

*This opinion is nonprecedential except as provided by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
A25-1710**

State of Minnesota,
Respondent,

vs.

Vontrez Trevon Phelps,
Appellant.

**Filed August 10, 2026
Affirmed
Larkin, Judge**

Ramsey County District Court
File No. 62-CR-24-408

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

John Choi, Ramsey County Attorney, Alexandra Meyer, Assistant County Attorney, St. Paul, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Evan Ottaviani, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Bratvold, Presiding Judge; Larkin, Judge; and Reyes, Judge.

NONPRECEDENTIAL OPINION

LARKIN, Judge

Appellant challenges his sentence for felony driving while impaired, arguing that the district court abused its discretion in denying his motion for a downward-dispositional sentencing departure. We affirm.

FACTS

In January 2024, respondent State of Minnesota charged appellant Vontrez Trevon Phelps with two felony-level alcohol-related offenses: driving while impaired (DWI) and refusal to submit to a chemical test. The state alleged that, on January 20, 2024, police were called to the scene of a motor-vehicle accident at the intersections of St. Clair Avenue and Milton Street in St. Paul. Officers spoke to J.N. who reported that he was heading west on St. Clair when he saw an Audi bearing “whiskey plates” fail to stop at a stop sign on Milton Street. J.N. tried to stop but could not avoid hitting the Audi.

Phelps was in the driver’s seat of the Audi. When the police spoke to him, his speech was slurred and he smelled of alcoholic beverages. When the police asked Phelps for his insurance, he was confused and asked the officers where they were. The police removed Phelps from his vehicle and requested field sobriety testing. Phelps declined. Then, Phelps ran from the officers, but he fell after running ten feet. The police arrested Phelps and took him to a hospital.

The police obtained a search warrant authorizing them to obtain a blood or urine sample from Phelps, but Phelps refused to allow a nurse to draw a blood sample. He also refused to provide a urine sample. Phelps had to be removed from the emergency room for causing a disturbance.

In April 2025, Phelps pleaded guilty to the felony DWI charge, and the state dismissed the test-refusal charge.

At the time of sentencing, Phelps was 34 years old. His criminal history spanned from 2005 to 2025, and it included delinquent adjudications and convictions for the following offenses (listed in chronological order):

- Felony third-degree assault
- Misdemeanor trespass
- Misdemeanor disorderly conduct
- Felony terroristic threats
- Misdemeanor underage drinking and driving
- Felony domestic assault
- Misdemeanor DWI
- Misdemeanor false information to police
- Felony fifth-degree controlled-substance crime
- Misdemeanor disorderly conduct
- Gross-misdemeanor DWI
- Misdemeanor assault

The district court placed Phelps on probation for all but three of those offenses. The district court gave him credit for time served for the false-information-to-police conviction and sentenced him to prison for the felony-terroristic-threats and felony-domestic-assault convictions. However, the district court imposed those prison sentences around the same time that it revoked Phelps's probation for felony third-degree assault, executed his stayed prison sentence, and sent him to prison for 86 months.

Phelps also had several other criminal charges pending at the time of sentencing in this case. Those offenses allegedly occurred between 2022 and 2025, and included the following charges (listed in chronological order):

- Gross-misdemeanor DWI¹

¹ The pending gross misdemeanor DWI charge included in presentence investigation report shows that the state charged Phelps with five separate counts based on that incident. These included: two counts of gross misdemeanor DWI, two counts of driving after revocation,

- Gross-misdemeanor financial transaction card fraud
- Felony second-degree burglary
- Misdemeanor obstructing legal process
- Felony fifth-degree controlled-substance crime
- Gross-misdemeanor domestic-abuse no-contact-order violation

The district court received a presentence investigation report (PSI) indicating that, based on Phelps's criminal history and the severity-level of his new felony DWI offense, the presumptive sentence was 54 months in prison.

