

*This opinion is nonprecedential except as provided by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
A24-1804**

State of Minnesota,
Respondent,

vs.

John Robert Olson,
Appellant.

**Filed December 15, 2025
Affirmed in part, reversed in part, and remanded
Slieter, Judge**

Blue Earth County District Court
File No. 07-CR-23-3100

Keith Ellison, Attorney General, Thomas R. Ragatz, Assistant Attorney General, St. Paul, Minnesota; and

Patrick McDermott, Blue Earth County Attorney, Mankato, Minnesota (for respondent)

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

Considered and decided by Slieter, Presiding Judge; Bjorkman, Judge; and Bratvold, Judge.

NONPRECEDENTIAL OPINION

SLIETER, Judge

In this appeal from the final judgments of conviction for first-degree criminal sexual conduct, first-degree assault, and violation of a domestic-abuse no-contact order (DANCO), appellant John Robert Olson argues that he is entitled to a new trial because the

district court committed reversible error by denying his request for a continuance of the trial and failing to sequester the lead investigator in the case. Alternatively, Olson challenges his sentence, arguing that the district court abused its discretion by imposing an aggregate sentence of 584 months' imprisonment, because the sentence is disproportionate, and an 18-month consecutive sentence for the felony DANCO violation that was an unauthorized upward durational departure. Because we conclude that the district court acted within its discretion when it denied Olson's motion for a continuance, denied his request to sequester the lead investigator, and imposed the aggregate sentence on him, we affirm as to those issues. But, because the district court applied the wrong severity level when it sentenced Olson to an 18-month, rather than 12-month, consecutive sentence for his felony DANCO violation, we reverse and remand for resentencing as to that issue.

FACTS

Respondent State of Minnesota charged appellant John Robert Olson with nine counts, including first-degree criminal sexual conduct, first-degree assault, and felony DANCO violation, based on an incident that occurred in the victim C.Z.'s apartment in August 2023. Following a court trial, Olson was found guilty of eight counts. The district court convicted and sentenced Olson on three of the offenses. The underlying facts, which led to the convictions, are not relevant to the issues on appeal, so we refrain from recounting them and instead focus on the relevant procedural facts.

Objection to Not Sequestering the State's Lead Investigator

In June 2024, the district court held a pretrial hearing, at which the state requested to keep its lead investigator from sequestration so that he could assist the state during trial.

Olson objected, reasoning that “his potential testimony may be tainted” if he “hear[d] all the other witnesses.” He added that if the lead investigator “hears how they’re cross examined, and he may then amend his testimony to combat that.”

After noting that the lead investigator could not communicate with other witnesses and that Olson’s counsel could cross-examine the lead investigator on that point, the district court granted the state’s request not to sequester the lead investigator.

Olson’s Motion for Continuance

In August 2023, Olson applied for a public defender, which the district court granted. Soon thereafter, Olson fired his public defender. He made a speedy-trial demand at a contested omnibus hearing. In April 2024, Olson reapplied for a public defender, which the district court granted. The previously appointed attorney resumed Olson’s representation approximately six weeks before his scheduled trial date of Monday, June 10.

On Friday, June 7, Olson filed a motion for continuance. In the filing, Olson’s counsel explained that he first discovered he needed a continuance on May 24, 2024, but Olson had refused the request. It was not until Thursday, June 6, that Olson agreed to the continuance request.

The district court held a hearing later that day. Olson’s counsel restated his reason for the request—that he had a multi-day trial two weeks before Olson’s trial and was scheduled for another trial the week before that ultimately “resolved at the eleventh hour.” Olson’s counsel explained to the court that he “didn’t know that [he] would have adequate time to prepare, which would effectively make [him] ineffective.” Specifically, Olson’s

counsel referenced some missing discovery¹ that he believed would affect “whether or not [he could] adequately prepare” for trial. The state did not object to the motion but noted that it was ready to proceed to trial.

