

*This opinion is nonprecedential except as provided by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
A23-1783**

State of Minnesota,
Respondent,

vs.

Daniel Lee Haley,
Appellant.

**Filed September 16, 2024
Affirmed
Wheelock, Judge**

Scott County District Court
File No. 70-CR-22-12382

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, Sara J. Euteneuer, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Ede, Presiding Judge; Cochran, Judge; and Wheelock,
Judge.

NONPRECEDENTIAL OPINION

WHEELOCK, Judge

Appellant challenges his sentence, contending that the district court abused its
discretion when it denied his request for a downward dispositional sentencing departure

based on offender- and offense-related factors. Because the district court acted within its discretion, we affirm.

FACTS

On August 11, 2021, appellant Daniel Lee Haley pleaded guilty to felony domestic assault against the mother of his children (to whom we refer as Jane Doe), successfully moved the district court for a downward dispositional sentencing departure, and was placed on probation for a five-year term. A little over one year later, on August 28, 2022, Haley went to Doe's home to visit her and the children, notwithstanding his knowledge that the contact was prohibited by an active harassment restraining order (HRO). The state charged Haley with violating that HRO, and Haley pleaded guilty to violating it within ten years of the first of two or more previous qualified domestic-violence-related convictions¹ in violation of Minn. Stat. § 609.748, subd. 6(d)(1) (2022). The district court released Haley from custody to treatment pending sentencing.

Before the sentencing hearing, Haley filed notice of his intent to move for a sentencing departure and submitted supporting documents, including four letters of support, mental-health and chemical-dependency assessments, and treatment reports. At the hearing, Haley's attorney explained that, since the instant offense, Haley had been diagnosed with and had begun treatment for a mental illness. He further explained that, in addition to mental illness, Haley struggled with alcohol abuse. The attorney argued that

¹ At the plea hearing, Haley admitted to several qualifying offenses, including one 2021 conviction for domestic assault against Doe and one 2018 conviction for violating a different HRO. *See* Minn. Stat. § 609.02, subd. 16 (2022) (listing domestic assault and violations of HROs as qualifying domestic-violence-related offenses).

Haley's conduct was less serious than the typical HRO violation, describing the conduct as "de minimis" because the "victim had already applied to the court to have that no contact order dropped." Doe also spoke, agreeing that Haley had made significant progress in the five months since the offense. And Haley spoke on his own behalf, providing additional context for the actions he had taken since his offense, which included seeking medical treatment for his mental-health issues, attending therapy, becoming employed, and getting baptized in his church.

The district court denied the departure motion, emphasizing the fact that Haley had received a dispositional departure for the 2021 domestic-assault conviction and that, at the time of the previous departure, Haley had been receiving mental-health treatment. In light of these facts, the district court implicitly concluded that Haley's conduct was not less serious than the typical HRO violation and explicitly concluded that Haley was not particularly amenable to probation or treatment and that there was no basis to depart. The district court sentenced Haley to the presumptive sentence of 24 months' imprisonment.

Haley appeals.

DECISION

Haley appeals from his guidelines sentence, contending that the district court abused its discretion by not granting a downward dispositional sentencing departure. He argues that a departure from the guidelines sentence was warranted because he is particularly amenable to probation and treatment and because his conduct was less serious than the typical HRO violation.

The Minnesota Sentencing Guidelines permit a district court to depart from a presumptive sentence only if it finds identifiable, substantial, and compelling circumstances to do so. Minn. Sent’g Guidelines 2.D (2022); *see also State v. Soto*, 855 N.W.2d 303, 308 (Minn. 2014). In determining whether substantial and compelling reasons support a dispositional departure, a district court may consider both offender-related and offense-related factors. *State v. Walker*, 913 N.W.2d 463, 468 (Minn. App. 2018). In terms of offender-related factors, a district court may dispositionally depart by staying a defendant’s sentence only when a defendant is “*particularly* amenable,” rather than “merely . . . amenable,” to probation. *Soto*, 855 N.W.2d at 308. In evaluating a defendant’s particular amenability “to individualized treatment in a probationary setting,” district courts look to a defendant’s age, prior record, remorse, cooperation, attitude while in court, and support from friends or family. *State v. Trog*, 323 N.W.2d 28, 31 (Minn. 1982). In terms of offense-related factors, a district court may consider, among other things, “whether the defendant’s conduct was significantly more or less serious than that typically involved in the commission of the crime in question.” *State v. Martinson*, 671 N.W.2d 887, 892 (Minn. App. 2003) (quotation omitted), *rev. denied* (Minn. Jan. 20, 2004).

