

*This opinion is nonprecedential except as provided by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
A25-0620**

Chris Marquis McMorris, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed December 1, 2025
Affirmed
Cochran, Judge**

Hennepin County District Court
File No. 27-CR-16-21960

Beau D. McGraw, McGraw Law Firm, P.A., Lake Elmo, Minnesota (for appellant)

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

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Considered and decided by Ede, Presiding Judge; Smith, Tracy M., Judge; and
Cochran, Judge.

NONPRECEDENTIAL OPINION

COCHRAN, Judge

Appellant challenges the summary denial of his petition for postconviction relief. He argues that the postconviction court abused its discretion by rejecting his argument that

the district court improperly imposed an upward durational departure at sentencing. Because we discern no abuse of discretion by the postconviction court, we affirm.

FACTS

On the morning of March 24, 2016, appellant Chris Marquis McMorris called 911 to report that his girlfriend's seven-month-old daughter (the child) was not breathing. While on the phone with emergency response dispatchers, McMorris attempted to give cardiopulmonary resuscitation (CPR) to the child as directed by the dispatcher until first responders arrived. Paramedics then transported the child to a local hospital, where she was pronounced dead. The paramedics who transported the child noticed "irregular bruising patterns" on the child's face and body. An autopsy revealed rib fractures and a lacerated liver. The pathologist determined the cause of death to be a homicide.

Respondent State of Minnesota charged McMorris with three counts of second-degree unintentional murder for the child's death, with each count referencing a different underlying felony. Count I referenced neglect or endangerment of a child resulting in substantial bodily harm, count II referenced third-degree assault of a victim under age four, and count III referenced third-degree assault resulting in substantial bodily harm. *See* Minn. Stat. § 609.19, subd. 2(1) (2016); *see also* Minn. Stat. § 609.223, subds. 1, 3 (2016); Minn. Stat. § 609.378, subd. 1(a)(1) (2016). The state also provided notice that it intended to seek an upward durational departure based on aggravating factors.

The matter proceeded to trial. A jury found McMorris guilty of all three counts. A *Blakely*¹ proceeding was then held and the jury returned a special verdict form for each count, making factual findings on the aggravating factors proposed by the state. On the special verdict form for count III, the jury found that the state proved beyond a reasonable doubt that: (1) the child was seven months old at the time she was injured, (2) McMorris was aware that the child was seven months old at the time she was injured, (3) the child was unable to defend herself from any assault as a result of her age, (4) McMorris was aware that the child was unable to defend herself, (5) the child was unable to call for help at the time she was assaulted, (6) McMorris was aware that the child was unable to call for help at the time she was assaulted, (7) the child was unable to flee from the assault, (8) McMorris was aware that the child was unable to flee from the assault, (9) McMorris was a caregiver at the time he assaulted the child, and (10) McMorris failed to call 911 immediately after assaulting the child.

The district court convicted McMorris of count III—second-degree murder while committing felony assault in the third degree—and sentenced him on that count. The presumptive sentence for that offense given McMorris’s criminal-history score was imprisonment within a range of 128 to 180 months. The district court imposed an upward durational departure of 360 months imprisonment. The district court relied on the jury’s

¹ *Blakely v. Washington*, 542 U.S. 296, 296 (2004) (holding that every fact that supports an enhanced sentence must be found by a jury or admitted by the defendant).

Blakely findings to support the upward departure. At the sentencing hearing, the district court noted that the jury

found through a special verdict form questionnaire that [McMorris was] a caretaker for [the child] and knew that [the child] was merely seven months old. That she could [not] call or get help for herself nor defend herself against a physical assault nor get away from an assault. And that [McMorris] failed to call 911 in a timely manner. All of those things are aggravating factors in this case and they clearly establish . . . particular cruelty.

The district court further explained:

[T]he reasons for the departure [are] as follows: Based upon the facts found by [the] jury, I find that [the child] was particularly vulnerable at the time of her injuries. That [McMorris] treated [the child] with particular cruelty and that [McMorris] demonstrated indifference to [the child]’s injuries by failing to immediately call 911 after she was injured. Collectively, I find that these grounds warrant a durational departure equal to double of the top of the sentencing box.

