

*This opinion is nonprecedential except as provided by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
A24-1843**

State of Minnesota,
Respondent,

vs.

Steven Joseph Drahos,
Appellant.

**Filed September 29, 2025
Affirmed
Bentley, Judge**

Olmsted County District Court
File Nos. 55-CR-24-1861, 55-CR-24-1862

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

Michael T. Walters, Olmsted County Attorney, James E. Haase, Senior Assistant County Attorney, Rochester, Minnesota (for respondent)

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

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

NONPRECEDENTIAL OPINION

BENTLEY, Judge

In this appeal from a judgment of conviction for controlled-substance possession, appellant Steven Joseph Drahos argues that the district court abused its discretion when it

denied his motion for a downward dispositional departure and imposed a sentence at the top of the presumptive sentencing range. We affirm.

FACTS

On March 18, 2024, a police officer in downtown Rochester encountered Drahos, who had an active warrant for his arrest. The officer arrested Drahos and conducted a search incident to arrest. During the search, the officer found a blue pill on Drahos's person, and Drahos told the officer it was fentanyl. The pill tested positive for fentanyl.

Drahos was charged with one count of fifth-degree controlled-substance possession, in violation of Minn. Stat. § 152.025, subd. 2(1) (Supp. 2023), to which he pleaded guilty. For an individual with a criminal history score of 6 or more, like Drahos, the presumptive sentence for the relevant crime is 21 months' imprisonment, with a presumptive range of 18 to 25 months. Minn. Sent'g Guidelines 4.C (2023).

At the sentencing hearing, defense counsel moved for a downward dispositional departure. Alternatively, defense counsel asked that Drahos be sentenced to "the bottom of the box," or 18 months' imprisonment. Defense counsel argued that Drahos "ha[d] demonstrated a willingness to . . . work with probation and the system" by appearing for sentencing despite knowing he would be taken into custody "regardless of how his sentencing works out" because of an active warrant in Hennepin County. And despite his "struggles with treatment," Drahos had tried to "get back into treatment" and "recognized that perhaps he does need more structure." According to defense counsel, Drahos was ready "to take responsibility for what he has done" and was "particularly amenable to probation based on his attitude." The district court also heard from Drahos, who talked about his

medical and mental health issues, his criminal history, his need for help and treatment, and his willingness “to surrender [himself] to the State, to Court, and have them do as they see fit.”

The state opposed the motion for a downward dispositional departure based on Drahos’s criminal history score, an “active probation violation out of Hennepin County,” and probation’s recommendation against the departure. The state also noted Drahos’s lack of success with treatment. “[S]ince pleading guilty,” Drahos had “been discharged unsuccessfully twice [from treatment] in a very short period of time.” The state recommended a 21-month sentence.

The district court denied Drahos’s motion for a downward dispositional departure because it “ha[d] to find substantial and compelling reasons to depart,” and Drahos had not “given the Court anything.” The district court referenced the fact that Drahos had been placed on pretrial conditional release and that a condition of his release was that he complete a treatment program. Drahos was discharged unsuccessfully from the program. The district court told Drahos, “[I]t would be one thing if you would have turned yourself in after leaving [the treatment program]. But they didn’t know where you were.” And the district court noted that Drahos’s probation officer in Hennepin County also did not know where Drahos was.

The district court sentenced Drahos to 25 months’ imprisonment so that he could “hopefully . . . break the cycle,” “stop using,” and “get [his] medical issues addressed” to be “more ready for treatment.”

Drahos appeals.

DECISION

Appellate courts review sentencing decisions for an abuse of discretion. *State v. Soto*, 855 N.W.2d 303, 307-08 (Minn. 2014). Because it is “rare” for a district court to abuse its discretion by imposing a sentence within the presumptive range, we will not modify such sentences “absent compelling circumstances.” *State v. Delk*, 781 N.W.2d 426, 428 (Minn. App. 2010) (quotations omitted), *rev. denied* (July 20, 2010).

Drahos argues that the district court abused its discretion when it (1) denied his motion for a downward dispositional departure and (2) imposed a sentence at the top of the presumptive range, despite the state’s recommendation for a sentence at the middle of the range. We address each argument in turn.

I

As to the district court’s denial of Drahos’s motion for a downward dispositional departure, he argues that the district court “fail[ed] to consider the factors that supported” his motion, such as his “positive attitude toward treatment, cooperation with the police and the court, and failing health.”

The Minnesota Sentencing Guidelines establish presumptive sentences “to create uniformity in sentencing.” *State v. Solberg*, 882 N.W.2d 618, 625 (Minn. 2016). Because a presumptive sentence is considered “appropriate for all typical cases sharing criminal history and offense severity characteristics,” Minn. Sent’g Guidelines 1.B.13 (2023), departures from the presumptive sentence “are justified only in exceptional cases.” *Solberg*, 882 N.W.2d at 625. A downward dispositional departure “occurs when the

Guidelines recommend a prison sentence[,] but the court stays the sentence.” Minn. Sent’g Guidelines 1.B.5.a(2) (2023).

