

*This opinion is nonprecedential except as provided by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
A24-1592**

State of Minnesota,
Respondent,

vs.

Lindsay Marilyn Mayry,
Appellant.

**Filed August 4, 2025
Affirmed
Larson, Judge**

Hennepin County District Court
File No. 27-CR-23-20047

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

Mary F. Moriarty, Hennepin County Attorney, Adam E. Petras, Linda M. Freyer, Assistant
County Attorneys, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Peter H. Dahlquist, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Bentley, Presiding Judge; Larkin, Judge; and Larson,
Judge.

NONPRECEDENTIAL OPINION

LARSON, Judge

Appellant Lindsay Marilyn Mayry challenges the district court's decision to deny her motion for a downward dispositional departure. Because the district court did not abuse its discretion when it denied the motion, we affirm.

FACTS

In September 2023, respondent State of Minnesota charged Mayry with two counts of second-degree criminal sexual conduct pursuant to Minn. Stat. § 609.343, subd. 1a(f) (2022) and Minn. Stat. § 609.343, subd. 1a(g) (2022). According to the complaint, sometime between January and June 2023, Mayry engaged in sexual contact with a 14-year-old victim. Mayry and the victim's mother were in a romantic relationship. Their relationship also involved a third person. After receiving a report that the third person had sexually abused the victim, law enforcement interviewed the victim and she disclosed an incident involving Mayry. That incident involved Mayry "rubbing the victim's inner thighs, and touch[ing] her vaginal area over the clothing," after the third person pressured Mayry to do so. Law enforcement also discovered text messages wherein Mayry discussed sexual contact with the victim.

At a March 2024 plea hearing, Mayry entered straight guilty pleas to both counts.¹ The state agreed that the counts "would merge for sentencing." Following the plea hearing, Mayry filed a motion for a downward dispositional departure, arguing that she was particularly amenable to probation under *State v. Trog*, 323 N.W.2d 28, 31 (Minn. 1982) (*Trog* factors). Mayry included a mitigation report and a letter of support from her counselor with her motion.

¹ A defendant enters a "straight plea" when they "plead[] guilty to the offense but [do] not enter into any agreement regarding sentencing." *State v. Sanchez-Sanchez*, 879 N.W.2d 324, 327 (Minn. 2016).

At a July 2024 sentencing hearing, the district court indicated that it reviewed the presentence investigation report (PSI), the psychosexual-evaluation report, and Mayry's motion for a downward dispositional departure. The district court then heard arguments from Mayry's counsel and the state, and Mayry gave a statement. Mayry's counsel highlighted Mayry's success at treatment while awaiting sentencing and her remorse. The state requested that the district court sentence Mayry to the presumptive prison term, arguing that Mayry minimized her role in the offense and noting that Mayry had contacted the third person from jail "many" times. Mayry expressed that she was "manipulated by" the third person and apologized for her actions.

Thereafter, the district court denied the departure motion and sentenced Mayry to 60 months in prison, a bottom-of-the-box presumptive sentence. In doing so, the district court determined that Mayry was not particularly amenable to probation, citing her failure to take full responsibility for her involvement in the offense, her "contact with [the third person] while the case was pending" despite the existence of a no-contact order, her ongoing connection to the third person's family, her "significant criminal history," as well as the seriousness of the offense.²

Mayry appeals.

² We note that Mayry's confidential PSI and psychosexual-evaluation report are relevant to the district court's conclusions. *See* Minn. R. Pub. Access to Recs. of Jud. Branch 4, subd. 1(b)(2) (providing that records on an individual that are ordered by a court to assist in sentencing are not publicly accessible). While we need not disclose the confidential details contained in Mayry's PSI or psychosexual-evaluation report, we have reviewed those documents and conclude that they support the district court's statements.

