

*This opinion is nonprecedential except as provided by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
A20-0652**

State of Minnesota,
Respondent,

vs.

Clinton Angwenyi Omuya,
Appellant.

**Filed April 26, 2021
Affirmed
Johnson, Judge**

Hennepin County District Court
File No. 27-CR-18-22419

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

Michael O. Freeman, Hennepin County Attorney, Nicole Cornale, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Roy G. Spurbeck, Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

NONPRECEDENTIAL OPINION

JOHNSON, Judge

Clinton Angwenyi Omuya gave a handgun to a 17-year-old boy and encouraged him to use it to confront another person. The boy used the handgun to shoot and kill the other person. Omuya pleaded guilty to aiding and abetting second-degree unintentional

murder. The district court imposed a top-of-the-box sentence of 180 months of imprisonment. On appeal, Omuya argues that the district court erred by not imposing a middle-of-the-box sentence of 150 months. We affirm.

FACTS

In the early morning hours of January 7, 2018, Omuya attended a house party in southeast Minneapolis with his brother and a 17-year-old friend, A.K. At the party, Omuya saw D.D., whom he held responsible for his being robbed and shot in a prior incident. Omuya retrieved a handgun from his parked vehicle and returned to the party. Shortly thereafter, Omuya, his brother, and A.K. decided to leave the party in Omuya's vehicle, with Omuya driving. But the group later decided to return to the party. When they arrived, Omuya asked A.K. to rejoin the party, confront D.D., and show him the handgun. Omuya also told A.K. that if the situation escalated, he should use the handgun to pistol-whip D.D. A.K. went back to the party, confronted D.D., and shot and killed him. In a prior appeal in a different case, this court affirmed a district court decision to certify A.K. for prosecution as an adult. *In re Welfare of A.D.K.*, No. A18-2053, 2019 WL 3000766, at *4 (Minn App. July 8, 2019), *review denied* (Minn. Sept. 25, 2019).

The state charged Omuya with aiding and abetting second-degree intentional murder, in violation of Minn. Stat. § 609.19, subd. 1(1) (2016), and aiding an offender as an accomplice after the fact, in violation of Minn. Stat. § 609.495, subd. 3 (2016). In February 2019, Omuya pleaded guilty to aiding and abetting second-degree unintentional murder, in violation of Minn. Stat. § 609.19, subd. 2(1). Because Omuya's criminal-history score was zero, the presumptive sentence was a range of between 128 months and

180 months of imprisonment, with a mid-point of 150 months. *See* Minn. Sent. Guidelines 4.A. (2016). In the plea agreement, the parties agreed that Omuya would receive a sentence of between 150 and 180 months, unless Omuya assisted in the successful recovery of the handgun that A.K. used to kill D.D., in which event he would be entitled to a sentence of 150 months. The handgun was not recovered. In February 2020, the district court sentenced Omuya to 180 months of imprisonment. Omuya appeals.

DECISION

Omuya argues that the district court erred by imposing a 180-month prison sentence instead of a 150-month prison sentence.

The Minnesota Sentencing Guidelines prescribe presumptive sentences for felony offenses. Minn. Sent. Guidelines 2.C (2016). For any particular offense, the prescribed sentence is “presumed to be appropriate for all typical cases sharing criminal history and offense severity characteristics.” Minn. Sent. Guidelines 1.B.13 (2016). The applicable cell in the applicable grid typically states a “presumptive range,” which spans durations that are “15 percent lower and 20 percent higher than the fixed duration displayed in each cell.” Minn. Sent. Guidelines 1.B.13.c (2016). A district court may depart from the presumptive range only if “there exist identifiable, substantial, and compelling circumstances to support a departure.” Minn. Sent. Guidelines 2.D.1 (2016).

An appellate court “generally will not interfere with a sentencing court’s decision to impose a term within the presumptive sentence range.” *State v. Kangbateh*, 868 N.W.2d 10, 14 (Minn. 2015). Furthermore, “any sentence within the presumptive range . . . constitutes a presumptive sentence.” *State v. Delk*, 781 N.W.2d 426, 428 (Minn. App.

2010), *review denied* (Minn. July 20, 2010). Accordingly, this court “will not generally review a district court’s exercise of its discretion to sentence a defendant when the sentence imposed is within the presumptive guidelines range.” *Id.* We may modify a presumptive sentence but only in “rare” cases and only if modification is supported by “compelling circumstances.” *Id.* (quotations omitted).

Omuya contends that there are circumstances that should compel this court to vacate his sentence and remand for resentencing. Specifically, he refers to “his remorse, his cooperation with the State against the principal and attempt to locate the gun used in the offense, his culpability compared to the principal, and his potential for rehabilitation post incarceration.” Similarly, in a *pro se* supplemental brief, Omuya argues that a shorter sentence is justified by his remorse, his cooperation with the state, his strong support system, and his lack of a prior criminal record.

Omuya expressed remorse at the sentencing hearing, but the district court was not favorably impressed. The district court stated to Omuya that he should have expected a violent altercation when he brought his handgun to the party, that he made a bad decision by encouraging a juvenile to use the handgun in a confrontation, and that he would need “to suffer the consequences.” The district court also noted that Omuya did not recover the handgun. The district court’s statements at the sentencing hearing are inconsistent with Omuya’s claims of remorse and lack of culpability. We will not interfere with the district court’s discretionary decision to discount Omuya’s claims of remorse and lack of culpability. We see no other compelling reasons in the record to disturb the district court’s exercise of discretion to impose the longest sentence within the presumptive range. This

simply is not the rare case in which an offender is entitled to a shorter presumptive sentence. *See Delk*, 781 N.W.2d at 428.

Thus, the district court did not err by imposing a sentence of 180 months of imprisonment instead of a sentence of 150 months.

Affirmed.

A handwritten signature in cursive script, appearing to read "Matthew J. Johnson". The signature is written in dark ink and is positioned centrally below the word "Affirmed."