

*This opinion is nonprecedential except as provided by  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  
A25-1265**

State of Minnesota,  
Appellant,

vs.

Kevin Neil Wentz,  
Respondent.

**Filed April 20, 2026  
Affirmed  
Reyes, Judge**

Nicollet County District Court  
File No. 52-CR-24-440

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

Michelle M. Zehnder Fischer, Nicollet County Attorney, Bryan C. Jarvis, Assistant County Attorney, St. Peter, Minnesota (for appellant)

Cathryn Middlebrook, Chief Appellate Public Defender, Amy Lawler, Assistant Public Defender, St. Paul, Minnesota (for respondent)

Considered and decided by Reyes, Presiding Judge; Harris, Judge; and Jesson, Judge.\*

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

## **NONPRECEDENTIAL OPINION**

**REYES, Judge**

The state challenges the district court's grant of a downward durational departure for respondent's fleeing sentence, arguing that the district court relied on improper grounds to support the departure and that no other evidence exists in the record to support the departure. We affirm.

### **FACTS**

In October 2024, appellant State of Minnesota charged respondent Kevin Neil Wentz with one count of fleeing a peace officer in a motor vehicle in violation of Minnesota Statutes section 609.487, subdivision 3 (2024), and one count of obstructing the legal process by interfering with a peace officer in violation of Minnesota Statutes section 609.50, subdivision 1(2) (2024). The state dismissed a third count, for operating a motor vehicle while under the influence of a controlled substance in violation of Minnesota Statutes section 169A.20, subdivision 1(2) (2024), when an analysis of Wentz's blood sample revealed no controlled substances. Body-worn and dash cameras documented the facts described below.

A Minnesota State Patrol Trooper initiated a traffic stop on a highway of a vehicle traveling at 86 miles per hour. The driver, later identified as Wentz, stopped in the leftmost lane of traffic and rolled down his window. The trooper asked Wentz why he stopped in the left lane, and Wentz did not respond. The trooper instructed Wentz twice: "Let me see your driver's license." The first time, Wentz just moved his head slightly from side to side; the second time, Wentz verbally responded: "Don't ask me that question." The trooper

explained that Wentz could be arrested for failure to identify himself and instructed him to pull off the road. In response, Wentz moved his head slightly from side to side. The trooper then stated, “As of right now then you are under arrest,” to which Wentz replied, “I’m not.” The trooper called for backup and then stated: “Driver’s license or exit the vehicle.” Wentz moved his head from side to side and rolled up his window. The trooper began to yell, and Wentz appeared to respond inaudibly through the window. The trooper went back to his vehicle to retrieve something and then announced: “When my partners get here, we will break out the window and remove you.” Wentz drove away.

After leaving the traffic stop, Wentz traveled down the highway and then used his turn signal before moving into the right lane. Wentz exited the highway and thereafter remained in the rightmost lane of traffic, used his turn signal to signal his turns, and maintained a speed below 45 miles per hour. The trooper pursued Wentz for about four minutes and then pulled up alongside him. Additional law enforcement from the North Mankato Police Department helped the trooper box Wentz into a parking lot. Two county sheriff’s offices also arrived on the scene. Wentz came to a stop but still did not exit the vehicle. Law enforcement broke Wentz’s window and deployed a gas, identified in the police report as “CS gas.” A sheriff’s deputy eventually verbally coaxed Wentz out of his vehicle with his hands raised. Another sheriff’s deputy put Wentz’s hands behind his back and knocked him down, causing a collision with the ground that rendered Wentz unconscious and bleeding from his head. The Minnesota State Patrol arrested Wentz, and he spent four days in custody in Nicollet County.

The parties entered into a plea agreement in which Wentz would plead guilty to the fleeing charge, and the state would dismiss the obstruction charge. The plea agreement also indicated that Wentz would “receive a stay of imposition,” and the parties could present arguments about additional jail time or jail alternatives.

