

*This opinion is nonprecedential except as provided by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
A25-1087**

State of Minnesota,
Respondent,

vs.

Aaron Michael Edberg,
Appellant.

**Filed May 26, 2026
Affirmed in part, reversed in part, and remanded
Ede, Judge**

Stearns County District Court
File No. 73-CR-24-1910

Keith Ellison, Attorney General, Timothy C. Rank, Assistant Attorney General, St. Paul, Minnesota; and

Janelle Kendall, Stearns County Attorney, St. Cloud, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Steven P. Russett, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Ede, Presiding Judge; Ross, Judge; and Jesson, Judge.*

NONPRECEDENTIAL OPINION

EDE, Judge

This direct appeal challenges a final judgment of conviction and the sentence imposed for first-degree criminal sexual conduct. Appellant contends that the district court

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to article VI, section 10 of the Minnesota Constitution.

abused its discretion (1) by denying his motion to present alternative-perpetrator evidence based on its determination that the proffered testimony did not inherently tend to connect the alleged alternative perpetrator with the charged offenses and (2) by considering factors that were unrelated to the charged offenses in denying his motion for a downward durational departure at sentencing. Because the district court acted within its discretion in excluding the alternative-perpetrator evidence, we affirm appellant's conviction. But because the district court abused its discretion by using an inapposite legal standard in denying appellant's departure motion, we reverse appellant's sentence and remand for resentencing not inconsistent with this opinion so that the court may exercise its discretion under the appropriate standard.

FACTS

Respondent State of Minnesota charged appellant Aaron Michael Edberg with first-degree criminal sexual conduct—engaging in multiple acts of sexual penetration over an extended period with a child under 16 years of age while having a significant relationship with the child—in violation of Minnesota Statutes section 609.342, subdivision 1(h)(iii) (2020) (Count I), and first-degree criminal sexual conduct—engaging in sexual penetration with a child under 16 years of age while having a significant relationship with the child—in violation of Minnesota Statutes section 609.342, subdivision 1(g) (2020) (Count II). According to the complaint, Edberg sexually penetrated a minor child, M.L., multiple times while he lived in the child's home and when the child was between the ages of four and five years old. The matter proceeded to a jury trial. The following factual recitation stems from the record of the pretrial and trial proceedings.

Investigation

In December 2023, while she was living and attending school in California, M.L. disclosed to a school counselor that Edberg had sexually abused her when she lived in Minnesota. After M.L.'s disclosure, law enforcement in Minnesota contacted M.L.'s grandmother (grandmother) regarding the allegations. Grandmother gave police a recording of a conversation between grandmother and M.L. During that recorded conversation, M.L. reported that Edberg had sexually abused her. M.L. said that Edberg "wanted [her] to do . . . private stuff" and "told [her] to suck his . . . thingy." She identified the perpetrator of this abuse as her "stepdad" and, when grandmother asked if it was "Aaron" who had done these things, M.L. responded: "Aaron Michael." In addition, M.L. stated that the sexual abuse had occurred "when [she] was with [her] mom and [Edberg] was with [her] mom."

California and Minnesota law enforcement agencies made arrangements for a forensic interview of M.L. in California, which occurred in January 2024. During that interview, M.L. said that her stepdad "told [her] to come in the room and . . . told [her] to suck this part . . . right here," pointing to the area between her legs. When asked where this occurred, M.L. stated that it happened in her mother and her stepdad's bedroom. She reported that her stepdad asked her to do this "five times" or maybe "seven times." And M.L. recalled that she was "four or five" years old when the sexual abuse last occurred. At the time of the forensic interview, M.L. could not remember her stepdad's name and said that she had referred to him as "father." Although she described the perpetrator's appearance by stating that he had a "mustache," M.L. pointed at her chin and then above

her lip when she said so. Moreover, while pointing above her lip, M.L. reported the perpetrator had “skin right here.” And M.L. also stated that the perpetrator “always [wore] his hat in front” and “always told [her] to help [him] with the groceries.”

In September 2024, prosecutors and a victim-witness coordinator spoke with M.L. During the meeting, M.L. was shown a photograph of herself, her mother, and Edberg. She identified Edberg as “the guy that did this to her.”

