

*This opinion is nonprecedential except as provided by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
A25-0997**

State of Minnesota,
Respondent,

vs.

Randal Darrell Jones,
Appellant.

**Filed April 27, 2026
Affirmed
Larkin, Judge**

Rice County District Court
File No. 66-CR-22-167

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

Brian M. Mortenson, Rice County Attorney, Sean R. McCarthy, Assistant County Attorney, Faribault, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, St. Paul, Minnesota; and

Peter H. Dahlquist, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Cochran, Presiding Judge; Larkin, Judge; and Rasmusson, Judge.

NONPRECEDENTIAL OPINION

LARKIN, Judge

Appellant challenges his sentence for unlawful possession of a firearm by a felon convicted of a crime of violence, arguing that the district court abused its discretion in

denying his motion for a downward dispositional departure and by not granting a downward durational departure sua sponte. We affirm.

FACTS

In September 2021, appellant Randal Darrell Jones and a friend went to a gun range in Rice County. The friend brought several guns, which Jones shot. A video showing Jones shooting the guns was posted on Facebook. The police subsequently spoke with Jones, and he admitted that he went to the gun range and shot the guns.

Based on Jones's prior conviction of first-degree burglary, the state charged him with possession of a firearm or ammunition by a felon convicted of a crime of violence. Jones pleaded guilty to the charge. The presumptive sentence was a mandatory 60-month prison commitment.

Rice County Community Corrections prepared a pre-sentence investigation report and sentencing worksheet. The report detailed Jones's criminal history, which includes burglary, multiple driving-while-impaired offenses, disorderly conduct, two fifth-degree assault offenses, two theft offenses, an offense of interference with a 911 call, and fifth-degree criminal sexual conduct. In addition, Jones had a pending offense for obstruction of legal process. The report recommended the presumptive sentence: a mandatory minimum sentence of 60 months' imprisonment, under Minn. Stat. § 609.11, subd. 5(b) (2020).

Jones moved the district court for a downward dispositional departure, arguing that he was particularly amenable to probation and that his offense was less egregious than a typical felon in possession case. But he did not request a downward durational departure.

At sentencing, Jones's attorney described several circumstances to show that Jones was particularly amenable to probation. And defense counsel argued that even if Jones was prohibited from possessing a firearm, he could not "think of a safer place for somebody to do it."

The district court indicated that it could not consider the nature of the offense in determining whether to grant Jones's motion for a dispositional departure. Jones did not object to the district court's position on this issue. The district court noted that although there was a "compelling argument" for a durational departure, Jones had not made either a written or oral motion for such a departure.

The prosecutor argued against a downward dispositional departure, describing Jones's prior criminal history and his history of probation violations. The prosecutor argued that those circumstances demonstrated that Jones was not particularly amenable to probation and that the record did not support Jones's argument to the contrary.

After hearing from Jones directly, the district court explained:

When I weigh out all the factors, Mr. Jones, I do not find that they weigh in fa[vor] of a departure in this matter. I think that you have some things that are positive for you, but I think ultimately the evidence [does not show] that you are particularly either amenable to probation and/or amenable to treatment.

No motion was made for a durational departure so I can't consider that at this point in time.

The district court imposed the guidelines sentence of 60 months' imprisonment.

Jones appeals.

DECISION

Jones contends that the district court abused its discretion in denying his motion for a downward dispositional departure and by not granting a downward durational departure sua sponte. “We afford the [district] court great discretion in the imposition of sentences and reverse sentencing decisions only for an abuse of that discretion.” *State v. Soto*, 855 N.W.2d 303, 307-08 (Minn. 2014) (quotation omitted).

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 (2020). “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 (2020). A sentence within the guidelines range is presumed appropriate. *Id.*

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).

I.

Jones challenges the district court's denial of his motion for a downward dispositional departure. "A dispositional departure places the offender in a different setting than that called for by the presumptive guidelines sentence." *Solberg*, 882 N.W.2d at 623; Minn. Sent'g Guidelines 1.B.5.a (2020). "[A] downward dispositional departure occurs when the presumptive guidelines sentence calls for imprisonment but the district court instead stays execution or imposition of the sentence." *Solberg*, 882 N.W.2d at 623; Minn. Sent'g Guidelines 1.B.5.a. When considering a dispositional departure, the district court focuses "more on the defendant as an individual and on whether the presumptive sentence would be best for him and for society." *State v. Heywood*, 338 N.W.2d 243, 244 (Minn. 1983). A defendant's particular amenability to probation can justify a downward dispositional departure. *Soto*, 855 N.W.2d at 308. 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, Jones asserted that he was particularly amenable to probation based on the *Trog* factors. He argued that his criminal history weighed in his favor, that he had cooperated with and had a positive attitude throughout the proceedings, and that he had the support of family and friends. Jones noted his successful completion of treatment court, weekly attendance at AA and NA meetings, completion of two parenting classes and an anger management course, regular participation in therapy sessions, and remorse for his actions. Jones also noted that although he had failed to appear for settlement in the underlying case, those failures were the result of a medical condition that inhibited his mobility. Finally, Jones argued that his offense was less egregious than a typical felon-in-possession-of-a-firearm offense.

The record demonstrates that the district court carefully evaluated the information presented by both parties before it ruled on Jones's departure motion. In explaining its decision to deny Jones's request for a dispositional departure, the district court explained that it had weighed out all the factors and that they did not weigh in favor of a departure. Specifically, the district said that the evidence did not support a finding that Jones was particularly amenable to probation or treatment.

