

*This opinion is nonprecedential except as provided by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
A24-1002**

State of Minnesota,
Respondent,

vs.

Lindsey Rose Schneeberger,
Appellant.

**Filed March 3, 2025
Affirmed
Schmidt, Judge**

Olmsted County District Court
File No. 55-CR-23-3564

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)

Cathryn Middlebrook, Chief Appellate Public Defender, John Donovan, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Johnson, Presiding Judge; Larkin, Judge; and Schmidt, Judge.

NONPRECEDENTIAL OPINION

SCHMIDT, Judge

On appeal from her conviction of first-degree criminal sexual conduct, appellant argues that the district court abused its discretion at sentencing by denying her motion for a downward dispositional departure. Because we discern no abuse of discretion, we affirm.

FACTS

Respondent State of Minnesota charged appellant Lindsey Rose Schneeberger with three counts of first-degree criminal sexual conduct. The complaint alleged that Schneeberger—a volleyball coach and teacher—repeatedly sexually abused the victim—a volleyball player and student—during the time when the victim was 13 and 14 years old.

According to the complaint, the victim's mother contacted law enforcement after seeing concerning text messages between Schneeberger and the victim. After asking about the messages, the victim disclosed to her mother that Schneeberger had inappropriately touched her. In a forensic interview, the victim disclosed that several times before and after she turned 14 years old, Schneeberger penetrated the victim's vagina orally, digitally, and with an object.

Schneeberger pleaded guilty to one count of first-degree criminal sexual conduct in exchange for the state's dismissal of the other charges and an agreement that the sentence would not exceed 144 months. Schneeberger also agreed to complete a presentence investigation report and the parties acknowledged Schneeberger's plan to move for a downward sentencing departure. The district court accepted Schneeberger's guilty plea.

Schneeberger moved for a downward dispositional departure. She argued that substantial and compelling circumstances—particular amenability to treatment, remorse, attitude, cooperation, lack of criminal history, and familial support—favored a departure.

At Schneeberger's sentencing hearing, Schneeberger's counsel argued in support of the departure motion, citing Schneeberger's particular amenability to probation and highlighting that Schneeberger had experienced similar abuse when she was a child.

Defense counsel noted that Schneeberger was engaged in treatment to address underlying issues stemming from her own abuse and argued that a prison sentence would disrupt the constructive progress Schneeberger made while in treatment. Schneeberger addressed the court, expressing shame and remorse and accepting “full responsibility for everything.”

The state opposed the motion and requested a guidelines prison sentence of 144 months. The state argued that the sentencing was about “retribution and deterrence” given the “deplorable and egregious” nature of Schneeberger’s actions and that no substantial and compelling circumstances supported a departure. The victim addressed the court with an impact statement, explaining that the abuse has caused increased anxiety, worsening familial relationship, difficulties in school, lack of interest in activities, and issues with anger. The victim’s mother also addressed the court, noting the negative impacts the abuse has had on the victim’s education and the stress that it has caused her family.

The district court noted it had reviewed the presentence investigation report, the sentencing worksheet, the psychosexual evaluation, a treatment recommendation, letters of support from Schneeberger’s family and friends, and the departure motion. The court noted the existence of facts that supported a downward dispositional departure but found a guidelines prison sentence was appropriate given the seriousness of the offense. The district court denied the motion and sentenced Schneeberger to the presumptive sentence of 144 months in prison.

Schneeberger appeals.

DECISION

The Minnesota Sentencing Guidelines establish presumptive sentences “to maintain uniformity, proportionality, rationality, and predictability in sentencing.” Minn. Stat. § 244.09, subd. 5 (2022). The district court must impose a presumptive sentence unless “aggravating or mitigating circumstances are present, and those circumstances provide a substantial and compelling reason not to impose a guidelines sentence[.]” *State v. Soto*, 855 N.W.2d 303, 308 (Minn. 2014) (quotations and citation omitted). The court need not provide an explanation when the court “considers reasons for departure but elects to impose the presumptive sentence.” *State v. Van Ruler*, 378 N.W.2d 77, 80 (Minn. App. 1985).

