

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0045**

State of Minnesota,
Respondent,

vs.

Jonna Kojo Armartey,
Appellant.

**Filed January 4, 2021
Affirmed
Reyes, Judge**

Dakota County District Court
File No. 19HA-CR-18-1657

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

James C. Backstrom, Dakota County Attorney, Anna Light, Assistant County Attorney,
Hastings, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Gina D. Schulz, Assistant Public
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Connolly, Presiding Judge; Reyes, Judge; and Gaïtas,
Judge.

NONPRECEDENTIAL OPINION

REYES, Judge

After pleading guilty to two counts of intentional murder, appellant argues that the district court abused its discretion by (1) denying his request for a downward dispositional departure for alternative placement in a mental-health facility without considering mental

illness as a mitigating factor and (2) imposing consecutive sentences which unfairly exaggerate the criminality of the murders. We affirm.

FACTS

On the evening of June 28, 2018, appellant Jonna Kojo Armartey drove his van into a couple, leaving them to die in the parking lot as he drove away. After receiving a tip of a van with a visibly spidered window and a damaged hood sitting in a restaurant parking lot, the Eagan Police Department found the van appellant had been driving. The officers then confirmed his presence at a nearby hotel, called the hotel room, and informed appellant the room was surrounded. He stepped outside to surrender.

After the officers took appellant into custody and read him his *Miranda* rights, he made several admissions. Appellant stated:

I love you guys. I really honest I love—and I love—I’m a lover. Not a lover. I don’t know. I do love you guys. I swear to God. I don’t know why. That’s just the way I am. I wish I couldn’t be this way. Be more—you know some other way or—(unintelligible) you know any way. I do. (Unintelligible). I—listen I’m gonna tell you something like I’ve seen some f--kin’ guys—some folks come down the street. As I looked when I was in my car I was (unintelligible) listening to my music. I was just relaxing. Right. But it freaked me out girl. I ran ‘em over. I’m scared. Sorry. I don’t know what I was doing. Man I’m nervous. This cat scared the sh-t outta me bro and I’m a big.

Appellant also said, “I was just minding my business literally and they were actually possibly minding their business but they freaked me out. I’m saying. They freaked—I didn’t wanna be—it’s not like they came around me but they freaked me out and that’s like I thought they were already dead.” When asked if the couple had looked at him funny,

appellant responded “Yeah they stopped. Like every time I thought something they stopped on what I thought it and that freaked me out.” Appellant admitted that he intentionally struck the two victims while driving fast.

Relevant Medical History

Before this offense, appellant had a history of substance-abuse, a prior “bipolar schizoaffective” diagnosis manifested by auditory and visual hallucinations and delusional beliefs, an Unspecified Personality Disorder with antisocial and “Cluster B”¹ features, and Antisocial Personality Disorder. Appellant also has a history of in-patient psychiatric hospitalizations in New Jersey, with one lasting 22 months, and in Minnesota. Appellant has been civilly committed in both states, most recently on June 9, 2016, after being found incompetent on an unrelated criminal matter.

Until the date of the offense, appellant had been receiving services from Dakota County Social Services and Community Corrections. Appellant lost funding for a first sober house and then moved into a private sober house in April 2018. About two months later, appellant moved in with his brother. A few days before the offenses, appellant’s brother asked him to move out. Appellant then slept in his van for a couple of nights in parking lots. Appellant met with his providers the day before the date of the offenses. They noted apparent stress and mild paranoid thinking but that appellant’s thought

¹ Individuals with Cluster B personality disorders often appear dramatic, emotional, or erratic. This cluster of diagnoses include Antisocial, Borderline, Histrionic, and Narcissistic Personality Disorders. Antisocial Personality Disorder is characterized by the disregard for, and violation of, the rights of others beginning in childhood or early adulthood and continuing into adulthood.

processes were not significantly impaired and that he had “no indication of significant psychiatric symptomology at that time.”

Rule 20 Evaluations

At appellant’s request, the district court ordered psychological examinations under Minnesota Rule of Criminal Procedure 20.01 and 20.02. The Rule 20.01 evaluation found appellant competent to proceed in his criminal case. In October 2018, the district court civilly committed appellant as mentally ill and dangerous for 60 days, which eventually became an indeterminate commitment lasting through the end of this criminal matter.

