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**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-2057**

State of Minnesota,
Respondent,

vs.

Stevevontae Dellshawn Champion,
Appellant.

**Filed November 18, 2019
Affirmed
Hooten, Judge**

Hennepin County District Court
File No. 27-CR-17-18718

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

Michael O. Freeman, Hennepin County Attorney, Brittany D. Lawonn, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

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

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

UNPUBLISHED OPINION

HOOTEN, Judge

In this direct appeal from final judgment of conviction and sentence for second-degree intentional murder, appellant challenges his sentence, arguing that the district court

abused its discretion by imposing a sentence at the top of the presumptive sentencing range. We affirm.

FACTS

On May 11, 2017, Minneapolis Police Department officers responded to a reported shooting in north Minneapolis. The officers found R.E., an adult male, lying in the street with a bullet wound in his chest. By the time paramedics arrived, R.E. had died.

Witnesses told officers that, just prior to the shooting, they saw a light-blue minivan with the rear sliding door open drive through the intersection next to where R.E. was shot. Witnesses saw a man, who was later identified as appellant Stevevontae Champion, in the backseat, wearing a ski mask and holding a gun. Nearby officers saw a van matching the description and pursued it. When officers pulled the van over, Champion fled from the vehicle. Officers pursued him on foot but did not apprehend him.

In the van, officers found a .40-caliber gun and a black ski mask. At the scene of the shooting, they found nine shell casings that the crime lab determined matched the .40-caliber gun found in the van. DNA collected from the gun and the ski mask matched Champion's DNA.

The state charged Champion with second-degree murder, with intent and without premeditation, pursuant to Minn. Stat. § 609.19, subd. 1(1) (2016). The state later amended the complaint, charging Champion with four additional counts of second-degree assault with a dangerous weapon under Minn. Stat. § 609.222, subd. 1 (2016).

In August 2018, Champion pleaded guilty to second-degree murder, and the state agreed to dismiss the other four charges. As part of his plea deal, the state agreed to

withdraw its motion for an upward sentencing departure, and the parties agreed to a sentence within the presumptive range. Based on Champion's criminal-history score of one point, the presumptive sentencing range was 278 to 391 months. See Minn. Sent. Guidelines 4.A (2016).

At the sentencing hearing, the state requested a sentence of 391 months, the top of the presumptive sentencing range. The presentence investigation report stated, "As the defendant fired his weapon nine times into a crowd of people, this offense appears more onerous, and the court may consider a sentence at the upper end of the box." Champion requested the bottom of the range, 278 months. After hearing from both parties and the victim's family, the district court stated:

Mr. Champion, I reviewed everything that's been submitted to me, and I reviewed this file carefully. And I don't take any pleasure in sentencing you, a young man, today. But, nevertheless, today is your sentencing day because a 41-year-old man is dead, and you, now a 22-year-old man, are responsible for that death. And that makes you, Mr. Champion, a major risk to public safety.

So as I understand this case, this occurred mid-day, there was an eight year old, among others, playing outside in the middle of the day, and nine shots, at least, were fired. And you fired those shots and fled in a van that contained at least, from the Complaint, one juvenile.

And as I understand it, . . . witnesses say that the van drove around the block once before this happened. So, this was at least the second time around.

Ski mask, nine shots fired from a semi-automatic, and as you well know, that means pulling the trigger nine times.

After giving this explanation, the district court sentenced Champion to 391 months.

This appeal follows.

DECISION

In this direct appeal, Champion argues that the district court abused its discretion by imposing a sentence at the top of the presumptive range because the district court did not consider his remorse, acceptance of responsibility for his crime, and minimal criminal history as mitigating factors. A defendant may directly appeal from final judgment and raise only a sentencing issue. *State v. Thomas*, 371 N.W.2d 533, 534–35 (Minn. 1985).

“All three numbers in any given cell [on the sentencing guidelines grid] constitute an acceptable sentence based solely on the offense at issue and the offender’s criminal history score—the lowest is not a downward departure, nor is the highest an upward departure.” *State v. Jackson*, 749 N.W.2d 353, 359 n.2 (Minn. 2008). “[W]e generally will not interfere with sentences that are within the presumptive sentence range.” *State v. Freyer*, 328 N.W.2d 140, 142 (Minn. 1982). While we may, in our discretion, modify a sentence that is within the presumptive range, “we generally will not exercise that authority absent compelling circumstances.” *Id.* “Only in a ‘rare’ case will a reviewing court reverse imposition of a presumptive sentence.” *State v. Delk*, 781 N.W.2d 426, 428 (Minn. App. 2010) (quoting *State v. Kindem*, 313 N.W.2d 6, 7 (Minn. 1981)), review denied (Minn. July 20, 2010).

Champion argues that compelling circumstances exist to modify his sentence because the district court failed to cite relevant mitigating factors when it sentenced him. Champion argues that his remorse, acceptance of responsibility, and minimal criminal history, despite his difficult upbringing, are mitigating factors that warrant a lower sentence.

While Champion cites to proper mitigating factors, the Minnesota Sentencing Guidelines provide these mitigating factors for district courts to determine whether to grant a downward departure, not for imposing a sentence within the presumptive range. See Minn. Sent. Guidelines II.D.3.a (2016). When a district court sentences within the presumptive range, it is not required to “explain its reasons for imposing a presumptive sentence.” *State v. Johnson*, 831 N.W.2d 917, 925 (Minn. App. 2013), *review denied* (Minn. Sept. 17, 2013). And we affirm a presumptive sentence when “the record shows that the sentencing court carefully evaluated all the testimony and information presented before making a determination.” *Id.* (quotation omitted).

Here, the district court considered the following circumstances when executing Champion’s sentence: (1) the crime occurred midday, (2) an eight-year-old child was present, (3) the van circled the block at least once before Champion began firing, (4) Champion, while wearing a ski mask, fired at least nine shots into a crowd of people, and (5) Champion fled from the scene and the police. Based on these circumstances, the district court found Champion to be a threat to public safety. The district court was well within its discretion when it sentenced Champion to 391 months, which was within the presumptive range. This case is not one of the rare cases in which compelling circumstances exist to modify the district court’s sentence.

Affirmed.