Phelps moved for a downward-dispositional departure, seeking another chance on probation and arguing that he was particularly amenable to probation. As support, Phelps's attorney filed the following documents with the district court: (1) a sentencing memorandum written by the attorney's dispositional advisor; (2) letters of support from Phelps's mother, grandmother, and four football coaches²; (3) a letter verifying his satisfactory participation in an out-patient treatment program to address his chemical use and mental health; (4) a sample schedule from that treatment program; and (5) sentencing data from the Minnesota Sentencing Guidelines Commission indicating that, from 2018-2022, 55% of the offenders who faced a presumptive prison commitment for the underlying felony DWI offense under Minn. Stat. § 169A.24, subd. 1(1) (2018) received a downward-dispositional departure.

In arguing for a departure at sentencing, Phelps's attorney referred to information in the documents that were filed in support of a departure. In addition, Phelps addressed

and one count of obstructing legal process. These charges are in addition to Phelps's other pending charges listed in the PSI.

² The record indicates that Phelps played college and semi-professional football and that he coached youth football.

the district court on his own behalf. He apologized to the court and said that he had prayed for the victim in this case. He also said he had gone to treatment “five days a week for almost four hours a day for over five months.” Finally, he said that he had not relapsed. He referred to the football coaching that he had done in the community and encouraged everyone in the courtroom to attend one of his games and see what he really does in his community, because the negative information that had been submitted to the court did not reflect who he is. He said that he was attending AA meetings, that they inspired him, and that he is “going to be great in this community.” He acknowledged his additional pending criminal cases, but he asserted that he was “absolutely innocent” in some of them.

Phelps ended his remarks as follows:

I’m asking you for an opportunity to continue to let me learn about myself, learn about my mental [health], learn about my triggers, learn about my alcohol addiction, and learn about—I’ve been learning about the traits that my parents passed on to me. It’s so much that I’ve learned, and it just—these five months, and I got a long way to go. I got a long way to go. I’m not saying I’m there yet. But I’m willing to do whatever I gotta do to be the man. I’m 34. I’ve got five kids. It’s not about me no more.

The state argued against Phelps’s motion for a downward-dispositional departure, noting that the PSI indicated that he had not done well on probation and had not completed his probation requirements. The state also noted that Phelps had been charged with six new offenses while the underlying case was pending and thus had engaged in “continuing ongoing criminal behavior.”

The district court determined that Phelps was not particularly amenable to probation and denied Phelps's motion for a downward-dispositional departure. The district court explained its reasoning as follows:

I did review [your probation officer's] comments on probation and I get the impression that she does like you, but she does not agree with your assessment of how you're doing on probation.

When you say that you'll take probation seriously, I also have to note you've been on probation at least seven times with a history of probation violations for not following through. . . .

[Probation says] you haven't done well on probation. You're on probation on four files in Ramsey and one in Washington. The report from Washington is you struggled to complete requirements. You continue to pick up new charges. That's concerning. It's not like you to miss a probation appointment, but you just did right before this hearing, [at] the end of June. . . . [A]nd the fact that you continue to pick up charges does not give me particular faith that you are going to be particularly amenable to probation.

This was an event that occurred in January of 2024, and you have been out on bail since that time; but it was more than a year later before you got into treatment, just before the plea in this hearing. It's not clear to me whether that actually reflects a genuine intent for treatment, since it took that long, or whether it's trying to limit a consequence. I also note—and this is not a conviction, it's a charge—for drug possession just last month, for a drug you admitted using as recently as February, does not enhance an impression of a genuine intent for treatment.

The district court entered judgment of conviction for felony DWI and sentenced Phelps to serve 46 months in prison.

Phelps appeals.

DECISION

The Minnesota Sentencing Guidelines establish presumptive sentences for criminal offenses and seek to “maintain uniformity, proportionality, rationality, and predictability in sentencing.” Minn. Stat. § 244.09, subd. 5 (2024). “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). A district court may depart from the presumptive sentence only when there are “identifiable, substantial, and compelling circumstances to support a departure.” Minn. Sent’g Guidelines 2.D.1 (Supp. 2023).