We review a district court’s decision to deny a motion for a dispositional departure for an abuse of discretion. *Soto*, 855 N.W.2d at 307-08. “[W]e will not ordinarily interfere with a sentence falling within the presumptive sentence range . . . even if there are grounds that would justify departure.” *State v. Bertsch*, 707 N.W.2d 660, 668 (Minn. 2006) (quotation omitted). Only in a “rare” case will we reverse a district court’s imposition of the presumptive sentence. *State v. Kindem*, 313 N.W.2d 6, 7 (Minn. 1981).

Schneeberger argues that the district court abused its discretion by denying her motion for a downward dispositional departure because she demonstrated that she is particularly amenable to probation based on the *Trog*¹ factors. Schneeberger argues that many of these factors supported a downward dispositional departure.

¹ *State v. Trog*, 323 N.W.2d 28, 31 (Minn. 1982) (articulating nonexclusive list of factors district courts may consider when deciding whether to impose a downward departure).

At sentencing, the district court acknowledged the presence of several *Trog* factors that supported a downward departure. For example, the district court explained that Schneeberger was “probably amenable to probation” because she was in treatment and had complied with her conditions of release. The district court also acknowledged that Schneeberger was unlikely to reoffend, was remorseful, took responsibility for her actions, and had support from family and friends. But the district court found a guidelines sentence was appropriate because “for some offenses of a very harmful nature, offenses which cause immense pain to a perfectly innocent victim, justice demands the punishment of a prison sentence as proper retribution for the enormity of the offense.”

While Schneeberger may have demonstrated the existence of several *Trog* factors, “the presence of mitigating factors does not obligate the court to place a defendant on probation or impose a shorter term than the presumptive term.” *Wells v. State*, 839 N.W.2d 775, 781 (Minn. App. 2013) (quotation omitted), *rev. denied* (Minn. Feb. 18, 2014). Instead, the district court retains broad discretion in deciding whether to grant a motion for a downward departure. *Kindem*, 313 N.W.2d at 7.

Schneeberger also argues that other facts—including her history of experiencing similar sexual abuse when she was a teenager and the low rate of recidivism among female sexual offenders—supported a departure. The district court did not ignore these facts. The district court expressly recognized both of these circumstances during sentencing. But, again, the mere presence of these potentially mitigating facts did not obligate the district court to depart from the presumptive sentence. *See Wells*, 839 N.W.2d at 781.

Schneeberger further maintains that the denial of her motion contravened the supreme court's decision in *State v. Brusven* because the district court improperly based its decision upon facts accounted for in the underlying offense and charges that had been dismissed. 327 N.W.2d 591, 593-94 (Minn. 1982). We disagree.

The Minnesota Supreme Court in *Brusven* determined that the district court erred by imposing an upward durational sentence because the court used the same facts that accounted for a presumptive sentence. *Id.* at 594. Here, the district court did not enhance the sentence. Instead, the court imposed the presumptive guidelines sentence. Also, unlike in *Brusven*, the district court's decision was based upon the "very harmful nature" of the offense and the court's belief that "justice demands the punishment of a prison sentence as proper retribution for the enormity of the offense."

While some record evidence could support departure, the district court was not required to depart. *Bertsch*, 707 N.W.2d at 668. And the record shows that the district court thoughtfully considered arguments both for and against a dispositional departure before imposing a presumptive guidelines sentence. Because the record reveals that the district court "carefully evaluated all the testimony and information presented before making a determination[,]” we “may not interfere with the sentencing [judge’s] exercise of discretion[.]” *Van Ruler*, 378 N.W.2d at 80-81. This is not the “rare” case requiring reversal of a presumptive guidelines sentence. *Kindem*, 313 N.W.2d at 7.

Affirmed.