

*This opinion is nonprecedential except as provided by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
A24-0093**

State of Minnesota,
Respondent,

vs.

Aidan Bebee Lauseng,
Appellant.

**Filed December 9, 2024
Affirmed
Smith, Tracy M., Judge**

Mower County District Court
File No. 50-CR-20-1499

Keith Ellison, Attorney General, Thomas R. Ragatz, Assistant Attorney General, St. Paul, Minnesota; and

Kristen Nelsen, Mower County Attorney, Scott Springer, Assistant County Attorney, Austin, Minnesota (for respondent)

Andrew C. Wilson, Wilson & Clas, Minneapolis, Minnesota (for appellant)

Considered and decided by Harris, Presiding Judge; Larkin, Judge; and Smith, Tracy M., Judge.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

In this direct appeal from a judgment of conviction for first-degree criminal sexual conduct, appellant Aidan Bebee Lauseng argues that (1) the district court erred by denying his motion to suppress his non-Mirandized statement to law enforcement officers, (2) the

district court abused its discretion by rejecting the parties' plea agreement due to the downward dispositional sentencing departure contemplated by the plea agreement, and (3) the district court abused its discretion by denying Lauseng's motion for a downward dispositional departure following trial. We conclude that the district court did not err by denying Lauseng's suppression motion because Lauseng was not in custody when he gave his statement to law enforcement officers and thus was not entitled to a *Miranda* warning. We also conclude that the district court did not abuse its discretion by rejecting the plea agreement or denying the downward-dispositional-departure motion. We therefore affirm.

FACTS

On August 1, 2020, Sergeant Ellis and Deputy Wilson of the Mower County Sheriff's Office responded to Lauseng's residence after receiving a report that Lauseng had sexually abused a relative who lived in the same home and was under 16 years of age. Lauseng was 19 years old on August 1, 2020, and was 18 to 19 years old during the time of the reported abuse.

Upon arriving at the residence, the officers observed Lauseng and his mother getting out of a vehicle.¹ Lauseng then entered the residence. Shortly thereafter, the victim came out of the residence. Deputy Wilson and the victim went into his squad car, where he spoke with her for approximately 20 to 30 minutes.

¹ Lauseng's biological mother is the victim's stepmother. According to the victim, her biological father, who is married to Lauseng's mother, is Lauseng's adoptive father. This opinion refers to these individuals as Lauseng's mother and father.

While Deputy Wilson was speaking with the victim, Sergeant Ellis spoke with Lauseng's mother and father outside the residence. According to Sergeant Ellis, Lauseng's father retrieved Lauseng from the residence. Sergeant Ellis escorted Lauseng behind his squad car. There, Sergeant Ellis interrogated Lauseng without providing a *Miranda* warning. During that questioning, Lauseng admitted to engaging in oral sex and sexual intercourse with the victim on multiple occasions. Lauseng stated that the first act occurred in October or November 2019 and the most recent act occurred the previous week.²

After the officers discussed with each other their conversations with Lauseng and the victim, they arrested Lauseng.

Respondent State of Minnesota charged Lauseng with one count of first-degree criminal sexual conduct—penetration—victim under 16—significant relationship—multiple acts. Minn. Stat. § 609.342, subd. 1(h)(iii) (Supp. 2019).³ Lauseng moved to suppress the incriminating statements that he made to Sergeant Ellis. The district court denied Lauseng's motion.

While the motion to suppress was pending, the parties informed the district court that they had reached a plea agreement. Lauseng agreed to plead guilty to the charged offense. In exchange, the state agreed to a downward dispositional departure from the presumptive 144-month prison sentence, staying execution of the sentence provided that

² The victim gave a similar timeline but stated that the acts of physical sexual abuse started in mid-September 2019.

³ Because the district court found that the relevant acts began in August 2019, this opinion references the 2019 supplement to the Minnesota Statutes, where applicable.

Lauseng successfully complete sex-offender treatment, remain law abiding, cooperate with the presentence-investigation process, return to the district court for sentencing, and abide by any other probationary terms and conditions imposed. After Lauseng pleaded guilty, the district court deferred acceptance of the plea and required Lauseng to file a motion for a dispositional departure, which he did. The district court then denied Lauseng's motion for a dispositional departure, rejected the plea agreement, allowed Lauseng to withdraw his plea, and set the case for trial.

Lauseng waived his right to a jury trial, and the case proceeded to a stipulated-evidence trial pursuant to Minnesota Rule of Criminal Procedure 26.01, subdivision 3. The district court found Lauseng guilty of first-degree criminal sexual conduct as charged. Lauseng again moved for a downward dispositional departure. The district court denied the motion and sentenced Lauseng to the guidelines sentence of 144 months in prison.