If substantial and compelling circumstances exist, the district court has broad discretion to depart, and we generally will not interfere with the exercise of that discretion. *State v. Kindem*, 313 N.W.2d 6, 7 (Minn. 1981). This court will reverse the district court’s refusal to depart from the presumptive sentence only in a “rare” case. *Id.* “[A]s long as the record shows the [district] court carefully evaluated all the testimony and information presented before making a determination,” we will not reverse the district court’s refusal to depart. *State v. Pegel*, 795 N.W.2d 251, 255 (Minn. App. 2011) (quotation omitted).

When considering a dispositional departure, the district court focuses “more on the defendant as an individual and on whether the presumptive sentence would be best for him and for society.” *State v. Heywood*, 338 N.W.2d 243, 244 (Minn. 1983). A defendant’s particular amenability to probation can justify a downward-dispositional departure from a presumptive sentence. *State v. Soto*, 855 N.W.2d 303, 308 (Minn. 2014). The requirement of particular amenability ensures 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).

Relevant factors for determining whether a defendant is particularly amenable to probation include the defendant’s age, prior criminal record, remorse, cooperation, attitude in court, and support of friends and family. *State v. Trog*, 323 N.W.2d 28, 31 (Minn. 1982). Even if there is evidence that the defendant would be particularly amenable to probation, a district court is not required to grant a dispositional departure. *State v. Olson*, 765 N.W.2d 662, 664-65 (Minn. App. 2009).

We review the district court’s sentencing decision for an abuse of discretion. *Soto*, 855 N.W.2d at 307-08. “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. Hallmark*, 927 N.W.2d 281, 291 (Minn. 2019) (quotation omitted).

Phelps contends that the district court abused its discretion by denying his motion for a downward-dispositional departure. He relies on *State v. Curtiss*, 353 N.W.2d 262 (Minn. App. 1984) and *State v. Van Ruler*, 378 N.W.2d 77 (Minn. App. 1985). In *Curtiss*, we held that, in exercising its sentencing discretion, the district court “must consider circumstances supporting a downward durational departure from the presumptive sentence.” 353 N.W.2d at 262. In *Van Ruler*, we said that a “reviewing court may not interfere with the sentencing court’s exercise of discretion, as long as the record shows the sentencing court carefully evaluated all the testimony and information presented before making a determination.” 378 N.W.2d at 80-81.

Phelps asserts that the district court's ruling is inconsistent with *Curtiss* and *Van Ruler*. Specifically, he argues that:

- The record does not demonstrate that the district court deliberately evaluated all of the information supporting his departure motion, noting that the court “never stated on the record that it reviewed this information” and that “none of the statements [it] made at the sentencing hearing would reasonably indicate that this information was carefully evaluated.”
- Unlike the circumstances noted in multiple nonprecedential decisions from this court, the district court here “did not list or otherwise mention the documents it reviewed,” and although it is evident that the court reviewed the PSI, “nothing in the sentencing transcript demonstrates that the court considered the documents submitted by the defense.”
- Like the circumstances in *Curtiss*, “the record here shows that there were legitimate reasons to depart in this case,” yet “[i]nstead of considering those reasons . . . the district court abandoned the departure inquiry in favor of a short discussion of Phelps’s past performance on [probation].”
- Phelps’s “statements and the many supportive letters in the record, including from his treatment provider, indicated that he had begun to address his problematic thinking patterns in the five months he had been in treatment in a way that led to demonstrable change.”

None of these arguments persuades us that the district court abused its discretion in sentencing Phelps to a presumptive prison sentence. When addressing the district court at

sentencing, Phelps and his attorney reiterated the contents of some of the documents that were submitted in support of a departure. There is no rule or precedent that requires the district court to make a record of all the information it considered in rejecting a departure request. The lack of such precedent is not surprising given that “an explanation is not required when the court considers reasons for departure but elects to impose the presumptive sentence.” *Van Ruler*, 378 N.W.2d at 80. Thus, the lack of such a record would rarely lead us to conclude that the district court did not consider all the information presented when making its decision.

