

*This opinion is nonprecedential except as provided by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
A25-0010**

State of Minnesota,
Respondent,

vs.

Phia Vang,
Appellant.

**Filed July 13, 2026
Affirmed
Larkin, Judge**

Washington County District Court
File No. 82-CR-22-3133

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

Kevin M. Magnuson, Washington County Attorney, Andrew T. Jackola, Assistant County Attorney, Stillwater, Minnesota (for respondent)

Daniel S. Adkins, Sean P. Kehren, North Star Law Group, St. Paul, Minnesota (for appellant)

Considered and decided by Larkin, Presiding Judge; Reyes, Judge; and Bratvold, Judge.

NONPRECEDENTIAL OPINION

LARKIN, Judge

Appellant challenges his convictions of second-degree criminal sexual conduct and the district court's imposition of an executed presumptive prison sentence. We affirm.

FACTS

In September 2022, respondent State of Minnesota charged appellant Phia Vang with one count of second-degree criminal sexual conduct with an individual under the age of 16 with whom he had a significant relationship, involving multiple acts over an extended period of time. In June 2024, the state amended the complaint and added a second count of second-degree criminal sexual conduct with a victim under 13 years old.

The complaint alleged that, between the fall of 2016 and the winter of 2017, the victim and her mother lived with Vang, while Vang and the victim's mother were in a romantic relationship. The victim reported that, during that time, Vang groped her breasts under her shirt and rubbed her private areas, used the victim's hand to rub his penis up and down, and made her bend over, after which she felt something that she thought was urine on her back. The victim reported that these incidents occurred more than five times and stopped when she moved out of Vang's house. The victim was 11 years old at that time.

According to Vang, the state offered, and Vang rejected, a plea offer for a 36-month stayed prison sentence. The offer is not a part of the record.

The case proceeded to a jury trial. The victim testified that when she was in fifth grade, she, her mother, and her brothers lived with Vang. She viewed Vang as her stepfather. The victim testified that, when she and Vang were alone in the car, Vang would touch the victim on her thighs and move his hand up toward her private parts. On one occasion, Vang tried to kiss her, and on another occasion he unzipped his pants and used her hand to touch his penis. The victim also testified regarding sexual abuse that occurred in the family's home. On one occasion, Vang tried to use the victim's hand to touch his

penis. On another occasion, Vang removed the victim's underwear and rubbed his penis against the victim's buttocks until she felt something wet on her back.

The victim's mother, S.M., testified that she began a romantic relationship with Vang in 2015, that she relocated to Minnesota that year, and that she moved in with Vang in 2016 because she was pregnant with his child. She confirmed that all of her children lived with her at that time and that she sometimes left the children in Vang's care when she was at work. S.M. testified about her relationship with Vang, as well as their custody disputes regarding their child. S.M. did not testify regarding the victim's sexual-assault allegations.

Vang testified in his own defense at trial. He denied sexual contact with the victim and the allegations against him.

The jury found Vang guilty as charged. The district court ordered a presentence investigation (PSI) and a psychosexual evaluation.

As sentencing approached, Vang filed a letter with the district court expressing his remorse for his actions and admitting his guilt, and he moved the district court for a downward dispositional departure. The state opposed the motion. The district court addressed Vang's request for a departure at sentencing and determined that no substantial and compelling circumstance justified a departure. The district court entered a judgment of conviction for each count of second-degree criminal sexual conduct and executed a 90-month prison sentence for the first count and a concurrent 60-month sentence for the second count.

In January 2025, Vang appealed. In May 2025, Vang moved this court to stay the appeal to allow him to pursue postconviction relief. We granted his motion. Vang petitioned for postconviction relief on the following grounds: (1) the state failed to disclose favorable evidence, (2) the district court failed to ensure that Vang’s rejection of the state’s plea offer was accurate, voluntary and intelligent, and (3) the district court erred by denying Vang’s request for a downward dispositional departure. The postconviction court denied Vang’s requests for relief.¹

We dissolved the stay and reinstated the appeal.

DECISION

“When a defendant initially files a direct appeal and then moves for a stay to pursue postconviction relief,” as is the case here, “we review the postconviction court’s decisions using the same standard that we apply on direct appeal.” *State v. Beecroft*, 813 N.W.2d 814, 836 (Minn. 2012).

I.

