

*This opinion is nonprecedential except as provided by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
A23-0384**

State of Minnesota,
Respondent,

vs.

Dennis Anthony Bradley,
Appellant.

**Filed March 4, 2024
Affirmed
Larson, Judge**

Goodhue County District Court
File No. 25-CR-21-1021

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

Stephen F. O’Keefe, Goodhue County Attorney, Erin L. Kuester, Assistant County Attorney, Red Wing, Minnesota (for respondent)

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

Considered and decided by Larson, Presiding Judge; Cochran, Judge; and Slieter, Judge.

NONPRECEDENTIAL OPINION

LARSON, Judge

Appellant Dennis Anthony Bradley appeals from his conviction and sentence for failing to register as a predatory offender, arguing that respondent State of Minnesota produced insufficient evidence to prove beyond a reasonable doubt that he failed to register

a secondary address, *see* Minn. Stat. § 243.166 (2022 & Supp. 2023),¹ and the district court abused its discretion when it denied his motion for a downward dispositional departure. We affirm.

FACTS

Due to a 2003 conviction, Bradley was required to register with the Minnesota Bureau of Criminal Apprehension (BCA) as a predatory offender for a ten-year period beginning in 2007. In 2012, Bradley was convicted of failing to register, which restarted and extended his registration period. By 2022, Bradley was required to register until 2033.

When Bradley first registered in 2007, he initialed a section of the registration form stating: “I understand that I must register . . . any address where I stay overnight on a regular or occasional basis when I am not staying at my primary address, within five days.” (Emphasis omitted.) Bradley initialed similar language on subsequent registration forms in 2008, and every year from 2016 through 2021. At various times, Bradley listed secondary addresses on his registration forms. Bradley’s most recent registration, filed on April 15, 2021, listed an address in Crystal, Minnesota (the Crystal house) as his primary address but did not list any secondary addresses.

On May 20, 2021, police officers were dispatched to a house in Red Wing, Minnesota (the Red Wing house), in response to an open-line 911 call.² When the officers

¹ We note that the legislature has amended section 243.166 several times since 2020. But because the amendments are not relevant to this case and the statute sets forth a procedural requirement, rather than a matter of substantive criminal law, we apply the current statute.

² An “open-line 911 call” occurs when a caller’s phone connects to the 911 dispatcher, but no one speaks directly with the dispatcher. Officers typically respond to such calls because they raise safety concerns for the caller.

arrived, they could hear shouting coming from inside. The woman who lived in the upstairs apartment met the officers at the door and invited them into the house. Inside, the officers found Bradley and a second man. Officers eventually determined that the 911 call originated from the woman's phone and that she called because she wanted the second man removed from the home.

During the encounter, Bradley told the officers that he paid rent and bills for the apartment, and that he could not be removed from the apartment without eviction proceedings. Bradley also stated, "I live here" and referred to the apartment as "[his] house."³ Similarly, the second man repeatedly stated Bradley lived at and paid rent for the apartment. The woman also informed one of the officers that Bradley pays her \$500 per month in rent and that Bradley is there "every time she wakes up" and "he never leaves." One officer, who was aware that Bradley was required to register, looked up Bradley's registration while responding to the 911 call. Upon discovering that Bradley listed the Crystal house as his primary address and that Bradley did not have a registered secondary address, the officer arrested Bradley.

The state charged Bradley with two counts of failure to register as a predatory offender. The state later amended the complaint to clarify that count I alleged an intentional failure to notify the proper authorities of a secondary address, and that count II alleged a failure to provide written notice of a new primary address.

³ At trial, Bradley claimed he lied to the officers when he said he lived in the apartment and that he did so to avoid removal from the home.