This appeal follows.

DECISION

- I. The district court did not err by denying Lauseng's motion to suppress his non-Mirandized incriminatory statements because Lauseng was not in custody when he made them.**

Lauseng argues that the district court erred by denying his motion to suppress evidence of the incriminating statements that he made to Sergeant Ellis without having received a *Miranda* warning. We disagree.

The Fifth Amendment to the Constitution requires *Miranda* warnings as a procedural safeguard for protecting a suspect's right against self-incrimination when police subject the suspect to a custodial interrogation. *Miranda v. Arizona*, 384 U.S. 436, 439,

444 (1966); *see also Oregon v. Mathiason*, 429 U.S. 492, 495 (1977). In the absence of a *Miranda* warning, statements made by a suspect during a custodial interrogation are not admissible at trial. *State v. Horst*, 880 N.W.2d 24, 30 (Minn. 2016). Here, the state does not dispute that Lauseng was interrogated for purposes of *Miranda*. The question is whether Lauseng was in custody.

“The issue of whether a suspect is in custody and therefore entitled to a *Miranda* warning presents a mixed question of law and fact” *State v. Sterling*, 834 N.W.2d 162, 167 (Minn. 2013) (quotations and citation omitted). Appellate courts review the district court’s “findings of historical fact relating to the circumstances of the interrogation pursuant to the clearly erroneous test but make[] an independent review of the [district] court[’]s determination regarding custody and the need for a *Miranda* warning.” *Id.* at 167-68 (quotation omitted). Further, appellate courts “grant considerable, but not unlimited, deference to a [district] court’s fact-specific resolution of such an issue when the proper legal standard is applied.” *Id.* at 168 (quotation omitted).

Custodial interrogation occurs when, “based on all the surrounding circumstances, ‘a reasonable person under the circumstances would believe that he or she was in police custody of the degree associated with formal arrest.’” *State v. Thompson*, 788 N.W.2d 485, 491 (Minn. 2010) (quoting *State v. Champion*, 533 N.W.2d 40, 43 (Minn. 1995)); *see also J.D.B. v. North Carolina*, 564 U.S. 261, 270 (2011). “[N]o factor alone is determinative” under this totality-of-the-circumstances test. *Thompson*, 788 N.W.2d at 491. When determining whether the person being interrogated is in custody, courts “should focus

primarily on the perspective of the suspect, rather than the subjective intent of the police.”

State v. Edrozo, 578 N.W.2d 719, 725 (Minn. 1998).

The following factors are indicative of custody:

police interviewing the suspect at the police station; the officer telling the individual that he or she is the prime suspect; officers restraining the suspect’s freedom; the suspect making a significantly incriminating statement; the presence of multiple officers (six); and a gun pointing at the suspect.

State v. Staats, 658 N.W.2d 207, 211 (Minn. 2003). The following factors, on the other hand, may indicate that the suspect was not in custody:

questioning taking place in the suspect’s home; police expressly informing the suspect that he or she is not under arrest; the suspect leaving the police station at the close of the interview without hindrance; the brevity of questioning (fifteen minutes); the suspect’s freedom to leave at any time; a nonthreatening environment; and the suspect’s ability to make phone calls.

Id. at 212. Together, these factors are sometimes called the *Staats* factors. *E.g.*, *Thompson*, 788 N.W.2d at 492.

A. Relevant Facts

We begin our analysis by describing in more detail the relevant facts surrounding the interrogation, relying primarily on court testimony and audio recordings.

When the officers responded to the report of abuse, Sergeant Ellis first spoke with Lauseng’s parents outside the residence while Deputy Wilson spoke with the victim. Lauseng’s mother informed Sergeant Ellis that Lauseng was wondering what was going on. In response, Sergeant Ellis stated, “If you want to . . . I can talk to [Lauseng] and let him know what’s going on [A]t some point we’re going to have to talk to him

anyway.” Sergeant Ellis added, “If you want to go get him, I’d be more than happy to speak with him.” Lauseng’s father then retrieved Lauseng from the residence.

After Lauseng came out of the residence, Sergeant Ellis told him, “If you want, I can step back here and talk to ya so that whatever you want to tell me or I’ll advise you of what’s going on, okay.” After Lauseng responded, “Okay,” Sergeant Ellis said, “Okay, step back here.” Sergeant Ellis added, “Just so you know, you’re not going anywhere.” Sergeant Ellis then escorted Lauseng behind his squad car, which was parked in the driveway.