For a departure to be justified, there must be “identifiable, substantial, and compelling circumstances to support” it. Minn. Sent’g Guidelines 2.D.1 (2023). “Substantial and compelling circumstances are those circumstances that make the facts of a particular case different from a typical case.” *State v. Olson*, 765 N.W.2d 662, 664 (Minn. App. 2009) (quoting *State v. Peake*, 366 N.W.2d 299, 301 (Minn. 1985)). “[A]n explanation is not required when the [district] 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 will affirm “as long as the record shows the [district] court carefully evaluated all the testimony and information presented before making a determination.” *Id.* at 80-81.

The transcript reveals that the district court considered the relevant factors in determining whether a dispositional departure is justified, including the ones offered by the state and Drahos. *See State v. Trog*, 323 N.W.2d 28, 31 (Minn. 1982) (identifying a “defendant’s age, his prior record, his remorse, his cooperation, [and] his attitude while in court” as factors that “are relevant to a determination whether a defendant is particularly suitable to individualized treatment in a probationary setting”); *see also* Minn. Sent’g Guidelines 2.D.3(a)(7) (2023) (including, among a list of mitigating factors that a district court may consider when deciding a motion for a downward dispositional departure, whether a defendant is “particularly amenable to probation” or to “a relevant program of individualized treatment in a probationary setting”). The district court acknowledged that

defense counsel had argued Drahos's case "well," and the district court "appreciated everything" Drahos said. Nevertheless, the district court determined that the reasons provided by Drahos and defense counsel were not "substantial and compelling" enough to justify a dispositional departure. Although the district court was not required to explain its reasoning when it elected to impose the presumptive sentence, *Van Ruler*, 378 N.W.2d at 80, the district court noted that Drahos had left the pretrial treatment program without turning himself in and that, at the time of sentencing, Drahos's probation officer in Hennepin County did not know where Drahos was. Because the district court questioned Drahos's accountability, it determined that it was "hard . . . to find substantial and compelling reasons" to grant the departure.

Our review of the record assures us that the sentencing court "carefully evaluated all the testimony and information presented," which is all that is required before a district court decides a motion for a dispositional departure. *Id.* at 80-81. We therefore conclude that the district court did not abuse its discretion when it determined that a downward dispositional departure was not warranted under the circumstances. *See Olson*, 765 N.W.2d at 664.

II

Next, Drahos argues that the district court abused its discretion by imposing a 25-month sentence, at the top of the presumptive range, despite probation and the state's recommendation for the presumptive 21-month sentence.

We begin by noting that "[a] sentence within the range provided in the appropriate box on the sentencing guidelines grid is not a departure from the presumptive sentence."

Delk, 781 N.W.2d at 428-49. As we have explained, a district court “rare[ly]” abuses its discretion by imposing a sentence within the presumptive range, and we will not modify a sentence within the presumptive range “absent compelling circumstances.” *Id.* (quotations omitted).

When sentencing Drahos to 25 months’ imprisonment, the district court explained it was “doing that because hopefully [he] can break the cycle,” “get [his] brain thinking a little bit clearer[,] and . . . stop using.” The court said it hoped Drahos could “get [his] medical issues addressed” and “come out with a clearer mind and more ready for treatment.” On this record, the court’s decision to impose a higher presumptive sentence was not “unreasonable, inappropriate, excessive, unjustifiably disparate, or not warranted.” *See* Minn. Stat. § 244.11, subd. 2(b).

The fact that the probation and the state recommended a shorter sentence than the one the district court imposed does not persuade us otherwise. To support his argument that the district court abused its discretion by sentencing him at the top of the presumptive range, Drahos cites *State v. Hennum*, 441 N.W.2d 793 (Minn. 1989), and *Solberg*, both of which are distinguishable for reasons discussed below.

In *Hennum*, the supreme court modified a 102-month sentence to 54 months after concluding that the district court’s denial of a downward durational departure for a defendant convicted of second-degree murder for the death of her husband was an abuse of discretion. 441 N.W.2d at 800-01. But unlike here, there was “substantial” evidence of mitigating circumstances that “tend[ed] to excuse . . . the [defendant’s] culpability.” *Id.* at 801 (quotation omitted). For example, “the victim physically abused defendant on the night

of the incident,” and “the victim had subjected defendant to severe physical and mental abuse throughout their relationship.” *Id.* And, also unlike here, the presentence investigation report recommended a downward durational departure. *Id.* There are no comparable circumstances here that distinguish Drahos’s case “from a typical case” of controlled-substance possession. *See Olson*, 765 N.W.2d at 664 (quotation omitted).

We also find Drahos’s reliance on *Solberg* unpersuasive. There, the supreme court recognized that a departure may be based on a single mitigating factor. 882 N.W.2d at 624-25. But that does not mean that a district court is compelled to grant a departure if it identifies a single mitigating factor. Here, the district court acknowledged that Drahos complied with his obligation to appear at sentencing despite the fact that he was subject to an active arrest warrant. We are not persuaded that his appearance constitutes a circumstance so compelling that it renders the district court’s imposition of the presumptive sentence an abuse of discretion.

For these reasons, we conclude the district court did not abuse its discretion when it imposed a sentence at the top of the presumptive guideline range.

Affirmed.