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Minn. Stat. § 480A.08, subd. 3 (2012).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A13-1513**

State of Minnesota,
Respondent,

vs.

Kong Meng Vang,
Appellant.

**Filed June 23, 2014
Affirmed
Halbrooks, Judge**

Hennepin County District Court
File No. 27-CR-12-7210

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Michael O. Freeman, Hennepin County Attorney, Linda M. Freyer, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Julie Loftus Nelson, Special Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Smith, Presiding Judge; Halbrooks, Judge; and Hudson, Judge.

UNPUBLISHED OPINION

HALBROOKS, Judge

On appeal following his conviction of first-degree conspiracy to commit controlled-substance crime, appellant argues that the district court abused its discretion

by denying his motion for a downward dispositional or durational departure and imposing a presumptive sentence. Because we conclude that the district court properly exercised its discretion, we affirm.

FACTS

Appellant Kong Meng Vang pleaded guilty as charged to first-degree conspiracy to commit controlled-substance crime in violation of Minn. Stat. §§ 152.021, subd. 1(1), .096, subd. 1 (2010). He admitted in his plea colloquy that he was part of an agreement to distribute methamphetamine and that he sold more than ten grams of methamphetamine. At sentencing, Vang argued for a downward departure, the state requested a presumptive sentence, and Vang personally addressed the court. The district court imposed a “middle of the box” sentence of 134 months in prison. This appeal follows.

DECISION

We review a district court’s sentencing decision for an abuse of discretion. *State v. Franklin*, 604 N.W.2d 79, 82 (Minn. 2000). Only in a “rare case” with “compelling circumstances” will we modify a presumptive sentence. *State v. Delk*, 781 N.W.2d 426, 428 (Minn. App. 2010) (quotations omitted), *review denied* (Minn. July 20, 2010).

Vang argues that the district court abused its discretion in denying his motion for a downward dispositional or durational departure because he played a minor role in the drug conspiracy. A district court does not abuse its discretion by declining to depart downward when a defendant’s “minor” role in a drug conspiracy was as a drug seller. *See State v. DeShay*, 645 N.W.2d 185, 194 (Minn. App. 2002), *aff’d*, 669 N.W.2d 878

(Minn. 2003); *see also State v. Kindem*, 313 N.W.2d 6, 7 (Minn. 1981) (holding that a lesser role in a crime may support a decision to depart but does not obligate the district court to depart). The mere existence of mitigating factors does not require the district court to impose a shorter term. *Kindem*, 313 N.W.2d at 7.

Vang also argues that the district court abused its discretion by denying his dispositional-departure motion because he is amenable to probation. “[T]he district court has discretion to impose a downward dispositional departure if a defendant is particularly amenable to probation, but it is not required to do so.” *State v. Olson*, 765 N.W.2d 662, 664-65 (Minn. App. 2009). As long as the district court carefully evaluates all of the information presented to it before making a determination, we will not interfere with the district court’s exercise of discretion. *State v. Pegel*, 795 N.W.2d 251, 255 (Minn. App. 2011). That careful evaluation occurred here.

The district court considered the steps that Vang had taken to change his life, his remorse, and his family support and responsibilities, but ultimately determined that the presumptive sentence was appropriate. A district court is not required to explain its decision to deny a request for a departure. *State v. Van Ruler*, 378 N.W.2d 77, 80 (Minn. App. 1985). Because the district court considered all arguments and information presented to it, we conclude that the district court properly exercised its discretion in denying Vang’s motion for a downward dispositional or durational departure and imposing a presumptive sentence.

Affirmed.