The district court denied Olson’s motion for a continuance, supporting its decision with several factual findings. First, the district court found that Olson’s counsel had sufficient time to prepare for trial, noting that defense counsel was reappointed to the case in April 2024, “over a month and a half” before the trial date. Additionally, Olson’s counsel “had been working the case for almost two months previously” before Olson had fired him. Second, the district court noted the timing of the request. Olson first requested a continuance on Friday, June 7, which was the last business day before the trial was scheduled to begin the following Monday. Finally, the district court expressed concern about judicial resources, including the inconvenience to various witnesses who were anticipated to testify for the state.

Trial and Sentencing

On the morning of the trial, Olson’s counsel renewed his objection regarding sequestration of the state’s lead investigator and his motion for continuance. As to the sequestration objection, Olson’s counsel stated, “I just wanted to renew that objection, noting that, uh, as a potential witness, anything that he hears could potentially taint his future testimony.” As to the request for a continuance, Olson’s counsel noted, “we did request that continuance and I felt at that time that I was gonna be ineffective. After

¹ The state clarified that it had disclosed to Olson the requested discovery that his counsel referenced to Olson. It appears Olson did not provide that discovery to his attorney.

spending the balance of the weekend working on this, I don't know that that's changed in any way. Um, there are a few evidentiary items that I would like to explore more but, um, here we are today." The district court again denied both motions.

During trial, the state offered evidence to prove Olson committed the charged offenses. Among the evidence that was ultimately admitted, was (1) a Bureau of Criminal Apprehension report explaining that DNA obtained from C.Z.'s vagina, rectal, and perineal area and blood stains in the house "showed the presence of sperm cell fractions with a DNA profile greater than 100 billion times more likely that the source was [Olson] than an unknown, unrelated individual"; (2) DNA evidence of blood stains found near C.Z.'s bedroom doorway and a hand print from a wall that revealed Olson's DNA was present; (3) surveillance-camera footage from 6:33 a.m. on August 24, 2023, showing Olson "shirtless and carrying what appear[ed] to be a white t-shirt" that he placed in a trash can; (4) testimony from a police officer that he later found a bloody t-shirt in the same trash can; (5) an August 24, 2023 phone call in which Olson apologized for "hurting [C.Z.] like that, it's bad" and made several other admissions; and (6) C.Z.'s testimony that Olson was the person who raped and assaulted her, which the court found credible.

The district court entered judgment of conviction and imposed sentences on three counts: (1) first-degree criminal sexual conduct in violation of Minn. Stat. § 609.342, subd. 1(c)(i) (2022); (2) first-degree assault (great bodily harm) in violation of Minn. Stat. § 609.221, subd. 1 (2022); and (3) violation of a DANCO within 10 years of first of two or more convictions in violation of Minn. Stat. § 629.75, subd. 2(d)(1) (2022). The court imposed and executed a top-of-the-range guidelines sentence of 360 months for the

first-degree criminal-sexual-conduct conviction, an aggravated double-upward departure of 206 months for the first-degree assault conviction to be served consecutively, and a sentence of 18 months for the felony DANCO-violation conviction to be served consecutively to the previously imposed sentences.²

Olson appeals.

DECISION

I. The district court acted within its discretion when it denied Olson’s request for a continuance.

“The decision whether to grant a continuance is within the [district] court’s discretion and will be reversed upon a showing that the [district] court abused its discretion.” *State v. Stroud*, 459 N.W.2d 332, 335 (Minn. App. 1990). In determining whether the district court abused its discretion in denying a motion for continuance, we ask whether the denial of a continuance prejudiced the outcome of the trial. *Id.* Appellate courts consider the circumstances that existed at the time the motion for continuance was made. *State v. Turnipseed*, 297 N.W.2d 308, 311 (Minn. 1980). The central question, however, remains whether the defendant was so prejudiced as to materially affect the outcome of the trial. *State v. Smith*, 932 N.W.2d 257, 268 (Minn. 2019).