Appellate courts afford great deference to a district court’s sentencing decisions and will reverse only when the district court abuses its discretion. *Soto*, 855 N.W.2d at 307-08. A district court abuses its discretion when it bases its decision on “an erroneous view of the law or [its decision] is against logic and the facts in the record.” *State v. Hallmark*, 927 N.W.2d 281, 291 (Minn. 2019) (quotation omitted). The supreme court has

emphasized that “it would be a rare case which would warrant reversal of the refusal to depart.” *State v. Kindem*, 313 N.W.2d 6, 7 (Minn. 1981). This is not that rare case because, contrary to Haley’s assertions, the record supports the district court’s decision not to depart.

As to his particular amenability to probation, Haley maintains that each of the *Trog* factors is either neutral or weighs in favor of a dispositional departure. Haley is incorrect for two reasons.

First, the district court found that several of the factors Haley identifies support a guidelines sentence instead of a departure. Haley points to his willingness to engage in treatment. But the district court discredited Haley’s claims that he wanted to reform, stating:

[T]his isn’t the first time you had a chance to address your mental health, sir. You had a chance back in 2021 when I looked—I just read that PSI and you were addressing your mental health at that time too. You were seeing a counselor once a week. It’s not like this is something new to you, but what this Court sees is it’s just another—a new angle for you to avoid the consequence of your behavior.

This court does not disturb a district court’s credibility findings. *See DeMars v. State*, 352 N.W.2d 13, 16 (Minn. 1984) (observing that the credibility of witnesses and the weight to give their testimony are determinations to be made by the trier of fact). Regarding his prior record, Haley concedes that his criminal history includes felonies and domestic-related offenses but appears to contend that, because he is presently responding well to therapy, his previous experiences “on probation and in the correctional system” should not weigh against him in evaluating his amenability to probation now. The district court fairly determined that this factor weighed against departing because Haley was

already on probation at the time of the present offense. We discern no abuse of discretion in how the district court considered the factors relevant to a dispositional departure.

As to whether Haley's conduct was less serious than the typical HRO violation, Haley argues that because he and Doe agreed to the visit and she was in the process of requesting that the court vacate the HRO, the district court should have departed dispositionally. As stated previously, "whether the defendant's conduct was significantly more or less serious than that typically involved in the commission of the crime in question" is a factor the district court may consider in deciding whether to depart dispositionally. *See Martinson*, 671 N.W.2d at 892. But the district court here, by imposing a guidelines sentence, implicitly found² that Haley's conduct was *not* less serious. Haley cites no authority explaining how this implicit finding is against the law or contrary to the facts in the record.

Second, even assuming that any of the factors supported departure, the district court was not required to depart. Appellate courts "will not ordinarily interfere with a sentence falling within the presumptive sentence range, either dispositionally or durationally, *even if there are grounds that would justify departure.*" *State v. Bertsch*, 707 N.W.2d 660, 668 (Minn. 2006) (emphasis added) (quotation omitted). Haley identifies no legal or factual error underlying the district court's decision to impose a presumptive sentence and instead

² Because the district court was presented with arguments relating to the seriousness of the offense and considered the offense conduct, as demonstrated by its comments on the record, an express finding was not required. *See State v. Van Ruler*, 378 N.W.2d 77, 80 (Minn. App. 1985) (stating that, if the district court "considers reasons for departure but elects to impose the presumptive sentence," an explanation for denying departure is not required).

asks only that the panel substitute its own judgment for that of the district court. That is not our role, and we defer to the district court's decision here.

Affirmed.