Pretrial Proceedings

In May 2024, Edberg provided notice of his intent to assert an alternative-perpetrator defense. After the district court considered Edberg’s motion to introduce alternative-perpetrator evidence at a contested omnibus hearing in August 2024, the court filed an order denying the motion. In the order, the district court explained its determination that Edberg had “failed to meet his burden with admissible evidence connecting [the alleged alternative perpetrator, W.M.], or any other third party, and which supports an inherent tendency to connect such other person(s) with the actual commission of the crime.” The district court also “reserve[d] the right to revisit said motion should additional admissible evidence be presented.”

Edberg later moved for reconsideration of his alternative-perpetrator motion. He maintained that M.L. “was sexually abused by someone else and ha[d] been led through a series of leading questions and suggestive photographic identification procedures to form an honest but mistaken belief that [Edberg was] the abuser.” During a hearing and in a written order, the district court reserved for trial its ruling on Edberg’s motion for reconsideration of his alternative-perpetrator defense. In its written order, the district court

acknowledged that Edberg “ha[d] provided some information that may connect the alternative perpetrator to the crime with which defendant [was] . . . charged.” More specifically, the district court observed that Edberg had provided the name of W.M. as an alleged alternative perpetrator and had “presented photos of [W.M.] with facial hair that *could* fit the description given by [M.L.]” At the same time, the district court noted that other descriptions provided by M.L. could negate Edberg’s alternative-perpetrator theory.

Jury Trial

In February 2025, the matter proceeded to a three-day jury trial. At the time of trial, M.L. was nine years old. She testified that, when she had lived in Minnesota, she resided with her mother and “him,” pointing out Edberg in the courtroom. When asked about the underlying incidents, M.L. responded that she “forgot” several times but clarified that when she said she “forgot,” she meant that she did not want to talk about it. And when M.L. was questioned further about the underlying incidents, she again responded, “I don’t like to talk about that,” explaining that she did not want to discuss Edberg. M.L. eventually described a time when Edberg had sexually abused her while her mother was crying in the kitchen of their apartment after an argument. She testified that she and Edberg were on a bed in a bedroom shared by Edberg and her mother. M.L. said that Edberg put his “body part” inside her mouth. She reported that this sexual abuse had occurred “more than one time” and that each time “he put that body part” into her mouth.

The state also presented the testimony of M.L.’s mother (mother), who stated that the only people M.L. had ever called “dad” or “father” were her biological father and Edberg. Mother also said that Edberg had encouraged M.L. to call him “dad.” And mother

reported that the only adult males who had stayed at her apartment in Minnesota were Edberg and M.L.'s biological father.

After the state rested its case and on the last day of the trial, Edberg made an offer of proof about his alternative-perpetrator defense. Outside the jury's presence, Edberg introduced the testimony of a witness, J.V., who said that she and mother were "best friends at the time" and that she would visit mother "a couple times a week." J.V. stated that "a lot of people" visited mother's Minnesota apartment and that mother sold cannabis out of her bedroom, "[s]o everyone went in [mother's bedroom]."

When asked about W.M., J.V. recalled him "being around" and that he normally had a hat on that he may have worn backwards. In response to a question about whether she remembered anything about W.M.'s facial hair, J.V. said, "It was there and kind of -- I mean, it's more of his eyes, his nose, not the hair." J.V. also testified that W.M. "could have" babysat M.L. because Edberg "would run up to the store sometimes, and [Edberg] would never leave the kids alone," so she assumed that W.M. "would watch [the children living in the home, including M.L.,] because [Edberg] didn't bring a lot of people over." And J.V. remembered an occasion in which, when J.V. delivered groceries to mother, W.M. was in mother's bedroom "[s]itting on the bed in a relaxed state, . . . which [was] not the usual . . . [and] was weird."

The district court asked J.V. if she could recall when mother had given birth to A.J., who is M.L.'s sibling. Edberg also asked J.V. if she could remember when mother had been hospitalized after a certain incident. Other than general descriptions of seasons, however, J.V. could not recollect specific dates or years when those events had happened.

And while J.V. stated that A.J. had been born “towards the fall . . . at least . . . five years” before her testimony in February 2025, mother reported that A.J. had actually been born in January 2021.