While they were standing in the yard by the squad car, Sergeant Ellis explained to Lauseng that someone had made allegations of “inappropriate stuff between [Lauseng] and [the victim], as far as sexually.” Sergeant Ellis then questioned Lauseng about the allegations. Lauseng acknowledged that he engaged in sexual conduct with his minor relative.

Sergeant Ellis testified that he did not give Lauseng a *Miranda* warning “[b]ecause, at that time, [he] had no knowledge that the crime had occurred.” After Sergeant Ellis finished speaking with Lauseng, Sergeant Ellis had Lauseng enter the squad car, telling him, “I got to talk to my partner here. I’m going to have you have a seat right here. You’re not under arrest. I want you to be aware of that.” Sergeant Ellis and Deputy Wilson then consulted each other about their conversations with Lauseng and the victim. After that discussion, Sergeant Ellis and Deputy Wilson arrested Lauseng.

B. Custody Analysis

We turn to the application of law to these facts. The district court found that Lauseng was not in custody, reasoning that:

(1) [Lauseng] voluntarily initiated contact with the police as the stepfather retrieved him and Sgt. Ellis asked him to come out to the yard behind his squad car; (2) Interrogation was outside [Lauseng's] home; (3) The questioning period was approximately 12 minutes long (relatively brief); (4) Sgt. Ellis did not expressly inform [Lauseng] that he was under arrest; (5) [Lauseng] was able to leave at any time as there is no evidence that the location restricted [Lauseng's] movement; (6) Sgt. Ellis is the only officer that questioned [Lauseng].

Lauseng first challenges the district court's factual finding that Sergeant Ellis "did not ask to speak with" Lauseng; instead, he asserts, Sergeant Ellis "directed" Lauseng's father to retrieve Lauseng from the home. Lauseng cites Sergeant Ellis's testimony that, when speaking to Lauseng's father at the residence, Sergeant Ellis said, "Go ahead and get [Lauseng], and I'll tell him why we're here." But, when the full conversation is considered, the statement is more akin to an offer to speak with Lauseng than a demand. Sergeant Ellis mentioned talking with Lauseng only after Lauseng's mother told Sergeant Ellis that Lauseng was wondering "what was going on." Sergeant Ellis then said he would be happy to speak with Lauseng if his parents wanted to go get him. On this record, the district court did not clearly err by finding that the officer did not ask to speak with Lauseng. *See Sterling*, 834 N.W.2d at 167.

Lauseng next argues that the totality of the circumstances indicates that Lauseng was in custody. He emphasizes that there was more than one officer present, that the officers were in uniform, that they parked their squad cars in a manner that prevented any car from leaving the residence, that Sergeant Ellis told Lauseng that he was accused of sexual wrongdoing, that the interrogation occurred near a police car outside his home, that Sergeant Ellis never told him he was not required to answer any questions or that he was

free to leave, and that the officers arrested Lauseng “immediately” after he spoke with Sergeant Ellis.

We begin our review by considering the extent to which the *Staats* factors that are indicative of custody are present. First, Sergeant Ellis interrogated Lauseng in his yard, not at a police station. Second, Sergeant Ellis’s statement to Lauseng that someone made allegations of Lauseng’s sexual misconduct with the victim falls short of him telling Lauseng that there was a crime of which Lauseng was the prime suspect. Third, there is no indication that Sergeant Ellis physically restrained Lauseng during the interrogation or otherwise prevented Lauseng from walking away. The fact that Sergeant Ellis told Lauseng to take a seat in the squad car *after* the interrogation is irrelevant to this analysis.⁴ Fourth, though Deputy Wilson overheard a portion of Lauseng’s statements, Lauseng primarily made them to a single officer—Sergeant Ellis. Fifth, neither officer pointed a gun at Lauseng. Finally, although the fact that Lauseng made incriminating statements points to custody, a significantly incriminating statement does not automatically convert a noncustodial interrogation into a custodial interrogation. *State v. Heden*, 719 N.W.2d 689, 695 (Minn. 2006).

⁴ Lauseng’s argument that the officers arrested him immediately after the interrogation does not affect the custody analysis. “[A]n officer’s unarticulated decision not to let the suspect leave at the end of the interrogation has no bearing on the question of whether a suspect was in custody; the only relevant inquiry is how a reasonable person in the suspect’s position would have understood the situation.” *Champion*, 533 N.W.2d at 43. Further, the record does not support Lauseng’s argument that the officers arrested him immediately after the interrogation because, after Sergeant Ellis finished interrogating Lauseng, Sergeant Ellis explicitly told Lauseng that he was not under arrest as he had him enter the squad car.