The district court held three hearings relevant to this appeal. At the first hearing, Wentz entered an *Alford* plea to the fleeing charge.<sup>1</sup> The district court accepted the plea. While discussing sentencing, defense counsel stated that Wentz had previously been diagnosed with autism. Defense counsel believed that the incident underlying this case was “simply caused by a misunderstanding between the parties.” Conceding that “any sort of fleeing incident is putting the general public at risk,” defense counsel explained that Wentz at least “signaled all turns, maintained traffic lanes, [and the incident] was not any sort of anything close to high-speed sort of fleeing chase.” Both defense counsel and a probation officer explained that their interactions with Wentz led them to believe that he was not a good candidate for jail.

At the second hearing, the district court explained that knowing about Wentz’s autism earlier “would have changed the way that [it] . . . handled sentencing.” The district court acknowledged that there was no documentation of an autism diagnosis in the record. Nonetheless, the district court expressed concerns with treating Wentz “unfairly” or “punishing him because of his disability.” It explained that it was “assuming that his

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<sup>1</sup> An *Alford* plea allows a defendant to plead guilty while maintaining their innocence. *North Carolina v. Alford*, 400 U.S. 25, 37-38 (1970); *see also Doe 136 v. Liebsch*, 872 N.W.2d 875, 879 (Minn. 2015) (discussing Minnesota’s formal adoption of *Alford* pleas).

behavior during the stop could be explained by that diagnosis.” The district court started to sentence Wentz but reset for a third hearing, at the state’s request, acknowledging that the state would likely want to appeal the final sentence. The state then filed a motion “to deny the court’s sua sponte departure and, in the alternative, to vacate the guilty plea and/or not grant a sentencing departure.”

At the third hearing, the state argued in part that “the record is insufficient to support a departure.” Defense counsel disagreed, pointing to the videos entered into the record. Defense counsel argued that the videos differentiated this case from typical fleeing offenses, “which usually involve[] some kind of high rate of speeds, some erratic turns, some generally poor driving conduct,” because the incident here occurred at a relatively low rate of speed “with Mr. Wentz signaling his turns and ultimately coming to a stop at a construction parking lot.” The probation officer reiterated that they did not believe jail was appropriate for Wentz because there was a “cognitive delay,” “autism,” or something else “going on with the defendant that we have not appropriately addressed.”

The district court explained that this case was “very complicated,” and it questioned whether Wentz “actually intended to” flee. It ultimately sentenced Wentz to 364 days in jail, with 360 days stayed for two years and four days credited for time served. The district court placed Wentz on supervised probation for two years subject to certain conditions.

This appeal follows.

## **DECISION**

The state argues that the district court abused its discretion by imposing a downward durational departure because (1) it relied on inadequate grounds to support the departure

and (2) no other evidence exists in the record to support the departure.<sup>2</sup> We first address the nature of the departure and our standard of review before turning to each of the state’s arguments.

It is undisputed that the district court imposed a downward durational departure from the presumptive sentence for Wentz’s fleeing charge. *See* Minn. Sent’g Guidelines 4.A (Supp. 2023) (providing presumptive stayed sentence of 12 months for conviction of fleeing peace officer and criminal-history score of zero). While only one day less than the presumptive sentence, this departure changed the conviction from a felony to a gross misdemeanor. *See* Minn. Stat. § 609.13 subd 1(2) (2024) (“Notwithstanding [that] a conviction is for a felony . . . the conviction is deemed to be for a misdemeanor if the imposition of the prison sentence is stayed, the defendant is placed on probation, and the defendant is thereafter discharged without a prison sentence.”).

