

*This opinion is nonprecedential except as provided by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
A25-1467**

State of Minnesota,
Respondent,

vs.

Kelsey Marie Rutland,
Appellant.

**Filed July 27, 2026
Affirmed
Harris, Judge**

Cass County District Court
File No. 11-CR-24-527

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

Benjamin T. Lindstrom, Cass County Attorney, Walker, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Peter H. Dahlquist, Assistant
Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Larson, Presiding Judge; Wheelock, Judge; and
Harris, Judge.

NONPRECEDENTIAL OPINION

HARRIS, Judge

Appellant Kelsey Marie Rutland challenges the district court's denial of her motion for a downward dispositional departure, arguing that the district court abused its discretion because it failed to consider all the *Trog* factors, including six letters of support. Because we discern no abuse of discretion by the district court, we affirm.

FACTS

In October 2021, Rutland was employed as a cashier at a sporting goods store. Part of Rutland's job was "zeroing out" any remaining balances on gift cards used by the store's customers and then throwing the gift cards away. After a while, Rutland began using the gift cards herself because she believed that no one would notice them being used again. Between October 2021 and November 2023, Rutland used the gift cards to purchase seven firearms for herself from the store.

Respondent State of Minnesota charged Rutland with one count of felony theft by swindle, one count of felony racketeering, 18 counts of felony theft of a firearm, two counts of attempted theft of a firearm, three counts of theft of \$1,000 or more, and one count of theft of \$5,000 or more under Minnesota Statutes sections 609.52, subdivisions 2(a)(1) and (4), and .903, subdivision 1(3) (2020). Rutland pleaded guilty to seven counts of felony theft of a firearm, and the state dismissed the remaining charges.

Rutland filed a motion for a downward dispositional departure, arguing that she was particularly amenable to probation because of her lack of criminal history, her young age, acceptance of responsibility, remorse, post-offense rehabilitation, and need for mental-health treatment.¹ Rutland's attorney included a March 2025 psychological evaluation² and six letters of support from family, friends, and former coworkers.

¹ Rutland's attorney argued at sentencing that Rutland had been physically and emotionally abused from a young age, which affected how she viewed her self-worth later in life. As a result, her attorney argued that Rutland viewed her worth as what she could get for others; and here, that included "discounts" for friends and family.

² The psychological evaluation is confidential. To protect the confidentiality of nonpublic information, we include only the information contained in Rutland's departure motion and

At sentencing, Rutland’s attorney argued that this was “sort of a routine theft case.” The attorney argued that Rutland was not violent and that “she did not use [the] firearms for the commission of any [] violent crime.” Rutland’s attorney also informed the court that she completed a mental-health assessment and had begun individualized treatment. The state opposed Rutland’s departure motion, arguing that Rutland’s remorse was not sincere and pointing out that the psychological evaluation was completed after she pleaded guilty and prior to sentencing.

The district court also heard three victim impact statements. Rutland apologized to the victims and acknowledged that her actions were wrong. The district court denied Rutland’s departure and imposed stayed presumptive guidelines sentences for counts 3, 5, 7, 9, and 11, and executed guidelines sentences of 27 months’ imprisonment for count 15, and 26 months’ imprisonment for count 19.³

Rutland appeals.

DECISION

The Minnesota Sentencing Guidelines prescribe a sentence or a range of sentences that is “presumed to be appropriate.” *State v. Soto*, 855 N.W.2d 303, 308 (Minn. 2014) (quoting Minn. Sent’g Guidelines 2.D.1.A (2012)). The purpose of the guidelines is to promote uniformity, proportionality, and predictability in sentencing. Minn. Stat. § 244.09, subd. 5 (2020); *see also State v. Hicks*, 864 N.W.2d 153, 156 (Minn. 2015). Thus,

in the sentencing hearing transcripts. Both are designated as publicly available. *See* Minn. R. Pub. Access to Recs. of Jud. Branch 4, subds. 1(b), 4.

³ Rutland demanded execution of the stayed sentences after being sentenced to an executed sentence on counts 15 and 19.

departures from the sentencing 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 sentencing guidelines provide for two types of departures: dispositional departures and durational departures. Minn. Sent’g Guidelines 1.B.5.a-b. A durational departure “is a sentence that departs in length from the presumptive guidelines range.” *Solberg*, 882 N.W.2d at 623. Durational departures are appropriate when “the defendant’s conduct was significantly less serious than that typically involved in the commission of the offense.” *Id.* (quotation omitted). A dispositional departure, on the other hand, “places the offender in a different setting than that called for by the presumptive guidelines sentence.” *Id.* Dispositional departures generally focus on the defendant’s characteristics “that show whether the defendant is particularly suitable for individualized treatment in a probationary setting.” *Id.* (quotation omitted).

A district court may depart from the presumptive range when there are substantial and compelling circumstances. Minn. Sent’g Guidelines 2.D.1 (2020). “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).

In determining whether a defendant is particularly amenable to probation so as to justify a downward dispositional departure, the district court considers, among other things, the defendant’s age, criminal record, remorse, cooperation, attitude while in court, and the support of family and friends (*Trog* factors). *See State v. Trog*, 323 N.W.2d 28, 31 (Minn. 1982). If the district court departs from the presumptive sentence, it must provide written reasons to justify the departure. Minn. Sent’g Guidelines 2.D.1.c (2020). But the district court is *not* required to state its reasons for denying a defendant’s request for a downward

dispositional departure and imposing the presumptive guidelines sentence. *State v. Van Ruler*, 378 N.W.2d 77, 80 (Minn. App. 1985). And even when the *Trog* factors may support particular amenability, we generally will not disturb the district court’s imposition of the presumptive sentence. *State v. Evenson*, 554 N.W.2d 409, 412 (Minn. App. 1996), *rev. denied* (Minn. Oct. 29, 1996); *see State v. Pegel*, 795 N.W.2d 251, 253-54 (Minn. App. 2011) (stating that the presence of a mitigating factor “does not obligate the [district] court to place defendant on probation or impose a shorter term than the presumptive term”) (quotation omitted)).