The district court’s sentencing order also states that it imposed an upward durational departure because “[t]he victim was particularly vulnerable, the victim was treated with particular cruelty, and [because of McMorris’s] indifference to the victim’s medical needs by delaying to call 911 after [he] injured the victim.”

McMorris filed a direct appeal, raising four claims. McMorris did not challenge his sentence in his direct appeal. This court affirmed the conviction in a nonprecedential opinion. *State v. McMorris*, No. A18-0684, 2019 WL 1983489, at *1 (Minn. App. May 6, 2019).

In 2021, McMorris filed his first postconviction petition, arguing that he was entitled to a new trial due to ineffective assistance of trial and appellate counsel.

McMorris’s petition did not raise a challenge to his sentence. The postconviction court summarily denied the petition and this court affirmed. *McMorris v. State*, No. A21-1664, 2022 WL 17248937, at *3-4 (Minn. App. Nov. 28, 2022), *rev. denied* (Minn. Feb. 22, 2023).

In 2024, McMorris filed his second petition for postconviction relief, which is the focus of this appeal. The petition challenged the district court’s decision to impose an upward durational departure and requested that “his case . . . be resentenced based on the presumptive sentence.” Specifically, the petition alleged that the district court’s imposition of an upward durational departure was improper because: (1) McMorris’s “conduct was not significantly more serious than that typically involved in the commission of the offense in question,” (2) McMorris’s “receipt of an upward durational departure based on ‘particular cruelty’ was not supported by the evidence,” and (3) “the jury failed to find that [McMorris] abused his position of trust or authority as a caretaker.” His petition, entitled “Petition for Postconviction Relief,” sought relief pursuant to Minnesota Statutes section 590.01 (2024) (authorizing the filing of a postconviction petition) and also requested resentencing pursuant to rule 27.03, subd. 9 (2024) of the Minnesota Rules of Criminal Procedure.

The postconviction court summarily dismissed the petition, which it construed as a petition for postconviction relief rather than a motion to correct a sentence. The postconviction court concluded that the petition was time-barred under section 590.01 and

procedurally barred under *Knaffla*.² Nevertheless, the postconviction court addressed the merits of McMorris’s petition as well. The postconviction court concluded that the district court “did not err” in imposing an upward durational departure because the departure was supported by the jury’s findings relating to the child’s particular vulnerability and the fact that McMorris’s conduct was significantly more serious than the typical offense. Consequently, the postconviction court concluded that McMorris was not entitled to be resentenced to the presumptive sentence and denied the petition.

This appeal follows.

DECISION

A person convicted of a crime may seek postconviction relief by filing a petition alleging that the conviction “violated the person’s rights under the Constitution or laws of the United States or of the state.” Minn. Stat. § 590.01, subd. 1(1). “[T]he burden is on a petitioner to show facts entitling the petitioner to relief.” *Allwine v. State*, 994 N.W.2d 528, 541 (Minn. 2023). The postconviction court may dismiss the petition when the petitioner alleges facts that, if true, are legally insufficient to grant the requested relief. *Id.* at 535; *see also* Minn. Stat. § 590.04, subd. 1 (2024). Otherwise, a hearing is required. Minn. Stat. § 590.04, subd. 1. “We review a denial of a petition for postconviction relief for an abuse of discretion.” *Gulbertson v. State*, 843 N.W.2d 240, 244 (Minn. 2014). “A postconviction court abuses its discretion when its decision is based

² *State v. Knaffla*, 243 N.W.2d 737, 741 (Minn. 1976) (holding “that where direct appeal has once been taken, all matters raised therein, and all claims known but not raised, will not be considered upon a subsequent petition for postconviction relief”).

on an erroneous view of the law or is against logic and the facts in the record.” *Riley v. State*, 819 N.W.2d 162, 167 (Minn. 2012) (quotation omitted).

