

*This opinion is nonprecedential except as provided by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
A20-0526**

State of Minnesota,
Respondent,

vs.

Casey Jo Eggum,
Appellant.

**Filed January 11, 2021
Affirmed
Klaphake, Judge ***

Freeborn County District Court
File No. 24-CR-19-407

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

David J. Walker, Freeborn County Attorney, Abigail H. Lambert, Assistant County Attorney, Albert Lea, Minnesota (for respondent)

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

Considered and decided by Johnson, Presiding Judge; Smith, Tracy M., Judge; and Klaphake, Judge.

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

KLAPHAKE, Judge

Appellant Casey Jo Eggum challenges the 57-month prison sentence imposed by the district court after he pleaded guilty to first-degree arson of a dwelling. He argues that the district court abused its discretion by denying his motion for a downward dispositional departure and imposing a sentence within the presumptive range. Because the district court did not abuse its discretion, we affirm.

DECISION

The Minnesota Sentencing Guidelines establish presumptive sentences for criminal offenses. Minn. Stat. § 244.09, subd. 5 (2018). A district court may depart from the presumptive sentence only when there exist “identifiable, substantial, and compelling circumstances to support a departure.” Minn. Sent. Guidelines 2.D.1 (2018). “Substantial and compelling circumstances are those that make a case atypical.” *State v. Walker*, 913 N.W.2d 463, 468 (Minn. App. 2018). “When factors that may justify departing from the presumptive sentence are present, a court must exercise its discretion and consider the factors.” *State v. Kier*, 678 N.W.2d 672, 677 (Minn. App. 2004), *review denied* (Minn. June 15, 2004).

District courts have great discretion when imposing sentences, and appellate courts reverse sentencing decisions only when the district court abuses its discretion. *State v. Soto*, 855 N.W.2d 303, 307-08 (Minn. 2014). We will not reverse the district court’s refusal to depart “as long as the record shows the [district] 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).

When considering a dispositional departure, the district court focuses “more on the defendant as an individual and on whether the presumptive sentence would be best for him and for society.” *State v. Heywood*, 338 N.W.2d 243, 244 (Minn. 1983). A defendant’s particular amenability to probation is a proper ground to justify a dispositional departure from a presumptive sentence. *Soto*, 855 N.W.2d at 308. The requirement of *particular* amenability ensures that “the defendant’s amenability to probation distinguishes the defendant from most others and truly presents the substantial and compelling circumstances that are necessary to justify a departure.” *Id.* at 309 (quotation omitted). Relevant factors for determining whether the defendant is particularly amenable to probation include the defendant’s age, prior criminal record, remorse, cooperation, attitude in court, and support of friends and family. *State v. Trog*, 323 N.W.2d 28, 31 (Minn. 1982).

Appellant contends that the district court abused its discretion by denying his motion for a downward dispositional departure because he is particularly amenable to probation. He points to his minimal prior criminal history, remorse, willingness to comply with the conditions of probation, and willingness to participate in chemical-dependency treatment. Some of those factors were present. The sentencing worksheet reported that appellant had a criminal-history score of zero. Appellant claimed that his criminal behavior was driven by drug addiction, and he underwent programming at the detention center while the case was pending to address that addiction. And the drug and alcohol counselor who treated appellant at the detention center opined that there was a high probability that appellant

would not reoffend if he completed the treatment program, followed its recommendations, and remained sober. Nevertheless, even when there is evidence that the defendant would be particularly amenable to probation, a district court is not required to impose a downward dispositional departure. *State v. Olson*, 765 N.W.2d 662, 664-65 (Minn. App. 2009).

Moreover, other factors demonstrated that appellant was not particularly amenable to probation. Appellant had completed treatment programs in the past and had short periods of sobriety, but he eventually relapsed. Also, although appellant completed probation for misdemeanor and gross-misdemeanor convictions for offenses he committed in 2015, he violated that probation three times for failure to report and for failure to obtain a chemical-dependency evaluation.

The district court considered those facts when it denied appellant's motion for a downward dispositional departure. It reasoned:

Your performance on probation in other cases, as has been pointed out, isn't as stellar as simply saying, "I succeeded on probation"; right? Maybe you did succeed on probation in those other cases, but it wasn't without many bumps, and it wasn't a perfect score; it was really: you endured it until it ended, and you succeeded that way.

Furthermore, the district court correctly observed that, even if appellant had the potential to succeed in a treatment program, a dispositional departure required him to be *particularly* amenable to probation, not just amenable to probation. The record shows that the district court carefully evaluated the evidence when making its decision. There is therefore no basis for us to reverse the district court's exercise of its discretion.

Additionally, appellant argues that the district court improperly relied on the severity of the offense and its effect on the victims when denying his motion. He maintains that the district court should focus primarily on the defendant as an individual, rather than the nature of the offense, when determining whether to grant a dispositional departure. The district court did take into account the seriousness of appellant's offense. It stated that appellant's case was not "encouraging" and was "far beyond the kind of case we would normally see," due to the danger that appellant put himself and others in, his "callousness," and his "total disregard" for the effect of his actions. Even though the district court considered offense-related factors, it also took into account offender-related factors, including appellant's multiple violations of probation in previous cases. The offender-related factors adequately demonstrated that appellant was not particularly amenable to probation. Therefore, the district court did not abuse its discretion by imposing a sentence within the presumptive range.

Affirmed.