

*This opinion is nonprecedential except as provided by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
A25-1349**

State of Minnesota,
Respondent,

vs.

John Raymond Evers,
Appellant.

**Filed June 8, 2026
Affirmed
Bratvold, Judge**

Benton County District Court
File No. 05-CR-23-1656

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

Kathleen L. Reuter, Benton County Attorney, Michael J.G. Schnider, Assistant County Attorney, Foley, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Jessica Merz Godes, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Bratvold, Presiding Judge; Worke, Judge; and Ross, Judge.

NONPRECEDENTIAL OPINION

BRATVOLD, Judge

In this appeal from a final judgment of conviction for fleeing a police officer by motor vehicle, appellant challenges the sentence imposed following his guilty plea and conviction. Appellant argues that he is particularly amenable to probation and thus the

district court abused its discretion by denying his motion for a downward dispositional departure and imposing a presumptive sentence under the Minnesota Sentencing Guidelines. We affirm.

FACTS

Just before 10:00 p.m. on September 26, 2023, appellant John Raymond Evers was driving a motorcycle on Highway 23 in Benton County. A law enforcement officer initiated a traffic stop. Evers stopped at first but then drove away and “went home.” Law enforcement officers located Evers at his home and arrested him.

Respondent State of Minnesota charged Evers with fleeing a peace officer by motor vehicle under Minn. Stat. § 609.487, subd. 3 (2022), two counts of fourth-degree driving while impaired under Minn. Stat. § 169A.20, subd. 1(1), (5) (Supp. 2023), careless driving under Minn. Stat. § 169.13, subd. 2(a) (2022), and driving after revocation under Minn. Stat. § 171.24, subd. 2 (2022).

At a plea hearing in December 2024, Evers’s attorney told the district court that the parties had reached a plea agreement. Evers agreed to plead guilty to fleeing a peace officer by motor vehicle in exchange for the state’s promise to dismiss the remaining counts and “cap” the recommended sentence at 20 months’ imprisonment, which was at the bottom of the presumptive sentencing range. Evers waived his trial rights and testified to the facts summarized above. The district court found that the factual basis for the plea was adequate and accepted Evers’s guilty plea. The district court scheduled a sentencing hearing and ordered a presentence investigation (PSI).

In support of his motion for a downward dispositional departure, Evers submitted a sentencing memorandum prepared by a dispositional advisor and a legal memorandum. Evers emphasized his cooperation with the PSI and his participation in treatment programs, including completion of chemical-dependency programming. Evers stated that he hit “rock bottom” after he committed the fleeing offense. After a suicide attempt, he resumed treatment and had “turned a corner.” Evers argued that his age, attitude in court, remorse, and support of family, friends, and community showed that he was particularly amenable to probation.

At Evers’s sentencing hearing, the district court stated that it had reviewed the PSI report; Evers’s motion and memorandum for a dispositional departure; a letter from Evers’s sister; correspondence from a chemical-dependency program that Evers attended, including a “treatment coordination update”; and the dispositional advisor’s memorandum. The district court asked for any additions or corrections from the prosecuting attorney and Evers’s attorney, and each responded that they had none. The district court heard attorney arguments and Evers’s allocution.

The prosecuting attorney remarked that, although the state at first had intended to seek a prison commitment, it was “willing to defer” to the district court’s discretion considering Evers’s “consistency” since entering treatment. The prosecuting attorney added, however, that Evers had “been given several chances,” including five to six dispositional departures, and there is “not a lot from his history that shows that he should be getting [another] dispositional departure.” Although the prosecuting attorney acknowledged Evers’s recent “progress,” the attorney characterized it as “short in

comparison to his history” and identified “the hangup” as Evers’s “very lengthy criminal history with several chances prior to today.”

