

*This opinion is nonprecedential except as provided by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
A21-0926**

State of Minnesota,
Respondent,

vs.

Christopher Cory Wiedeman,
Appellant.

**Filed May 16, 2022
Affirmed
Jesson, Judge**

Becker County District Court
File No. 03-CR-19-2328

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

Brian W. McDonald, Becker County Attorney, Detroit Lakes, Minnesota (for respondent)

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

Considered and decided by Wheelock, Presiding Judge; Jesson, Judge; and
Bryan, Judge.

NONPRECEDENTIAL OPINION

JESSON, Judge

Nearly five years into a 50-year harassment restraining order, appellant Christopher Wiedeman went to A.Y.’s apartment to speak to her, violating that order. He was charged with—and eventually pleaded guilty to—one count of harassment. Wiedeman moved for

downward durational and dispositional departures. The district court denied the motions and Wiedeman appealed. Because the district court justified the denial of the dispositional departure using Wiedeman's criminal history, and because it expressly considered the arguments for a durational departure, the district court acted within its discretion when denying the departure motions. Accordingly, we affirm.

FACTS

In 2014, Wiedeman was served with a harassment restraining order that prohibited contact with A.Y. for 50 years.¹ It was the third harassment restraining order prohibiting Wiedeman from contacting A.Y. And Wiedeman had been convicted of violating one of these harassment restraining orders seven times between 2008 and 2016. But in October 2019, Wiedeman went to A.Y.'s apartment to try to talk to her and "make peace with her." A.Y. called the police. Wiedeman was charged with one count of harassment (third or subsequent violation in ten years).²

Wiedeman pleaded guilty. He moved for a downward dispositional departure, and in the alternative a downward durational departure. Wiedeman orally gave his reasons to the district court for both departures. For the dispositional departure, he emphasized his amenability to probation due to his remorse. And he highlighted that this instance of harassment was not violent.

The district court expressly acknowledged that it considered all the arguments before denying both departures in a written order. Although it explicitly rejected both

¹ Facts come from the plea hearing. Wiedeman is not challenging his guilty plea.

² Minn. Stat. § 609.749, subd. 4(b) (2018).

departures, the district court’s reasoning only specifically mentioned the denial for a dispositional departure. The district court stated three reasons for denial: (1) even though it was a non-violent offense, it was A.Y.’s third no-contact order against Wiedeman; (2) Wiedeman has a “concerning” history of alcohol, methamphetamine, and marijuana use; and (3) he has an extensive criminal history beyond the HRO violations. The district court sentenced Wiedeman to 41 months’ imprisonment and \$200 in fines and fees.

Wiedeman appeals.

DECISION

Wiedeman challenges the district court’s order in two ways: that the district court abused its discretion by (1) failing to dispositionally depart when factors supported his amenability to probation, and (2) not explicitly justifying its denial of a durational departure.

“We afford the [district] court great discretion in the imposition of sentences and reverse sentencing decisions only for an abuse of that discretion.” *State v. Soto*, 855 N.W.2d 303, 307-08 (Minn. 2014). “[T]he Guidelines state that when substantial and compelling circumstances are present, the judge ‘may’ depart.” *State v. Kindem*, 313 N.W.2d 6, 7 (Minn. 1981). Substantial and compelling circumstances are those that make a case atypical. *Taylor v. State*, 670 N.W.2d 584, 587 (Minn. 2003). A departure is not mandatory, and an appellate court will reverse a sentencing court’s refusal to depart only in a “rare” case. *Kindem*, 313 N.W.2d at 7. Although the district court is required to give reasons for departure, an explanation is not required when the court considers reasons

for departure but elects to impose the presumptive sentence. *State v. Theisen*, 363 N.W.2d 867, 869 (Minn. App. 1985), *rev. denied*, (Minn. May 18, 1985).

I. The district court justified its reasons to deny a downward dispositional departure.

First, Wiedeman argues that the district court abused its discretion when it denied his motion for a downward dispositional departure because he raised factors that supported his amenability to probation.

A dispositional departure typically focuses on characteristics of the offender that show whether they are “particularly amenable to individualized treatment in a probationary setting.” *State v. Wright*, 310 N.W.2d 461, 462 (Minn. 1981); *see also State v. Trog*, 323 N.W.2d 28, 31 (Minn. 1982) (citing the “defendant’s age, his prior record, his remorse, his cooperation, his attitude while in court, and the support of friends and/or family” as relevant factors that may justify a dispositional departure). 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) (citing *State v. Chaklos*, 528 N.W.2d 225, 228 (Minn. 1995)).

Here, the district court considered Wiedeman’s arguments for a departure and, although it was not required to do so, justified its reasons supporting the conclusion that Wiedeman was not amenable to probation. It noted Wiedeman’s frequent violations of the same 50-year HRO, his chemical dependency, and “extensive criminal history,” all findings supported by the record. This decision was not “against logic and the facts in the record” that would justify a reversal. *State v. Bustos*, 861 N.W.2d 655, 666 (Minn. 2015).

Because the district court considered Wiedeman’s prior record when concluding he was not amenable to probation, the district court did not abuse its discretion when it denied Wiedeman’s motion for a downward dispositional departure.

II. The district court considered the arguments for a downward durational departure.

Next, Wiedeman argues that the district court abused its discretion when it denied his motion for a downward durational departure without explicitly addressing Wiedeman’s arguments supporting one.

A durational departure is a sentence that departs in length from the presumptive guidelines range. Minn. Sent. Guidelines 1.B.5.b (2020). A durational departure must be based on factors that reflect the seriousness of the offense, not the characteristics of the offender. *Chaklos*, 528 N.W.2d at 228. 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.” *State v. Mattson*, 376 N.W.2d 413, 415 (Minn. 1985). Minnesota courts have consistently held that an “explanation is not required” for the denial of a durational departure, so long as the district court considered the arguments and the defendant was sentenced within the presumptive sentence. *State v. Van Ruler*, 378 N.W.2d 77 (Minn. App. 1985).

Here, the district court did just that—it expressly noted that it considered all of Wiedeman’s arguments before denying his alternative argument for a downward durational departure. And the 41-month sentence was within the presumptive sentence. Because the

district court only needed to consider the arguments for a durational departure, and it did so, it did not abuse its discretion.

In sum, the district court acted within its wide discretion when it denied the motions for downward dispositional and durational departures.

Affirmed.