

*This opinion is nonprecedential except as provided by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
A22-0920**

State of Minnesota,
Respondent,

vs.

Braylen Justice Miller,
Appellant.

**Filed March 27, 2023
Affirmed
Connolly, Judge**

Scott County District Court
File No. 70-CR-20-11139

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

Ronald Hovevar, Scott County Attorney, Todd P. Zettler, Assistant County Attorney,
Shakopee, Minnesota (for respondent)

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

Considered and decided by Slieter, Presiding Judge; Connolly, Judge; and Larkin,
Judge.

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

Appellant challenges his sentence for aiding and abetting second-degree murder,
arguing that the district court abused its discretion by imposing a prison sentence at the top

of the negotiated plea range but still within the presumptive sentence under the sentencing guidelines. Because there is no abuse of discretion, we affirm.

FACTS

In February 2020, appellant Braylen Miller, then 16, arranged via Snapchat to meet S.K., another youth, in a parking lot and sell him some marijuana. Appellant told his father, Taran Miller (Miller), about the prospective sale, drove Miller to St. Paul to get the marijuana, then drove to the parking lot. After S.K. changed the meeting place, Miller said they should forget the arrangement and sell the marijuana to someone else. S.K. then arranged another parking-lot meeting.

Before going to meet S.K., Miller told appellant to drive to their home so he could pick up his gun. Appellant went into the house to get the gun, which he then gave to Miller. When they arrived at the parking lot, Miller got into the rear seat on the passenger side. Appellant located S.K. and told him to get into the front passenger seat for the sale. S.K. got into the car, but when Miller told him to close the car door, S.K. refused. Miller then shot S.K. in the head. S.K. fell or was kicked out of the car onto the parking lot, and appellant and Miller drove home. Other users of the parking lot saw S.K. lying bleeding and reported the matter, and police and an ambulance arrived. S.K. was taken to a hospital where he died from the gunshot wound to his head. Miller told his wife, Tanya Marie Miller, what he had done. She got the key to a neighbor's garage, where she, Miller, and appellant hid the car in which S.K. had been shot.

Miller was charged with first-degree murder. He died in jail in December 2020. Tanya Marie Miller pleaded guilty to aiding a person whom she knew had committed a

criminal act as an accomplice after the fact and was sentenced to 48 months in prison. She challenged the legality of her sentence, which the supreme court affirmed. *State v. Miller*, 977 N.W.2d 592, 599 (Minn. 2022).

Appellant was initially charged with aiding and abetting second-degree murder and with second-degree felony murder. But before the hearing on his adult certification, appellant was indicted with aiding and abetting first-degree premeditated murder and aiding and abetting first-degree felony murder. Under Minn. R. Juv. Delinq. P. 18.01, subd. 2 (providing that “[t]he district court has original and exclusive jurisdiction in criminal proceedings concerning a child alleged to have committed murder in the first degree after becoming sixteen (16) years of age”), appellant then became ineligible for extended juvenile jurisdiction (EJJ) status, was certified as an adult, and was transferred from a juvenile detention center to an adult jail.

Appellant pleaded guilty to aiding and abetting intentional second-degree murder in exchange for a sentence of between 261 and 336 months in prison; the sentencing guidelines range was 261 months to 367 months.

Appellant’s presentence investigation (PSI) recommended that he be sentenced to 336 months, 224 in custody and 112 on supervised release. It explained:

This is an extremely serious offense involving a firearm that resulted in the death of the victim. . . . While [appellant] did not pull the trigger, he was involved in bringing the gun to his father, who did shoot the victim, knew his father had the gun during his interaction with the victim, did not call for help after the victim was shot, and aided in trying to cover up the offense. The one potential mitigating circumstance . . . is that [appellant] was a 16-year-old who grew up in a home where domestic violence perpetrated by his father was common, as

reported by [appellant] and his mother. [Appellant] advised he was fearful of his father, especially after witnessing him shoot the victim. His father still possessed the gun and now [appellant] knew [his father] was capable of shooting someone.

Appellant did not have any adjudications at the time of the present offense, but he did acknowledge he was engaging in the sale of illegal drugs. There is no indication he was forced into doing so, in fact he stated selling drugs was very lucrative. [Appellant] also advised this officer he was heavily using drugs and alcohol around the time of the present offense. . . . Despite the abusive nature of his home life, [appellant] made numerous choices that led him to be present when the victim was shot and made him culpable for the death of [the victim. Appellant] was the initial contact person with the victim and told his father about the pending drug deal. He also failed to call for help after the victim was shot.

At the sentencing hearing, the district court said to appellant:

I have looked long and hard at all of the reports that have been completed about you. Essentially, all of the experts agree on your brain development, what you knew, what you should have known, what you couldn't have known. I don't expect that you would have stood up to your father. I think you and most 16 year olds, frankly, don't have that capability, especially given who your dad was.

But, in the end, under the law and under the charge you pled guilty to in front of me, you are responsible for the consequences of your actions and his actions. And, frankly, but for you agreeing to sell marijuana that day, none of this happens.

You had a chance to avoid it, and now based on your actions, including bringing your dad into the picture, getting the gun, et cetera, there are consequences.

Appellant does not seek to withdraw from his plea agreement, but he argues that his sentence should be reversed and remanded for resentencing “at the middle or bottom” of the plea range.¹

DECISION

This court will not interfere with a district court’s discretion unless the sentence is disproportionate to the crime or unfairly exaggerates the criminality of the defendant’s case. *State v. Vang*, 847 N.W.2d 248, 264 (Minn. 2014). Moreover, “[t]his 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.” *State v. Delk*, 781 N.W.2d 426, 428 (Minn. App. 2010), *rev. denied* (Minn. July 20, 2010). The 336-month sentence here was not only within the presumptive guideline range; it was within the range agreed to by appellant in the plea agreement in exchange for pleading guilty only to aiding and abetting murder in the second degree—intentional.

Appellant relies on *State v. Hennum*, 441 N.W.2d 793, 800-01 (Minn. 1989) (holding that mitigating factors justified reducing the sentence imposed by the district court), *abrogated on other grounds by State v. Glowicki*, 630 N.W.2d 392 (Minn. 2001). But *Hennum* is distinguishable on three grounds. First, in that case the district court had declined to follow the PSI recommendation of a downward durational departure based on two mitigating factors: (1) the victim was an aggressor and physically abused the

¹ The guideline sentence range is 261 months to 367 months, with a midpoint of 314 months. Minn. Sent’g Guidelines 4.A(Supp. 2019) (Sentencing Guidelines Grid). The plea range was 261 months to 331 months, with a midpoint of 298.5 months.

defendant, and (2) the defendant played a minor or passive role, or participated under duress, because the defendant had been subject to severe abuse by the victim throughout the relationship. *Hennum*, 441 N.W.2d at 800-01. Here, there was no showing that the victim was an aggressor to appellant or Miller, and appellant did not play a minor or passive role or act under coercion since he arranged to meet S.K. and sell him marijuana. Appellant also got the gun and gave it to Miller, he drove away from the wounded S.K., and he helped both his parents conceal the car.

Second, the district court's language at the hearing shows that it adopted both the reasoning and the recommendation of the PSI.² Third, appellant had agreed in his plea to the sentence imposed; there was no plea agreement in *Hennum*.

The district court did not abuse its discretion in imposing a sentence that was within both the plea range and the presumptive sentencing guidelines range.

Affirmed.

² Both the PSI and the district court noted that considerable time had been spent in going over all the relevant materials and deciding on appellant's sentence.