Evers’s attorney argued that Evers “comes before the Court as an individual who finally has decided that now is the time” to change. The attorney pointed out Evers’s “significant hospitalization” and the birth of his two children as contributing to his decision to change. The attorney acknowledged Evers’s criminal history and that he has had opportunities to succeed on probation but failed, adding that Evers asked the district court “to give him one more opportunity.” Evers’s attorney discussed many factors to support Evers’s motion, described Evers as “very remorseful,” and noted that he had the support of family and friends. She also emphasized his participation in chemical-dependency treatment, in which he had been “100 percent compliant,” provided negative drug tests weekly, and engaged in extra services and volunteer activities. She added that Evers had voluntarily committed to abstain from mood-altering substances, benefitted from “dual diagnostic programming,” and planned to continue his progress.

Finally, Evers personally addressed the district court and stated that he understood that his conduct was wrong. He acknowledged that, based on his record, he looks “like a pretty terrible human being” and that he has done “a lot of terrible things.” Evers stated that, although he had experienced sobriety before, he had not previously “had recovery time” and described them as “completely different things.” He explained that he had been actively participating in recovery meetings and activities. He stated that he had “made a change” in his life and intended to “continue the changes” regardless of the district court’s

decision. Evers acknowledged that he would accept a prison sentence and “continue trying to better” himself but asked “to go home” to his children.

The district court discussed the parties’ arguments and acknowledged Evers’s recent six-month success with chemical-dependency treatment and family support. But the district court noted Evers’s prior violations of release conditions and substance abuse in 2024, including an overdose in October 2024. The district court detailed Evers’s “bad record,” including 13 prior felony convictions that include two prior fleeing offenses. And the district court noted that Evers received a downward dispositional departure for a prior offense about two weeks before committing the present fleeing offense.

The district court concluded that, “under the circumstances, although you’ve engaged in treatment, I cannot find you’re particularly amenable to probation because your record shows everything to the contrary.” The district court denied the departure motion and sentenced Evers to 20 months in prison.

This appeal follows.

DECISION

Evers asks us to reverse the district court’s denial of his motion for a downward dispositional departure from a guidelines sentence and remand with instructions to impose probation.

“The Minnesota Sentencing Guidelines were created to assure uniformity, proportionality, rationality, and predictability in sentencing.” *State v. Adell*, 755 N.W.2d 767, 770 (Minn. App. 2008) (quotation omitted), *rev. denied* (Minn. Nov. 25, 2008). “Their purpose is to establish rational and consistent sentencing standards which reduce

sentencing disparity and ensure that sanctions following conviction of a felony are proportional to the severity of the offense of conviction and the extent of the offender's criminal history." *Id.* (quotation omitted). "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).

"The court *may* depart from the presumptive disposition or duration provided in the Guidelines" Minn. Sent'g Guidelines 2.D.1 (Supp. 2023) (emphasis added). "This means that the trial court has broad discretion and that [appellate courts] generally will not interfere with the exercise of that discretion." *State v. Kindem*, 313 N.W.2d 6, 7 (Minn. 1981). Only in a "rare case" will an appellate court reverse a district court's refusal to depart. *State v. Soto*, 855 N.W.2d 303, 305 (Minn. 2014). Appellate courts review a district court's denial of a downward dispositional departure for abuse of discretion. *Id.* at 307-08. In other words, an appellate court may reverse a district court's sentencing order if it "is against logic and the facts in the record." *State v. Nicks*, 831 N.W.2d 493, 503 (Minn. 2013).

The district court must determine that a defendant is "particularly amenable to probation" before granting a downward dispositional departure and staying a presumptive prison sentence. *Soto*, 855 N.W.2d at 312. "By requiring a defendant to be *particularly* amenable to probation . . . [appellate courts] ensure 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). Factors that may indicate a defendant's particular amenability to

probation include age, remorse, prior record, cooperation, attitude while in court, and support of friends and family. *State v. Trog*, 323 N.W.2d 28, 31 (Minn. 1982) (“*Trog* factors”).