Vang contends that the postconviction court erred by determining that he was not entitled to relief based on alleged violation of *Brady v. Maryland*, 373 U.S. 83 (1963). Under *Brady*, “[t]he State violates the constitutional guarantees of due process when, whether intentionally or unintentionally, it suppresses material evidence favorable to the defendant.” *Thoresen v. State*, 965 N.W.2d 295, 304 (Minn. 2021) (quotation omitted). A *Brady* violation has three elements:

¹ However, the postconviction court vacated Vang’s sentence on the second count of criminal sexual conduct.

- (1) the evidence must be favorable to the defendant because it would have been either exculpatory or impeaching;
- (2) the evidence must have been suppressed by the prosecution, intentionally or otherwise; and
- (3) the evidence must be material—in other words, the absence of the evidence must have caused prejudice to the defendant.

Id. (quotation omitted); *see* Minn. R. Crim. P. 9.01, subd. 1(6) (stating that the prosecution must disclose any “[m]aterial or information in the prosecutor’s possession and control that tends to negate or reduce the defendant’s guilt”).

“Evidence is material under *Brady* if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different.” *Zornes v. State*, 903 N.W.2d 411, 418 (Minn. 2017) (quotations omitted). “A reasonable probability is one that is sufficient to undermine confidence in the outcome.” *Id.* (quotations omitted). Cumulative impeachment evidence is ordinarily immaterial. *See Campbell v. State*, 916 N.W.2d 502, 511 (Minn. 2018) (“If a witness has already been impeached, further impeachment would be unlikely to have an effect on the outcome of the case.”). Because the materiality analysis under *Brady* “involves a mixed issue of fact and law, we review a district court’s materiality determination de novo.” *Walen v. State*, 777 N.W.2d 213, 216 (2010).

In his petition for postconviction relief, Vang argued that the state violated *Brady* by failing to disclose relevant impeachment evidence relating to two of the state’s witnesses—the victim’s mother, S.M., and her boyfriend, J.L. Vang asserted that, before his trial, the state was investigating S.M. and J.L. for felony deprivation of custodial and parental rights to J.L.’s child. Vang also asserted that J.L. was charged in the month leading

up to his trial and that S.M. was charged two weeks after his trial. Although Vang acknowledged that J.L. did not testify at his trial, he argued that the state's failure to disclose these investigations prevented him from successfully impeaching S.M. at trial.

In denying Vang's petition, the postconviction court concluded that Vang met the first two elements of a *Brady* violation. But the court also concluded that the undisclosed impeachment evidence was not material because the evidence "was of little evidentiary value," Vang impeached S.M. on other grounds, S.M. was not a key witness, and J.L. did not testify at trial.

On appeal, Vang argues that the undisclosed information regarding the criminal investigations was material because the crimes for which the witnesses were investigated and charged were also "related to children, which [Vang] was on trial for," and without that information, Vang was unable to impeach S.M. regarding her incentive to testify against him. He also argues that the district court erred in reasoning that S.M. was adequately impeached and that S.M. was not a key witness.

Evidence regarding any agreement by the state to grant S.M. a benefit in exchange for her testimony in the underlying case would have been admissible impeachment evidence. *See Campbell*, 916 N.W.2d at 510 n.4 (noting that "a plea bargain in exchange for testimony is exculpatory evidence because it can be used to impeach a witness," and that the state has an obligation to "disclose plea bargains made with witnesses in exchange for their testimony"). But even if S.M. had received a favorable plea offer in exchange for her testimony in this case, such impeachment evidence would have been cumulative.

In the context of *Brady* materiality, if “a witness has already been impeached, further impeachment would be unlikely to have an effect on the outcome of the case.” *Campbell*, 916 N.W.2d at 511. At trial, Vang impeached S.M.’s credibility by establishing her incentive to testify against Vang. Specifically, S.M. acknowledged—on cross-examination—that her relationship with Vang was “toxic,” that Vang did not treat her well, that she had been suspicious of him and learned that he was dating other people, that she initiated custody proceedings to establish custody of their child, and that she later sought sole custody of their child. Any additional impeachment evidence in the form of a plea offer in exchange for S.M.’s testimony at Vang’s trial was not material under *Brady*. *See id.* (holding that additional impeachment evidence was not material where a witness had already been impeached).