We next turn to the *Staats* factors that may indicate a suspect was not in custody. First, though the interrogation did not occur inside Lauseng's residence, it did occur in the yard outside his residence, which was a familiar location to Lauseng. Second, Sergeant Ellis's statement to Lauseng before the interrogation started that Lauseng was "not going anywhere," in context conveyed that, at that time, Lauseng was not under arrest. Third, the questioning lasted under 13 minutes, which is within the 15-minute period that the supreme court has suggested is brief. *See State v. Hince*, 540 N.W.2d 820, 824 (Minn. 1995). Fourth, while Sergeant Ellis never told Lauseng that he was free to leave, Lauseng was not in handcuffs or in Sergeant Ellis's squad car during the interrogation. Fifth, while we recognize that a police interrogation may feel threatening to the person being interrogated, the environment here was largely nonthreatening because Sergeant Ellis never raised his voice or threatened Lauseng.

In sum, only one *Staats* factor meaningfully points to custody and multiple factors indicate that Lauseng was not in custody when he made the non-Mirandized statements. Based on our independent review, a reasonable person in Lauseng's place would not have believed that they were in police custody to the degree associated with a formal arrest. *See Thompson*, 788 N.W.2d at 492. As a result, Lauseng was not in custody during the interrogation and the district court did not err by admitting his non-Mirandized statements.

II. The district court did not abuse its discretion by rejecting the parties' plea agreement.

Lauseng argues that the district court abused its discretion by rejecting the parties' plea agreement on the basis of the agreement's downward dispositional departure in sentencing. We disagree.

Appellate courts review a district court's decision to reject a plea agreement for an abuse of discretion. *State v. Klug*, 839 N.W.2d 723, 726 (Minn. App. 2013). Likewise, appellate courts review a district court's decision not to depart from the sentencing guidelines under the abuse-of-discretion standard. *State v. Soto*, 855 N.W.2d 303, 307-08 (Minn. 2014). "A district court abuses its discretion when its decision is based on an erroneous view of the law or is against logic and the facts in the record." *State v. Mikell*, 960 N.W.2d 230, 256 (Minn. 2021) (quotation omitted). Because district courts have significant discretion in imposing sentences, appellate courts rarely reverse decisions not to depart from the sentencing guidelines. *State v. Walker*, 913 N.W.2d 463, 468 (Minn. App. 2018); *see Soto*, 855 N.W.2d at 305, 307-08.

"The district court must order the presumptive sentence provided in the sentencing guidelines unless 'substantial and compelling circumstances' warrant a departure." *State v. Pegel*, 795 N.W.2d 251, 253 (Minn. App. 2011) (quoting *State v. Cameron*, 370 N.W.2d 486, 487 (Minn. App. 1985), *rev. denied* (Minn. Aug. 29, 1985)); *see* Minn. Stat. § 609.11, subd. 8(a) (2018). "Substantial and compelling circumstances are those circumstances that make the facts of a particular case different from a typical case." *State v. Olson*, 765

N.W.2d 662, 664 (Minn. App. 2009) (quoting *State v. Peake*, 366 N.W.2d 299, 301 (Minn. 1985)).

A downward dispositional departure “places the offender in a different setting than called for by the presumptive guidelines sentence,” such as a stay of execution of a sentence. *State v. Solberg*, 882 N.W.2d 618, 623 (Minn. 2016). Because the plea agreement called for a stay of execution of the presumptive 144-month prison sentence for someone with Lauseng’s offense and no criminal history, a downward dispositional departure is at issue in this case. See Minn. Sent’g Guidelines 4.B (Supp. 2019).

The sentencing guidelines provide a non-exhaustive list of factors that district courts may use as reasons for departing from a presumptive sentence, including whether “[t]he offender is particularly amenable to probation.” Minn. Sent’g Guidelines 2.D.3(a)(7) (Supp. 2019). *State v. Trog* sets forth several factors for evaluating whether the defendant is particularly amenable to probation, including “the defendant’s age, his prior record, his remorse, his cooperation, his attitude while in court, and the support of friends and/or family.” 323 N.W.2d 28, 31 (Minn. 1982). The district court need not discuss all the *Trog* factors before imposing the presumptive sentence. *Pegel*, 795 N.W.2d at 254. Even if a defendant is particularly amenable to probation, the law does not require that the district court impose a downward dispositional departure. *Olson*, 765 N.W.2d at 664-65.

