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**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1241**

State of Minnesota,
Respondent,

vs.

Christy Lynn Tjaden,
Appellant.

**Filed June 22, 2020
Affirmed
Slieter, Judge**

St. Louis County District Court
File No. 69DU-CR-18-988

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

Mark S. Rubin, St. Louis County Attorney, Victoria Wanta, Assistant County Attorney, Duluth, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, St. Paul, Minnesota; and

Jodi L. Proulx, Special Assistant Public Defender, Stillwater, Minnesota (for appellant)

Considered and decided by Ross, Presiding Judge; Reyes, Judge; and Slieter, Judge.

UNPUBLISHED OPINION

SLIETER, Judge

In this direct appeal from her judgment of conviction for aiding and abetting kidnapping, appellant Christy Lynn Tjaden appeals the district court's imposition of a

presumptive guideline sentence. Because the record shows that the district court carefully considered Tjaden's departure motion and imposed a presumptive sentence, we affirm.

FACTS

The state charged Tjaden in an amended complaint with, *inter alia*, aiding and abetting kidnapping, in violation of Minn. Stat. §§ 609.05, subd. 1, 609.25, subd. 1(3) (2016). Tjaden and the state entered into a plea agreement which provided, in exchange for Tjaden's guilty plea, the state would dismiss the remaining counts in the complaint, the state would argue that the sentence should be a bottom-of-the-box guideline sentence, and Tjaden would move for a dispositional departure. Tjaden, as part of the factual basis for her guilty plea, admitted that she transported the victim against his will in her car with other accomplices, and that she left the victim in an unsafe location due to the cold weather and at night in an area with limited traffic. Tjaden also acknowledged that she did not call for emergency care on the victim's behalf even though the victim had been assaulted.

Based on Tjaden's criminal-history score, the presumptive guideline sentence for aiding and abetting kidnapping recommended an executed prison sentence range of 41 to 57 months. *See* Minn. Sent. Guidelines 4.A, 5.A (Supp. 2017). Tjaden moved for a downward dispositional departure from the sentencing guidelines.

At sentencing and in support of her argument that she is particularly amenable to probation, Tjaden attempted to distinguish herself from the co-defendants due to her (1) mental health conditions; (2) limited criminal history; (3) full compliance with pretrial release; (4) collateral consequences she will experience from the felony conviction; and

(5) remorse. The state requested that the district court impose the presumptive guideline sentence. The district court explained,

So I've sat through this whole thing. I've had two trials. I watched the guy testify. I watched everybody testify. [Defense counsel] is right. When – when a couple of these folks got together and got this rolling, it was rolling fast and it was rolling hard, and it would've been hard to tell 'em no. I totally see that.

And one or two nos might've changed a lot of things, too. So I'm – I'm caught in the middle again trying to balance it out. Where I keep landing is this guy, [the victim], was really messed up. And you and them left him tied in the winter on that road in the dark to die.

So I'm not gonna depart. I'm going to give you the forty-one months Commissioner of Corrections. That's the low end of the box. That's less than [one of the co-defendants]. It's less than [another co-defendant] by far. It's less than [another co-defendant] by far. It's more than the seventeen-year-old who wasn't involved in the kidnapping and didn't leave him to die. So I don't know where that lands, but it seems – it seems like that's a fair – that's a fair balancing.

The district court therefore denied Tjaden's motion and sentenced Tjaden to a 41-month executed prison sentence. Tjaden appeals the sentence.

DECISION

The district court did not abuse its discretion by imposing a presumptive guideline sentence.

Tjaden argues that the district court abused its discretion by denying her motion for a dispositional departure because she is particularly amenable to probation. Appellate courts “afford the [district] court great discretion in the imposition of sentences’ and reverse sentencing decisions only for an abuse of that discretion.” *See State v. Soto*,

855 N.W.2d 303, 307-08 (Minn. 2014) (footnote omitted) (quoting *State v. Spain*, 590 N.W.2d 85, 88 (Minn. 1999)).

The Minnesota Sentencing Guidelines “prescrib[e] a sentence or range that is presumed to be appropriate.” *Id.* at 308 (quotation omitted). And a district “court must pronounce a sentence of the applicable disposition and within the applicable range unless there exist identifiable, substantial, and compelling circumstances to support a departure.” Minn. Sent. Guidelines 2.D.1 (Supp. 2017).

A district court may exercise its discretion to depart from the guidelines only if there are “substantial, and compelling circumstances that distinguish a case and overcome the presumption in favor of the guidelines sentence.” *Soto*, 855 N.W.2d at 308 (quotation omitted). “In fact, a sentencing court has no discretion to depart from the sentencing guidelines unless aggravating or mitigating factors are present.” *Spain*, 590 N.W.2d at 88. When circumstances justify departing, a district court must exercise its discretion to consider those circumstances. *State v. Kier*, 678 N.W.2d 672, 677 (Minn. App. 2004), *review denied* (Minn. June 15, 2004). “[T]he presence of mitigating factors does not obligate the court to place [a] defendant on probation or impose a shorter term than the presumptive term.” *Wells v. State*, 839 N.W.2d 775, 781 (Minn. App. 2013) (second alteration in original) (quotation omitted), *review denied* (Minn. Feb. 18, 2014).

“This court will not generally review a district court’s exercise of its discretion to sentence a defendant when the sentence imposed is within the presumptive guidelines range.” *State v. Delk*, 781 N.W.2d 426, 428 (Minn. App. 2010), *review denied* (Minn. July 20, 2010). “We will affirm the imposition of a presumptive guidelines sentence when ‘the

record shows [that] the sentencing court carefully evaluated all the testimony and information presented before making a determination.” *State v. Johnson*, 831 N.W.2d 917, 925 (Minn. App. 2013) (alteration in original) (quoting *State v. Van Ruler*, 378 N.W.2d 77, 81 (Minn. App. 1985)), *review denied* (Minn. Sept. 17, 2013). Moreover, “the district court is not required to explain its reasons for imposing a presumptive sentence.” *Id.*

A district court may grant a departure when an “offender is particularly amenable to probation.” Minn. Sent. Guidelines 2.D.3.a.(7) (Supp. 2017). The particularly-amenable standard “ensure[s] that the defendant’s amenability to probation distinguishes the defendant from others and truly presents the substantial[] and compelling circumstances that are necessary to justify a departure.” *Soto*, 855 N.W.2d at 309 (second alteration in original) (quotation omitted). The supreme court recognized considerations for an offender’s particular amenability that “includ[e] the defendant’s age, his prior record, his remorse, his cooperation, his attitude while in court, and the support of friends and/or family.” *State v. Trog*, 323 N.W.2d 28, 31 (Minn. 1982). These factors, however, are not the only factors that may impact a defendant’s amenability to probation and may not be relevant in some cases. *Soto*, 855 N.W.2d at 310. Even if a defendant establishes that she is amenable to probation, the district court is not required to depart. *State v. Olson*, 765 N.W.2d 662, 664-65 (Minn. App. 2009) (“[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.”).

The record shows that the district court carefully considered the departure motion. At the start of the sentencing hearing, the district court identified that it read the presentence investigation and Tjaden's departure motion. The district court heard arguments from the state and Tjaden's counsel, and the district court heard from Tjaden. After considering the above information, the district court determined that it was not appropriate to depart and imposed the presumptive guideline sentence. In doing so, the district court properly exercised its discretion by imposing the guidelines sentence. *See Van Ruler*, 378 N.W.2d at 80-81 ("The 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.").

Affirmed.