

*This opinion is nonprecedential except as provided by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
A25-0403**

State of Minnesota,
Respondent,

vs.

Lester Ray Wiley,
Appellant.

**Filed February 23, 2026
Affirmed
Harris, Judge**

Hennepin County District Court
File No. 27-CR-24-3111

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

Mary F. Moriarty, Hennepin County Attorney, Nicole Cornale, Assistant County Attorney,
Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Eva F. Wailes, Assistant Public
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Harris, Presiding Judge; Smith, Tracy M., Judge; and
Florey, Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to
Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

HARRIS, Judge

In this appeal from the judgment of conviction for second-degree burglary, appellant challenges the district court's decision to impose a 120-month prison sentence, an upward durational departure up to the statutory maximum, based on appellant's admission that he was a "career offender" under Minnesota Statutes section 609.1095, subdivision 4 (2022). Because the district court did not abuse its discretion when it relied on the career-offender statute to depart from the presumptive sentence, we affirm.

FACTS

In January 2024, Hopkins police officers were notified of a burglary in progress at a Hopkins tobacco shop. Surveillance footage revealed a male suspect using a crowbar to force entry through the front door. The suspect then forced his way into the display cases and stole approximately \$15,000 worth of merchandise. A license plate reader located near the business captured footage of a vehicle appearing to case the business before the burglary and leaving shortly after the burglary. Officers obtained a tracking warrant and learned the vehicle was registered to appellant Lester Ray Wiley. Surveillance footage of Wiley's apartment building also showed Wiley returning home shortly after the burglary, wearing clothing consistent with the suspect from the store's surveillance footage. Officers arrested Wiley.

Wiley admitted to his involvement in the January 2024 burglary, as well as his involvement in two other unrelated burglaries in Ramsey County.¹ Wiley told investigators that he kept the stolen merchandise in a storage unit and in his apartment. Wiley described his storage unit as a “treasure trove” of stolen items. Officers conducted a search of Wiley’s storage unit and recovered two large bags of stolen merchandise from the tobacco shop, several cash tills, power tools, jewelry, wallets, and other stolen items from different burglaries. Officers also conducted a search of Wiley’s apartment and recovered items associated with the two Ramsey County burglaries. Respondent State of Minnesota charged Wiley with second-degree burglary while possessing a tool to gain access to money or property when entering the building, in violation of Minnesota Statutes section 609.582, subdivision 2(a)(4) (2022).

At his plea hearing, Wiley entered a straight plea to second-degree burglary and waived his constitutional right to a *Blakely* trial.² Wiley also agreed that his past burglary convictions were similar in nature and demonstrated a pattern of criminal activity. The district court accepted Wiley’s plea. The district court also ordered a pre-sentence investigation (PSI), which recommended a presumptive commitment to prison of 30 months.

¹ In Ramsey County, Wiley was charged with second-degree burglary and third-degree burglary. These cases are currently pending.

² Under *Blakely v. Washington*, 542 U.S. 296, 303 (2004), a criminal defendant has the right to a jury trial on aggravating facts in support of an upward sentencing departure. *See also State v. Shattuck*, 689 N.W.2d 785, 786 (Minn. 2004) (applying *Blakely* in Minnesota).

The state sought an upward departure from the presumptive sentence to the statutory maximum of 120 months, based on Wiley's status as a career offender under Minnesota Statutes section 609.1095, subdivision 4. Wiley filed a motion requesting a downward dispositional departure based on the improvement of his mental health. Wiley also filed a dispositional advisor memorandum, which described his background, family history, mental-health history, employment, remorse, and his attitude moving forward.

At his sentencing hearing, Wiley's counsel argued in support of the dispositional departure, stating that he was particularly amenable to probation given the changes Wiley had made in his life over the past year. Wiley's counsel noted that Wiley had been seeking treatment for his major depressive disorder and atypical schizophrenia, had maintained a year of sobriety, and had begun rebuilding relationships with his family. Wiley also expressed remorse and accountability for his actions. In response, the state argued that Wiley's prior burglary convictions did not demonstrate a particular amenability to probation.

After hearing testimony, the district court imposed a 120-month executed sentence, stating:

I believe that Mr. Wiley has certainly met the standard in terms of an upward departure pursuant to his admission as a career offender. I think this is not the first time. I would have to look back in my notes, but I believe this is the fourth or fifth time that there's been an admission of him being a career offender.

