STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1839

State of Minnesota,
Respondent,

vs.

Cameron Pierre Richmond, Sr.,
Appellant.

Filed June 8, 2020
Affirmed
Frisch, Judge

St. Louis County District Court
File No. 69DU-CR-18-3527

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

Mark S. Rubin, St. Louis County Attorney, Nathaniel T. Stumme, Assistant County Attorney, Duluth, Minnesota (for respondent)

Charles F. Clippert, St. Paul, Minnesota (for appellant)

Considered and decided by Cochran, Presiding Judge; Johnson, Judge; and Frisch, Judge.

U N P U B L I S H E D O P I N I O N

FRISCH, Judge

In this direct appeal from his conviction of aiding and abetting second-degree aggravated robbery, appellant argues that the district court abused its discretion by denying

his request to be sentenced at the low end of the range prescribed by the sentencing guidelines. We affirm.

FACTS

Respondent State of Minnesota charged appellant Cameron Richmond, Sr., with one count of aiding and abetting first-degree aggravated robbery and one count of financial-transaction card fraud. The complaint provided that on October 15, 2018, the victim went to a residence in Duluth to obtain a "personal lap dance." After he arrived at the residence, Richmond and two other individuals stripped the victim naked, forced the victim to sit in a chair, stole his money, and demanded that the victim disclose his pin number or that they were "going to 'smoke him.'" One of the individuals had his hand in his pocket, "implying that he had a gun." The group stole several items from the victim, including his ATM card, and then used the card to withdraw $480.

Richmond pleaded guilty to aiding and abetting second-degree aggravated robbery. The parties also agreed that the state would seek a guidelines sentence not to exceed the middle of the guidelines range and Richmond would argue for a sentence at the bottom of the guidelines range.

At the plea hearing, Richmond admitted that he, along with two other individuals, took money from the victim. Richmond also acknowledged that one of the other individuals in his group "made a reference to smoking" the victim, implying the presence of a gun.

The presentence investigation report (PSI) contained a recommendation that Richmond receive a middle-of-the-box guidelines sentence. In the report, the probation

officer noted that she relied on the allegations set forth in the complaint because she was unable to speak personally with Richmond. At the sentencing hearing, Richmond requested a bottom-of-the-box guidelines sentence. The district court denied Richmond's request and sentenced him to a middle-of-the-box guidelines sentence of 51 months in prison. This appeal follows.

D E C I S I O N

Richmond challenges the decision by the district court to impose a middle-of-the-box guidelines sentence rather than a bottom-of-the-box guidelines sentence. A defendant may directly appeal from final judgment and raise only a sentencing issue. *State v. Thomas*, 371 N.W.2d 533, 534-35 (Minn. 1985).

"All three numbers in any given cell [on the sentencing guidelines grid] constitute an acceptable sentence based solely on the offense at issue and the offender's criminal history score—the lowest is not a downward departure, nor is the highest an upward departure." *State v. Jackson*, 749 N.W.2d 353, 359 n.2 (Minn. 2008). We "generally will not interfere with sentences that are within the presumptive sentence range." *State v. Freyer*, 328 N.W.2d 140, 142 (Minn. 1982). While we may, in our discretion, modify a sentence that is within the presumptive range, we "generally will not exercise that authority absent compelling circumstances." *Id.* "Only in a 'rare' case will a reviewing court reverse imposition of a presumptive sentence." *State v. Delk*, 781 N.W.2d 426, 428 (Minn. App. 2010) (quoting *State v. Kindem*, 313 N.W.2d 6, 7 (Minn. 1981)), *review denied* (Minn. July 20, 2010).

Here, Richmond pleaded guilty to aiding and abetting second-degree aggravated robbery under Minn. Stat. § 609.245, subd. 2 (2018). With five criminal-history points, the Minnesota Sentencing Guidelines provide for a sentencing range of 44 to 61 months in prison, with a presumptive sentence of 51 months. *See* Minn. Sent. Guidelines 4.A (2018) (sentencing guidelines grid).

Richmond asserts that the author of the PSI based her recommendation that Richmond be sentenced to 51 months in prison on the probable-cause statement set forth in the complaint, which indicated that Richmond planned the robbery and possessed a weapon at the time of the offense. Richmond argues that, because the facts as alleged in the complaint are not supported by his admissions at the plea hearing, the comments by the probation officer in the PSI "improperly interfered with the [district court's] discretion by recommending a sentence based on facts not admitted during the plea hearing." Richmond also argues that the probation officer referenced his "extensive criminal record," which apart from his criminal-history score has "no bearing on what an appropriate sentence should be." Thus, Richmond argues that "there are compelling circumstances in this case" warranting resentencing "at the low end of the guidelines range."

We are not persuaded. The district court expressly acknowledged the discrepancies between the facts as alleged in the PSI, which were based on the complaint, and the sworn testimony from Richmond at the plea hearing:

> The facts that I'm relying on for sentencing here today are those that Mr. Richmond disclosed during the plea inquiry, as opposed to what's in the Complaint, so to the extent there's any discrepancy, I'm disregarding any language in the Complaint

> and only considering that which was provided as a factual basis for the plea.

In sentencing Richmond, the district court properly relied on facts to which Richmond admitted at the plea hearing when imposing a presumptive sentence pursuant to the Minnesota Sentencing Guidelines. The district court therefore did not abuse its discretion in the imposition of a guidelines sentence.

Finally, the record does not show that the district court improperly relied upon any comment in the PSI regarding criminal history. Minnesota law does not require a district court to explain every reason in support of the imposition of a guidelines sentence. *See State v. Johnson*, 831 N.W.2d 917, 925 (Minn. App. 2013), *review denied* (Minn. Sept. 17, 2013) (stating that when a district court sentences within the presumptive range, it is not required to "explain its reasons for imposing a presumptive sentence"). And this court generally does not conclude that a sentence within the presumptive range is an abuse of discretion. *Delk*, 781 N.W.2d at 428. Accordingly, we see no abuse of discretion by the district court in the imposition of the presumptive 51-month sentence.

Affirmed.