

*This opinion is nonprecedential except as provided by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
A24-0768**

State of Minnesota,
Respondent,

vs.

Mandy Erin Hyland,
Appellant.

**Filed February 3, 2025
Affirmed
Reyes, Judge**

Olmsted County District Court
File No. 55-CR-23-4362

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

Mark A. Ostrem, Olmsted County Attorney, James E. Haase, Senior Assistant County Attorney, Rochester, Minnesota (for respondent)

James McGeeney, Doda & McGeeney, P.A., Rochester, Minnesota (for appellant)

Considered and decided by Bratvold, Presiding Judge; Reyes, Judge; and Larson, Judge.

NONPRECEDENTIAL OPINION

REYES, Judge

Following her conviction of third-degree criminal sexual conduct for engaging in a sexual relationship with her former client and vulnerable adult, appellant-therapist

challenges the district court's denial of her motion for a downward dispositional departure. We affirm.

FACTS

Respondent State of Minnesota charged appellant Mandy Erin Hyland, a licensed psychologist and therapist, with third-degree criminal sexual conduct in violation of Minn. Stat. § 609.344, subd. 1(d) (2022), in June 2023, after officers received a report from the Minnesota Adult Abuse Reporting Center that a therapist may have engaged in a sexual relationship with her client. The facts detailed below were obtained from the complaint.

Appellant provided therapy to an adult patient (victim) who was a nonvoluntary client required to receive services by a drug court as part of a last-chance program. As such, he could not discontinue the services. In April 2023, victim emailed an officer at the Olmsted County Sheriff's Office photos and a video explaining that he had engaged in a sexual relationship with appellant. An officer reviewed text message exchanges between appellant and victim, including ones from appellant to victim stating, "I love you . . . I want to love you forever. I want you to love me forever" and " you better be well-rested to hang out and have fun with me all day tomorrow." Appellant also sent victim a partially nude photo of herself and a video in which she tells victim, "Hey baby, I miss you. I can't wait until Friday when I can pick you up, and see you, and kiss you, and touch you all over." During a subsequent interview with law enforcement, victim told law enforcement that he had gone to appellant's home. Victim also stated that he had grown attached to appellant while she was his therapist because she was the one person he thought he could trust.

Following victim's report, an officer met with appellant's former coworkers at her former therapy office. The officer recognized appellant's former office as the location of one of the sexual photographs appellant sent to victim. The officer later executed a search warrant of appellant's home at which the officer recognized the bathroom of appellant's home as the setting for other sexual photographs appellant sent to victim.

In June 2023, victim's probation officer expressed concern for his mental health after he checked himself into a mental-health facility, stating that his ongoing relationship with appellant caused him fear and confusion. Victim attempted to cut off contact with appellant, but appellant tracked down his number and continued to contact him via cellphone and email. Appellant continued to have contact with victim despite a district court order prohibiting her from doing so.

Appellant pleaded guilty in October 2023. Prior to the sentencing hearing, appellant filed a motion for a downward dispositional departure, arguing that substantial and compelling circumstances warranted a dispositional departure. Specifically, appellant argued that her age, cooperation, and support from family and friends made her particularly amenable to probation.¹ Appellant also submitted letters and her therapy records in support of her motion.

At the beginning of the sentencing hearing, the district court stated that it had reviewed appellant's guilty plea, the presentence investigation report (the PSI), the

¹ Appellant alternatively sought a downward durational departure, arguing that, while her conduct was a "serious matter," the allegations against her were of a "less serious nature than is typical of similar crimes" because the victim was an adult male. Appellant does not make this argument on appeal.

psychosexual evaluation, the dispositional advisor's memorandum, appellant's motion for departure, appellant's letters of support, and appellant's therapy records. The district court also heard the arguments of the parties and statements from appellant and victim. At the end of the hearing, the district court denied appellant's motion, finding no basis to depart and that appellant was not particularly amenable to probation. The district court added that there were substantial and compelling reasons to impose an aggravated sentence because there was "a particular violation of a trust relationship and in terms of dealing with a particularly vulnerable victim." Nevertheless, the district court sentenced appellant to the presumptive sentence of 48 months in prison. *See* Minn. Sent'g Guidelines 4.B (2022). This appeal follows.

