

*This opinion is nonprecedential except as provided by  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  
A25-1798**

State of Minnesota,  
Respondent,

vs.

Keng Cha,  
Appellant.

**Filed September 8, 2026  
Affirmed  
Bond, Judge**

Ramsey County District Court  
File No. 62-CR-23-5783

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

John J. Choi, Ramsey County Attorney, Peter R. Marker, Assistant County Attorney,  
St. Paul, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Max B. Kittel, Assistant Public  
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Worke, Presiding Judge; Frisch, Chief Judge; and Bond,  
Judge.

**NONPRECEDENTIAL OPINION**

**BOND, Judge**

In this appeal from the judgment of conviction for two counts of third-degree  
criminal sexual conduct following a guilty plea, appellant argues that the district court

abused its discretion by denying his motion for a downward dispositional departure and imposing a sentence within the presumptive range. We affirm.

### **FACTS**

In September 2023, respondent State of Minnesota charged appellant Keng Cha with one count of first-degree criminal sexual conduct (count one), in violation of Minn. Stat. § 609.342, subd. 1a(f) (2022), and one count of third-degree criminal sexual conduct (count two), in violation of Minn. Stat. § 609.344, subd. 1a(h)(I) (2022). The complaint alleged that Cha, a 29-year-old high school volleyball coach, had a sexual relationship with a minor student on the team. The state later amended the complaint to add a second count of third-degree criminal sexual conduct (count three).

In February 2025, Cha pleaded guilty to counts two and three. As to potential sentences, the parties agreed that the presumptive guidelines sentence for third-degree criminal sexual conduct for a person who, like Cha, had a criminal-history score of zero, was 48 months in prison. The plea agreement provided that, in exchange for pleading guilty, Cha would receive consecutive sentences totaling 90 months in prison, the state would dismiss count one, and Cha could move for a downward dispositional departure; if the district court granted Cha's departure request, Cha would receive a stayed 96-month prison term.

At the plea hearing, Cha admitted that, while working as a high school volleyball coach in 2022, he began a sexual relationship with the victim, who was a 14-year-old student on the team. Cha admitted that he engaged in sexual penetration with the victim on multiple occasions and that he was in a position of authority and in a prohibited

occupational relationship with the victim. The district court ordered the preparation of a presentence investigation (PSI) and a psychosexual evaluation, noting their importance to the ultimate sentencing decision.

Before the sentencing hearing, Cha filed a motion for a downward dispositional departure and accompanying legal memorandum, arguing that he is particularly amenable to probation based on his age, lack of prior criminal record, remorse, cooperation with the court, participation in Project Pathfinder, Inc., a sex-offender treatment program, and support from family and friends. Cha submitted other supporting documents, including a report of his honorable discharge from the national guard, sex-offender treatment progress reports, and letters of support from his former cultural wife, her sister, and his employer. Cha also complied with the psychosexual evaluation and participated in the PSI, which ultimately recommended the presumptive sentence.

At the outset of the sentencing hearing, the parties clarified that the plea agreement provided for either an 86-month executed sentence or a 90-month stayed sentence. The district court then heard oral arguments from defense counsel and the prosecutor, and Cha gave a statement in allocution. The district court denied Cha's request for a dispositional departure, reasoning as follows:

The Court will put on the record I have read that presentence investigation report, as well as the psychosexual evaluation report that was filed into this case that was conducted by . . . [a] licensed psychologist, that was filed back on 6/15 of 2025, as well as her recommendations. The Court also read a number of documents filed by the Defense on behalf of Mr. Cha, namely a letter from Project Pathfinder dated 7/23/2025 by his therapist. I should put on the record all those documents were filed confidentially, consistent with the rules,

and [are] nonpublic as medical records. They will be maintained as such, including the psychosexual evaluation.

The Court also read the Defense's memorandum in support of his motion for departure from the guidelines, filed 7/25/2025, and a number of letters and affidavits, one of which includes a letter from his cultural wife, and . . . a sister of his cultural wife, . . . along with other letters and/or progress review notes and updates supporting Mr. Cha's request for a dispositional departure.

First, I want Mr. Cha to know that I can appreciate that you have lack of criminal history, and typically that is a good sign that someone will do well on probation. However, what the Court cannot overlook is the significant age gap, as well as the significance of your role. Your role in this case was such that you were entrusted to be a volleyball coach to the young victim and a number of girls. As you indicated yourself, in one of the reports, they trusted you. You have violated, to the core, the trust of this young victim and her parents. Being in a position of trust, the authority and the responsibility of this young woman is perhaps one of the most grave violations of one's sense of personal safety, and emotional and physical well-being. Additionally, it involved the most egregious violation of both vaginal, oral, and other penetration, and while the Court can appreciate all the supporting documents of your active engagement in treatment, because of the seriousness of the offense, and the seriousness of the consequences of your conduct, this is what the Court will do.

The district court sentenced Cha to concurrent prison terms of 48 months on count two and 86 months on count three. Pursuant to the plea agreement, count one was dismissed.

Cha appeals.

## **DECISION**

Appellate courts afford the district court great discretion in sentencing and review sentencing decisions for an abuse of that discretion. *State v. Soto*, 855 N.W.2d 303, 307-08

(Minn. 2014). Only in a “rare case” will an appellate court reverse a district court’s imposition of the presumptive sentence. *State v. Bertsch*, 707 N.W.2d 660, 668 (Minn. 2006) (quotation omitted).