When determining the extent of any prejudice from the denial of a continuance, we may consider various factors, including the time in which the party could have addressed the problem without the continuance, the time between the moving party’s awareness of

² After trial, the district court issued an aggravated departure order in which it concluded that the state had proven two aggravating factors—particular cruelty and zone of privacy. *See* Minn. Sent’g Guidelines 2.D.3.b.2, 14 (2022). Olson does not challenge this order.

the need for a continuance and the motion for a continuance, the reason for the continuance and its effect on the merits of the moving party's case, the time that the case was pending, the proximity of the request to the start of trial, the number of continuances requested by the moving party, and the strength of the evidence to support the verdict. *See id.* at 263, 269 (considering whether defendant's counsel had "ample time" to acquire and review the evidence); *State v. Rainer*, 411 N.W.2d 490, 495 (Minn. 1987) (affirming the denial of a continuance because receiving a report 13 days before the start of trial provided sufficient time to address the asserted problem); *State v. Lloyd*, 345 N.W.2d 240, 247 (Minn. 1984) (considering the length of time between the indictment and trial and the proximity of the continuance motion to the start of trial); *Turnipseed*, 297 N.W.2d at 311-12 (concluding no abuse of discretion occurred in denying a continuance because a "fair reading of the record" showed the strength of the state's case and that the witness's testimony would not have helped the defendant's case); *State v. Beveridge*, 277 N.W.2d 198, 199 (Minn. 1979) (considering the number of requests for continuances, the proximity of the request to the start of trial, and the strength of the evidence to support the verdict).

Olson argues that the district court abused its discretion when it denied his request for a continuance based on his counsel's explanation that he had inadequate time to prepare for trial. Specifically, Olson contends that a continuance would have allowed his counsel to "prove foundation connecting [certain] text messages to the alleged victim" such that "the text messages could have been utilized to more comprehensively cross-examine her and impeach her testimony." He argues that this additional preparation by his counsel "could have potentially been introduced to buttress Olson's testimony that he was not

present at the residence during the timeframe of the assault.” Olson argues that the remedy for this abuse of discretion is a new trial.

The state counters that the district court did not abuse its discretion because Olson has not proven that the district court’s ruling prejudiced him such that it materially affected the outcome of the trial. The state primarily focuses on the evidence it admitted at trial to demonstrate that the district court’s ruling did not prejudice Olson. It reasons that the outcome of the trial would have been the same regardless of whether the district court granted or denied the motion for continuance.

The record indicates that the circumstances surrounding the requested continuance were as follows: (1) Olson made a demand for a speedy trial, (2) the district court issued a scheduling order on April 5, 2024, which set the trial date, (3) Olson’s counsel had previously served on the case, was fired by Olson, and then reappointed by the court in April 2024, (4) Olson’s counsel proposed requesting a continuance “a couple of weeks” before the trial, but Olson “was not . . . supportive of it,” (5) Olson’s counsel had a multi-day trial two weeks before Olson’s trial and was scheduled for another trial the week before Olson’s trial but it “resolved at the eleventh hour,” (6) Olson first presented the motion for continuance on Friday, June 7, and the case was scheduled to begin trial on Monday, June 10, (7) this was Olson’s first request for a continuance, (8) Olson’s counsel stated that he felt unprepared for trial, due at least in part, to certain discovery that he had been missing in the days leading up to trial, and (9) the state did not object to Olson’s request for a continuance, but noted that it was prepared to proceed with the scheduled trial date.