He is on -- had an ongoing offense of a pattern of criminal activity, and he really -- these prior sentences have not rehabilitated him in a way in which the Court can find comfort that we would be able to have Mr. Wiley exist within the general community and not violate the laws.

His prior incarcerations didn't change him so as to allow him to engage and connect and work within society without committing other crimes. He's admitted to being a career offender. He's demonstrated a failure of rehabilitation. The Court finds no mitigating factors to justify dispositional departure in this case.

I think it's commendable of the work that he's been doing in 2024. But I don't believe, based upon the information before the Court, that it rises to the level of proving Mr. Wiley to be particularly amenable to probation, as the Court best understands the law.

So at this juncture, I will find and sentence Mr. Wiley to 120 months in the Department of Corrections with credit for 18 days. This is a durational departure, aggravated, based upon that career offender status.

Wiley appeals.

DECISION

The district court did not abuse its discretion by imposing a statutory-maximum 120-month prison sentence based on the career-offender statute, Minnesota Statutes section 609.1095, subdivision 4.

We review a district court's decision to depart from the presumptive sentencing guidelines for an abuse of discretion. *State v. Soto*, 855 N.W.2d 303, 307-08 (Minn. 2014). "If the reasons given for an upward departure are legally permissible and factually supported in the record, the departure will be affirmed." *State v. Edwards*, 774 N.W.2d 596, 601 (Minn. 2009). Conversely, "if the district court's reasons for departure are improper or inadequate, the departure will be reversed." *Id.* (quotation omitted).

The Minnesota Sentencing Guidelines "prescrib[e] a sentence or range of sentences that is presumed to be appropriate." *Soto*, 855 N.W.2d at 308 (quotation omitted). "Because the [sentencing] guidelines' goal is to create uniformity in sentencing, departures are justified only in exceptional cases." *State v. Solberg*, 882 N.W.2d 618, 625 (Minn.

2016). The sentencing guidelines require the district court to impose the presumptive sentence “unless there exist 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. Olson*, 765 N.W.2d 662, 664 (Minn. App. 2009).

“Minnesota Statutes section 609.1095, subdivision 4, states that a court ‘may impose an aggravated durational departure from the presumptive sentence up to the statutory maximum’ when the defendant qualifies as a [career] offender.” *Vickla v. State*, 793 N.W.2d 265, 269 (Minn. 2011). “To qualify as a [career] offender, the defendant must have five or more prior felony convictions and the present offense must be a felony that was committed as part of a pattern of criminal conduct.” *Id.* “The statute does not limit the court’s discretion and does not require any additional findings before sentencing a defendant to the statutory maximum.” *Id.* “[T]he Sentencing Guidelines provide that a defendant’s status as a ‘career offender’ under section 609.1095, subdivision 4, is a sufficient reason to depart from the presumptive sentence.” *Id.* “But a court departing under the [career] offender statute must provide written reasons that specify that the requirements of the statute have been met.” *Id.* (quotation omitted).

Before imposing an upward durational departure, the district court reviewed the dispositional advisor’s report, the PSI report, and the treatment court’s triage investigative report. In explaining its decision, the district court emphasized Wiley’s extensive criminal history, describing it as “vast” and noting that he had engaged in similar conduct for more than 40 years. The district court further noted that, in light of the scope and persistence of

that history, Wiley's conduct was "significantly more serious." The district court also relied on Wiley's prior admissions that he is a career offender, observing that "this is the fourth or fifth time that there's been an admission of [Wiley] being a career offender." Based on this, the district court imposed an aggravated sentence under the career-offender statute, reasoning that "[Wiley's] prior incarcerations didn't change him so as to allow him to engage and connect and work within society without committing other crimes. He's admitted to being a career offender. He's demonstrated a failure of rehabilitation."

The record supports the district court's findings. Wiley has 11 prior felony convictions dating back to 1983. Eight of those convictions involved burglary-related offenses. The treatment court's triage report described Wiley as a sophisticated and prolific offender, emphasizing that his criminal conduct extended over more than 40 years. During his plea hearing, Wiley agreed that he had previously admitted to being a career offender on at least two occasions. He also agreed that his prior convictions demonstrated a pattern of criminal activity, and that his past burglary convictions were similar in nature.