The district court determined that Edberg had “not met [his] burden of proof” and rejected his alternative-perpetrator defense, reasoning that J.V. could not recall whether W.M. had facial hair and that it was “questionable whether there was . . . corroboration that that’s what [W.M.] looked like in the photos back at the time that this all happened.” Moreover, the district court explained that there appeared to be no corroboration as to what W.M. looked like at the time of the underlying events, observing that J.V. had testified that W.M. wore his hat backwards. And the district court ruled that no testimony by J.V. established that M.L. had been left alone with W.M. Thus, the district court decided that Edberg had failed to present a “sufficient factual basis that connect[ed] [W.M.] to the crime with which . . . Edberg [was] presently charged,” and the court did not “allow in [the] alternative-perpetrator defense without further admissible evidence being provided.” In a supplemental order and supporting memorandum, the district court reiterated its reasoning that Edberg had “failed to proffer evidence having an inherent tendency to connect [W.M.] with the actual commission of the crime.”

The jury found Edberg guilty of both counts.

Sentencing

Before the sentencing hearing, Edberg moved for a downward durational departure, asking the district court to determine “that the conduct at issue was less severe than the

typical first-degree criminal sexual conduct case, and that the presumptive sentence is excessive in light of the overall goals of Minnesota’s criminal laws.”

The parties presented arguments about Edberg’s durational-departure motion during a sentencing hearing in April 2025. The district court denied the motion, stating that it was “used to hearing these buzz words called the *Trog* factors^[1] . . . : [a]ge, remorse, support in the community, all these other things” and that “the person seeking the departure has the burden of proving by substantial and compelling evidence that he or she is particularly amenable to probation.” And the district court determined “[u]nder that burden of proof” that it did “not find[] that . . . [Edberg] ha[d] met his burden.” The district court therefore convicted Edberg of and sentenced him on Count II, imposing an executed term of 360 months’ imprisonment.²

This appeal follows.

DECISION

Edberg maintains that the district court abused its discretion (1) by denying his motion to present alternative-perpetrator evidence based on its determination that the proffered testimony did not inherently tend to connect W.M. with the charged offenses and (2) by considering factors that were unrelated to the charged offenses in denying his motion

¹ See *State v. Trog*, 323 N.W.2d 28, 31 (Minn. 1982) (explaining that “[n]umerous factors, including the defendant’s age, his prior record, his remorse, his cooperation, his attitude while in court, and the support of friends and/or family, are relevant to a determination whether a defendant is particularly suitable to individualized treatment in a probationary setting”).

² The district court neither convicted nor sentenced Edberg on Count I.

for a downward durational departure at sentencing. As explained below, we affirm the conviction because we conclude that the district court acted within its discretion in excluding the alternative-perpetrator evidence. But we reverse the sentence and remand for resentencing because we conclude that the district court abused its discretion by erroneously using the legal standard that applies to dispositional departures in denying Edberg’s motion for a downward durational departure.

I. The district court acted within its discretion in determining that Edberg’s proffered alternative-perpetrator evidence did not inherently tend to connect W.M. with the charged offenses.

Edberg asserts that the district court abused its discretion when it did not allow him to present alternative-perpetrator evidence, thereby violating his constitutional right to present a defense and committing reversible error. This argument is unavailing.

Appellate courts “review a district court’s ruling on alternative-perpetrator evidence for an abuse of discretion.” *State v. Rooney*, 23 N.W.3d 75, 81 (Minn. 2025). “A district court abuses its discretion when its decision is based on an erroneous view of the law or is against logic and the facts in the record.” *Id.* (quotation omitted). “Even if [appellate courts] determine that the district court abused its discretion, [appellate courts] must further find that the error was not harmless beyond a reasonable doubt to reverse the district court’s decision.” *Id.*; *see also State v. Atkinson*, 774 N.W.2d 584, 589, 592 (Minn. 2009) (explaining that, “[i]f [an appellate court] conclude[s] that the [district] court erred, [it] must then determine whether the error was harmless”).

