

*This opinion is nonprecedential except as provided by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
A24-0994**

State of Minnesota,
Appellant,

vs.

Ronald Louis Watts, Jr.,
Respondent.

**Filed December 30, 2024
Reversed and remanded
Larkin, Judge**

Isanti County District Court
File No. 30-CR-24-6

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

Jeffrey R. Edblad, Isanti County Attorney, Nicholas J. Colombo, Assistant County Attorney, Cambridge, Minnesota (for appellant)

Cathryn Middlebrook, Chief Appellate Public Defender, Laura G. Heinrich, Assistant Public Defender, St. Paul, Minnesota (for respondent)

Considered and decided by Larkin, Presiding Judge; Connolly, Judge; and Ede, Judge.

NONPRECEDENTIAL OPINION

LARKIN, Judge

The State of Minnesota challenges the district court's grant of a downward dispositional sentencing departure on appellant's second conviction of unlawful possession of a firearm or ammunition. Because the district court did not provide adequate reasons

for the departure and the record does not contain alternative grounds to support the departure, we reverse and remand for resentencing.

FACTS

In January 2024, appellant State of Minnesota charged respondent Ronald Louis Watts, Jr. with one felony count of unlawful possession of a firearm or ammunition and one felony count of reckless discharge of a firearm within a municipality. The state alleged that Watts fired a shot through a hotel-room window, was apprehended by law enforcement, was intoxicated, and refused to disclose the location of the firearm.

Watts pleaded guilty to unlawful possession of a firearm or ammunition, and the remaining count was dismissed. The parties agreed to a sentencing cap of 60 months, the statutory minimum sentence for the offense, and agreed that Watts could move for a downward sentencing departure. In setting forth a factual basis, Watts admitted that he could not possess firearms or ammunition, that he was in the hotel room containing firearms and ammunition, that he was aware of the presence of those items, and that he was therefore in possession of those items.

Watts underwent a presentence investigation (PSI). He was 35 years old at that time. The PSI noted that Watts had seven prior criminal convictions, including five felony convictions: first-degree aggravated robbery, theft of a motor vehicle, terroristic threats, third-degree burglary, and unlawful possession of a firearm or ammunition. The PSI stated that Watts had received a downward durational departure for the 2009 first-degree aggravated-robbery conviction and a downward dispositional departure for the 2017 third-degree burglary conviction. The PSI also indicated that Watts's 2020 sentence for unlawful

possession of a firearm or ammunition had not expired at the time of the underlying offense, and a supervised-release violation was pending.

The PSI outlined Watts's version of the underlying crime. He claimed that his sister accidentally discharged the firearm and that he simply had "knowledge of a firearm being present." According to the PSI, Watts stated that he did not "possess or fire a gun."

The PSI contained a risk assessment for Watts, which indicated that he presented a high risk to reoffend. One of the major concerns was Watts's substance use, specifically, his alcohol abuse. According to the PSI, Watts reported going to treatment one time in 2011 and completing it successfully. The risk assessment indicated that Watts had "a lot of familial support." The PSI recommended that Watts serve a 60-month executed sentence, the presumptive sentence under the sentencing guidelines.

Watts moved for a dispositional departure, arguing that "the best way to get [him] the interventions he needs to prevent this from happening again in the future is by getting him into treatment for his addiction to alcohol, while also being simultaneously supervised in the community." Watts noted that he had four children, including three under the age of ten.

In a memorandum in support of a downward dispositional departure, a dispositional advisor wrote:

[Watts] is currently supervised by [DD], an Adult Probation Agent through the Isanti County Probation office. [DD] reported, "[Watts] has always treated me with respect and seems to want to do better[.]" When asked about [Watts's] compliancy while on probation, [DD] stated, "Yeah he was compliant. He had a lot on his plate but he seemed to be handling it ok." [Watts] reported that he has the ability to

maintain contact with his Probation Officer and reported that he has done well on probation in the past. [Watts] has an opportunity to attend substance use treatment, as well as return to stable housing and employment if released, which will further give him the resources to be compliant on probation status.

. . . .

[Watts] was exposed to alcoholism at a young age from his mother, which lead to traumatic abuse that almost caused his death a[s] a child. [Watts] has emphasized the severity of his own addiction to alcohol and recognizes the consequences it has had on his life, including how it has led him to where he is today. He has articulated his willingness to take all measures possible to ensure his sobriety, including his desire to enter inpatient treatment. He completed the chemical dependency treatment program at Lino Lakes prison in 2021 (attachment #3). [Watts] stated that he has only had one opportunity of treatment outside of prison, which was over ten years ago. [Watts] reports that he is currently attending Alcoholics Anonymous meetings in jail and is leading a bible study group. [Watts] stated that this time, he is willing and hoping to enter . . . treatment at Minnesota Adult and . . . Teen Challenge (MNTC), a program that will offer him the support to continue his sobriety and learn how to manage his addiction to alcohol. [Watts] has been accepted to MNTC and can begin treatment as soon as after sentencing, if granted by the court (attachment #4).