DECISION

Mayry challenges the district court's decision not to impose a downward dispositional departure. We review a district court's decision to impose a presumptive sentence for a clear abuse of discretion and will reverse that decision "[o]nly in a 'rare' case." *State v. Olson*, 765 N.W.2d 662, 664 (Minn. App. 2009) (quoting *State v. Kindem*, 313 N.W.2d 6, 7 (Minn. 1981)). When "the record shows the [district] court carefully evaluated all the testimony and information presented before making a determination," we "may not interfere with the [district] court's exercise of discretion." *State v. Van Ruler*, 378 N.W.2d 77, 80-81 (Minn. App. 1985). A district court need not explain why it imposed a presumptive sentence when the record reflects that "the [district] court consider[ed the] reasons for departure but elect[ed] to impose the presumptive sentence" instead. *Id.* at 80.

The Minnesota Sentencing Guidelines establish presumptive sentencing ranges to "maintain uniformity, proportionality, rationality, and predictability in sentencing." Minn. Stat. § 244.09, subd. 5 (2024). Therefore, "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 a presumptive sentence only if there are "identifiable, substantial, and compelling circumstances to support a departure." Minn. Sent'g Guidelines 2.D.1 (2022). "Substantial and compelling circumstances are those circumstances that make the facts of a particular case different from a typical case." *State v. Peake*, 366 N.W.2d 299, 301 (Minn. 1985).

"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.” *Solberg*, 882 N.W.2d at 623 (quotation omitted). This inquiry considers “the defendant as an individual and . . . whether the presumptive sentence would be best for [the defendant] and for society.” *State v. Heywood*, 338 N.W.2d 243, 244 (Minn. 1983). A defendant’s particular amenability to probation may justify a downward dispositional departure. *State v. Soto*, 855 N.W.2d 303, 308-09 (Minn. 2014). The *Trog* factors are relevant to determining whether a defendant is particularly amenable to probation and include age, prior criminal record, remorse, cooperation, attitude in court, and support of friends and family. *Trog*, 323 N.W.2d at 31.

Mayry argues the district court abused its discretion when it declined to impose a downward dispositional departure because she is particularly amenable to probation under the *Trog* factors. But, even if a defendant is particularly amenable to probation, the district court’s imposition of a downward dispositional departure is discretionary. *Olson*, 765 N.W.2d at 664-65. And a district court does not abuse its discretion when it “carefully consider[s] circumstances for and against departure and deliberately exercise[s] its discretion.” *State v. Pegel*, 795 N.W.2d 251, 255 (Minn. App. 2011).

Here, the record shows the district court carefully considered the evidence submitted before it imposed a presumptive sentence. The district court acknowledged Mayry’s treatment progress, but it also noted factors weighing against her amenability to probation—including her “significant criminal history,” the seriousness of the offense, her failure to take full responsibility for her actions, and her continued contact with the third person and their family. In this circumstance, the district court appropriately exercised its discretion when it imposed a presumptive sentence.

Mayry makes a related argument that the district court abused its discretion when it declined to impose a downward dispositional departure because it “failed to consider completely the *Trog* factors.” But a district court need not discuss each of the *Trog* factors before imposing a presumptive sentence. *Pegel*, 795 N.W.2d at 254. In fact, when a district court “considers reasons for departure but elects to impose the presumptive sentence,” it is not required to explain its decision at all. *See Van Ruler*, 378 N.W.2d at 80. As discussed above, the record shows that the district court carefully considered the evidence and counsel’s arguments before it imposed a presumptive sentence.

Finally, Mayry argues the district court abused its discretion when it declined to impose a downward dispositional departure because it “failed to consider the extent to which Mayry’s offense was committed under pressure from” the third person. Again, the district court is not required to explain its decision to impose a presumptive sentence. *See id.* Further, the record demonstrates that the district court did consider that the third person pressured Mayry because it reviewed documents containing this information and heard arguments regarding the third person’s role in the offense. The district court directly responded to this argument by finding that Mayry was not taking full responsibility for her involvement in the offense.

In sum, because the record reflects that the district court “carefully evaluated all the testimony and information presented before making [its] determination,” we conclude the district court did not abuse its discretion when it imposed a presumptive sentence. *Id.* at 80-81.

Affirmed.