“The Due Process Clauses of the Minnesota and United States Constitutions guarantee a criminal defendant’s right to present a complete defense.” *Id.*; Minn. Const.

art. I, § 7; U.S. Const. amend. XIV. The right to present a complete defense includes “the right to introduce evidence that an alternative perpetrator committed the crime.” *Rooney*, 23 N.W.3d at 81. But a defendant’s right to present a complete defense is not absolute. *Id.*

The Minnesota Supreme Court has explained that a “motion to present alternative-perpetrator evidence is subject to the foundation and admissibility requirements [that the supreme court] outlined in *State v. Hawkins*, 260 N.W.2d 150, 158–59 (Minn. 1977).” *Id.* “First, a defendant must make a foundational proffer of evidence having an inherent tendency to connect the third person with the actual commission of the crime.” *Id.* at 82 (quotation omitted). Courts must “determine whether the evidence, not the assertions, contained in the proffer provides the required foundation.” *Id.* (quotation omitted). “This foundational requirement avoids the consideration of matters collateral to the crime and the use of bare suspicion and safeguards the third person from indiscriminate use of past differences with the victim.” *Id.* at 82 (quotation omitted). Courts review an alternative-perpetrator proffer as a whole. *State v. Carbo*, 6 N.W.3d 114, 124 (Minn. 2024).

Edberg’s proffer included the following: J.V. was “best friends” with mother at the time of the underlying incidents, visited mother “a couple times a week,” and recalled W.M. “being around” ; J.V. could not remember anything specific about W.M.’s facial hair and instead referenced “more of his eyes” and “his nose”; J.V. stated that W.M. normally had a hat on that he may have worn backwards; although “a lot of people” visited mother to buy cannabis that mother sold out of her bedroom, J.V. recalled an occasion that she thought was unusual and “weird” when she delivered groceries to mother and W.M. was in mother’s bedroom, “[s]itting on the bed in a relaxed state”; J.V. testified that W.M.

“could have” babysat M.L. because Edberg “would run up to the store sometimes, and [Edberg] would never leave the kids alone,” so she assumed that W.M. “would watch [the children living in the home, including M.L.,] because [Edberg] didn’t bring a lot of people over”; and J.V. could only provide general descriptions of seasons—some of which differed from mother’s testimony—without a particular recollection of dates or years when certain events happened.

In rejecting the alternative-perpetrator defense, the district court reasoned that Edberg had “failed to proffer evidence having an inherent tendency to connect [W.M.] with the actual commission of the crime.” Among other things, the district court reasoned that J.V. “made [an] assumption[] but . . . had no personal knowledge that [W.M.] ever provided care to the children.” The district court also observed that, even assuming that J.V.’s “assumption may support a finding that [W.M.] had an opportunity to be around the alleged victim, the child testified that the last time the alleged conduct occurred, her mother was present and crying in the kitchen,” and “[t]here was no evidence of [W.M.] being in the home without the victim’s mother also present.” Moreover, the district court noted that “[a]ll that was presented that could connect [W.M.] to the alleged conduct was that he may have met some part of the physical description and was possibly in the home at the same time as others were in the home.” And the district court determined that J.V. “did not have personal knowledge of any opportunity [W.M.] would have had to be alone with the alleged victim.”

We conclude that the district court acted within its discretion in determining that there was no inherent tendency to connect W.M. to the charged offenses. While the

proffered evidence established that W.M. was in the home during the general period in which M.L. was sexually abused, mere presence does not provide an inherent connection between the charged offenses and W.M. *See Rooney*, 23 N.W.3d at 83 (“An alternative perpetrator’s presence at a crime scene is not enough, by itself, to establish an inherent tendency to connect the alternative perpetrator with the offense, nor is it necessary to establish an inherent tendency.”).

Edberg argues that the district court abused its discretion when it expressed concerns about J.V.’s reliability and weighed the proffered evidence. It is true that district courts cannot make credibility determinations when deciding whether a defendant has met the foundational requirements for admitting alternative-perpetrator evidence. *See State v. Blom*, 682 N.W.2d 578, 621 (Minn. 2004) (concluding “that the district court inappropriately made a credibility assessment in rejecting . . . [certain alternative-perpetrator] testimony when all that was required was a determination of whether the inherent tendency connection, beyond a bare suspicion, had been made”). Here, however, any concerns that the district court expressed regarding the reliability of J.V.’s testimony based on her inability to specifically recall when certain events occurred did not serve as the ultimate basis on which the court denied Edberg’s alternative-perpetrator motion. On the contrary, the district court’s determination that the proffered evidence did not have an inherent tendency to connect W.M. with the charged offenses turned on J.V.’s admission that she had no personal knowledge that W.M. had ever been alone with M.L. We discern no abuse of discretion in that determination.