Appellate courts “afford the [district] court great discretion in the imposition of sentences.” *State v. Soto*, 855 N.W.2d 303, 307-08 (Minn. 2014) (quotation omitted). “[A] reviewing court will not interfere with the [district] court’s discretion unless it has a strong feeling that the sentence is disproportional to the offense.” *State v. Patterson*, 511 N.W.2d 476, 478 (Minn. App. 1994) (quotation omitted), *rev. denied* (Minn. Mar. 31, 1994). If a district court’s reasons for granting a departure are stated on the record, appellate courts

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<sup>2</sup> The state also claims that the departure violated the plea agreement and rendered Wentz’s plea invalid. Both claims are outside the scope of this appeal. *See* Minn. R. Crim. P. 28.04 (describing prosecutor’s limited “right of appeal”); *see also State v. Lugo*, 887 N.W.2d 476, 481 (Minn. 2016) (“The [s]tate’s ability to appeal in a criminal case is limited.”). We therefore confine our review to the district court’s sentencing departure.

“will examine the record to determine if the reasons given justify the departure.” *Williams v. State*, 361 N.W.2d 840, 844 (Minn. 1985). “A district court abuses its discretion when its reasons for departure are legally impermissible and insufficient evidence in the record justifies the departure.” *State v. Solberg*, 882 N.W.2d 618, 623 (Minn. 2016).

**I. The district court provided and relied upon adequate grounds to support the downward durational departure.**

The state challenges the district court’s downward durational departure, contending that the district court abused its discretion when it “based its sentencing decision entirely on [Wentz’s] alleged autism diagnosis and the district court’s own speculation on how this diagnosis may have played a role in [Wentz’s] actions.” We are not persuaded.

The Minnesota Sentencing Guidelines provide presumptive sentencing ranges to “maintain uniformity, proportionality, rationality, and predictability in sentencing.” Minn. Stat. § 244.09, subd. 5 (2024). A district court may depart from a presumptive sentence only if there are “identifiable, substantial, and compelling circumstances to support a departure.” Minn. Sent’g Guidelines 2.D.1 (Supp. 2023). “Substantial and compelling circumstances are those circumstances that make the facts of a particular case different from a typical case.” *State v. Peake*, 366 N.W.2d 299, 301 (Minn. 1985).

When granting a downward durational departure, the district court must rely “on factors that reflect the seriousness of the *offense*, not the characteristics of the offender.” *Solberg*, 882 N.W.2d at 623-24. The guidelines provide a “nonexclusive list of factors” that a district court may use to depart. Minn. Sent’g Guidelines 2.D.3 (Supp. 2023). “[A]

single mitigating factor, standing alone, may justify a downward durational departure.” *Solberg*, 882 N.W.2d at 624-25.

“A downward durational departure is justified only if the defendant’s conduct was significantly less serious than that typically involved in the commission of the offense.” *Id.* at 624 (quotation omitted). To determine whether certain conduct was significantly less serious than a typical offense, “it is proper for the sentencing court to consider the course of conduct underlying the charge for which the defendant is being sentenced.” *State v. Cox*, 343 N.W.2d 641, 643 (Minn. 1984). Appellate courts may then consider whether the defendant’s “conduct fits squarely within the statute’s prohibition.” *State v. Rund*, 896 N.W.2d 527, 534 (Minn. 2017).

The state charged Wentz with fleeing a peace officer in violation of Minnesota Statutes section 609.487, subdivision 3. This subdivision states:

Whoever by means of a motor vehicle flees or attempts to flee a peace officer who is acting in the lawful discharge of an official duty, and the perpetrator knows or should reasonably know the same to be a peace officer, is guilty of a felony and may be sentenced to imprisonment for not more than three years and one day or to payment of a fine of not more than \$5,000, or both.

Minn. Stat. § 609.487, subd. 3. Subdivision 1 of section 609.487 defines the word “flee” as “to increase speed, extinguish motor vehicle headlights or taillights, refuse to stop the vehicle, or use other means with intent to attempt to elude a peace officer.” Minn. Stat. § 609.487, subd. 1 (2024).

The primary basis on which the district court granted a downward durational departure was its determination that Wentz’s conduct did not fit squarely within the

statute's prohibition. The district court stated: "I don't know that he actually intended to commit this crime -- this offense. If he didn't intend it, it's not a crime."<sup>3</sup> The district court questioned whether "elud[ing] a police officer" was "what [Wentz] was actually doing." The district court further questioned whether the state would have prevailed at trial.