Three officers testified at a bench trial consistent with the events described above. The state also played video from the officers' body-worn cameras corroborating their testimony about their response to the 911 call. Two of the officers further testified that they were familiar with the Red Wing house prior to the 911 call because officers had responded to multiple calls involving Bradley at that location. One officer testified that in the five-week period leading up to May 20, 2021, law enforcement had four separate interactions with Bradley at the Red Wing house. On April 29, 2021, at 4:30 a.m., officers responded to a call concerning a woman in a vehicle in front of the Red Wing house, who said she was there to visit Bradley. On May 3, 2021, at about 1:00 p.m., while investigating a shooting complaint, officers observed Bradley exit the Red Wing house before interacting with the investigating officers.⁴ On May 6, 2021, the Red Wing Police Department received a call from a complainant who believed Bradley was dealing drugs from the Red Wing house. On May 17, 2021, at 10:26 p.m., officers responded to a call reporting a fight outside the Red Wing house, where responding officers identified Bradley, who reportedly yelled: "You see who lives here."

On October 17, 2022, the district court issued its posttrial findings and order, determining that Bradley knew of the registration requirements and knowingly violated them when he failed to register the Red Wing house as a secondary address. The district court found Bradley guilty on count I and not guilty on count II.

⁴ At trial, Bradley testified that he had not come from the Red Wing house but had instead come from the next block over.

On November 17, 2022, Bradley moved for a downward dispositional departure, seeking probation in lieu of an executed sentence. The district court held a sentencing hearing on December 12, 2022. At the hearing, Bradley argued that he was amenable to probation because, during his 487 days in custody, he had no disciplinary infractions, completed a voluntary substance-abuse treatment program, and had a job where he was showing a positive attitude. He also noted that he had, in the past, successfully completed probation. The state disagreed that Bradley was amenable to probation, pointing out that he was discharged from his last probation in 2020, about the same time as this offense, and that Bradley had been charged with eight additional felonies since that time. The district court noted on the record that Bradley “chose not to participate in the presentence investigation” and had several outstanding felony charges that he “accumulated in a rather short period of time.” Remarking on the limited information available to it, the district court nevertheless explained that the outstanding felony charges indicated that Bradley may not be amenable to probation. Consequently, the district court denied Bradley’s motion for a downward dispositional departure and sentenced Bradley to an executed 36-month prison term.

This appeal follows.

DECISION

In this direct appeal, Bradley challenges both his conviction and his sentence. In his principal brief, Bradley argues: (1) the state presented insufficient evidence to prove beyond a reasonable doubt that he acquired and failed to register a secondary address, and alternatively, (2) the district court abused its discretion when it denied his motion for a

downward dispositional departure. Bradley also submitted a supplemental pro se brief, in which he asserts further sufficiency-of-the-evidence challenges, ineffective assistance of counsel, and violations of his First Amendment right to free speech. We address each argument in turn.

I.

Bradley challenges whether the state presented sufficient evidence to prove beyond a reasonable doubt that he acquired and failed to register a secondary address. “When evaluating the sufficiency of the evidence, appellate courts carefully examine the record to determine whether the facts and the legitimate inferences drawn from them would permit the jury to reasonably conclude that the defendant was guilty beyond a reasonable doubt of the offense of which he was convicted.” *State v. Griffin*, 887 N.W.2d 257, 263 (Minn. 2016) (quotation omitted). “We review criminal bench trials the same as jury trials when determining whether the evidence is sufficient to sustain convictions.” *State v. Holliday*, 745 N.W.2d 556, 562 (Minn. 2008) (quotation omitted). We assume that “the [district court] believed the state’s witnesses and disbelieved any evidence to the contrary.” *State v. Caldwell*, 803 N.W.2d 373, 384 (Minn. 2011) (quotation omitted). We will not overturn a verdict if the district court, “acting with due regard for the presumption of innocence and the requirement of proof beyond a reasonable doubt, could reasonably conclude that the

defendant was guilty of the charged offense.” *State v. Ortega*, 813 N.W.2d 86, 100 (Minn. 2012).

