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**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1587**

State of Minnesota,
Respondent,

vs.

Aldray Devon Young,
Appellant.

**Filed June 29, 2020
Affirmed
Worke, Judge**

Goodhue County District Court
File No. 25-CR-18-2747

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

Stephen F. O’Keefe, Goodhue County Attorney, Christopher J. Schrader, Assistant County Attorney, Red Wing, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Kathryn J. Lockwood, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Hooten, Presiding Judge; Worke, Judge; and Jesson, Judge.

UNPUBLISHED OPINION

WORKE, Judge

Appellant argues that the district court abused its discretion by denying his motion for a downward durational or dispositional departure. We affirm.

FACTS

According to a criminal complaint, on May 21, 2018, an officer was dispatched to a couple's home on a report of a robbery. The husband reported that he had answered his door to two men. One man pointed a gun at the husband and pushed him into the home. The men ransacked the house for about a half an hour. The men then tied up the couple, barricaded them in a room, and told them to wait 15 minutes. The two men took car keys, phones, cash, gift cards, guns, and a laptop.

An investigation led to appellant Aldray Devon Young being identified as a suspect. Young was charged with two counts of kidnapping, two counts of first-degree aggravated robbery, first-degree burglary with possession of a dangerous weapon, first-degree burglary of an occupied dwelling, and two counts of robbery. The complaint was later amended, adding two counts of first-degree burglary with the commission of an assault.

On May 6, 2019, Young pleaded guilty to two counts of first-degree aggravated robbery and one count of first-degree burglary committed with a dangerous weapon. The remaining counts were to be dismissed at sentencing. There was no agreement as to Young's sentence, but Young indicated that he would be moving for downward departures, and the state indicated that it would be requesting permissive consecutive sentences.

A presentence investigation showed that with zero criminal-history points, Young's presumptive sentence for each offense was 48 months in prison, with a range between 41-57 months. The reporter recommended that Young receive consecutive sentences totaling 144 months in prison.

At his sentencing hearing, Young testified that he recently moved back to Minnesota and reconnected with the wrong crowd. Young claimed that these individuals devised the robbery, and that he did not want to be involved, but was afraid to leave. Young testified that he deeply apologized to the victims and stated he wished he could take back his actions.

Young testified that while he was in custody he took college courses and earned credits. Young completed a chemical-dependency program that recommended that he attend a long-term residential program, which he intended to do if he received probation. Young testified that he attends a coping-skills class run by a pastor. The pastor described Young as one of “the best” participants that he has had. The pastor testified that Young would benefit and respond favorably to programming if he were granted probation.

The female victim testified that the men held the couple at gunpoint for at least 20 minutes while they huddled together on their kitchen floor. She testified that she wanted Young’s sentence to reflect the fact that the couple was held in their own home at gunpoint, robbed of their possessions, and “stripped of [their] sense of home, safety and well-being.” The male victim submitted a written statement, stating: “No one will understand what we went through unless they have had a gun in their face, their life threatened and left tied in the basement of their own home. This serious crime has invaded our peaceful, rural county; putting us all at risk, making us fearful and suspicious instead of friendly and outgoing.”

The district court stated that it considered the factors supporting a departure, but stated that the “incident shocked and scared the community.” The district court stated that it did not see a reason to depart from the sentencing guidelines because “the severity of the case far outweigh[ed] any amenability of Mr. Young to probation.” The district court

sentenced Young to consecutive sentences of 54 months in prison for each aggravated-robbery count, and a concurrent 48 months for first-degree burglary. This appeal followed.

D E C I S I O N

Young argues that the district court abused its discretion by denying him either a downward dispositional or durational departure. Appellate courts “afford the [district] court great discretion in the imposition of sentences and reverse sentencing decisions only for an abuse of that discretion.” *State v. Soto*, 855 N.W.2d 303, 307-08 (Minn. 2014) (quotation omitted). “[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 imposed presumptive guidelines sentences. A sentence that is prescribed under the sentencing guidelines is “presumed” appropriate. *Soto*, 855 N.W.2d at 308. A district court may depart from a presumptive sentence only if “identifiable, substantial, and compelling circumstances” warrant a departure. *State v. Solberg*, 882 N.W.2d 618, 623 (Minn. 2016).

Dispositional departure

When a defendant moves for a dispositional departure, a district court’s focus is on the defendant and his particular amenability to probation. *State v. Trog*, 323 N.W.2d 28, 31 (Minn. 1982). But a district court may also consider offense-related factors in deciding whether a dispositional departure is appropriate. *State v. Walker*, 913 N.W.2d 463, 468 (Minn. App. 2018). A district court is not required to grant probation even if the record shows that the defendant would be amenable. *State v. Olson*, 765 N.W.2d 662, 664-65 (Minn. App. 2009). And a district court is not required to explain its reasoning for

imposing a presumptive sentence “as long as the record shows [that it] carefully evaluated all the . . . information presented before making a determination.” *State v. Van Ruler*, 378 N.W.2d 77, 80-81 (Minn. App. 1985).

Young argues that he should have received probation because he satisfied the *Trog* factors. *See Trog*, 323 N.W.2d at 31 (stating that in assessing whether a defendant is particularly amenable to probation, a district court may consider age, prior record, remorse, cooperation, attitude in court, and support of friends/family). Young argues that he is 34 years old, has a limited criminal history, has never been to prison, took advantage of programming while incarcerated, is remorseful, took responsibility by pleading guilty, and has support in the community and from his family. Young argues that the district court impermissibly focused on the offense, but the district court stated that it appreciated that Young had a lack of a criminal history and had completed classes during his incarceration. The district court also noted that Young accepted responsibility and expressed his remorse. Thus, the district court considered the arguments supporting a determination that Young is amenable to probation.

The district court, however, determined that the severity of the case outweighed Young’s amenability to probation, noting that the crime “shocked and scared the community.” The district court permissibly considered offense-related factors. We are not presented with a “rare” case requiring reversal of the imposition of the presumptive sentences.

Durational departure

Young argues that, even if the district court did not grant his request for probation, the district court should have granted his request for a downward durational departure because his conduct was less serious than that of his accomplice.

The only factor that a district court may consider when determining whether a durational departure is justified is the severity of the offense. *Solberg*, 882 N.W.2d at 623. In order for a departure to be warranted, the record must demonstrate that the “defendant’s conduct was significantly . . . less serious than that typically involved in the commission of the crime in question.” *State v. Leja*, 684 N.W.2d 442, 450 (Minn. 2004) (quotation omitted).

Young claims that his accomplice planned the robbery and brought the handgun. But in the factual basis supporting his guilty pleas, Young admitted that he entered the home intending to commit a robbery, and that, although it was his accomplice’s plan, he knew what was going on and helped commit the offense. The district court commented that the severity of the offense dictated its sentencing decision; thus, it did not find that Young’s actions were significantly less serious than that typically involved in the commission of the crime, and so did not abuse its discretion by denying Young’s request for a durational departure.

Affirmed.