In addition, as the postconviction court observed, *Brady* generally “applies when the prosecution fails to disclose impeaching evidence for a witness whose reliability may well be determinative of guilt or innocence.” *Ezeka v. State*, 16 N.W.3d 768, 780 (Minn. 2025) (quotation omitted). Although Vang characterizes S.M. as a “crucial witness,” he concedes that S.M.’s testimony “largely revolved around her confirming the dates that she lived at either the Maplewood or Oakdale residences and the amount of time that [Vang] spent at each residence.” S.M. also testified regarding her relationship with Vang and their custody dispute regarding their joint child. But S.M. did not testify about the sexual-misconduct allegations. At trial, only Vang, the victim, and the investigating officer testified about Vang’s criminal sexual conduct. S.M.’s testimony therefore was not necessarily determinative of Vang’s guilt or innocence. *See id.* at 778-81 (holding that

undisclosed impeachment evidence was not material under *Brady* when the witness's testimony did not relate to the contested elements of the defendant's charges).

In sum, admission of evidence regarding the pending criminal investigation and ensuing charges against S.M. and J.L. would not have changed the outcome of Vang's case, and therefore, was not material under *Brady*. Thus, the postconviction court did not err in concluding that Vang was not entitled to relief based on the alleged *Brady* violation.

II.

Vang contends that the postconviction court erred by denying his request to vacate his conviction and reinstate the state's original plea offer. Specifically, Vang argues that such relief is warranted because he is "disabled in communication" and there is no formal record of Vang's accurate, voluntary, and intelligent rejection of the plea offer. Vang asserts that his "Trial Counsel did not inform him that the plea offer consisted of a stayed sentence of thirty-six (36) months"² and that there is no record of his rejection of the plea offer. Thus, according to Vang, the district court failed to ensure that his rejection of the plea offer was intelligent.

Conceding that "[t]his is very likely . . . a case of first impression," Vang contends that the "[r]ejection of plea offers by [d]efendants arguably must meet the same standard" that is necessary when "a [d]efendant accepts a plea offer." Vang relies on Minn. Stat. § 611.31 (2024), which defines a "person disabled in communication," in relevant part, as a person who, "because of difficulty in speaking or comprehending the English language,

² Vang does not assert that he received ineffective assistance of counsel. As he indicated in his brief to this court, "he does not pursue a claim against Trial counsel."

cannot fully understand the proceedings or any charges made against the person, . . . or is incapable of . . . assisting in the presentation of a defense.” Vang argues that if a defendant “could be considered ‘disabled in communication,’” it is crucial that any plea offer is communicated to the defendant accurately and that the defendant’s rejection of the plea is voluntary and intelligent.

In summarily rejecting this argument, the postconviction court reasoned that the argument is without record and legal support. For the reasons that follow, we agree. First, the record does not reflect that Vang is disabled in communication—he never requested an interpreter in the underlying proceedings. Second, Vang cites no legal authority suggesting that a defendant’s *rejection* of a plea offer must be accurate, voluntary, and intelligent. The postconviction court noted that neither it nor the state had located any legal authority that requires the district court to make a record of the specific terms of a plea offer or a defendant’s rejection of a plea offer. We are also unaware of such authority.

Third, Vang’s assertion that the district court must ensure that the *rejection* of a plea offer is accurate, voluntary, and intelligent, is inconsistent with the purposes of those requirements when accepting a guilty plea: to ensure that the plea is valid. Specifically, those requirements ensure that the defendant is not wrongly convicted of a more serious crime, that the guilty plea is not based on improper pressure, and that the defendant understands the direct consequences of the plea. *See State v. Jones*, 7 N.W.3d 391, 396 (Minn. 2024); *State v. Trott*, 338 N.W.2d 248, 251 (Minn. 1983). Those concerns are irrelevant when a defendant rejects an plea offer and maintains a plea of not guilty.

Moreover, the district court is not allowed to participate in the plea-bargaining process. The district court’s limited role is to be an “independent examiner of the propriety of a plea submitted for judicial acceptance, and not a participant in the plea bargaining.” *See Wheeler v. State*, 909 N.W.2d 558, 565 (Minn. 2018) (quotations omitted). In fact, the district court’s participation in the plea-bargaining process is prohibited. *See Minn. R. Crim. P. 15.04*, subd. 3(1) (stating that a “district court judge must not participate in plea negotiations”). All the district court can do is accept or reject a proposed plea agreement. *Wheeler*, 909 N.W.2d at 564-65. Thus, the district court is not required “to satisfy itself of the intelligence of a defendant’s decision to exercise his right to trial instead of accepting a plea offer.” *U.S. v. Braxton*, 784 F.3d 240, 247 (4th Cir. 2015).³

Finally, “the separation of powers doctrine gives the state the authority to enter into plea agreements with a defendant.” *Johnson v. State*, 641 N.W.2d 912, 917 (Minn. 2002). But “[n]o case law suggests that a prosecutor is under a duty to reoffer a plea offer that has been rejected” *Eason v. State*, 950 N.W.2d 258, 267 (Minn. 2020). And, absent a manifest injustice, the district court cannot “improperly intrude[] into the prosecutorial function” by accepting—over the state’s objection—a guilty plea that conforms to a rejected pretrial offer. *State v. Hoffa*, 511 N.W.2d 462, 464 (Minn. App. 1994).