In challenging the district court’s decision, Lauseng contends that the district court abused its discretion by finding that Lauseng “ha[d] not made a showing of remorse and provide[d] no evidence of family support adequate to prevent a re-offense.” Lauseng also argues that the district court relied on an erroneous view of the law in denying the motion

because it addressed the propriety of granting a dispositional departure in terms of whether Lauseng's family would support the victim, rather than Lauseng.

Lauseng's arguments are unconvincing. The district court's order shows that the district court reviewed relevant information, such as a psychosexual evaluation of Lauseng, Lauseng's presentencing-investigation report, and a statement from the victim. It then relied upon that information in determining that Lauseng was not particularly amenable to probation based on, among other factors, a lack of remorse, a lack of necessary familial support to prevent reoffense, and a risk of reoffense. A lack of necessary familial support is a relevant factor under *Trog*. 323 N.W.2d at 31. Even if Lauseng had showed some remorse, as he argues, the presence of remorse alone does not require the district court to grant his motion for a downward dispositional departure. *See Olson*, 765 N.W.2d at 665 (holding that a district court is not required to grant a motion for a downward dispositional departure even if the defendant is particularly amenable to probation). There is no indication that the district court based its decision on an "erroneous view of the law" or that the decision "is against logic and the facts in the record." *Mikell*, 960 N.W.2d at 256 (quotation omitted).

Accordingly, the district court did not abuse its discretion by denying Lauseng's first departure motion. For the same reason, the district court did not abuse its discretion by rejecting the parties' plea agreement.

III. The district court did not abuse its discretion by denying Lauseng’s departure motion when sentencing him after trial.

Lauseng argues that the district court abused its discretion by denying his motion for a downward dispositional departure following his trial and conviction. We disagree.

Again, we review a district court’s decision to not depart from sentencing guidelines for an abuse of discretion. *Soto*, 855 N.W.2d at 307-08. The same principles discussed in the preceding section regarding sentencing departures apply here.

Lauseng argues that the district court abused its discretion by basing its decision on an erroneous view of the law—specifically, by considering the nature of the offense, particularly the duration of the abuse, in denying the motion. Lauseng relies in part on *State v. Johnson*, in which the supreme court stated that “it would be unfair” to consider the victim’s age as an aggravating factor supporting an upward durational departure when the legislature had already taken the age of the victim into account by adding it as an element of the crime. 327 N.W.2d 580, 583 (Minn. 1982). The offense of which Lauseng was convicted includes the following element: “the sexual abuse involved multiple acts committed over an *extended period of time*.” Minn. Stat. § 609.342.1(h)(iii) (emphasis added). Lauseng argues that, because the district court stated, “This isn’t a one-time deal. This is grooming over a period of time,” the district court improperly considered an element of the crime in denying the departure motion.

Lauseng also relies on *State v. Solberg*, in which the supreme court noted that a dispositional departure “typically focuses on characteristics of the *defendant* that show whether the defendant is particularly suitable for individualized treatment in a probationary

setting.” 882 N.W.2d 618, 623 (emphasis added) (quotation omitted). Lauseng argues that the district court improperly focused its inquiry on the characteristics of the offense rather than the characteristics of the offender in denying a dispositional departure.

We are not convinced. Regarding *Johnson*, the district court here did not rely on an element of the crime as a basis for imposing an upward durational departure from the sentencing guidelines. Rather, in considering whether Lauseng was particularly amenable to probation—and thus whether a downward dispositional departure was warranted—the district court considered facts that showed that Lauseng did not have a one-time lapse in judgment. In doing so, the district court did not unfairly consider an element of the offense as an aggravating factor justifying an upward departure in sentencing.

Moreover, Lauseng provides no authority for the proposition that a district court may not take into account an offender’s conduct in determining whether the offender is particularly amenable to probation. In *Solberg*, the supreme court was evaluating a durational departure, which, it explained, “must be based on the nature of the *offense*, not the individual characteristics of the offender.” *Id.* at 625. While the supreme court also explained that a dispositional departure “typically focuses” on the characteristics of the offender, *id.* at 623, *Solberg* does not hold that an offender’s behavior cannot be considered in evaluating the offender’s particular amenability to probation.

Finally, the record here shows that the district court did not focus only on Lauseng’s behavior but also considered other information, including Lauseng’s psychosexual evaluation, in finding that Lauseng was not particularly amenable to probation. And, in any

event, even if Lauseng was particularly amenable to probation, the district court was not obligated to impose a downward dispositional departure. *See Olson*, 765 N.W.2d at 665.

The district court did not abuse its discretion by denying Lauseng's motion for a downward dispositional departure.

Affirmed.