The dispositional memorandum included an independent report prepared by Wilder Research outlining the outcomes for graduates of short- and long-term programs at MNTC. The report indicated, in part, that 80% of graduates reported one or fewer uses of a chemical substance following graduation from MNTC, 67% of graduates reported no use in the preceding six months, and only 7% had been charged with a new crime. Watts also included letters of support from his sister, fiancé, friend, and former boss.

At sentencing, the state sought a 60-month executed sentence. The state noted Watts's "five prior felonies with six person-related offenses" and that Watts "was on probation for the same offense at the same time that he committed this offense." The state also noted that Watts had minimized his role in the crime.

Watts's attorney discussed certain factors that are relevant when determining whether to grant a downward dispositional departure, asserted that Watts had taken "responsibility" for his crime, stated that Watts was cooperative and respectful and did a "good job" on probation, and noted that the "biggest positive factor" was Watts's "social support." Watts also gave a lengthy, impassioned plea for probation.

The district court granted Watts a dispositional departure, imposed a stayed 71-month sentence, and placed Watts on probation for five years. The district court also ordered Watts to serve 365 days in jail, with credit for 159 days served, and ordered him to successfully complete inpatient treatment at MNTC.

The state appeals the district court's sentence.

DECISION

The state contends that the district court abused its discretion by granting Watts's request for a downward dispositional departure.

The Minnesota Sentencing Guidelines establish presumptive sentences for criminal offenses and seek to "maintain uniformity, proportionality, rationality, and predictability in sentencing." Minn. Stat. § 244.09, subd. 5 (2022). "Consequently, departures from the guidelines are discouraged and are intended to apply to a small number of cases." *State v. Solberg*, 882 N.W.2d 618, 623 (Minn. 2016). A district court may depart from the

presumptive sentence only when there are “identifiable, substantial, and compelling circumstances to support a departure.” Minn. Sent’g Guidelines 2.D.1 (Supp. 2023).

“A dispositional departure places the offender in a different setting than that called for by the presumptive guidelines sentence.” *Solberg*, 882 N.W.2d at 623. For example, as occurred here, “a downward dispositional departure occurs when the presumptive guidelines sentence calls for imprisonment[,] but the district court instead stays execution or imposition of the sentence.” *Id.*

When ruling on a motion for a dispositional departure, the district court must generally focus on the defendant’s characteristics and whether he is particularly amenable to treatment in a probationary setting. *Id.*; see *State v. Trog*, 323 N.W.2d 28, 31 (Minn. 1982) (setting forth factors relevant to whether a defendant is particularly amenable to probation and stating that “a defendant’s particular amenability to individualized treatment in a probationary setting will justify departure in the form of a stay of execution of a presumptively executed sentence”). 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.

“We review a district court’s decision to depart from the presumptive guidelines sentence for an abuse of discretion.” *Solberg*, 882 N.W.2d at 623. “A district court abuses its discretion when its reasons for departure are legally impermissible and insufficient evidence in the record justifies the departure.” *Id.* “When the district court gives improper

or inadequate reasons for a *downward* departure, we may scrutinize the record to determine whether alternative grounds support the departure.” *Id.*

The state argues that we should reverse Watts’s downward dispositional departure because there was insufficient evidence to support the departure and because Watts “is not particularly amenable to probation.”

As to the district court’s reasons for the departure and the evidence on which it relied, the court explained that it had considered the *Trog* factors:

The first factor is your age. *That factor cuts both ways.* You are old enough to know better, but you are also old enough to know better. *You are about exactly at the age that the evidence tells us that people who are prepared to move in a different direction move in a different direction. It remains to be seen whether you are able and ready to do that.*

There are a couple of things in your thinking that I think -- I’m going [to] urge you to think about. *You are a very intelligent man, but you’re thinking incorrectly about some things* here that I want to -- in the court’s view, that I would like to point out in a moment.

But that factor cuts both ways with respect to a downward departure sentence. Your prior record cuts decidedly against you. You are on supervised release for this same offense. With all the intelligence that you have, knowing what’s at stake -- [the prosecutor] is exactly right about that -- *you had every reason to know what was at stake* and what should -- on this factor alone, you could have walked through that door to prison today. Easily. Easily.

Your remorse I think cuts both ways, as well. You acknowledge that you should not have put yourself or your family in that situation, but *you also attribute your downward spiral to a mistake of your partner’s and not of your own doing.* That is the kind of thinking, childish thinking, to be put aside.

You also disregard the fact that two different courts prior to this one, that were going to send you to prison in fact, showed you the exact kind of grace that you say the system hasn’t seen in you or given you, and that’s a side note I think. But it is the kind of thinking that will get you into trouble,

right? Or it has -- I shouldn't say "will." I should say has historically gotten you into trouble; right?

....

The cooperation factor militates in your favor. You've cooperated with your attorney, you have cooperated with the court.

....