Bradley first argues that we must apply the heightened circumstantial-evidence test to evaluate whether the state proved Bradley acquired and failed to register a secondary address. We disagree.

“Direct evidence is evidence based on personal knowledge or observation that, if true, proves a fact without inference.” *State v. Olson*, 887 N.W.2d 692, 700 (Minn. App. 2016) (citing *Bernhardt v. State*, 684 N.W.2d 465, 477 n.11 (Minn. 2004)). In contrast, circumstantial evidence is “evidence from which the factfinder can infer whether the facts in dispute existed or did not exist.” *State v. Harris*, 895 N.W.2d 592, 599 (Minn. 2017) (quotation omitted). A defendant’s incriminating statement is direct evidence of guilt. *See State v. Weber*, 137 N.W.2d 527, 535 (Minn. 1965) (“The ‘admissions’ of the defendant constituted direct and not circumstantial evidence.”); *see also State v. Horst*, 880 N.W.2d 24, 40 (Minn. 2016) (determining that defendant’s statement—“I want him dead”—was direct evidence). Witness testimony is also “direct evidence when it reflects a witness’s personal observations and allows the jury to find the defendant guilty without having to draw any inferences.” *Horst*, 880 N.W.2d at 40. Similarly, a video recording is direct evidence of what it shows. *Compare State v. McCormick*, 835 N.W.2d 498, 507 (Minn. App. 2013) (stating that reenactment video is direct evidence of defendant’s actions), *rev. denied* (Minn. Oct. 15, 2013), *with State v. Shunzhong Li*, 948 N.W.2d 151, 155 (Minn. App. 2020) (stating that video evidence is not direct evidence of fact that did not appear in video).

Here, the state presented direct evidence that Bradley acquired and failed to register a secondary address, including the testimony from three officers and video evidence corroborating the officers' testimony. The video evidence also documented Bradley's statements that he lived at the Red Wing apartment. Thus, we apply the direct-evidence test and will painstakingly review "the record to determine whether the evidence, when viewed in a light most favorable to the conviction, was sufficient to permit the [district court] to reach the verdict which [it] did." *Horst*, 880 N.W.2d at 40 (quotation omitted).

Bradley next argues the state failed to present sufficient evidence to prove he acquired a secondary address and, even if he did, that he failed to register the secondary address within five days. Under Minn. Stat. § 243.166, subd. 4a, a person required to register as a predatory offender must provide a "corrections agent or law enforcement authority" with, among other things, "all of the person's secondary addresses in Minnesota, including all addresses used for residential or recreational purposes" within five days of the date the person acquires the secondary address. The statute defines "[s]econdary address" to mean "the mailing address of any place where the person regularly or occasionally stays overnight when not staying at the person's primary address." Minn. Stat. § 243.166, subd. 1a(j). A person required to register as a predatory offender commits a felony if the person "was given notice, knows, or reasonably should know of the duty to register" and "knowingly commits an act or fails to fulfill a requirement that violates any provision" in section 243.166. Minn. Stat. § 243.166, subd. 5(a) (2020).

Bradley argues the state presented insufficient evidence that he acquired a secondary address. We disagree. Testimony presented at trial showed Bradley insisted he paid rent

for the apartment, stayed there sometimes, and that he could not be removed without an eviction. The state corroborated this testimony with videos from the officers' body-worn cameras depicting Bradley repeatedly and forcefully making such statements. Testimony presented at trial also described that the second man insisted that Bradley lived in the apartment and that the woman who lived in the apartment said, "every time she wakes up [Bradley is] there, he never leaves." Video evidence also corroborated this testimony. Because all three of the adults in the apartment on May 20, 2021, insisted that Bradley lived in the apartment, and viewing the evidence in the light most favorable to the conviction, we determine the state presented sufficient evidence to prove beyond a reasonable doubt that Bradley had acquired a secondary address.