Upon review, we conclude that the factors weigh against a determination that Olson was prejudiced by the denial of the continuance. Only one factor weighs in favor of granting the continuance—that it was Olson’s first motion for continuance. The factors that weigh against the continuance are that Olson made the request on the last business day before trial was scheduled to begin and that he was aware of his counsel’s need for a continuance “a couple of weeks” before trial. Further, our careful review of the record indicates that Olson did not elaborate to the district court, as he now does to this court, that a critical portion of the late discovery relates to text messages to Olson from C.Z. Before the district court, Olson’s counsel did not specifically identify the discovery items that he was missing. He simply explained that he “was missing some things, which [he] requested from the state, which [were] promptly provided to [him.]” In response, the state explained that it understood Olson’s counsel as identifying discovery that had “previously been disclosed,” and that Olson’s counsel “just [hadn’t] had an opportunity to review it, or receive it from his client.” Olson’s counsel did not contest the state’s response or identify any specific discovery as missing. We note, then, that the district court did not have the benefit of considering whether Olson’s counsel needed additional time to review the May 28-31, 2024 text messages.

Most importantly, and based on the strength of the state’s case, Olson cannot establish that the denial so prejudiced him as to affect the outcome of his trial. The state presented evidence—including DNA evidence, surveillance-camera footage, a recorded phone call in which Olson apologizes for harming C.Z., and C.Z.’s testimony that Olson was the person who raped and assaulted her, which the court found credible—that proved

Olson’s guilt such that a continuance likely would not have affected the outcome of the trial. The fact-finder—here the district court—had the ability to review and weigh all of the evidence admitted during trial, including the text messages that Olson claims were critical to his defense. After doing so, the district court found Olson guilty.

Although one factor weighed in favor of granting the continuance, several others weighed against it, and we discern that the district court acted within its discretion when it denied Olson’s motion for continuance. Olson is not entitled to a new trial on these grounds.

II. The district court acted within its discretion when it refused to sequester the lead investigator.

The question of sequestration of witnesses rests in the sound discretion of the trial court. *State v. Jones*, 347 N.W.2d 796, 802 (Minn. 1984). “[W]here there is no showing that failure to sequester witnesses was prejudicial to the accused, the court’s refusal to require it does not in itself constitute reversible error.” *State v. DeLaCruz*, 884 N.W.2d 878, 889-90 (Minn. App. 2016) (quoting *State v. Garden*, 125 N.W.2d 591, 601 (Minn. 1963)).

Over Olson’s objection, the district court granted the state’s request to exempt the lead investigator from sequestration so that he could assist the state during trial. The district court reasoned that, if the lead investigator’s testimony would be tainted by hearing other witnesses’ testimony, Olson’s opportunity to cross-examine him sufficiently remedied that concern.

Olson presents three arguments for why the district court had to sequester the lead investigator. First, he claims that allowing the lead detective to be present during opening statements and while other witnesses testified allowed the detective to tailor his testimony and anticipate Olson's counsel's cross-examination. Second, he claims that the lead investigator's presence in the courtroom may have affected C.Z.'s testimony. Finally, he claims that the lead investigator overheard his "confidential and privileged communications" with his advisory counsel that aided him while he was *pro se*. Olson argues that the remedy for this abuse of discretion is a new trial.

As a preliminary matter, we conclude that Olson forfeited his second and third arguments. It is well settled that claims raised for the first time on appeal are generally forfeited for the purposes of the appeal. *See, e.g., Griffin v. State*, 883 N.W.2d 282, 285-86 (Minn. 2016) (holding that appellant forfeited an argument by failing to raise it in his petition for postconviction relief). Olson did not make these arguments before the district court, which he acknowledges. The district court, therefore, did not have the opportunity to consider these arguments when ruling on the matter, and, thus, they are forfeited.