Three psychologists provided the district court with Rule 20.02 evaluations. Two of the psychologists, Dr. Adam Milz and Dr. Mary Kenning, concluded that appellant did not labor under such a defect of reason as to not understand the nature of his act or that it was wrong at the time of the offense. Dr. Milz acknowledged that appellant experienced some “degree of psychiatric symptomatology at the time” of the offenses, but ultimately concluded that the degree did not rise to the level of a cognitive-impairment defense. Dr. Kenning reasoned that appellant’s behavior after the offense shows he understood it was wrong: he was cautious about revealing information, expressed internal conflict, left his van to take the bus, and gave inconsistent accounts of the events. Dr. Kenning also noted that appellant could adopt the viewpoint of others in the moments after the offenses, which is indicative of intact reasoning abilities. The third psychologist’s report, provided by appellant’s expert, found that appellant “quite likely [] labor[ed] under such a defect of reason as to not know the nature of the act or that it was wrong at the time of the offense” because he was in a perceived state of self-defense resulting from delusions and

hallucinations. The third report added: “It also appeared quite plausible that he experienced dissociation during the moment in which he struck the couple with his vehicle.”

Plea Agreement

On August 5, 2019, appellant pleaded guilty to two counts of second-degree intentional murder under *North Carolina v. Alford*, 400 U.S. 25, 91 S. Ct. 160 (1970) (accepting a defendant’s consented-to guilty plea even though defendant maintains his innocence). The plea agreement allowed respondent State of Minnesota to argue for consecutive sentences no greater than 567 months. Appellant remained free to argue for concurrent sentences of 346 months and for a dispositional departure to be released to this civil commitment at the Minnesota Security Hospital.

Sentencing

At sentencing, Diane Medchill, the associate director of Behavioral Health of the Minnesota Department of Corrections, testified that all prisons in the state have mental-health professionals, psychiatry services, and an ability to “provide a higher level of mental-health professionals overseeing those individuals that need” higher-level services. Director Medchill also testified that the DOC “provides very good comparable services” to those of the Department of Human Services.

The state presented impact statements from the victims’ adult children and another 21 affiants before the hearing. The impact statements asked for the highest possible sentences under the plea agreement. The parties made arguments consistent with the plea agreement. The district court denied appellant’s request for an alternative placement to the

Minnesota Security Hospital and sentenced appellant to two consecutive sentences totaling 567 months. This appeal follows.

DECISION

I. The district court did not abuse its discretion by imposing a presumptive sentence and denying appellant’s request for a downward dispositional departure to an alternative placement.

Appellant argues that the district court abused its discretion because it did not address his mental health as a mitigating factor. We are not persuaded.

“We ‘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) (quoting *State v. Spain*, 590 N.W.2d 85, 88 (Minn. 1999)). “[W]e will not ordinarily interfere with a sentence ‘fall[ing] within the presumptive sentence range, either dispositionally or durationally, even if there are grounds that would justify departure.’” *State v. Bertsch*, 707 N.W.2d 660, 668 (Minn. 2006) (quoting *State v. Abeyta*, 336 N.W.2d 264, 265 (Minn. 1983)). We will affirm “as long as the record shows the [district] court carefully evaluated all the testimony and information presented before making a determination.” *State v. Van Ruler*, 378 N.W.2d 77, 80-81 (Minn. App. 1985). Only in rare cases does a refusal to depart warrant reversal. *Bertsch*, 707 N.W.2d at 668.

“Although the [district] court is required to give reasons for departure, an explanation is not required when the court considers reasons for departure but elects to impose the presumptive sentence.” *Van Ruler*, 378 N.W.2d at 80. Because the district court imposed a presumptive sentence, it had no duty to provide reasons for denying

appellant's motion for a dispositional departure. Likewise, the mere fact that the district court did not discuss appellant's mental health as a mitigating factor does not require reversal. Indeed, appellant concedes that the district court is not required to grant a dispositional departure merely because there is a mitigating factor. When the record reflects, as it does here, that the district court considered all of the testimony and information presented to it before denying appellant's request for a dispositional departure, we will not disturb the district court's broad discretion. *Id.*

Appellant argues next that his civil commitment as mentally ill and dangerous makes him an ideal candidate for stayed sentences to permit his placement at the Minnesota Security Hospital. Minn. Stat. § 609.1055 governs alternative placement for offenders with "serious and persistent mental illness," when "consistent with public safety." (2018). Minnesota Sentencing Guidelines 2.D.3(a)(6) (2016) provides "[t]he court . . . ordering an alternative placement under Minn. Stat. § 609.1055 for an offender with a serious and persistent mental illness" may be used as a reason for a departure. But even if section 609.1055 may apply, the decision whether to apply it rests within the discretion of the district court. *State v. Abdi*, 855 N.W.2d 546, 548-49 (Minn. App. 2014), *review denied* (Minn. Jan. 20, 2015).