Bradley finally argues that, even if the state proved Bradley acquired a secondary address, the state failed to prove Bradley did not notify the proper authorities within five days of acquiring the secondary address. Again, we disagree. The evidence presented at trial showed Bradley stayed with the woman in the apartment most days preceding his arrest. And the state presented evidence that law enforcement had interacted with Bradley at the Red Wing house, at various hours of the day and night, during the five weeks preceding Bradley's arrest. Finally, the state presented evidence that Bradley last registered on April 15, 2021, registering only the Crystal house, and had not modified his registration prior to his arrest. Thus, viewing the evidence in the light most favorable to the conviction, the state proved beyond a reasonable doubt that Bradley acquired the secondary address more than five days before his arrest on May 20, 2021, and that Bradley failed to register that secondary address.

We affirm Bradley's conviction.

II.

Bradley next challenges his sentence, arguing the district court abused its discretion when it denied his motion for a downward dispositional departure. Bradley argues the district court should have granted his motion and imposed probation in lieu of an executed sentence. Bradley asserts that his mother's support, his efforts to support his children and their respective mothers, and his decision to complete a drug-treatment program while in custody all indicate that he is particularly amenable to probation.

The district court may exercise its discretion to depart from the Minnesota Sentencing Guidelines "*only if* aggravating or mitigating circumstances are present." *State v. Soto*, 855 N.W.2d 303, 308 (Minn. 2014) (quotation omitted). "[T]hose circumstances" must "provide a 'substantial[] and compelling' reason not to impose a guidelines sentence." *Id.* (alteration in original) (quotation omitted). One circumstance that permits a district court to depart from the sentencing guidelines is a defendant's particular amenability to probation. *See State v. Trog*, 323 N.W.2d 28, 31 (Minn. 1982). In *Trog*, the supreme court recognized that, when assessing whether a defendant is particularly amenable to probation, district courts may consider "[n]umerous factors" such as "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.* But a district court need not depart from the guidelines even if mitigating factors are present. *See State v. Bertsch*, 707 N.W.2d 660, 668 (Minn. 2006). When the record reflects that the district court carefully considered and

evaluated all the information and testimony presented, we will not disturb a district court's exercise of discretion. *State v. Van Ruler*, 378 N.W.2d 77, 80-81 (Minn. App. 1985).

The record does not support Bradley's contention that the district court abused its discretion when it denied his motion for a downward dispositional departure. Bradley chose not to participate in the presentence investigation, thus, the district court lacked background information to show that mitigation could have been appropriate. Further, Bradley had several outstanding felony charges that he "accumulated in a rather short period of time," which the district court found indicative that Bradley was not amenable to probation. The record shows the district court carefully considered and evaluated the information available to it and, based on Bradley's lack of cooperation with the presentence investigation and his open felony charges, denied the motion. Applying our deferential standard of review, we conclude Bradley failed to establish the district court abused its discretion.

For these reasons, we affirm the district court's decision to deny Bradley's motion for a downward dispositional departure.

III.

Bradley raises three arguments in his pro se supplemental brief: (1) the state failed to present sufficient evidence that he lived at the Red Wing house for over a year;⁵ (2) he received ineffective assistance of counsel; and (3) the judge infringed on his First

⁵ Bradley also contests certain communications between the Crystal and Red Wing police departments, but those communications have no bearing on the elements of the charged crime.

Amendment freedom of speech. “Minnesota appellate courts decline to reach an issue in the absence of adequate briefing.” *In re Civil Commitment of Kropp*, 895 N.W.2d 647, 653 (Minn. App. 2017), *rev. denied* (Minn. June 20, 2017); *see also State v. Butcher*, 563 N.W.2d 776, 780 (Minn. App. 1997) (argument waived where “appellant fails to make and develop any argument, other than a general statement”), *rev. denied* (Minn. Aug. 5, 1997). Bradley cites no authority, nor does he develop his pro se arguments beyond general statements. As such, we decline to reach these arguments.

Affirmed.