We say “rarely” because there could be a case in which the district court’s failure to acknowledge substantial and compelling circumstances could lead us to remand for resentencing. Of course, even if substantial and compelling circumstances exist, the district court is not required to depart from the presumptive sentence. *Wells v. State*, 839 N.W.2d 775, 781 (Minn. App. 2013), *rev. denied* (Minn. Feb. 18, 2014). Again, “it would be a rare case which would warrant reversal of the refusal to depart.” *Kindem*, 313 N.W.2d at 7.

Curtiss was one such case. But the circumstances of *Curtiss* are nothing like the circumstances here. *Curtiss* “entered a breezeway attached to a house and removed a case of beer.” *Curtiss*, 353 N.W.2d at 263. He was charged with a felony-level burglary and pleaded guilty to the offense. *Id.* The presumptive sentence for that offense was a 33-35 month term of imprisonment. *Id.* The district court denied *Curtiss*’s request for a downward-*durational* departure and a reduced prison term of 18-months.³ *Id.* Instead, it

³ “The Minnesota Sentencing Guidelines define two types of sentencing departures: dispositional and durational.” *Solberg*, 882 N.W.2d at 623. “A dispositional departure

sentenced him to serve 33 months in prison. *Id.* We “remanded for a hearing on sentencing and for reconsideration of the departure question.” *Id.* at 264. In doing so, we explained:

The record suggests factors for departure which should be deliberately considered. The court erred in putting aside arguments for departure rather than considering them alongside valid reasons for non-departure. This is not that rare case where we interfere with the exercise of discretion, but a case where the exercise of discretion has not occurred. Consideration of compelling circumstances is central to the scheme of the sentencing guidelines, and the practice will avoid sentencing that is either mechanical or callous.

Id. (quotation and citation omitted).

Our decision in *Curtiss* was based on the existence of compelling reasons to depart.

We stated:

Legitimate reasons for departure did exist. In fact, they were significant. The defendant was 18 years of age. He faced his first sentence to an adult correctional facility. His offense involved taking 16 bottles of beer from the breezeway of an occupied house, without other intrusion, barely within the scope of the serious charge of burglary in the first degree. His prior felony involved driving an older model pickup until it was out of gas. The trial judge noted: “I personally feel . . . that 34 [sic] months may be too much.”

Id. at 263 (emphasis added).

The circumstances here are very different from those in *Curtiss*. Phelps is 34 years old and has a significant criminal history as an adult. He was imprisoned for 86 months after violating probation. He had not been successful on probation and had been charged

places the offender in a different setting than that called for by the presumptive guidelines sentence.” *Id.* “By contrast, a durational departure is a sentence that departs in length from the presumptive guidelines range.” *Id.*

with new offenses while the underlying case was pending. Unlike the circumstances in *Curtiss*, “legitimate” and “significant” reasons for a downward departure are not apparent in this case. We therefore are not left with a concern that the district court failed to consider “factors for departure [that] should be deliberately considered.” *Id.* at 264.

The documents and statements submitted on Phelps’s behalf are encouraging. We hope that Phelps continues to address his chemical-use and mental-health issues and that he can become the community leader he aspires to be after his release from prison. But those submissions do not suggest substantial and compelling circumstances justifying a sentencing departure. They simply do not show that Phelps was particularly amenable to probation at the time of sentencing.

In conclusion, the record shows that the district court reviewed the presentence investigation report and that the court was aware of Phelps’s criminal history, his pending charges, his probation history, his chemical- and mental- health issues, his recent successful participation in treatment, his family and community support, and his desires to maintain sobriety, to remain law-abiding, and to be a leader in his community. On this record, we are satisfied that the district court considered the arguments for departure. Thus, this is not a rare case in which we would reverse the district court’s imposition of a presumptive sentence.

Affirmed.