Olson's remaining argument is that sequestration was necessary to avoid tainting the lead investigator's testimony. The only case Olson offers to support this argument is *State v. Koskela*, 536 N.W.2d 625 (Minn. 1995). Contrary to Olson's characterization of this case, sequestration of a witness was not an issue before the court. *Koskela*, 536 N.W.2d at 630-31. Instead, the Minnesota Supreme Court addressed whether the district court committed prejudicial error when it permitted an investigating officer to sit at the counsel

table with the prosecutor throughout the trial. *Id.*³ The court concluded no prejudicial error occurred because the officer was first to testify, so he did not hear the testimony of other witnesses before he took the witness stand. *Id.* at 631. The court also noted that the officer was not in uniform and there was no indication of inappropriate intimidation. *Id.* Given that *Koskela* addresses a distinct issue that implicates different concerns from the one presented here, we conclude that Olson has not met his burden of establishing that the district court abused its discretion when it declined to sequester the lead investigator.

The Minnesota Supreme Court has stated that although the decision to sequester witnesses is a “matter which is within the trial court’s discretion,” a request to sequester a witness “should rarely be denied.” *Jones*, 347 N.W.2d at 802; *see also State v. Zornes*, 831 N.W.2d 609, 619 (Minn. 2013) (quoting *State v. Posten*, 302 N.W.2d 638, 640 (Minn. 1981)). But as we noted, the district court maintains discretion when a party requests to have a witness sequestered, and we discern no abuse of discretion to grant the state’s request that the lead investigator not be sequestered. Olson is not entitled to a new trial on these grounds.

³ The court’s primary concern in *Koskela* was “the opportunity for prejudice to the defendant . . . where the investigating officer sits at prosecuting counsel’s trial table throughout the trial” because it has “the potential for confusion with the jury in the perception of a close alignment between the neutral fact-finding function of the police investigator with the adversary role of the prosecution.” 536 N.W.2d at 631. No such concern is present here because the judge presided over a court trial.

III. The district court acted within its discretion in imposing an aggregate sentence, but the sentence specific to his felony DANCO violation is based upon an incorrect presumptive sentence.

Appellate courts “review a district court’s decision to depart from the presumptive guidelines sentence for an abuse of discretion.” *State v. Solberg*, 882 N.W.2d 618, 623 (Minn. 2016). “If the reasons given for an upward departure are legally permissible and factually supported in the record, the departure will be affirmed. But if the district court’s reasons for departure are improper or inadequate, the departure will be reversed.” *State v. Edwards*, 774 N.W.2d 596, 601 (Minn. 2009) (quotation omitted).

The district court convicted and sentenced Olson on three counts. First, the district court convicted Olson of first-degree criminal sexual conduct in violation of Minn. Stat. § 609.342, subd. 1(c)(i), and imposed a 360-month sentence which is at the top of the presumptive sentencing range. Second, the district court convicted him of first-degree assault, great bodily harm in violation of Minn. Stat. § 609.221, subd. 1, and imposed a sentence of 206 months, a double departure from the top-of-the-range presumptive sentence of 103 months, based on aggravating factors. Finally, the district court convicted Olson of felony DANCO violation in violation of Minn. Stat. § 629.75, subd. 2(d)(1), and sentenced him to 18 months. The district court imposed permissive consecutive sentences such that the three sentences totaled 584 months.

Olson first argues that the district court abused its discretion by imposing, in the aggregate, a disproportionately long sentence. In arguing against the proportionality of his sentence, Olson does not dispute a particular part of the district court’s sentence but rather argues that the aggregate 584-month sentence is “unreasonable, inappropriate, excessive,

and unjustifiably disparate.” Olson supports his argument by analogizing his case to and distinguishing it from other cases he deems “comparable analogues.”

