

*This opinion is nonprecedential except as provided by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
A22-0697**

State of Minnesota,
Respondent,

vs.

Benjamin Jacob Hunt,
Appellant.

**Filed April 10, 2023
Affirmed
Bryan, Judge**

Steele County District Court
File No. 74-CR-20-770

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

Daniel A. McIntosh, Steele County Attorney, Julia A. Forbes, Assistant County Attorney,
Owatonna, Minnesota (for respondent)

Charles F. Clippert, St. Paul, Minnesota (for appellant)

Considered and decided by Johnson, Presiding Judge; Segal, Chief Judge; and
Bryan, Judge.

NONPRECEDENTIAL OPINION

BRYAN, Judge

In this direct appeal after conviction of conspiracy to commit second-degree
possession of a controlled substance, appellant argues that the district court abused its

discretion when it denied his motion for a downward durational sentencing departure. We affirm.

FACTS

On May 11, 2020, respondent State of Minnesota charged appellant Benjamin Jacob Hunt with one count of conspiracy to commit first-degree possession of a controlled substance, one count of aiding and abetting first-degree possession of a controlled substance, and one count of conspiracy to import a controlled substance across state borders. The complaint alleged that Hunt acquired money for codefendants to travel to Colorado to obtain methamphetamine. When the codefendants were apprehended, arresting officers recovered four bags of methamphetamine. The Minnesota Bureau of Criminal Apprehension analyzed one of the bags and determined that it contained approximately one quarter pound of methamphetamine. The complaint did not specify the total amount of methamphetamine recovered by the arresting officers. According to the complaint, Hunt provided a statement to law enforcement officers in which he admitted funding the trip to Colorado because it would be cheaper to purchase methamphetamine in Colorado than in Minnesota. Hunt also told officers that he and the other individuals involved intended to pay for half of the methamphetamine and for the methamphetamine dealer in Colorado to “front” the remaining half.

On November 4, 2021, pursuant to a plea agreement, Hunt pleaded guilty to conspiracy to commit second-degree possession of a controlled substance, and the state dismissed the remaining charges. The state agreed to recommend that Hunt be sentenced in accordance with the Minnesota Sentencing Guidelines. At the plea hearing, Hunt

admitted the necessary elements of the possession offense, stated he funded the trip to Colorado, and acknowledged his understanding that the transaction in Colorado involved at least twenty-five grams of methamphetamine.

A sentencing guidelines worksheet and a presentence investigation report were both filed with the district court before the sentencing hearing. The worksheet showed Hunt had a criminal history score of fifteen and indicated a presumptive commitment to prison for 111 months. Hunt moved for both a downward dispositional and downward durational departure. In support of the durational departure request, Hunt argued that his offense was significantly less serious than the typical offense because he merely provided financial assistance and the transaction did not involve guns or gangs. Hunt also submitted letters of support with the district court that discussed his character.

The district court considered the arguments and submissions and determined that Hunt did not establish a sufficiently compelling basis for a downward durational departure. The district court noted that, although Hunt characterized his conduct as merely financial, the offense involved “about a half pound or so of methamphetamine” and “[p]eople don’t fund that type of a drug expedition for personal use so it is reasonable to infer that there was the expectation of an economic benefit from this arrangement.” The district court stated that it was “clear from the record that but for Mr. Hunt putting up the funding here, this crime wouldn’t have happened.” In addition, the district court reasoned that had the offense involved firearms or gangs, other “statutes and sentencing provisions” could have applied that “carry additional sanctions.” Thus, the district court rejected that argument. Finally, the district court considered the letters, but did not conclude that the opinions

offered in the them supported departure because “at least two of [the letters] look like they were actually written for a different case,” “[i]t wasn’t always clear whether the author of each letter actually knew Mr. Hunt,” and the authors merely offered an “opinion based on other people’s opinion” without “any first-hand knowledge of Mr. Hunt whatsoever.”

The district court denied the dispositional departure request based on its finding that Hunt was not particularly amenable to probation. The district court denied the durational departure motion because the offense was not significantly less serious than a typical offense. The district court imposed the presumptive sentence, committing Hunt to prison for 111 months. Hunt appeals the denial of his durational departure request.

DECISION

Hunt contends that the district court abused its discretion when it denied his downward durational departure motion, arguing that the offense was significantly less serious than the typical offense because his role was merely financial.¹ Because the district court’s decision was not against logic or the facts in the record, the district court did not abuse its discretion when it denied Hunt’s durational departure motion.