McMorris challenges each of the postconviction court’s independent reasons for denying his petition. First, he argues that the postconviction court abused its discretion by concluding that his petition fails on the merits. Next, McMorris argues that the postconviction court abused its discretion by concluding that the petition is *Knaffla*-barred. Finally, he argues that the postconviction court abused its discretion by determining that the petition is also time-barred.

We conclude that the postconviction court correctly determined that McMorris’s petition fails on the merits. This conclusion alone is sufficient to affirm the decision of the postconviction court. *See Allwine*, 994 N.W.2d at 535. We therefore limit our analysis to the postconviction court’s decision on the merits and do not reach McMorris’s additional arguments regarding whether the postconviction court also properly denied his petition as *Knaffla*-barred and time-barred.

Minnesota Sentencing Guidelines

Because McMorris challenges the district court’s decision to depart from the sentencing guidelines, we begin with a brief discussion of the Minnesota Sentencing Guidelines before turning to McMorris’s arguments on the merits. The Minnesota Sentencing Guidelines exist to “maintain uniformity, proportionality, rationality, and predictability in sentencing.” Minn. Stat. § 244.09, subd. 5 (2016). The guidelines establish presumptive sentences for felony offenses. Minn. Sent’g Guidelines 2.C (2016). The presumptive sentence is “presumed to be appropriate for all typical cases sharing

criminal history and offense severity characteristics.” Minn. Sent’g Guidelines 1.B.13 (2016); *see also State v. Jones*, 745 N.W.2d 845, 848 (Minn. 2008). A district court may depart from the presumptive sentencing range only when there are “identifiable, substantial, and compelling circumstances to support a departure.” Minn. Sent’g Guidelines 2.D.1 (2016).

When a district court imposes an upward sentencing departure, the court must identify “the particular substantial and compelling circumstances that make the departure more appropriate than the presumptive sentence.” Minn. Sent’g Guidelines 2.D.1.c (2016). “Substantial and compelling circumstances are those showing that the defendant’s conduct was significantly more or less serious than that typically involved in the commission of the offense in question.” *State v. Edwards*, 774 N.W.2d 596, 601 (Minn. 2009) (quotation omitted). The sentencing guidelines include a nonexclusive list of aggravating factors that district courts may use to support an upward durational departure. *See* Minn. Sent’g Guidelines 2.D.3 (2016). Those aggravating factors include, in relevant part: (1) “[t]he victim was particularly vulnerable due to age, infirmity, or reduced physical or mental capacity, and the offender knew or should have known of this vulnerability” and (2) “[t]he victim was treated with particular cruelty for which the individual offender should be held responsible.” Minn. Sent’g Guidelines 2.D.3.b(1)-(2). “If the reasons given for an upward departure are legally permissible and factually supported in the record, the departure will be affirmed.” *Edwards*, 774 N.W.2d at 601. Conversely, “if the district court’s reasons for departure are improper or inadequate, the departure will be reversed.” *Id.* (quotation omitted). And, “[w]hen a reviewing court concludes that a district court based a departure

on both valid and invalid factors, a remand is required unless it determines the district court would have imposed the same sentence absent reliance on the invalid factors.” *State v. Vance*, 765 N.W.2d 390, 395 (Minn. 2009) (quoting *Koon v. United States*, 518 U.S. 81, 113 (1996)).

McMorris’s Arguments

McMorris argues that the postconviction court abused its discretion when it concluded that the district court did not err by imposing an upward durational departure. To support his argument, he reiterates the specific arguments that he made to the postconviction court and further argues that the postconviction court abused its discretion by rejecting these arguments. We address each argument in turn and discern no abuse of discretion.

i. Victim’s Particular Vulnerability

McMorris first challenges the postconviction court’s determination that the district court properly relied on the victim’s particular vulnerability to support the departure. He argues that the postconviction court failed to give sufficient consideration to McMorris’s argument based on this court’s nonprecedential decision in *State v. Baldwin*, No. A22-1838, 2023 WL 5198738, at *1 (Minn. App. Aug. 14, 2023) (*Baldwin II*).³ McMorris argues that *Baldwin II* supports reversal of his sentence because this case is factually

