

*This opinion is nonprecedential except as provided by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
A24-0187**

State of Minnesota,
Respondent,

vs.

Nathan James Severtson,
Appellant.

**Filed September 9, 2024
Affirmed
Slieter, Judge**

Benton County District Court
File No. 05-CR-23-355

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

Kathleen L. Reuter, Benton County Attorney, Foley, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Andrew J. Nelson, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Slieter, Presiding Judge; Reyes, Judge; and Wheelock,
Judge.

NONPRECEDENTIAL OPINION

SLIETER, Judge

On direct appeal from the final judgment of conviction of second-degree assault,
appellant Nathan James Severtson challenges his sentence and argues that the district court

abused its discretion by denying his motion for a dispositional departure. Because the district court acted within its discretion by imposing a guidelines sentence, we affirm.

FACTS

In February 2023, respondent State of Minnesota charged Severtson with, among other crimes, second-degree assault in violation of Minn. Stat. § 609.222, subd. 1 (2022). Severtson entered a *Norgaard* plea,¹ agreeing that the state’s evidence demonstrates that he drove his car into a parked vehicle and person in a Target parking lot.

Severtson sought a downward-dispositional departure, claiming substantial and compelling reasons support departing. A departure memorandum was filed with the district court, which opined that a dispositional departure would allow Severtson “to get the treatment he so desperately needs for a hope filled future.” The presentence investigation (PSI) recommended a guidelines sentence of 21 months’ imprisonment though it also provided the district court with a recommendation involving probationary terms, in the event that the district court decided to grant Severtson’s departure motion.

Severtson appeared for sentencing in November 2023. The district court denied Severtson’s departure motion and imposed the presumptive guidelines sentence of 21 months’ imprisonment. Severtson appeals.

DECISION

A district court must impose a sentence within the Minnesota Sentencing Guidelines’ presumptive range unless it finds substantial and compelling circumstances to

¹ A *Norgaard* plea allows a defendant to plead guilty despite failing to remember details of the offense. *See State ex rel. Norgaard v. Tahash*, 110 N.W.2d 867, 872 (Minn. 1961).

depart. *State v. Barthman*, 938 N.W.2d 257, 270 (Minn. 2020). “Substantial and compelling circumstances” are circumstances that make the facts of a particular case distinct from a typical case. *Taylor v. State*, 670 N.W.2d 584, 587 (Minn. 2003) (quotation omitted). If a district court finds such circumstances exist, it may, but is not required to, depart from the presumptive sentence. *See Wells v. State*, 839 N.W.2d 775, 781 (Minn. App. 2013), *rev. denied* (Minn. Feb. 18, 2014). The district court is not required to give an explanation when it considers reasons for departure but nevertheless imposes a presumptive sentence. *See State v. Musse*, 981 N.W.2d 216, 220 (Minn. App. 2022), *rev. denied* (Minn. Dec. 28, 2022).

We review a district court’s decision not to depart from the sentencing guidelines for an abuse of discretion. *State v. Oberg*, 627 N.W.2d 721, 724 (Minn. App. 2001), *rev. denied* (Minn. Aug. 22, 2001). When substantial and compelling circumstances exist, the district court has broad discretion to depart, and this court generally will not interfere with the exercise of that discretion. *State v. Kindem*, 313 N.W.2d 6, 7 (Minn. 1981). Only in a “rare” case will this court reverse the district court’s refusal to depart from the presumptive sentence. *Id.* This court will affirm the denial of a departure motion “as long as the record shows the [district] court carefully evaluated all the testimony and information presented before making a determination.” *State v. Pegel*, 795 N.W.2d 251, 255 (Minn. App. 2011) (quotation omitted).

When a district court rules on a motion for dispositional departure, its focus is on whether the defendant’s characteristics make the defendant “particularly” amenable to probation. *See State v. Trog*, 323 N.W.2d 28, 31 (Minn. 1982); Minn. Sent’g Guidelines

2.D.3.a(7) (2022). This requirement ensures that “the defendant’s amenability to probation distinguishes the defendant from most others and truly presents the substantial and compelling circumstances that are necessary to justify a departure.” *State v. Soto*, 855 N.W.2d 303, 309 (Minn. 2014) (quotation omitted).

Whether a defendant is particularly amenable to probation depends on multiple factors, including the defendant’s age, prior criminal record, remorse, cooperation, attitude in court, and support of friends and family. *Trog*, 323 N.W.2d at 31. But even in the presence of factors that suggest a defendant would be particularly amenable to probation, the district court need not grant a downward-dispositional departure. *State v. Olson*, 765 N.W.2d 662, 664-65 (Minn. App. 2009).

Severtson argues that the district court abused its discretion by denying his dispositional-departure motion, claiming that “his young age, lack of prior record, remorse, acceptance of responsibility, community support, and motivation to change” support departure.

At the start of Severtson’s sentencing hearing, the district court noted that it “reviewed the file materials, including the [PSI] as well as the dispositional advisor’s recommendations and the attachments.” Defense counsel argued for departure at sentencing, noting that chemical-dependency treatment had been arranged for Severtson. The state argued against departure, claiming that the *Trog* factors do not support departure in this case. The state noted that, despite being only 18 years old at the time of the offense, Severtson had three previous assault adjudications and it questioned whether Severtson was remorseful and had sufficient support from his community to prevent him from

reoffending. The state also questioned Severtson's amenability to treatment, noting that Severtson told the PSI author that he does not have a drinking problem.

Although there is some evidence of Severtson's amenability to probation, the district court was not required to depart. *Olson*, 765 N.W.2d at 664-65. The record demonstrates that the district court considered the relevant evidence supporting departure before denying Severtson's motion for a dispositional departure. *Pegel*, 795 N.W.2d at 255; *see also Musse*, 981 N.W.2d at 220 (noting that the district court is not required to explain its decision to deny a departure request and impose a guidelines sentence). The district court, therefore, acted within its discretion by denying Severtson's departure motion and imposing a guidelines sentence.

Affirmed.