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

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A18-0290**

State of Minnesota,  
Respondent,

vs.

Lynette Marie Robbins,  
Appellant.

**Filed October 15, 2018  
Affirmed  
Stauber, Judge\***

Lyon County District Court  
File No. 42-CR-15-457

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

Richard R. Maes, Lyon County Attorney, Marshall, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Sara L. Martin, Assistant Public  
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Schellhas, Presiding Judge; Larkin, Judge; and Stauber,  
Judge.

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\* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to  
Minn. Const. art. VI, § 10.

## UNPUBLISHED OPINION

**STAUBER**, Judge

In this sentencing appeal, appellant argues that the district court erred in resentencing her under the 2016 Drug Sentencing Reform Act (DSRA) to the same sentence that she received under the previous sentencing guidelines. Because the district court has discretion to determine the appropriate sentence within the presumptive range of the DSRA-amended sentencing grid, we affirm.

### FACTS

Appellant Lynette Marie Robbins was convicted of a first-degree controlled substance crime as a result of a controlled buy in which she sold approximately 14 grams of methamphetamine. Robbins moved for a dispositional sentencing departure, arguing that it was her first drug-related offense and that she had no history of violent crimes. The district court denied Robbins's motion and sentenced her to the bottom-of-the-box term of 135 months in prison.

Robbins appealed. While the appeal was pending, the DSRA, which reduced the presumptive sentencing range for Robbins's offense, was enacted. 2016 Minn. Laws ch. 160, § 18, at 590-91; Minn. Sent. Guidelines 4.C (Supp. 2017). Ultimately, this court affirmed Robbins's conviction and sentence. *State v. Robbins*, No. A16-0394 (Minn. App. May 22, 2017). After this court filed its opinion, the supreme court decided *State v. Kirby*, 899 N.W.2d 485 (Minn. 2017). The supreme court vacated that part of this court's opinion affirming Robbins's sentence and remanded the case to this court for reconsideration in

light of *Kirby*. By order opinion, this court remanded the case to the district court for resentencing.

At the resentencing hearing, Robbins argued that she should be sentenced to the bottom-of-the-box term of 107 months under the DSRA-amended guidelines grid. The district court resentenced Robbins to 135 months in prison, which was within the presumptive range under the amended guidelines grid. This appeal followed.

### **D E C I S I O N**

The district court is afforded “great discretion in the imposition of sentences,” and this court will not reverse a sentencing decision absent an abuse of discretion. *State v. Soto*, 855 N.W.2d 303, 307-08 (Minn. 2014) (quotation omitted). We rarely reverse the imposition of a sentence that is within the presumptive range. *State v. Delk*, 781 N.W.2d 426, 428 (Minn. App. 2010), *review denied* (Minn. July 20, 2010).

When Robbins was sentenced, the presumptive range for her offense was 135 to 189 months, based on her criminal-history score of seven. Minn. Sent. Guidelines 4.A (2014). Under the amended guidelines grid, the presumptive range for Robbins’s offense is 107 to 150 months. Minn. Sent. Guidelines 4.C (Supp. 2017).

Robbins relies on *State v. Provost*, in which this court held that a defendant who is sentenced based on an incorrect criminal-history score is entitled to be resentenced even when the original sentence falls within the presumptive sentencing range for the offense with the criminal-history score corrected. 901 N.W.2d 199, 202 (Minn. App. 2017). The court stated that “because the sentencing guidelines serve as the anchor for a district court’s discretion at sentencing, ‘when a [g]uidelines range moves up or down, offenders’

sentences tend to move with it.” *Id.* at 202 (quoting *Molina-Martinez v. United States*, 136 S. Ct. 1338, 1346 (2016)). But the court also recognized, based on the district court’s broad discretion in sentencing “that not every defendant who receives a sentence at the top or bottom end of the presumptive range when sentenced with an incorrect criminal history score need necessarily receive a similarly situated sentence within the presumptive range when resentenced with a correct criminal history score.” *Provost*, 901 N.W.2d at 202.

At Robbins’s resentencing, the district court stated that when sentencing an offender, it did not seek to correlate the sentence to a position within the presumptive range, but rather determined an appropriate sentence based on the nature of the offense. The court then stated that when it issued the original sentencing order, it determined that 135 months was an appropriate sentence duration given the nature of the offense and that it continued to find that 135 months was an appropriate duration. The court exercised its discretion to determine the appropriate sentence within the presumptive range of the DSRA-amended-sentencing grid, and Robbins states no basis for reversal other than that she was entitled to a bottom-of-the-box sentence under the amended grid because her original sentence was a bottom-of-the-box sentence. The district court did not abuse its discretion in considering the nature of Robbins’s offense and resentencing her to 135 months.

**Affirmed.**