Next, the district court addressed the *Trog* factors. The district court noted that Jones's age—51 at the time of sentencing—did not weigh in favor of a departure because he was not a “youthful offender.” The district court further noted that Jones's prior record did not weigh in favor of a departure because it included “multiple offenses that could be considered violent” and that Jones had not been “successful on probation” previously. The district court observed that Jones's remorse for his actions weighed in favor of departure.

But the district court also noted that although Jones had been cooperative at hearings, this factor did not weigh in favor of departure because Jones had “multiple failures to appear over the years.” Finally, the district court recognized that Jones’s attitude in court had “always been respectful,” which weighed in favor of departure.

Jones argues that the district court “failed to consider completely the *Trog* factors” *before* announcing its ruling. Jones notes that the district court first announced its denial of his request for a dispositional departure and then articulated its assessment of the *Trog* factors “only at the insistence of the state.” We are not persuaded that the timing of the court’s explanation or its prompt by the state renders the explanation inadequate. We are satisfied that the district court “carefully evaluated all the testimony and information presented before making a determination,” including the *Trog* factors. *Pegel*, 795 N.W.2d at 255 (quotation omitted). Moreover, the district court explained its reasons for not granting a departure, even though it was not required to do so. *See State v. Van Ruler*, 378 N.W.2d 77, 80 (Minn. App. 1985) (“Although the [district] court is required to give reasons for departure, an explanation is not required when the court considers reasons for departure but elects to impose the presumptive sentence.”).

Finally, Jones complains that the district court did not specifically rule on his argument that he was unamenable to incarceration and particularly amenable to treatment and medical care while on probation. That argument was based on Jones’s medical condition, which requires consistent medical care. Information regarding Jones’s medical condition was presented to the district court, and there is no reason to think that the district court did not consider it along with all of the other information for and against departure

when ruling on Jones’s motion for a dispositional departure. Again, “an explanation is not required when the court considers reasons for departure but elects to impose the presumptive sentence.” *Van Ruler*, 378 N.W.2d at 80.

In sum, the record reflects that the district court carefully evaluated all the testimony and information presented before ruling on Jones’s motion for a downward dispositional departure. Jones’s assertion that the district court’s denial of a downward dispositional departure was “against logic and the facts in the record” and, therefore, an abuse of discretion, is nothing more than a disagreement with the district court’s exercise of its discretion. That is not a basis to reverse, and this is not a rare case in which we would reverse the imposition of the presumptive sentence.

II.

Jones contends that “[a] durational departure was warranted in this case because even if [he] was prohibited from possessing a firearm, he did so at a firing range which was the safest place to do so.” Jones asserts that “the district court had the discretion to impose a downward durational departure” and that “its belief to the contrary was an error of law, and an abuse of discretion.”

A durational departure is a sentence that differs in length from the range imposed under the guidelines. Minn. Sent’g Guidelines 1.B.5.b (2020). A durational departure focuses on offense-related factors and may be appropriate if the defendant’s conduct is “significantly less serious than that typically involved in the commission of the offense.” *Solberg*, 882 N.W.2d at 624 (quotation omitted).

Jones was sentenced to a 60-month mandatory minimum term of incarceration under Minnesota Statutes section 609.11, subd. 5(b). Section 609.11 provides that “on its own motion, the court may sentence the defendant without regard to the mandatory minimum sentences established by this section if the court finds substantial and compelling reasons to do so.” Minn. Stat. § 609.11, subd. 8(a) (2020). In addition, the Minnesota Rules of Criminal Procedure indicate that the district court is authorized to grant a sentencing departure sua sponte, after providing notice to the parties. *See* Minn. R. Crim. P. 27.03, subd. 1(B)(3) (“If the court intends to consider a mitigated departure from the sentencing guidelines, the court must advise the parties.”).

In addressing the possibility of a durational departure, the district court stated:

No motion was made for a durational departure so I can't consider that at this point in time. Although, Mr. Jones, . . . the argument that you were in . . . probably the most safe environment of handling a gun at Ahlman's Gun Range . . . I think is an argument, but that's not something I can take into consideration when I'm making a departure motion on whether I send you to prison or not.

We agree that the district court was authorized to raise the issue of and grant a downward durational departure sua sponte, so long as it found “substantial and compelling reasons” to do so. Minn. Stat. § 609.11, subd. 8(a). But the statute and rules cited above do not require the district court to do so. Again, a district court is not required to depart from the presumptive sentence even if substantial and compelling circumstances exist. *See State v. Back*, 341 N.W.2d 273, 275 (Minn. 1983) (stating that “we will not interfere with a sentence that falls within the presumptive sentence range even if there are grounds that would justify departure”).

Jones’s assertion that the district court erroneously believed that it did not have discretion to grant a downward durational departure does not provide a basis for relief. We have said that if a defendant “did not seek a downward durational departure at the district court, . . . the issue is not properly before this court.” *State v. Walker*, 913 N.W.2d 463, 468, n.1 (Minn. App. 2018); *see Roby v. State*, 547 N.W.2d 354, 357 (Minn. 1996) (“[Appellate] court[s] generally will not decide issues which were not raised before the district court. . . .”). As Jones acknowledged in his brief to this court, despite the district court’s statements indicating that Jones may have had an argument for a downward durational departure, he “made no motion at the sentencing hearing” for such a departure. We do not know why Jones did not request a downward durational departure in addition to a dispositional departure, but the record is clear: he requested only a dispositional departure.

In sum, we discern no basis to reverse the district court’s decision not to sua sponte grant a downward durational departure.

Affirmed.