³ We refer to this case as *Baldwin II* because it involves the second appeal of the appellant’s sentence, after a remand for resentencing in *State v. Baldwin*, No. A19-1677 (*Baldwin I*). *Baldwin II*, 2023 WL 5198738, at *1; see also *Baldwin I*, No. A19-1677, 2022 WL 1132049, at *1 (Minn. App. Apr. 18, 2022), *rev. denied* (Minn. July 19, 2022).

similar to *Baldwin II* and this court reversed a similar upward durational departure at issue in *Baldwin II*.

We are not persuaded for two reasons. First, *Baldwin II* is nonprecedential and therefore the postconviction court was not bound by the decision in that case in analyzing McMorris's request for resentencing. See Minn. R. Civ. App. P. 136.01, subd. 1(c) ("Nonprecedential opinions and order opinions are not binding authority except as law of the case, res judicata or collateral estoppel . . .").

Second, while *Baldwin II* may be factually similar to this case in that both cases involve the tragic death of an infant, there is an important factual distinction between the two cases: the upward sentencing departure at issue in *Baldwin II* was not based on the victim's vulnerability. In *Baldwin II*, the upward departure was "based on the jury's *Blakely* findings that appellant (1) was [the victim's] caregiver and (2) failed to call 911 immediately after assaulting [the victim]." *Baldwin II*, 2023 WL 5198738, at *2. Consequently, as the postconviction court correctly recognized in its order, *Baldwin II* is not relevant to the question of whether the district court in this case properly relied on the victim's particular vulnerability to support an upward durational sentencing departure.

Baldwin II is also factually distinguishable from this case because Baldwin was sentenced for a different crime than McMorris. Baldwin was sentenced for her conviction of second-degree murder while committing third-degree assault *of a victim under the age of four*. *Id.* at *2. And Baldwin's offense took into account the victim's particular vulnerability by including the victim's young age as an element of the offense. *Id.* at *1-2 (citing Minn. Stat. §§ 609.19, subd. 2(1), .223, subd. 3 (2016)); *Baldwin I*, 2022 WL

1132049, at *9-10. Here, on the other hand, McMorris was sentenced for second-degree murder while committing third-degree assault *involving substantial bodily harm*, a crime that does not consider the victim's age or vulnerability. See Minn. Stat. §§ 609.19, subd. 2(1), .223, subd. 1.

This distinction is important because, when young age is already an element of the offense, consideration of a victim's vulnerability due to age generally is not a permissible reason for a sentencing departure. *Rairdon v. State*, 557 N.W.2d 318, 327 (Minn. 1996). Therefore, in *Baldwin I*, this court concluded that the district court abused its discretion by imposing an upward durational departure based on the victim's particular vulnerability when sentencing Baldwin for her conviction of second-degree murder while committing third-degree assault of a victim under the age of four. *Baldwin I*, 2022 WL 1132049, at *9. Conversely, where the victim's young age is not an element of the offense, this court has affirmed an upward durational departure based in part on a victim's particular vulnerability. *State v. Turrubiates*, 830 N.W.2d 173, 178-80 (Minn. App. 2013) (affirming upward durational sentencing departure for conviction of second-degree unintentional felony murder based on the victim's particular vulnerability where 19-month-old victim suffered a skull fracture and multiple hemorrhages), *rev. denied* (Minn. July 16, 2013). Consequently, we agree with the postconviction court that the district court did not abuse its discretion by considering the victim's particular vulnerability in deciding whether to impose an upward durational departure in this case, and *Baldwin II* does not support McMorris's request for resentencing.

