

*This opinion is nonprecedential except as provided by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
A25-1542**

State of Minnesota,
Appellant,

vs.

Zerick Allen Michael McClinn,
Respondent.

**Filed February 23, 2026
Reversed and remanded
Florey, Judge***

Anoka County District Court
File No. 02-CR-24-4877

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

Brad Johnson, Anoka County Attorney, Carl E. Erickson, Assistant County Attorney,
Anoka, Minnesota (for appellant)

Cathryn Middlebrook, Chief Appellate Public Defender, Julia Q. Brady, Assistant Public
Defender, St. Paul, Minnesota (for respondent)

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

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

NONPRECEDENTIAL OPINION

FLOREY, Judge

After Zerick McClinn entered an *Alford* plea to one count of felony domestic assault by strangulation, the district court departed durationally and imposed a gross-misdemeanor sentence, finding that his offense was less onerous than typical because of the victim's delay in reporting the incident and minor injuries. The state appeals, arguing that the district court abused its discretion by using these factors to justify its departure. Because we hold that the record here does not support an inference that the victim's reporting delay relates to the seriousness of McClinn's offense and is unclear whether the district court's alternative grounds provide an independently sufficient reason to depart, we reverse and remand for resentencing.

FACTS

In July of 2024, appellant State of Minnesota charged respondent Zerick Allen Michael McClinn with domestic assault by strangulation in violation of Minnesota Statutes section 609.2247, subdivision 2 (2022). According to the criminal complaint, the charge stemmed from a March 29 incident that the victim reported on June 15. The state later added charges of domestic assault by intentionally inflicting bodily harm in violation of Minnesota Statutes section 609.2242, subdivision 1(2) (2022), and domestic assault by committing an act with intent to cause fear of bodily harm in violation of Minnesota Statutes section 609.2242, subdivision 1(1) (2022).

McClinn petitioned the court to plead guilty via *Alford* pursuant to a plea agreement with the state.¹ Under the agreement's terms, McClinn would enter an *Alford* plea to domestic assault by strangulation in exchange for the state dismissing the remaining charges and the opportunity to argue for a downward durational departure at sentencing.

At his plea hearing, McClinn admitted that the state's evidence was sufficient to prove his guilt of domestic assault by strangulation beyond a reasonable doubt. McClinn also acknowledged evidence of photos capturing "some bruising and some scratches and some marks" on the victim's body. The district court accepted McClinn's *Alford* plea and ordered a presentence investigation (PSI).

The district court then granted McClinn a one-day downward durational departure from his presumptive one-year sentence, reducing his offense from a felony to a gross misdemeanor. The court explained its reasoning:

There are substantial and compelling factors to find that this particular charge of domestic assault by strangulation is less onerous [than] the typical charge for a domestic assault by strangulation, in that the [victim] waited three months to report this offense and indicated that the defendant had both hands around . . . her neck, although there were no bruising or red marks around her neck, except for the bruise on the back of her neck.

The court entered McClinn's domestic-assault-by-strangulation conviction as a gross misdemeanor, sentencing him to a 364-day stayed sentence and two years of probation.

The state appeals.

¹ In an *Alford* plea, the defendant maintains his innocence but admits that the state has sufficient evidence to prove his guilt beyond a reasonable doubt at trial. See *North Carolina v. Alford*, 400 U.S. 25, 37–38 (1970).

DECISION

On appeal, the state argues that the district court abused its discretion by awarding McClinn a downward durational departure because a reporting delay is not a proper ground for departure and the victim's injuries do not suggest that McClinn's offense was less serious than a typical domestic assault by strangulation. For the following reasons, we reverse and remand to the district court for resentencing.

This court reviews a downward departure in two steps. First, we review de novo whether a district court's reason for granting a departure is proper. *Dillon v. State*, 781 N.W.2d 588, 595 (Minn. App. 2010), *rev. denied* (Minn. July 20, 2010). A reason justifying a downward durational departure must concern the offender's conduct and demonstrate that it is significantly less serious than a typical offense of that kind. *State v. Solberg*, 882 N.W.2d 618, 623-24 (Minn. 2016); *State v. Mattson*, 376 N.W.2d 413, 415 (Minn. 1985). If proper grounds exist, this court then reviews the district court's decision to depart from the sentencing guidelines for an abuse of discretion. *Solberg*, 882 N.W.2d at 623; *see also* Minn. Sent'g Guidelines 2.D.1. (2022) ("A departure is . . . an exercise of judicial discretion[.]"). A district court abuses its discretion when it lacks factual support for its reasons justifying the departure or bases its departure on improper reasons. *State v. Edwards*, 774 N.W.2d 596, 601 (Minn. 2009).

The district court here abused its discretion by reasoning that the victim's reporting delay demonstrates that McClinn's offense was less serious than the typical domestic assault by strangulation because this inference finds no support in the record. Although we are skeptical of the argument, even if we are to assume without deciding that delayed

reporting could be a proper consideration for a durational departure on this charge, the record does not permit such an inference in this case. While the record establishes that the victim delayed reporting McClinn’s assault for about three months, its limited materials—consisting mostly of the criminal complaint, *Alford* plea colloquy, and PSI—shed no light on the victim’s perspective as to why she waited to report the assault or how it affected her. Her delayed report reveals nothing about the severity of McClinn’s assault absent speculation. We conclude, therefore, that the district court’s finding to the contrary lacks support from the record, and it accordingly abused its discretion by relying on unsupported grounds to depart. *See Edwards*, 774 N.W.2d at 601.

This conclusion requires us to reverse. A district court need only one mitigating factor to justify a downward durational departure, *Solberg*, 882 N.W.2d at 623–24, but the court’s explanation of its reasoning is not clear as to whether the victim’s reporting delay and degree of injuries were each an independently sufficient reason for it to find McClinn’s assault significantly less serious than typical or if the two needed to work in tandem for it to reach that conclusion. We therefore reverse and remand this matter to the district court to make this determination.²

Reversed and remanded.

² McClinn asks us to affirm this case by determining that alternative grounds exist that support the district court’s departure—namely that the victim was also an aggressor in this incident. *State v. Rund*, 896 N.W.2d 527, 532–33 (Minn. 2017); Minn. Sent’g Guidelines 2.D.3.a.(1). We decline to do so because the record, limited by the *Alford*-plea resolution of this case, does not provide us with enough reliable information about the incident to reach this conclusion.