“We review a district court’s decision to depart from the presumptive guidelines sentence for an abuse of discretion.” *Solberg*, 882 N.W.2d at 623. District courts are afforded “great discretion in the imposition of sentences.” *Soto*, 855 N.W.2d at 307. “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. Fortner*, 989 N.W.2d 368, 374 (Minn. App. 2023) (quotation omitted). Only in a “rare case” will an appellate court reverse a district court’s imposition of a presumptive sentence. *State v. Bertsch*, 707 N.W.2d 660, 668 (Minn. 2006) (quoting *State v. Kindem*, 313 N.W.2d 6, 7 (Minn. 1981)).

Rutland argues that the district court’s decision not to grant a dispositional departure was an abuse of discretion because it was “against logic and the facts in the record.” *See State v. Guzman*, 892 N.W.2d 801, 810 (Minn. 2017). Specifically, Rutland argues that the district court: (1) failed to consider all of the *Trog* factors, and the factors that it did consider weighed in favor of departure, and (2) failed to consider the six letters of support from friends and family. We address each argument in turn.

Rutland first argues that the district court abused its discretion because it failed to consider all of the *Trog* factors, and the factors that it did consider weighed in favor of departure. Specifically, Rutland argues the district court only considered whether she was remorseful. Her argument is unavailing.

First, in denying a dispositional departure, the district court need not discuss every *Trog* factor. *Pegel*, 795 N.W.2d at 254. Nor are specific findings required. *State v. Johnson*, 831 N.W.2d 917, 926 (Minn. App. 2013), *rev. denied* (Minn. Sept. 17, 2013) (noting that the district court is “not required to state its reasons for not departing on the record”). Here, although the district court did not explicitly address all *Trog* factors in its sentencing decision, the district court expressed concerns that went beyond just the lack of remorse and weighed directly on Rutland’s amenability to probation. Of the *Trog* factors that the district court did consider, it acknowledged that Rutland expressed remorse, accepted responsibility for her actions, and had no prior criminal history, which weighed in her favor. The district court also noted that Rutland was present in court, on time, did not have warrants, cooperated with the investigation, communicated with her attorney, and pleaded guilty. Still, the district court did not find that Rutland was particularly amenable to probation. For example, despite Rutland’s expression of remorse, the district court indicated that it was not entirely convinced that Rutland’s remorse was genuine. When it reviewed the psychological evaluation, it stated that the reason for the visit listed on the evaluation was “because your attorney told you to.” It also noted that the evaluation was completed prior to sentencing and after Rutland pleaded guilty. Thus, rather than complete a psychological evaluation out of a genuine desire to attain a “particular insight” into her mental health, the district court viewed the evaluation as part of Rutland’s sentencing

strategy. The district court's explanation to Rutland shows that it carefully considered its sentencing decision.

The district court additionally discussed the nature of the crimes: that the thefts occurred over a period of 36 months; and that Rutland had plenty of opportunities to stop what she was doing, but she did not. The district court also considered the victim impact statements and said, "these folks were helping you and creating an environment of support for you [and that] did not trigger the remorse at that time. It didn't trigger the insight that maybe there was a need for you to address mental health issues at any time on those days that you woke up." On this record, the district court considered and balanced the *Trog* factors that favored and disfavored a departure.

Next, Rutland contends that the district court abused its discretion by failing to consider the six letters of support from friends and family. It is true that the district court did not acknowledge reading or receiving the letters of support on the record, but they were sent to the district court as exhibits attached to Rutland's departure motion.

While the record does not clearly indicate whether the district court read the letters of support, we are not persuaded that the court abused its discretion. The letters were submitted in support of the departure motion, and the district court's failure to specifically reference them when denying that motion does not establish that it failed to consider them. District courts are not required to discuss every *Trog* factor or explain their reasons for denying a departure on the record. *Pegel*, 795 N.W.2d at 254; *Van Ruler*, 795 N.W.2d at 80 (stating that a district court need not explain its reasons for denying departure when it "considers reasons for departure but elects to impose the presumptive sentence"). And even if the district court explicitly stated that it reviewed the letters of support, "the

presence of mitigating factors” does not require a departure. *Wells v. State*, 839 N.W.2d 755, 781 (Minn. App. 2013), *rev. denied* (Minn. Feb. 18, 2014); *Bertsch*, 707 N.W.2d at 668 (stating that appellate courts will not disturb the district court’s sentence “even if there are grounds that would justify departure”).

In short, the record reflects that the district court adequately considered all of the testimony presented at the sentencing hearing before denying Rutland’s motion for a dispositional departure. The record reflects that the district court was engaged during the sentencing hearing. The district court heard from three victims, Rutland’s attorney, and Rutland herself, regarding their arguments for and against departure. The district court was additionally presented with the psychological evaluation, Rutland’s written motion requesting a downward dispositional departure which contained the letters of support, and the presentence investigation (PSI) report.⁴ While Rutland may disagree with the district court’s discussion or weighing of the *Trog* factors, that does not constitute an abuse of discretion.

We therefore determine that the district court did not abuse its discretion by denying Rutland’s request for a downward dispositional departure from the presumptive sentence.

Affirmed.

⁴ Although the district court did not explicitly cite the PSI report before it pronounced a sentence, the record shows that the district court received and reviewed the PSI report.