We further agree with the postconviction court that the district court’s finding of particular vulnerability is “firmly supported by the jury’s factual findings.” As the postconviction court noted, the jury made extensive findings of the child’s vulnerability “based on both her age and her reliance on McMorris as the sole caregiver at the time of her death.” In the special verdict form, the jury found that: (1) the child was seven months old at the time she was injured, (2) McMorris was aware that the child was seven months old at the time she was injured, (3) the child was unable to defend herself from any assault as a result of her age, (4) McMorris was aware that the child was unable to defend herself, (5) the child was unable to call for help at the time she was assaulted, (6) McMorris was aware that the child was unable to call for help at the time she was assaulted, (7) the child was unable to flee from the assault, (8) McMorris was aware that the child was unable to flee from the assault, (9) McMorris was a caregiver at the time he assaulted the child, and (10) McMorris failed to call 911 immediately after assaulting the child. The sentencing transcript confirms that the district court directly relied “upon the facts found by [the] jury” in determining the child “was particularly vulnerable at the time of her injuries.”

For these reasons, we conclude that the postconviction court did not abuse its discretion by rejecting McMorris’s argument based on *Baldwin II* or by determining that the district court properly relied on the victim’s particular vulnerability as an aggravating factor when imposing the upward durational departure.

ii. Particular Cruelty

McMorris also challenges the district court’s reliance on particular cruelty as an additional aggravating factor to support the upward durational departure. At sentencing,

the district court found that McMorris treated the child with particular cruelty, relying on the jury's *Blakely* findings.

McMorris focuses his argument solely on the finding that he delayed in calling 911. He appears to argue that the district court, not the jury, found that McMorris failed to call 911 immediately and that the district court impermissibly relied upon that finding in sentencing McMorris. We are unpersuaded by either argument.

According to McMorris, “*the district court* concluded at sentencing that there was a delay in []McMorris calling 911.” (Emphasis added.) To the extent that this statement suggests that the district court and not the jury found that McMorris delayed in calling 911, we disagree. As the postconviction court’s order points out, and as the trial transcript confirms, the jury—not the district court—found that McMorris delayed in calling 911 at the *Blakely* hearing. The special verdict form is unambiguous: the jury checked the box finding that the state proved beyond a reasonable doubt that McMorris “failed to call 911 immediately after assaulting [the child].” McMorris’s suggestion otherwise does not provide a basis for reversal.

Next, McMorris argues that there was not sufficient evidence for the district court to find that McMorris acted with particular cruelty. “Particular cruelty involves the gratuitous infliction of pain and cruelty of a kind not usually associated with the commission of the offense in question.” *Tucker v. State*, 799 N.W.2d 583, 586 (Minn. 2011) (quotation omitted). Additionally, the supreme court has instructed that:

a district court may use particular cruelty as a basis for departure only when the cruelty associated with the crime for which the defendant was convicted is “of a kind not usually

associated with the commission of the offense in question.” Short of a finding of this nature, a district court abuses its discretion in imposing an upward departure based on particular cruelty.

Id. at 587.

McMorris appears to suggest that the district court relied solely on the delay in calling 911 as the basis for its determination that McMorris’s conduct was particularly cruel, and that fact alone is insufficient to support a finding of particular cruelty. The record does not support this argument. Instead, the sentencing transcript reflects that the district court found McMorris’s conduct was particularly cruel based on the totality of the jury’s *Blakely* findings that McMorris was a caretaker for the child, he knew the child was only seven months old, he knew that she could not call or get help for herself, he knew that she could not defend herself against or escape from a physical assault, and he failed to call 911 in a timely manner after he assaulted her. These findings by the jury are more than sufficient to support the district court’s determination that McMorris’s conduct was particularly cruel.

Therefore, we conclude that the postconviction court did not abuse its discretion in finding that McMorris’s particular cruelty justified an upward durational departure.

iii. *Conduct More Serious Than that Involved in the Typical Offense*

McMorris also argues that the postconviction court abused its discretion by rejecting his argument that he is entitled to have his sentence reversed because the district court did not expressly find that his “conduct was significantly more serious than” the typical offense. Similarly, he contends that “the basis for an upward departure was not adequately articulated by the district court in the trial proceedings” because the sentencing transcript purportedly fails to “show how [McMorris’s] alleged actions deviated from other cases involving second-degree unintentional murder.” We disagree.