The Minnesota Sentencing Guidelines establish presumptive sentences for felony offenses and seek to “maintain uniformity, proportionality, rationality, and predictability

¹ Hunt also argues that the district court erred in denying his durational departure request because the district court failed to adequately consider the letters of support that he filed. These letters, however, addressed Hunt’s character; they did not concern any offense-related characteristics. It is well-established that only offense-related characteristics can support durational departures. *E.g.*, *State v. Solberg*, 882 N.W.2d 618, 623 (Minn. 2016). For this reason, the district court could not have erred by giving inadequate weight to the comments in these letters when denying the durational departure request.

in sentencing.” Minn. Stat. § 244.09, subd. 5 (2018). A district court must pronounce a sentence within the presumptive sentencing range “unless there exist identifiable, substantial, and compelling circumstances to support a departure.” Minn. Sent’g Guidelines 2.D.1 (2018); *see also State v. Walker*, 913 N.W.2d 463, 468 (Minn. App. 2018). But even if substantial and compelling circumstances exist, a district court is not required to depart from the guidelines. *State v. Kindem*, 313 N.W.2d 6, 7 (Minn. 1981). In determining whether to grant a downward durational departure, a district court must consider whether the defendant’s conduct was “significantly less serious than that typically involved in the commission of the offense.” *Solberg*, 882 N.W.2d at 624 (quotation omitted). When a defendant’s actions fit squarely within the conduct prohibited by the statute, the offense is not significantly less serious than a typical offense. *State v. Rund*, 896 N.W.2d 527, 534 (Minn. 2017).

We review a district court’s decision on a departure motion for an abuse of discretion. *E.g.*, *Dillon v. State*, 781 N.W.2d 588, 595 (Minn. App. 2010), *rev. denied* (Minn. July 20, 2010) (concluding that if “the district court has identified proper grounds justifying a challenged departure, we review its decision whether to depart for an abuse of discretion” (emphasis omitted)). A district court abuses its discretion when its decision is against logic or the facts in the record. *State v. Guzman*, 892 N.W.2d 801, 810 (Minn. 2017). We are “extremely deferential” to a district court’s decision whether to impose a departure, *Dillon*, 781 N.W.2d at 595-96, and “we cannot simply substitute our judgment for that of the [district] court,” *State v. Spain*, 590 N.W.2d 85, 88 (Minn. 1999); *see also Kindem*, 313 N.W.2d at 7 (stating that appellate court will reverse departure decisions only

in “a rare case”). When a district court imposes a presumptive sentence, this court “may not interfere with the [district] court’s exercise of discretion, 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).

In this case, Hunt admitted that he paid for codefendants² to travel to Colorado to obtain methamphetamine. The district court reasoned that Hunt played an important role, standing to gain economically from the anticipated sale of the methamphetamine obtained. The district court, therefore, concluded that Hunt’s financial assistance was the but-for cause of the offense. Hunt argues that the district court abused its discretion based on the more lenient sentences that his codefendants received. We are not persuaded. The guidelines depend on a person’s criminal history, e.g., Minn. Sent. Guidelines 1.A.3 (2019) (“[t]he severity of the sanction should increase in direct proportion to an increase in offense severity or the convicted felon’s criminal history, or both”), and Hunt had a criminal history score of fifteen, which was higher than his codefendants’ criminal history scores. More importantly, Hunt’s brief points out that the codefendants received more lenient sentences because the district court granted dispositional departures to those individuals. Therefore, a comparison to Hunt’s codefendants does not support reversing the denial of his durational

² To the extent that portions of Hunt’s brief can be construed to argue that the district court abused its discretion because the offense did not involve firearms or gangs, we remain unconvinced. Hunt does not explain to this court and did not explain to the district court the basis for his assumption that a typical second-degree possession offense involves gangs or guns, which could constitute an aggravating factor rather than a typical characteristic of the offense. See Minn. Sent. Guidelines 2.D.3.b(5) (2019) (listing aggravating factors for drug offenses). Given the argument as presented, we discern no abuse of discretion in the district court’s decision not to depart on this basis.

departure motion. We conclude that the denial of Hunt's departure request was not against logic or the uncontested facts in the record. Based on the record before this court, Hunt has not shown that this is one of those rare instances in which the district court abused its sentencing discretion.

Affirmed.