Your attitude while in court has been respectful. I get the sense a little bit you're telling me what you think I want to hear. But... your attitude in court is respectful, you are respectful with your attorney, you are respectful with the court, and you obviously have the support of your friends and family.

....

You have the full support of your family. I saw that in writing. They have been present here for you. And that factors into the court's safety analysis, as well.

....

With respect to safety and public safety, this is the hardest call that the court has. *You don't have a record that demonstrates that you'll stay away from alcohol and drugs and that you'll stay away from weapons.* But you are at a point where that is more likely if you remain connected with your family and your community than less likely.

(Emphasis added.)

On the one hand, the district court has broad discretion in sentencing and determined that Watts's cooperation, attitude, and familial support justified a downward dispositional departure. See *State v. Myers*, 627 N.W.2d 58, 62 (Minn. 2001) (discussing broad discretion). On the other hand, those reasons are inadequate given the totality of the district court's explanation, as set forth above. For example, although the district court cited

Watts's cooperation and attitude as supporting a departure, Watts refused to accept responsibility for his crime, claiming that he never possessed a weapon. Also, as to his attitude, the district court stated, "I get the sense a little bit you're telling me what you think I want to hear." The district court also noted that Watts disregarded "the fact that two different courts prior to this one, that were going to send [him] to prison in fact, showed [him] the exact kind of grace that [he said] the system hasn't seen in [him] or given [him]."¹ And although the district court cited Watts's family support as a basis for departure, the underlying offense was committed in his family's presence, and Watts asserted that his sister was the one who actually fired the weapon.

And in explaining its consideration of the *Trog* factors, the district court noted the following circumstances: at age 35, Watts was "old enough to know better"; it remains to be seen whether Watts is "able and ready" to move in a different direction; although Watts is "a very intelligent man," he was "thinking incorrectly about some things"; Watts's "prior record cuts decidedly against [him]," in part because he was "on supervised release for this same offense" and because he "had every reason to know what was at stake"; Watts attributed his "downward spiral to a mistake of [his] partner's and not of [his] own doing," which is the type of "childish thinking, to be put aside"; and, most tellingly, Watts does not

¹ The record indicates that Watts previously received two downward sentencing departures in district court: one dispositional and one durational. The district court's misstatement was likely attributable to the prosecutor's earlier argument that Watts had received two downward dispositional sentencing departures. This misstatement does not change our view of the circumstances or our decision in this case.

“have a record that demonstrates that [he will] stay away from alcohol and drugs and . . . weapons.”

Moreover, it is undisputed that Watts had seven criminal convictions, including five felony-level convictions. Two of those felony convictions were for crimes against persons: first-degree aggravated robbery and terroristic threats. And he was on supervised probation for the same crime for which he was sentenced: unlawful possession of a firearm or ammunition. Finally, the PSI recommended that the district court impose an executed sentence of 60 months.

As acknowledged by the district court, it is difficult to reconcile these circumstances with the decision to grant Watts a second downward dispositional departure. This record does not support a conclusion that Watts is particularly amenable to probation as compared to other offenders, and it does not contain evidence of any other substantial and compelling reasons to justify the departure. *See State v. Soto*, 855 N.W.2d 303, 312 (Minn. 2014) (noting that “a few of the factors that we have recognized as potentially relevant might suggest that [the defendant] could be amenable to probation,” but “those factors, individually and collectively, provide very little support for the further conclusion that [the defendant] had any particular amenability to probation relative to other defendants” (emphasis omitted)). In fact, the district court’s finding that Watts is particularly amenable to probation was equivocal. The district court stated, “I do find [Watts] particularly amenable to probation at this point in time *if* he enters into and successfully completes a year-long program.” (Emphasis added). A defendant must be particularly amenable to probation when sentence is pronounced. We are not aware of any authority allowing a

district court to grant a downward dispositional departure based on a finding that the defendant will become particularly amenable to probation so long as he complies with certain conditions.

In conclusion, the Minnesota Supreme Court has recognized:

The purpose of the sentencing guidelines is to establish rational and consistent sentencing standards which reduce sentencing disparity and ensure that sanctions following conviction of a felony are proportional to the severity of the offense of conviction and the extent of the offender's criminal history. Equity in sentencing requires (a) that convicted felons similar with respect to relevant sentencing criteria ought to receive similar sanctions, and (b) that convicted felons substantially different from a typical case with respect to relevant criteria ought to receive different sanctions.

State v. Misquadace, 644 N.W.2d 65, 68 (Minn. 2002) (quotation omitted). This purpose is frustrated when a departure is granted in the absence of substantial and compelling circumstances. "Consequently, departures from the guidelines are discouraged and are intended to apply to a small number of cases." *Solberg*, 882 N.W.2d at 623.

Because the district court gave inadequate reasons for the departure and the record does not contain alternative grounds to support the departure, we reverse and remand for resentencing, not to exceed the 60-month sentencing cap to which the parties had agreed.

Reversed and remanded.