The record shows the district court considered whether alternative placement would be consistent with public safety. The district court evaluated testimony from the Department of Corrections about the mental-health services available to appellant, including the possibility of transfer if necessary in the future. Additionally, the psychological evaluations before the district court at the sentencing hearing show appellant

has been violent towards staff at psychiatric hospitals on several occasions. Because the district court carefully considered the alternative-placement request, the district court did not abuse its discretion. This is accordingly not the “rare case” warranting reversal. *Bertsch*, 707 N.W.2d at 668.

II. The district court did not unfairly exaggerate the criminality of appellant’s offenses by imposing consecutive sentences.

Appellant argues that his consecutive sentences run afoul of the “multiple-victim rule” because the sentences exaggerate the criminality of his offenses. We disagree.

District courts may order “multiple sentences for multiple crimes arising out of a single behavioral incident if: (1) the crimes affect multiple victims; and (2) multiple sentences do not unfairly exaggerate the criminality of the defendant’s conduct.” *State v. Alger*, 941 N.W.2d 396, 400 (Minn. 2020) (explaining “multiple-victim rule”). In reviewing “whether a consecutive sentence unfairly exaggerates a defendant’s criminality, we are guided by past sentences received by other offenders for similar offenses.” *Carpenter v. State*, 674 N.W.2d 184, 189 (Minn. 2004).

We note that because appellant’s multiple sentences remain within the presumptive range, his reliance on caselaw involving departures is not on point. Appellant relies on *State v. Martinson* for the proposition that courts routinely consider mental illness as a mitigating circumstance. 671 N.W.2d 887 (Minn. App. 2003) (affirming downward durational departure when defendant experienced psychotic symptoms), *review denied* (Minn. Jan. 20, 2004). But the district court did not grant a downward departure; appellant’s sentences fall squarely within the presumptive sentencing guidelines.

Similarly, appellant's reliance on *State v. Wall* is misguided because appellant's sentence is not an upward durational departure. 343 N.W.2d 22 (Minn. 1984).

Appellant relies on *State v. McLaughlin* to argue that his case is distinguishable as involving a sufficiently "extreme" mental impairment. 725 N.W.2d 703, 716 (Minn. 2007). In *McLaughlin*, the Minnesota Supreme Court affirmed consecutive sentences for two intentional murders because the defendant did not suffer "extreme mental illness." *Id.* The supreme court distinguished the facts in *McLaughlin*, in which six mental-health experts differed on the specific diagnosis and how much those diagnoses caused delusions, from *Martinson* in which it was "uncontroverted that, at all relevant times" the defendant suffered from an "extreme mental illness." *Id.*

Likewise, the expert reports here were not "uncontroverted, that at all relevant times" appellant suffered from "extreme mental illness." The day before the offenses, appellant's mental-health providers met with him, noting no significant impairment and "no indication of significant psychiatric symptomology at that time." Importantly, Dr. Milz and Dr. Kenning found that appellant's diagnoses did not sufficiently impair his mind so that he could not appreciate his act was wrong at the time of the offense. They concluded that his reasoning abilities were also intact during the moments following the incident. The facts here do not involve the kind of uncontroverted expert opinions of mental illness in *Martinson*, and instead, are more like those of *McLaughlin*.

The district court also weighed the 21 victim-impact statements submitted before the sentencing hearing and the three live impact statements from the victims' surviving children. After considering these statements, the district court stated "it would unduly

depreciate the horrific nature of your conduct if the court were to give you, basically, one sentence for the two lives that you took that night.” The district court also noted the particular harshness of appellant’s offenses as evidenced by his failure to render aid to innocent victims whom he left to die. We are not convinced that imposing consecutive sentences on this record unfairly exaggerates the criminality of appellant’s offenses.

Affirmed.