But a district court does not abuse its discretion by denying a downward dispositional departure, even if the record includes evidence that a defendant is particularly amenable to probation. *State v. Bertsch*, 707 N.W.2d 660, 668 (Minn. 2006) (affirming a district court’s decision to impose a presumptive executed sentence and recognizing that “[a]nother district court might have found a dispositional departure appropriate”). Appellate courts will affirm the denial of a sentencing departure “as long as the record shows the [district] court carefully evaluated all the testimony and information presented before making a determination.” *State v. Van Ruler*, 378 N.W.2d 77, 80-81 (Minn. App. 1985). A district court must exercise its discretion by deliberately considering the reasons both for and against departure, rather than by imposing a sentence in a “mechanical or callous” manner. *State v. Curtiss*, 353 N.W.2d 262, 264 (Minn. App. 1984).

Evers argues that this is the “rare case” in which the district court abused its discretion by denying his request for a downward dispositional departure. He contends that the district court’s decision was “not based on a deliberate consideration of the relevant factors for determining particular amenability but rather based on Evers’s criminal record and his use of chemicals before he got sober, began living in recovery, and became a father.”

Evers urges that, in his case, each *Trog* factor favors a stayed sentence and dispositional departure, citing caselaw to support his position. Evers highlights several

letters submitted on his behalf that describe him as a committed father and a positive member of the recovery community. Evers also contends that he demonstrated particular amenability through his voluntary engagement in substance-abuse treatment, noting that he is “100% compliant with all treatment expectations.”

Evers emphasizes that he submitted negative drug tests, participated in additional services such as parenting education and trauma programming, and became involved in the recovery community. He argues that this level of voluntary participation is different from his prior probationary experiences and shows that he is motivated to reform. Evers also explains that fatherhood is now the primary reason for his commitment to change his life. Evers acknowledges his lengthy criminal history but argues that “[s]ociety benefits from a sentence tempered with compassion.” He maintains that his commitment to recovery, family support, and demonstrated change establishes substantial and compelling circumstances warranting a downward dispositional departure and points out that the state offered no contradicting evidence and did not oppose a dispositional departure.

The state responds that Evers is not particularly amenable to probation and that, even if he were, the district court was not obligated to grant a downward dispositional departure. The state acknowledges that it deferred to the district court at sentencing but “did not advocate for a departure.” The state also discusses each of the *Trog* factors and contends that Evers’s recent engagement in treatment must be weighed against his history of criminal conduct and supervision failures. Finally, the state contends that this is not the “rare case” in which reversal of a denial of a departure is warranted.

We conclude that the district court deliberately and thoroughly evaluated the evidence presented before denying Evers's request for a downward dispositional departure. The district court acknowledged that it could depart from the presumptive prison sentence if it found substantial and compelling reasons to do so. The district court considered Evers's age, family support, and recent engagement with treatment, noting that some of the *Trog* factors favored granting a downward departure. But the district court also recognized Evers's prior violations of release conditions, including drug and alcohol use in 2024 as well as his overdose and possession of drugs while on conditional release. The district court detailed Evers's criminal history, which included 13 prior felony convictions, two prior fleeing offenses, weapons offenses, a criminal-sexual-conduct offense, and predatory-offender registration violations. The district court also noted that Evers had received a downward dispositional departure in another county about two weeks before committing the offense for which he was being sentenced. Although the district court commended Evers's recent treatment efforts, the district court determined that Evers was not particularly amenable to probation.

This is not the "rare case" that warrants reversal of a district court's refusal to depart from a guidelines sentence. *See Soto*, 855 N.W.2d at 305. The district court carefully reviewed the evidence before making its decision to deny Evers's motion for a downward dispositional departure. "A district court is not *obligated* to depart downward from the guidelines, even if a mitigating factor is present." *State v. Benniefield*, 668 N.W.2d 430, 437 (Minn. App. 2003), *aff'd*, 678 N.W.2d 42 (Minn. 2004).

We conclude that the district court's sentencing decision is supported by record evidence and lies within its broad discretion. Thus, we affirm.

Affirmed.