We are unpersuaded by Olson’s argument because the caselaw he relies on involves distinguishable facts or distinguishable law. For example, Olson relies on *State v. Bridges*, No. A12-1997, 2013 WL 6839656, at *2 (Minn. App. 2013), *rev. denied* (Minn. Mar. 18, 2014), a nonprecedential case, in which Bridges was convicted of two counts of first-degree criminal sexual conduct, first-degree burglary, and third-degree assault. The district court sentenced Bridges to consecutive prison terms of 312 and 48 months. *Bridges*, 2013 WL 6839656, at *2. Olson identifies *Bridges* as one of the most analogous cases to his because “it involved one behavioral incident and one victim.” He argues that the sentence imposed in *Bridges* is considerably shorter such that Olson’s sentence must be disproportionate. *Bridges* is distinguishable, however, because Bridges was convicted of offenses different from Olson’s. Although it is true that both Bridges and Olson were convicted of first-degree criminal sexual conduct, their remaining offenses are distinct. Bridges was also convicted of first-degree burglary and third-degree assault, *id.*, whereas Olson was also convicted of first-degree assault and a felony DANCO violation. Because Bridges and Olson were convicted of different offenses, and Olson’s convictions were eligible for permissive consecutive sentencing, we are not persuaded that *Bridges* is a helpful analogue to determine whether Olson’s sentence is disproportionate. For similar reasons, the other cases Olson relies on are not good analogues for determining whether the district court abused its discretion by imposing a disproportionate aggregate sentence.

When we consider each sentence that the district court imposed on Olson by offense, it is clear that the district court acted within its discretion with the aggregate duration imposed.

As to the first-degree criminal-sexual-conduct sentence, the court imposed a presumptive top-of-the-range sentence for this offense based on the facts. As to the first-degree assault sentence, the district court imposed a sentence that is exactly twice the presumptive top-of-the-range duration for this offense.⁴ “Departures that enhance a sentence to a term that falls between the presumptive sentence and twice the presumptive sentence invite the greatest deference.” *Dillon v. State*, 781 N.W.2d 588, 596 (2010). “Even a single aggravating factor may justify a departure.” *Id.* at 599. The court’s reason for the upward departure was supported by findings of two aggravating factors. Given that the district court sufficiently justified this upward departure, we conclude that it acted within its discretion with its sentence for first-degree assault. And because the district court acted within its discretion for both the first-degree criminal-sexual-conduct and first-degree assault convictions, it also acted within its discretion in terms of the aggregate sentence it imposed for these offenses.

Olson separately argues that the district court abused its discretion when it sentenced him to 18 rather than 12 months for the felony DANCO violation because the presumptive

⁴ The presumptive sentence for a severity-level-nine offense with a criminal-history score of zero, which is required when imposing a consecutive sentence, ranges from 74 to 103 months without the sentence being considered a departure. Minn. Sent’g Guidelines 2.F.2.b (2022) (“For each felony offense sentenced consecutively to another felony offense(s), the court must use a Criminal History Score of 0, or the mandatory minimum for the offense, whichever is longer, to determine the presumptive duration.”).

sentence, when imposed consecutively using a zero criminal-history score, is 12 months rather than the 18 months the district court imposed. The state concedes that the district court abused its discretion. We agree.

The presumptive sentence for a severity-level-four offense is 12 months. *See* Minn. Sent’g Guidelines 5.B. (2022) (describing a felony DANCO violation as a severity-level-four offense); Minn. Sent’g Guidelines 4.A. (2022) (making the presumptive sentence for a severity-level-four offense with a zero criminal-history score 12 months). It appears that the district court inadvertently imposed the presumptive sentence for a severity-level-five offense, which is 18 months. Accordingly, we remand this matter to the district court to correct the sentencing error as to this offense only.⁵

Affirmed in part, reversed in part, and remanded.

⁵ Olson also raised several issues in a *pro se* brief. We understand his arguments to be that (1) the district court erred when it refused to issue subpoenas on Olson’s behalf, (2) the district court erred when it failed to address certain motions Olson submitted to the court, and (3) certain evidence from the crime scene should have been tested. We do not address these arguments, however, because they are forfeited: “Arguments are forfeited if they are presented in a summary and conclusory form, do not cite to applicable law, and fail to analyze the law when claiming that errors of law occurred.” *State v. Bursch*, 905 N.W.2d 884, 889 (Minn. App. 2017).