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Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0316**

State of Minnesota,
Respondent,

vs.

Jairo Manuel Medina-Acosta,
Appellant.

**Filed February 3, 2020
Affirmed
Cochran, Judge**

Stearns County District Court
File No. 73-CR-18-1250

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

Janelle P. Kendall, Stearns County Attorney, Kyle R. Triggs, Assistant County Attorney,
St. Cloud, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Lydia Villalva Lijó, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Reilly, Presiding Judge; Bjorkman, Judge; and
Cochran, Judge.

UNPUBLISHED OPINION

COCHRAN, Judge

In this direct appeal from a judgment of conviction for first-degree burglary and
felony domestic assault, appellant Jairo Manuel Medina-Acosta argues that the district

court abused its discretion by denying his motion for a downward durational sentencing departure. Because the district court did not abuse its discretion when it denied Medina-Acosta's motion, we affirm.

FACTS

Appellant Jairo Manuel Medina-Acosta was initially charged with first-degree burglary under Minn. Stat. § 609.582, subd. 1(c) (2016) (count one) and gross-misdemeanor domestic assault of his wife under Minn. Stat. § 609.2242, subd. 2 (2016) (count two). Due to a prior offense, the state later amended count two to a felony domestic assault charge under Minn. Stat. § 609.2242, subd. 4 (2016). The case proceeded to a jury trial.

At trial, several witnesses testified, including Medina-Acosta. Trial testimony established that on the day of the offense, Medina-Acosta went to the house where his estranged-wife and her parents lived. He went to the house to inform his wife's parents that their school-aged son (wife's brother) was ill at school and needed to be picked up. Medina-Acosta's wife, the couple's two-year-old son, and her parents were all at the house when he arrived. Medina-Acosta attempted to open the door but a chain-lock was engaged. Several witnesses testified that Medina-Acosta then kicked the door to get inside the house. And his wife testified that once inside, Medina-Acosta pushed her "very hard" to the floor. On that date, there was a no-contact order in place that prohibited Medina-Acosta from contacting his wife or going to her residence.

The jury ultimately found Medina-Acosta guilty of both counts. The district court accepted the verdicts and scheduled a sentencing hearing. The court also ordered a

presentence investigation (PSI). The PSI indicated that, based on his criminal history score, Medina-Acosta faced a presumptive 98-month prison sentence for the felony burglary count and a 24-month prison sentence for the felony domestic-assault count.

The PSI focused on whether there were grounds to support a dispositional departure. The report recommended that the district court impose the presumptive sentence for both counts because Medina-Acosta had a “significant criminal history” with a “history of probation violations” and was in “the highest risk category for domestic recidivism.” The PSI agent later filed a PSI addendum focusing on whether there were grounds to support a durational departure, including whether the burglary offense was less serious than the typical offense. The agent concluded that there did not appear to be any circumstance that would warrant a durational departure.

Before the sentencing hearing, Medina-Acosta filed a motion and supporting memorandum requesting a sentencing departure. Medina-Acosta requested a downward dispositional departure or, in the alternative, a downward durational departure. The state did not file a response.

At the sentencing hearing, Medina-Acosta argued that a dispositional departure was warranted because he is amenable to probation, he has a support system through his family and church, and he has been successful in programming in the past. Alternatively, Medina-Acosta argued that a durational departure was warranted because his offense was less serious than typical, he showed remorse, he was not the aggressor, his father-in-law assaulted him, and he is not a danger to society. The state opposed any departure. With regard to the dispositional departure, the state argued that Medina-Acosta is not amenable

to probation, that he has a consistent history of violating probation, and that he did not show remorse. With regard to the durational departure, the state argued that the offense was more serious than the typical offense because Medina-Acosta had prior domestic assault charges concerning his wife, Medina-Acosta pushed his wife in front of their two-year-old son, and Medina-Acosta fled from police after the incident.

Ultimately, the district court found that “[t]here is nothing before me that I think supports a substantial and compelling finding . . . to depart either dispositionally or durationally in this case.” The district court then imposed the presumptive sentences under the Minnesota Sentencing Guidelines of 98 months in prison for count one, and 24 months for count two, to run concurrently.

Medina-Acosta appeals.

