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**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-1305**

State of Minnesota,
Respondent,

vs.

Michael Jacob Watson,
Appellant.

**Filed April 29, 2019
Affirmed
Jesson, Judge**

Olmsted County District Court
File No. 55-CR-17-7104

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Mark A. Ostrem, Olmsted County Attorney, Jennifer D. Plante, Assistant County Attorney,
Rochester, Minnesota (for respondent)

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

Considered and decided by Johnson, Presiding Judge; Ross, Judge; and Jesson,
Judge.

UNPUBLISHED OPINION

JESSON, Judge

After pleading guilty to one count of first-degree criminal sexual conduct, appellant
Michael Jacob Watson received an executed sentence of 168 months in prison, with

lifetime conditional release. On appeal, Watson asserts that the district court abused its discretion when imposing the 168-month sentence. We affirm.

FACTS

In October 2017, appellant Michael Jacob Watson was charged with one count of first-degree criminal sexual conduct in violation of Minnesota Statutes section 609.342, subdivision 1(a) (2016). The complaint alleged that Watson had sexually abused a minor female on more than one occasion.

The state filed notice of its intent to seek an aggravated sentencing departure from the sentencing guidelines because Watson had a previous conviction for third-degree criminal sexual conduct. But in January 2018, the state agreed to withdraw its motion for an aggravated sentence, and Watson pleaded guilty to first-degree criminal sexual conduct. Watson admitted that over a period of approximately three years, he sexually abused his niece at least six times, beginning when she was four or five years old. The district court accepted Watson's plea.

Prior to the sentencing hearing, probation filed a sex-offender evaluation report, a presentence evaluation report, and a sentencing worksheet. The sentencing worksheet indicated that the presumptive sentence would be 156 months, with a discretionary range of 144 months to 187 months, and lifetime conditional release.¹ And probation recommended that the district court impose a sentence within the presumptive range of 144 months to 187 months.

¹ Watson received one criminal-history point from a prior third-degree criminal-sexual-conduct conviction.

On May 14, 2018, Watson appeared at the sentencing hearing. At the hearing, the state asked the court to impose a top-of-the-box sentence of 187 months and noted that, although it had withdrawn the request for an upward departure, the fact that Watson had a prior criminal-sexual-conduct conviction should be “considered heavily.” The state also argued that the facts of the case were egregious and supported a top-of-the-box sentence because of the ongoing nature of the conduct, the family relationship, and his position of trust with his niece. And the state asked the court to consider the fact that Watson had performed poorly on supervision and might pose a greater threat to public safety than other similarly situated defendants.

Watson argued that he had accepted responsibility for the offense from the beginning, and now that this situation had been disclosed he could speak freely in sex-offender treatment. And Watson argued that a 156-month sentence was appropriate given his cognitive abilities, the overall facts of the situation, and because he would receive the appropriate sex-offender treatment when in prison. Watson then apologized to the court.

Before pronouncing a sentence, the district court addressed Watson and stated its concerns. The district court was troubled that Watson struggled to provide the psychosexual evaluator with information about the offense, that Watson was terminated from sex-offender treatment three times while on probation for his prior sex-offense conviction, but blamed others for the terminations, and that Watson does not think he should be required to make changes to his lifestyle. And the district court noted that although there is no mathematical equation to determine the exact number of months

appropriate, it found the facts of the case to be egregious, involving multiple instances of abuse over a period of years. With that, the district court imposed an executed prison sentence of 168 months and lifetime conditional release. This appeal follows.

D E C I S I O N

Watson argues that the district court abused its discretion by imposing a 168-month sentence for the charge of first-degree criminal sexual conduct and should have imposed a 156-month sentence. Both sentences are within the presumptive guideline range of 144 months to 187 months. Minn. Sent. Guidelines 4.B (2016).

Presumptive sentences for felony offenses are established by the Minnesota Sentencing Guidelines. Minn. Sent. Guidelines 2.C (2016). A presumptive sentence for any particular offense is “presumed to be appropriate for all typical cases sharing criminal history and offense severity characteristics.” Minn. Sent. Guidelines 1.B.13 (2016). The presumptive sentence is determined by locating the appropriate cell of the applicable sentencing guidelines grid. Minn. Sent. Guidelines 1.B.13.b. Within the appropriate cell is also the presumptive range, “within which a court may sentence without the sentence being deemed a departure.” Minn. Sent. Guidelines 4.B. And any sentence within the presumptive range constitutes a presumptive sentence. *State v. Delk*, 781 N.W.2d 426, 428 (Minn. App. 2010). As such, when the sentence imposed is within the presumptive range, this court will not generally review the district court’s exercise of its discretion. *State v. Starnes*, 396 N.W.2d 676, 681 (Minn. App. 1986).

This court affords district courts “great discretion in the imposition of sentences and [will] reverse sentencing decisions only for an abuse of that discretion.” *State v. Soto*, 855

N.W.2d 303, 307-08 (Minn. 2014) (quotation omitted). The district court is not required to explain its reasons for imposing a sentence within the presumptive range. *State v. Van Ruler*, 378 N.W.2d 77, 80 (Minn. App. 1985). Absent compelling circumstances, this court will generally not exercise its authority to modify a sentence within the presumptive range. *State v. Freyer*, 328 N.W.2d 140, 142 (Minn. 1982).

Watson appears to argue that it was inappropriate for the district court to consider his dangerousness or amenability to probation or supervision when it imposed a presumptive-range sentence of 168 months because those factors would only bear on a dispositional-departure request, not on a durational-departure request. *See State v. Chaklos*, 528 N.W.2d 225, 228 (Minn. 1995). But Watson did not request a durational departure—he asked for a lower sentence within the presumptive sentencing range. And a district court may impose a sentence within the presumptive range “without the sentence being deemed a departure.” Minn. Sent. Guidelines 4.B. This is not a case where compelling circumstances exist to justify a modification of a presumptive sentence imposed by the district court. Because the district court did not abuse its discretion when imposing a presumptive-range 168-month sentence, we affirm the district court’s decision.

Affirmed.