Edberg also maintains that the district court abused its discretion by considering the state's evidence rather than exclusively relying on his proffer. He cites the Minnesota Supreme Court's decision in *State v. Jenkins* for the principle that the "admissibility [of alternative-perpetrator evidence] depends exclusively on whether the evidence offered by the defendant inherently connects an alternative perpetrator to the commission of the charged crime regardless of the strength of the State's case." 782 N.W.2d 211, 226 (Minn. 2010). But the district court did not reject Edberg's alternative-perpetrator defense based on "the strength of the State's case." *Id.* Rather, the district court considered Edberg's proffered evidence—J.V.'s testimony—and decided that it did not have an inherent tendency to connect W.M. with the actual commission of the charged crimes because J.V. "did not have personal knowledge of any opportunity [W.M.] would have had to be alone with the alleged victim."

In short, the district court acted within its discretion in determining that Edberg's alternative-perpetrator proffer did not inherently tend to connect W.M. with the charged offenses. Because we conclude that the district court did not abuse its discretion, we need not address whether the district court's decision is harmless beyond a reasonable doubt. *Cf. Atkinson*, 774 N.W.2d at 592 (concluding that, because the appellant "did not lay sufficient foundation for the introduction of his proffered alternative perpetrator evidence, [the Minnesota Supreme Court was] not required to consider whether that evidence was otherwise admissible"). For these reasons, we affirm the conviction.

II. The district court abused its discretion by considering factors that were unrelated to the charged offenses in denying Edberg’s motion for a downward durational departure.

The parties agree that the district court abused its discretion by erroneously using the legal standard that applies to dispositional departures in denying Edberg’s motion for a downward durational departure. And the parties concur that remand for resentencing is the appropriate remedy for this error. Because the district court relied on offender-related factors that are not legally permissible grounds for denying a motion for a downward durational departure, we agree with the parties and conclude that the district court abused its discretion.

We review a district court’s denial of a sentencing departure motion for an abuse of discretion. *State v. Beganovic*, 974 N.W.2d 278, 286 (Minn. App. 2022), *aff’d*, 991 N.W.2d 638 (Minn. 2023). As mentioned above, a district court “abuses its discretion when its decision is based on an erroneous view of the law or is against logic and the facts in the record.” *State v. Glover*, 4 N.W.3d 124, 134 (Minn. 2024) (quotation omitted).

“[A] durational departure is a sentence that departs in length from the presumptive guidelines range.” *State v. Solberg*, 882 N.W.2d 618, 623 (Minn. 2016). “A durational departure must be based on factors that reflect the seriousness of the *offense*, not the characteristics of the offender.” *Id.*; *see also State v. Rund*, 896 N.W.2d 527, 533 (Minn. 2017) (“Durational departures may be justified by offense-related reasons only.”). In particular, durational departures are “justified only if the defendant’s conduct was significantly less serious than that typically involved in the commission of the offense.” *Solberg*, 882 N.W.2d at 624 (quotation omitted). “Offender-related reasons—such as

particular amenability to probation or treatment, remorse that does not reduce the seriousness of the offense, or age—are not legally permissible reasons for a downward durational departure.” *Rund*, 896 N.W.2d at 533.

Here, the district court expressly cited the *Trog* factors—which relate to the offender rather than the offense—in denying Edberg’s motion for a downward durational departure. Indeed, the district court specifically stated that “the person seeking the departure has the burden of proving by substantial and compelling evidence that he or she is particularly amenable to probation” and that, “[u]nder that burden of proof,” the court did “not find[] that . . . [Edberg] ha[d] met his burden.” Because the offender-related factors that the district court considered in denying Edberg’s motion are not legally permissible reasons for a downward durational departure, the court’s decision was based on an erroneous view of the law and therefore an abuse of discretion. *See Glover*, 4 N.W.3d at 134; *see also Rund*, 896 N.W.2d at 533. We therefore reverse the sentence and remand for resentencing not inconsistent with this opinion so that the district court may exercise its discretion under the appropriate durational-departure standard.

Affirmed in part, reversed in part, and remanded.