In sum, we discern no error in the postconviction court’s conclusion that Vang failed to establish a basis for relief stemming from his rejection of the state’s plea offer.

³ “This court is bound by Minnesota Supreme Court and United States Supreme Court precedential decisions but may consider federal caselaw as persuasive.” *Widner v. Ace Auto Parts & Salvage Co.*, 21 N.W.3d 274, 284 (Minn. App. 2025). We cite *Braxton* as persuasive authority.

III.

Vang contends that the district court erred by denying his 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 (2024). “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 (2016).

If substantial and compelling circumstances exist, the district court has broad discretion to depart, and we generally will not interfere with the exercise of that discretion. *State v. Kindem*, 313 N.W.2d 6, 7 (Minn. 1981). This court will reverse the district court’s refusal to depart from the presumptive sentence only in a “rare” case. *Id.* “[A]s long as the record shows the [district] court carefully evaluated all the testimony and information presented before making a determination,” we will not reverse the district court’s refusal to depart. *State v. Pegel*, 795 N.W.2d 251, 255 (Minn. App. 2011) (quotation omitted).

A defendant’s particular amenability to probation can justify a downward dispositional departure from a presumptive sentence. *State v. Soto*, 855 N.W.2d 303, 308 (Minn. 2014). The requirement of particular amenability ensures that “the defendant’s amenability to probation distinguishes the defendant from most others and truly presents

the substantial and compelling circumstances that are necessary to justify a departure.” *Id.* at 309 (quotation omitted).

Relevant factors for determining whether a defendant is particularly amenable to probation include the defendant’s age, prior criminal record, remorse, cooperation, attitude in court, and support of friends and family. *State v. Trog*, 323 N.W.2d 28, 31 (Minn. 1982). But even if there is evidence that the defendant would be particularly amenable to probation, a district court is not required to grant a dispositional departure. *State v. Olson*, 765 N.W.2d 662, 664-65 (Minn. App. 2009).

In seeking a dispositional departure, Vang argued that he expressed remorse for his conduct in a letter to the district court. Vang also argued that he was particularly amenable to treatment because the PSI stated that he was a good candidate for formal sex-offender treatment and he was motivated to pursue that treatment. He further argued that he had the support of his family, as well as a criminal history score of zero.

The district court disagreed and denied Vang’s request for a downward dispositional departure. The district court explained that Vang had failed to take accountability and “denied the offense until very recently, approximately two months after the original sentencing date, and over four months after a jury returned guilty verdicts.” The district court noted that, between the time Vang was charged and the jury trial commenced, Vang “took efforts to intimidate the victim from going forward with the[] allegations that were filed in the criminal complaint.” The district court also explained that it did not find Vang’s letter expressing his remorse to be credible because the letter was “incongruous with the testimony that was presented at trial.” And given the timing of the letter, the district court

found Vang's expression of remorse "primarily self-serving." The district court thus reasoned that Vang was not "exceptional or distinctive" compared to other offenders. Instead, he was "typical of similar offenders." The district court therefore concluded that there was no "substantial and compelling basis to depart from the presumptive sentence."

Although the PSI indicated that Vang was a good candidate for formal sex-offender treatment, "the mere fact that the person who prepared a report for the district court reached a certain conclusion" about a defendant's candidacy for treatment "does not necessarily justify departing from the presumptive disposition under the guidelines." *Soto*, 855 N.W.2d at 309 (quotations omitted). And although Vang had a criminal history score of zero, "a defendant's clean record does not by itself justify mitigation of sentence because that factor, in the form of defendant's criminal history score, has already been taken into account by the Sentencing Guidelines in establishing the presumptive sentence." *Trog*, 323 N.W.2d at 31. Moreover, even if the record suggested that Vang would be particularly amenable to probation, the district court was not required to grant a dispositional departure. *Olson*, 765 N.W.2d at 664-65. This simply is not a "rare" case in which we would reverse the imposition of a presumptive sentence. *Kindem*, 313 N.W.2d at 7.

In sum, the district court did not abuse its discretion by denying Vang's request for a downward dispositional departure.

Affirmed.