The Minnesota Sentencing Guidelines establish the presumptive disposition and duration of a sentence depending on the seriousness of the offense and the defendant’s criminal history. *See* Minn. Sent’g Guidelines 1.A, 2.C.1 (2022). While district courts have discretion to depart from the presumptive sentence if “identifiable, substantial, and compelling circumstances” exist, Minn. Sent’g Guidelines 2.D.1 (2022), departures “are discouraged and are intended to apply to a small number of cases” because “[t]he sentencing guidelines seek to maintain uniformity, proportionality, rationality, and predictability in sentencing of felony crimes,” *State v. Solberg*, 882 N.W.2d 618, 623 (Minn. 2016) (quotation omitted).

Cha moved for a downward dispositional departure on the ground that he is particularly amenable to probation. A dispositional departure “occurs when the presumptive guidelines sentence calls for imprisonment but the district court instead stays execution or imposition of the sentence.” *Solberg*, 882 N.W.2d at 623. When considering a dispositional departure, a 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 is a mitigating circumstance that may support a downward dispositional departure. Minn. Sent’g Guidelines 2.D.3.a(7) (2022); *Bertsch*, 707 N.W.2d at 668. A defendant’s mere amenability is not sufficient;

instead, the district court must find the defendant particularly amenable. *Soto*, 855 N.W.2d at 308. “By requiring a defendant to be *particularly* amenable to probation . . . we 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). In determining whether a defendant is particularly amenable to probation to justify a downward dispositional departure, the district court may consider, among other factors, the defendant’s age, criminal record, remorse, cooperation, attitude while in court, and the support of family and friends. *See State v. Trog*, 323 N.W.2d 28, 31 (Minn. 1982).

Cha argues that the district court abused its discretion when it denied his motion for a downward dispositional departure. Cha asserts that multiple factors demonstrate his particular amenability to probation, including his young age, lack of prior criminal history, remorse, acceptance of responsibility, cooperation in the prosecution and attitude in court, and his participation and demonstrated progress in sex-offender treatment. *See id.* Cha cites the PSI report, psychosexual evaluation, and his allocution at sentencing as evidence of his acceptance of responsibility.

Cha’s argument is unavailing. Even when there is evidence in the record that a 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 will not reverse a district court’s refusal to depart “as long as the record shows the [district] court carefully evaluated all the testimony and information presented before making a determination.” *State v. Pegel*, 795 N.W.2d 251, 255 (Minn. App. 2011)

(quotation omitted). Here, the district court “carefully evaluated” all the evidence presented before denying Cha’s motion for a downward departure. *See id.* The district court considered the facts in the record and stated that it had reviewed the PSI, the psychosexual evaluation, Cha’s memorandum in support of his motion for departure, Cha’s letters of support, and “a number of [other] documents filed by the Defense on behalf of Mr. Cha.” The district court also heard oral arguments from counsel, Cha’s allocution, and the prosecutor’s statement on behalf of the victim requesting prison time.

Cha argues that the district court abused its discretion by “fail[ing] to weigh Cha’s valid reasons for a dispositional departure against reasons to not grant a departure,” citing *State v. Curtiss*. 353 N.W.2d 262 (Minn. App. 1984). In *Curtiss*, the district court denied the defendant’s motion for a downward durational departure and imposed the presumptive sentence because it found that “there were no legitimate reasons for departure.” *Id.* at 263. This court remanded for resentencing, concluding that there were “[l]egitimate reasons” in the record to support a downward departure and that the district court abused its discretion by failing to consider those reasons and weigh them against the reasons to not grant a departure. *Id.* at 263-64.

Unlike in *Curtiss*, the record in this case demonstrates that the district court carefully evaluated the information presented by both parties and weighed the factors supporting a departure and the reasons not to depart before ruling on Cha’s departure motion. The district court reviewed the documents Cha submitted in support of his sentencing motion, heard arguments from defense counsel about the factors supporting a downward dispositional departure, and considered Cha’s allocution. The district court acknowledged

Cha's lack of prior criminal history, noting that it is "typically . . . a good sign that someone will do well on probation." *See Trog*, 323 N.W.2d at 31 (stating that a defendant's lack of criminal history can support a particular amenability for probation). And although a district court is not required to explain its decision to impose a presumptive sentence, the district court here did so. *See State v. Van Ruler*, 378 N.W.2d 77, 80 (Minn. App. 1985) (stating that if district court "considers reasons for departure but elects to impose the presumptive sentence," an explanation for denying the departure is not required). In denying Cha's request for a downward dispositional departure, the district court reasoned that Cha's lack of criminal history and positive participation in sex-offender treatment were outweighed by the severity of the offenses, the "significant age gap" between Cha and the victim, the abuse of his role as an authority figure in a position of trust, and the "grave violation" of the victim's personal safety and emotional and physical well-being.

Cha also argues that, in denying his downward dispositional departure, the district court inappropriately centered its analysis on the offense conduct, which is the focus of a durational departure analysis. *Solberg*, 882 N.W.2d at 624 (explaining that 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" (quotation omitted)). But when considering a motion for a downward dispositional departure, "a district court may consider both offender- and offense-related factors." *State v. Walker*, 913 N.W.2d 463, 468 (Minn. App. 2018). Cha is therefore not entitled to reversal of his sentence because the district court considered, among other factors, the nature of the offense when denying his downward-dispositional-departure motion.

In sum, we conclude that because the district court carefully considered the record, the arguments of counsel, and the reasons supporting a departure, the court did not abuse its discretion by denying Cha's motion for a downward dispositional departure. *See Pegel*, 795 N.W.2d at 255; *Van Ruler*, 378 N.W.2d at 80-81.

**Affirmed.**