

*This opinion is nonprecedential except as provided by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
A21-0471**

State of Minnesota,
Respondent,

vs.

Jacob Winston Eckman,
Appellant.

**Filed March 28, 2022
Affirmed
Smith, Tracy M., Judge**

Becker County District Court
File No. 03-CR-19-2718

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

Brian W. McDonald, Becker County Attorney, Detroit Lakes, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Christopher Mishek, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Connolly, Presiding Judge; Reilly, Judge; and Smith,
Tracy M., Judge.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

Appellant Jacob Winston Eckman argues that the district court abused its discretion
by denying his motion for a downward dispositional departure from the presumptive prison

sentence because, he argues, the record shows that he is particularly amenable to probation and treatment. We affirm.

FACTS

Eckman pleaded guilty to and was convicted of second-degree criminal sexual conduct against his then four-year-old cousin under Minn. Stat. § 609.343, subd. 1(h)(i) (2016). At sentencing, Eckman moved for a downward dispositional departure consisting of a one-year sentence to the local jail followed by probation with sex-offender treatment and therapy. The district court denied Eckman’s motion, concluding that there were not substantial and compelling reasons to depart from the sentencing guidelines, and sentenced Eckman to the presumptive 90 months of imprisonment. *See* Minn. Sent. Guidelines 4.B & 5.A (Supp. 2017).

Eckman appeals.

DECISION

District courts are afforded “great discretion in the imposition of sentences,” and appellate courts will reverse a sentencing decision “only for an abuse of that discretion.” *State v. Soto*, 855 N.W.2d 303, 307-08 (Minn. 2014) (quotation omitted). The sentences provided in the Minnesota Sentencing Guidelines are presumed to be appropriate. Minn. Sent. Guidelines 2.D.1 (Supp. 2017). When a district court imposes a presumptive sentence, an appellate court “may not interfere with the [district court’s] exercise of discretion, as long as the record shows that [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 a “rare case” will an appellate court

reverse the district court's refusal to depart from the presumptive sentence. *State v. Kindem*, 313 N.W.2d 6, 7 (Minn. 1981).

A district court may depart from the guidelines sentence only “if aggravating or mitigating circumstances are present, and those circumstances provide a substantial and compelling reason not to impose a guidelines sentence.” *Soto*, 855 N.W.2d at 308 (quotations and citations omitted); *see also* Minn. Sent. Guidelines 2.D.1 (stating that a district court “must” sentence within the guidelines range “unless there exist identifiable, substantial, and compelling circumstances to support a departure”). But even if substantial and compelling circumstances exist, a district court is not required to depart from the guidelines. *State v. Walker*, 913 N.W.2d 463, 468 (Minn. App. 2018) (citing *Kindem*, 313 N.W.2d at 7); *see also State v. Wall*, 343 N.W.2d 22, 25 (Minn. 1984) (stating that the presence of a mitigating factor does not obligate a district court “to place defendant on probation”); Minn. Sent. Guidelines 2.D.1 (stating that a district court “may” depart from the presumptive disposition).

A dispositional departure “places the offender in a different setting than that called for by the presumptive guidelines sentence.” *State v. Solberg*, 882 N.W.2d 618, 623 (Minn. 2016). Substantial and compelling circumstances justifying a downward dispositional departure “include a finding that a defendant is particularly amenable to correction on probation and unamenable to correction by imprisonment.” *State v. Malinski*, 353 N.W.2d 207, 209 (Minn. App. 1984), *rev. denied* (Minn. Oct. 16, 1984); *see also* Minn. Sent. Guidelines 2.D.3.a.7 (Supp. 2017). Amenability “to individualized treatment in a probationary setting” will justify a finding of amenability to probation and thus a

dispositional departure. *State v. Trog*, 323 N.W.2d 28, 31 (Minn. 1982); *see also* Minn. Sent. Guidelines 2.D.3.a.7. Under *Trog*, several factors are relevant to determining whether a defendant is “particularly suitable to individualized treatment in a probationary setting.” 323 N.W.2d at 31. These include “the defendant’s age, his prior record, his remorse, his cooperation, his attitude while in court, and the support of friends and/or family.” *Id.*

Eckman asserts that he is particularly amenable to treatment in a probationary setting under *Trog* because he was only 21 years old at the time of sentencing, this was his first criminal offense, he showed remorse and cooperated with the legal process, and he has support from family and medical professionals. He additionally argues that he proved he can follow treatment-like programming based on his past experience, citing *State v. Gebeck*, 635 N.W.2d 385 (Minn. App. 2001), a case in which a defendant was found amenable to probation based in part on her past success in treatment. Further, Eckman argues that he is particularly unamenable to treatment in prison based on his medical, psychiatric, and social history.

Though Eckman cites to several factors that may support a determination that he is particularly suitable to treatment in a probationary setting, these factors do not compel the conclusion that the district court abused its discretion by denying a downward dispositional departure. The record reflects that the district court carefully considered all of the relevant information presented to it. At the sentencing hearing, the district court noted that it had reviewed, in some cases “multiple times,” the relevant documents submitted. These documents included the presentence investigation, a psychosexual evaluation, Eckman’s motion for departure and a supporting memorandum from a dispositional advisor, and

correspondence from Eckman's mother. The district court also heard victim-impact statements from the victim's parents and arguments from counsel. In rendering its sentencing decision, the district court stated:

Mr. Eckman, I understand that you've had a difficult and a trying childhood. I've taken that into consideration together with arguments of counsel here today.

Mr. Eckman, I am not persuaded that they represent substantial and compelling reasons to depart from the sentencing guidelines that have been established for this offense.

Mr. Eckman, this Court is concerned with protecting public safety and following the Minnesota Sentencing Guidelines and where this Court finds substantial and compelling reasons the Court may depart. I don't see that there are substantial or compelling reasons or that those reasons that have been submitted rise to the level of substantial or compelling.

And, Mr. Eckman, you have pleaded guilty to sexually penetrating a four-year-old child. And the legislature has established sentencing guidelines for the conduct that you've pleaded guilty to, and I'm going to follow through with the sentencing guidelines in this instance.

We, too, have reviewed the relevant documents and the testimony. Based on that review and the district court's full consideration of the record, we conclude that the district court did not abuse its discretion by denying Eckman's motion for a downward dispositional departure, despite the presence of mitigating factors, and by instead sentencing him to the presumptive guidelines sentence.

Affirmed.