DECISION

Appellant argues that the district court abused its discretion by not finding her particularly amenable to probation because the factors under *State v. Trog*, 323 N.W.2d 28 (Minn. 1982), including her age, lack of prior criminal history, amenability to sex-offender treatment, family support, and remorse, supported a downward dispositional departure. We are not persuaded.

The Minnesota Sentencing Guidelines exist to foster uniformity in sentencing. *See* Minn. Sent'g Guidelines 1.A (2022). The district court must impose a sentence within the presumptive range "unless there exist identifiable, substantial, and compelling circumstances" to depart. *State v. Soto*, 855 N.W.2d 303, 308 (Minn. 2014) (quotation omitted); *see also* Minn. Sent'g Guidelines 2.D.1 (2022). Substantial and compelling circumstances are those that make the facts of a particular case significantly more or less

serious than a typical case involving the same crime. *State v. Misquadace*, 644 N.W.2d 65, 69 (Minn. 2002).

A district court has the discretion to grant a downward dispositional departure if the defendant is “particularly amenable to probation, but it is not required to do so.” *State v. Olson*, 765 N.W.2d 662, 664-65 (Minn. App. 2009). A downward dispositional departure “occurs when the Guidelines recommend a prison sentence but the court stays the sentence” and places the defendant on probation. Minn. Sent’g Guidelines 1.B.5.a(2) (2022).

Many factors, including the defendant’s age, prior record, remorse, cooperation, attitude while in court, and the support of friends and family, are relevant to the district court’s determination of whether a defendant is particularly amenable “to individualized treatment in a probationary setting.” *Trog*, 323 N.W.2d at 31. When the record shows that the district court carefully considered and evaluated the testimony and information presented, this court “may not interfere” with the district court’s imposition of the presumptive sentence. *State v. Van Ruler*, 378 N.W.2d 77, 80-81 (Minn. App. 1985). Appellate courts review a district court’s decision to impose a downward dispositional departure for an abuse of discretion. *Soto*, 855 N.W.2d at 307-08.

Appellant contends that the *Trog* factors supported a finding that there were substantial and compelling grounds for the district court to grant her request for departure. However, the *Trog* factors by themselves do not amount to substantial and compelling grounds to warrant departure. The *Trog* factors are relevant to, but not conclusive of, the district court’s determination as to whether a defendant is particularly amenable to probation. *Soto*, 855 N.W.2d 303, 310 (Minn. 2014). Thus, the presence of some or even

all of the *Trog* factors do not remove the district court's sentencing discretion and obligate it to depart. *See State v. Pegel*, 795 N.W.2d 251, 253-54 (Minn. App. 2011) (stating that presence of mitigating factor does not obligate the court to depart from guidelines and place defendant on probation or impose term shorter than presumptive term).

Appellant also argues that the district court did not indicate whether there were substantial and compelling grounds to grant her request for departure and considered only whether appellant was particularly amenable to probation. But our review of the record shows that the district court explicitly stated that it would not depart durationally or dispositionally because there were no substantial and compelling circumstances to warrant departure. The district court further stated that, to depart dispositionally, "there must be more than substantial and compelling reasons—there must be a particular amenability to treatment or probation." While the district court incorrectly stated the standard for determining whether dispositional departure is justified, this error is harmless. A finding of particular amenability to probation by itself can support departure but is not required if the district court finds other substantial and compelling circumstances exist. *See State v. Heywood*, 388 N.W.2d 243, 244 (Minn. 1983). Nevertheless, the district court did not find appellant particularly amenable to probation nor find that substantial and compelling circumstances existed to support departure.

Moreover, the record indicates that the district court considered whether compelling circumstances existed to justify departure and whether appellant was particularly amenable before denying her request. Indeed, appellant's inappropriate relationship with her former client who is a vulnerable adult as well as her noncompliance with the district court's no-

contact order with victim support the district court's finding that she is not particularly amenable to probation and its decision not to grant a dispositional departure.

The record confirms that the district court carefully considered the arguments made by counsel, as well as the statements made by appellant and victim, the PSI, and numerous other documents at the beginning of the sentencing hearing. Having reviewed that record, the district court did not find a basis to grant appellant's request for a dispositional departure.

Because the record reflects that the district court clearly stated that it had reviewed the testimony, the arguments of counsel, and the statements of both appellant and the victim, it acted well within its discretion by denying appellant's motion for a downward dispositional departure.

Affirmed.