As the Minnesota Sentencing Guidelines reflect, and as our caselaw confirms, a finding of permissible aggravating factors necessarily supports the conclusion that the offense in question is more serious than the typical offense. Minn. Sent’g Guidelines 1.A (2016) (outlining the purpose and principles of the sentencing guidelines), 2.D (2016) (allowing for upward departures based on the existence of one or more specified aggravating factors, which by definition demonstrate substantial and compelling circumstances to depart); *Edwards*, 774 N.W.2d at 601. Here, the district court found two aggravating factors to support the upward durational departure—(1) the particular vulnerability of the victim and (2) the treatment of the victim with particular cruelty. Those factors are enumerated in the sentencing guidelines as aggravating factors that a district court may rely on to support an upward departure. Minn. Sent’g Guidelines 2.D.3.b(1)-(2). As such, they constitute substantial and compelling reasons to support a departure. Minn. Sent’g Guidelines 2.D.1. And “[s]ubstantial and compelling circumstances are those showing that the *defendant’s conduct was significantly more or less serious than that*

typically involved in the commission of the offense in question.” *Edwards*, 774 N.W.2d at 601 (emphasis added) (quotation omitted). Consequently, by relying on the aggravating factors of the child’s particular vulnerability and McMorris’s particular cruelty to support the departure, the district court necessarily determined that McMorris’s offense was more serious than the typical offense.

Moreover, contrary to McMorris’s suggestion, there is no legal requirement that a district court make an express finding that the defendant’s conduct is “significantly more serious” than the typical offense to impose an upward departure. Instead, the Minnesota Sentencing Guidelines require the district court to “disclose” the “particular substantial and compelling circumstances that make the departure more appropriate than the presumptive sentence.” Minn. Sent’g Guidelines 2.D.1.c. As discussed above, the district court complied with this requirement when it identified the particular vulnerability of the victim, particular cruelty by McMorris, and the delay by McMorris in calling 911. And, even though the district court did not expressly find that this offense was more serious than the typical offense, the record supports the conclusion that it was. As the postconviction court noted, the evidence at trial established that “McMorris beat” the seven-month-old child “to death” while acting as her caregiver, and also established that the child’s injuries included eleven rib fractures, multiple bruises, and a laceration to her liver that caused her to bleed to death internally. Accordingly, we discern no basis to conclude that the postconviction court abused its discretion in its analysis of McMorris’s argument regarding the seriousness of his offense.

iv. *Absence of a Finding That McMorris Abused His Position*

Lastly, McMorris asserts that the postconviction court abused its discretion by not determining the upward durational departure was improper because the “jury did not find that []McMorris *abused his position of trust or authority* as a caregiver” but rather the jury found only that he was a caregiver at the time he assaulted the child. We are not persuaded.

McMorris points to Question 9 in the special verdict form, which asks: “Did the [s]tate prove beyond a reasonable doubt that [McMorris] was a caregiver at the time he assaulted [the child]?” McMorris is correct in noting that “the jury was not asked and did not find that [he] abused his position of trust or authority as a caregiver.” But, contrary to McMorris’s suggestion, the district court did not rely on McMorris’s abuse of his position as a caregiver as a basis to support the upward durational departure. The sentencing departure form does not list “abuse of his position” as a caretaker as a basis for the departure. Nor did the district court state at the sentencing hearing that it imposed a departure based on McMorris’s abuse of his position as a caretaker. The district court only makes a passing reference to McMorris’s position as a caretaker in reviewing the jury’s findings. McMorris’s focus on the lack of a finding of an abuse of his position as a caretaker therefore is unavailing.

Conclusion

In sum, the postconviction court did not abuse its discretion when it found the aggravating factors identified by the district court at sentencing were sufficient to support the upward durational sentencing departure for McMorris’s conviction of unintentional

second-degree murder. Accordingly, we affirm the postconviction court's denial of McMorris's second postconviction petition on the merits.

Affirmed.