Wiley first argues that the sentence imposed by the district court is excessive because the underlying conviction is "not based on any aggravated offense conduct." Wiley contends that the district court abused its discretion by imposing "a quadruple aggravated durational departure" based on Wiley's criminal history. We are not persuaded.

Under section 609.1095, subdivision 4, the district court may impose a sentence up to the statutory maximum without a finding of severe aggravating circumstances if the defendant qualifies as a career offender. *See Vickla*, 793 N.W.2d at 269 ("The [career-offender] statute does not limit the court's discretion and does not require any additional

findings before sentencing a defendant to the statutory maximum.”). Even if section 609.1095, subdivision 4, did require a finding of aggravating circumstances, Wiley’s status as a career offender *is* an aggravating factor that the district court considered. *See* Minn. Sent’g Guidelines 2.D.3.b.9 (stating that an offender being sentenced as a “career offender” is an aggravating factor that may be used for departure). Wiley’s status as a career offender gave the district court sufficient reason to depart from the presumptive sentence. Accordingly, because the district court’s reason for an upward departure was permissible and supported by the record, we discern no abuse of discretion.

Next, Wiley contends that even if an upward departure is warranted based on his status as a career offender, a sentence of four times the presumptive sentence was excessive and unreasonable, in part, because the district court made no findings of severe aggravating circumstances in the underlying second-degree burglary offense.

Wiley points to the supreme court’s decision in *Neal v. State*, 658 N.W.2d 536, 547 (Minn. 2003), to support the contention that a quadruple durational departure from the presumptive sentence, based on his status as a career offender, is excessive and unreasonable.

In *Neal*, the appellant received a 480-month sentence for kidnapping—a departure more than four times the presumptive sentence. *Id.* at 540. The district court imposed the upward durational departure under the dangerous-offender statute, Minnesota Statutes section 609.1095, subdivision 2 (2002), which permits such a departure when an offender has two or more prior convictions for violent crimes and the district court determines that the offender is a danger to public safety. *Id.* at 541. After comparing Neal’s sentence to

departures imposed in other kidnapping cases, the supreme court concluded that the sentence was disproportionate to the gravity of the offense and was therefore unreasonable and excessive. *Id.* at 547.

Wiley argues that, as in *Neal*, a sentence approximately four times the presumptive sentence is disproportionate to his burglary conviction. We may consider sentences imposed in comparable departure cases to determine whether a sentence is “unjustifiably disparate.” *Vickla*, 793 N.W.2d at 270. “But for a sentence to be comparable, the sentencing departure must be based upon the same or similar reasons.” *Id.*

Wiley’s reliance on *Neal* is misplaced. Unlike *Neal*, Wiley’s upward durational departure was imposed under the career-offender statute, not the dangerous-offender statute. See Minn. Stat. § 609.1095, subds. 2, 4. Because the departures are based on different statutory grounds, *Neal* does not provide a meaningful comparison. Furthermore, even if we were to compare Wiley’s sentence to other departure cases, sentences imposed under the career-offender statute similar to Wiley’s have been upheld as reasonable. See *Vickla*, 793 N.W.2d at 272 (affirming statutory-maximum 240-month sentence for forgery under the career-offender statute); *State v. Holt*, No. A23-1063, 2024 WL 2813903, at *2 (Minn. App. June 3, 2024) (holding that district court did not abuse its discretion by imposing aggravated durational departure for felony domestic assault under the career-offender statute); *State v. Clemons*, No. A16-1083, 2017 WL 1833246, at *3 (Minn. App. May 8, 2017), *rev. denied* (Minn. July 18, 2017) (affirming departure under career-offender statute); *State v. Clarke*, No. A13-0801, 2014 WL 1875779, at *3-4 (Minn. App. May 12,

2014) (concluding that 258-month sentence imposed under career-offender statute was within district court's discretion).³

In sum, the district court did not abuse its discretion by imposing a statutory-maximum 120-month prison sentence based on the career-offender statute.

Affirmed.

³ We cite these nonprecedential opinions as persuasive authority. Minn. R. Civ. App. P. 136.01, subd. 1(c).