence imposed if it imposes the presumptive sentence and the record indicates that the district court considered whether

there were any reasons for a departure but did not find any. *State v. Van Ruler*, 378 N.W.2d 77, 80–81 (Minn. App. 1985); *see also Johnson*, 831 N.W.2d at 926.

A dispositional departure focuses on the characteristics of the defendant and “whether the defendant is particularly suitable for individualized treatment in a probationary setting.” *State v. Solberg*, 882 N.W.2d 618, 623 (Minn. 2016) (quotation omitted). However, “[a] durational departure must be based on factors that reflect the seriousness of the offense, not the characteristics of the offender,” and a durational departure “is justified only if the defendant’s conduct was significantly less serious than that typically involved in the commission of the offense.” *Id.* at 623–24 (emphasis omitted) (quotation omitted).

A. Dispositional Departure

When considering a motion for a dispositional departure, Minnesota courts consider a defendant’s amenability to probation. *State v. Trog*, 323 N.W.2d 28, 31 (Minn. 1982). The *Trog* court listed several factors that are relevant in determining whether the defendant is particularly amenable to probation, which included “the defendant’s age, his prior record, his remorse, his cooperation, his attitude while in court, and the support of friends and/or family.” *Id.*

The age, prior record, remorse, and support factors do not weigh in Ranzy’s favor. He is 51 years old with four prior domestic-violence-related felonies—two in 2005 and two in 2013—and two other domestic-violence-related convictions. While Ranzy’s parole officer reported he was doing well on supervised release, the fact that Ranzy has had prior stays of execution revoked after committing additional domestic-violence-related offenses

weighs against his being particularly amenable to probation. Ranzy did not show remorse or accept responsibility, and the district court explicitly relied on his lack of remorse when deciding to impose the presumptive sentence. Finally, while Ranzy discusses his childhood, positive childhood experiences do not show that he has the current support of family and friends that would make him more amenable to probation.

Overall, our review of the record does not show that this is the “rare case which would warrant reversal of the refusal to depart.” *See Kindem*, 313 N.W.2d at 7. Ranzy received multiple opportunities on probation and continues to commit domestic-violence-related offenses, and he showed no remorse for this offense. The state presented these reasons to the district court at the hearing, and the record reflects that the district court agreed with those reasons when it imposed the presumptive sentence.

B. Durational Departure

Ranzy claims that his motion for a durational departure was before the district court, and the court did not explicitly rule on it. But Ranzy made no argument to the district court for why his conduct was significantly less serious than the typical offense, and he makes no such argument before this court. Moreover, Ranzy denied the offense and did not show remorse or accept responsibility during his presentence investigation. In denying his downward-departure motion, the district court relied on statistics, supplied by Ranzy himself, showing that 58% of defendants who received a durational departure showed remorse or accepted responsibility. There is sufficient evidence in the record that the district court considered Ranzy’s durational-departure motion and denied it. Ranzy has

failed to present any evidence or authority that the district court erred in its refusal to provide him with a durational departure.

II. Ranzy's Pro-se Arguments

Ranzy also raises additional arguments in his pro se brief, and after a careful review of the record, we determine that each claim is without merit. He complains that due to a medical condition and an allergic reaction to medications given to him by the jail, his plea was not valid. But there is no support in the record for his claims. In his plea petition, Ranzy stated that he had not been ill recently, and before entering his guilty plea, he testified that he was thinking clearly. The record also does not support Ranzy's allegation that his previous attorney called him a racial slur, and he does not explain how that affected his guilty plea given that he had new counsel for the plea and sentencing hearings. Ranzy also claims that his criminal history score is wrong, but he does not explain why it is wrong and we do not see any obvious error. *See State v. Wembley*, 712 N.W.2d 783, 795 (Minn. App. 2006), *aff'd*, 728 N.W.2d 243 (Minn. 2007) ("An assignment of error in a brief based on 'mere assertion' and not supported by argument or authority is waived unless prejudicial error is obvious on mere inspection.").

Additionally, Ranzy claims that his right to a speedy trial was violated, but the record does not reflect him making a speedy trial demand, and he waived this challenge by pleading guilty. *See State v. Jeffries*, 806 N.W.2d 56, 64 (Minn. 2011). Ranzy also makes an argument about evidence related to counts that were dismissed, but that evidence has no bearing on his guilty plea to this offense. And while Ranzy points to potential alibi witnesses, he admitted in court that he was guilty of the offense. *See Menna v. New York*,

423 U.S. 61, 62 n.2, 96 S. Ct. 241, 242 n.2 (1975) (“[A] counseled plea of guilty is an admission of factual guilt so reliable that, where voluntary and intelligent, it quite validly removes the issue of factual guilt from the case.” (emphasis omitted)).

Ranzy also claims he was coerced to plead guilty, but there is no support in the record for his version of the events. And when asked by the district court whether anyone forced him to plead guilty, Ranzy answered no. Finally, Ranzy argues that he wanted to withdraw his guilty plea at the sentencing hearing, but his attorney told him that he could not do so. Again, the record does not support that such a request was made. Moreover, Ranzy fails to explain why it would be fair and just to have let him withdraw his plea at that time. *See* Minn. R. Crim. P. 15.05, subd. 2.

Affirmed.