D E C I S I O N

Medina-Acosta contends that the district court abused its discretion in denying his motion for a durational departure from the sentencing guidelines.¹ He argues that a downward durational departure is supported by the record because his offense was significantly less serious than a typical first-degree burglary and domestic assault case, and that the district court failed to provide adequate reasons for denying his motion for a durational departure. The state argues that the district court was not required to provide

¹ The only argument that Medina-Acosta makes in this appeal is that the district court abused its discretion by denying his motion for a downward durational departure. He does not challenge the district court’s decision to deny his motion for a downward dispositional departure.

specific reasons for denying Medina-Acosta's request for a departure because the court sentenced within the guidelines.

The Minnesota Sentencing Guidelines establish presumptive sentences for felony offenses. Minn. Stat. § 244.09, subd. 5 (2018). A sentence prescribed under the Minnesota Sentencing Guidelines is presumed to be appropriate. *State v. Soto*, 855 N.W.2d 303, 308 (Minn. 2014). A district court may depart from the presumptively appropriate guidelines sentence only if “identifiable, substantial, and compelling circumstances” warrant doing so. *State v. Solberg*, 882 N.W.2d 618, 623 (Minn. 2016) (quotation omitted). However, even if mitigating factors are present, the district court is not obligated to depart from the guidelines. *State v. Bertsch*, 707 N.W.2d 660, 668 (Minn. 2006). We “afford the [district] court great discretion in the imposition of sentences and reverse sentencing decisions only for an abuse of that discretion.” *Soto*, 855 N.W.2d at 307-08 (quotation omitted).

Here, the district court imposed the presumptive guidelines sentence for both counts. When the district court imposes a presumptive sentence, this court will not interfere “as long as the record shows the sentencing court carefully evaluated all the testimony and information presented before making a determination.” *State v. Pegel*, 795 N.W.2d 251, 255 (Minn. App. 2011) (quotation omitted). An explanation is not required when the court considers reasons for departure but imposes a presumptive sentence. *State v. Van Ruler*, 378 N.W.2d 77, 80 (Minn. App. 1985).

The record in this case shows that the district court carefully and deliberately considered all of the testimony and information presented before making its determination.

At the sentencing hearing, the court confirmed that it “reviewed all . . . documents.” The documents included, among others, Medina-Acosta’s legal memorandum in support of his motion for a departure and the PSI addendum that specifically addressed a durational departure. The court also oversaw the entire trial and heard departure arguments from Medina-Acosta’s attorney and Medina-Acosta himself. Based on all of the relevant information, the district court found that there was no support in the record for either a dispositional or durational departure. The court determined that “on the contrary all of the facts in front of [the district court] support that . . . the [presumptive] sentence under the guidelines . . . is appropriate.” Having carefully considered the relevant information in the record, the district court acted within its discretion when it sentenced Medina-Acosta to the presumptive sentence for each count.

While acknowledging that district courts have broad discretion in sentencing decisions, Medina-Acosta argues that the district court’s decision should be reversed because his offense was significantly less serious than the typical offense. *See State v. Herrmann*, 479 N.W.2d 724, 728 (Minn. App. 1992) (noting that, in issuing a durational departure, a district court must consider whether the defendant’s conduct was “significantly more or less serious than that typically involved in the commission of the crime in question” (quotation omitted)), *review denied* (Minn. March 19, 1992). But, even if mitigating factors are present, the district court is not obligated to depart from the guidelines. *Bertsch*, 707 N.W.2d at 668. Further, the record suggests that Medina-Acosta’s offense was actually more serious, not less serious, than the typical offense. The district

court did not abuse its discretion when it rejected his request for a downward departure on this basis.

Medina-Acosta also contends that the district court improperly considered his lack of remorse and lack of insight when deciding whether to grant his request for a downward durational departure. He argues that these factors are only relevant to a request for a dispositional departure, not to a request for a durational departure. While remorse generally bears on whether a dispositional departure is appropriate, a “lack of remorse could relate back” to the seriousness of the offense to support an upward durational departure. *State v. McGee*, 347 N.W.2d 802, 806 n. 1 (Minn. 1984). And, the record shows that the district court addressed these factors because they were raised by Medina-Acosta himself during his argument in support of his request for a departure. The district court did not abuse its discretion when it considered these factors.

In sum, we conclude that because the district court completed a careful evaluation of the record and fully considered Medina-Acosta’s legal arguments in support of his request for a downward durational departure, the district court did not abuse its discretion when it imposed the presumptive guidelines sentence for both counts.

Affirmed.