Defense counsel argued that Wentz did not intend to flee. Instead, Wentz "was under the impression that the traffic stop was essentially over, that this was more of a warning." While "it looks to just about anybody that he was fleeing," defense counsel explained that "we just can't tell the court honestly that he intended to flee." As a result, Wentz entered the *Alford* plea and maintained his innocence.

Under these particular facts, we do not have "a strong feeling that the sentence is disproportional to the offense." *Patterson*, 511 N.W.2d at 478. Because the question of intent goes to whether Wentz's course of conduct fits squarely within the statute's prohibition, we conclude that the district court relied on proper and adequate reasons and acted within its discretion by downward durationally departing.

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<sup>3</sup> This case is contrary to *Rund*, which involved a terroristic-threats statute with two potential mental states: "the purpose of terrorizing or a reckless disregard of the risk of terrorizing." 896 N.W.2d at 534 (citing Minn. Stat. § 609.713, subd. 1 (2016)). The supreme court rejected the argument that a reckless mental state permitted a downward durational departure, explaining that recklessness "fits squarely within the statute's prohibition." *Id.* Here, however, the statute defines the word "flee" with only one mental state: "intent to attempt to elude a peace officer." Minn. Stat. § 609.487, subd. 1. Without that mental state, Wentz's conduct does not fit squarely within the statute's prohibition.

**II. Even if we were to assume that the district court relied upon inadequate or improper reasons to support the downward durational departure, the record contains sufficiently supportive grounds.**

The state argues that the district court relied on improper or inadequate grounds to support the departure and the record “lacks any evidence that supports a downward durational departure.” We disagree.

If “the district court gives improper or inadequate reasons for a downward departure, [an appellate court] may independently examine the record to determine whether alternative grounds support the departure.” *Rund*, 896 N.W.2d at 532-33. If so, we will affirm; if not, we will reverse. *See Williams*, 361 N.W.2d at 844; *see also State v. Geller*, 665 N.W.2d 514, 515 (Minn. 2003) (explaining that this court could not remand departure for additional findings).

An appellate court’s decision of “whether a particular durational departure by a [district court] judge was justified ‘must be based on our collective, collegial experience in reviewing a large number of criminal appeals from all the judicial districts.’” *Holmes v. State*, 437 N.W.2d 58, 59 (Minn. 1989) (quoting *State v. Norton*, 328 N.W.2d 142, 146-47 (Minn. 1982)); *see also State v. Angulo*, 471 N.W.2d 570, 575 (Minn. App. 1991), *rev. denied* (Minn. Aug. 2, 1991) (applying this same aspect of *Norton*).

Viewing all the facts and comparing this case with other fleeing cases, we conclude that Wentz’s “conduct was significantly less serious than that typically involved in the commission of the offense,” justifying the downward durational departure. *Solberg*, 882 N.W.2d at 624 (quotation omitted).

The video evidence establishes Wentz’s course of conduct. First, a state trooper initiated a traffic stop, and Wentz pulled over. The trooper instructed Wentz to “let [the trooper] see [Wentz’s] driver’s license,” and Wentz did not provide his driver’s license. The trooper called for backup, walked back and forth to his vehicle, and then told Wentz that they would break his window. Wentz drove away. After leaving the highway, Wentz remained in the right lane of traffic, signaled his turns, and maintained a speed below 45 miles per hour. Several law enforcement vehicles followed Wentz and boxed him into a parking lot, where Wentz stopped, and the Minnesota State Patrol arrested him.

We have identified 11 appellate opinions, filed between March 2023 and February 2026, involving a party convicted of fleeing a peace officer pursuant to Minnesota Statutes section 609.487, subdivision 3. Ten are nonprecedential opinions which we cite only for their persuasive value. *See* Minn. R. Civ. App. P. 136.01, subd. 1(c).

Of the 11 cases, only one involved a defendant who voluntarily stopped and interacted with law enforcement after an attempt to pull them over.<sup>4</sup> Eight of the 11 cases explicitly reference a high-speed chase.<sup>5</sup> Law enforcement officers in four of these high-

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<sup>4</sup> *See State v. Brown*, No. A23-1848, 2024 WL 4344761, at \*1 (Minn. App. Sept. 30, 2024).

<sup>5</sup> *See State v. Vredenburg*, No. A25-0176, 2026 WL 262641, at \*2 (Minn. App. Feb. 2, 2026) (describing vehicle that “accelerated away at a high rate of speed”), *petition for rev. filed* (Minn. Feb. 18, 2026); *State v. Cloud*, No. A25-0110, 2026 WL 143514, at \*1 (Minn. App. Jan. 20, 2026) (describing state “alleg[ing] in the complaint” that high-speed chase occurred); *State v. Doll*, No. A23-0591, 2024 WL 912514, at \*1 (Minn. App. Mar. 4, 2024) (describing vehicle “traveling at speeds of 90 to 100 miles per hour”); *State v. Ruiz*, No. A23-0457, 2024 WL 912074, at \*1 (Minn. App. Mar. 4, 2024) (stating that defendant “sped off”), *rev. denied* (Minn. June 18, 2024); *State v. Holloway*, No. A23-0488, 2024 WL 764007, at \*1 (Minn. App. Feb. 26, 2024) (describing “vehicle [that] reached speeds exceeding 80 miles per hour”), *rev. denied* (Minn. May 14, 2024); *State v. Bonin*, No. A22-1166, 2023 WL 3444930, at \*1 (Minn. App. May 15, 2023) (noting “high speed of the

speed chases had to end or pause their pursuit due to safety concerns.<sup>6</sup> Five of the 11 cases involved crashes.<sup>7</sup>

Under these particular facts, we are not persuaded that the district court abused its discretion by imposing a downward durational departure. Unlike most fleeing cases, Wentz voluntarily stopped for the state trooper and engaged with him at the stop. After driving away, Wentz followed all traffic laws and maintained a relatively low speed. This record provides sufficient grounds to support the downward durational departure because Wentz’s conduct was significantly less serious than a typical fleeing offense.

We conclude that the district court relied on adequate and proper reasons to support the downward durational departure. Even if we were to assume that the district court relied on inadequate or improper reasons, based on our review of the record and recent criminal

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chase”); *State v. Schally*, No. A22-0761, 2023 WL 2637492, at \*1 (Minn. App. Mar. 27, 2023) (“The lieutenant activated his emergency lights, but the [fleeing vehicle] sped up.”), *rev. denied* (Minn. June 20, 2023).

<sup>6</sup> See *Vredenburg*, 2026 WL 262641, at \*2 (describing officer deciding not to pursue “based on his training and police department policy”); *Ruiz*, 2024 WL 912074, at \*1 (“The officers terminated their pursuit once they determined no one was nearby to render assistance.”); *Bonin*, 2023 WL 3444930, at \*1 (describing officer “discontinu[ing] the chase after approximately three-tenths of a mile due to concerns about the high speed of the chase”); *Schally*, 2023 WL 2637492, at \*1 (describing officer “discontinu[ing] active pursuit for safety reasons”).

<sup>7</sup> See *State v. Barr*, No. A23-1816, 2024 WL 4878612, at \*1 (Minn. App. Nov. 25, 2024) (crashing into snowbank); *Brown*, 2024 WL 4344761, at \*1 (crashing “[a]pproximately one minute” after pursuit began); *Ruiz*, 2024 WL 912074, at \*1 (describing vehicle “veer[ing] into a corn field”); *Doll*, 2024 WL 912514, at \*1 (driving “off the exit ramp into a ditch and crash[ing] into a fence”); *Holloway*, 2024 WL 764007, at \*1 (crashing into two trees).

appeals involving the same charge, we conclude that the record sufficiently supports the downward durational departure.

**Affirmed.**