

*This opinion is nonprecedential except as provided by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
A22-0577**

State of Minnesota,
Respondent,

vs.

Braxton Monte Anderson,
Appellant.

**Filed November 14, 2022
Affirmed
Frisch, Judge**

Chippewa County District Court
File No. 12-CR-20-8

Keith Ellison, Attorney General, Peter Magnuson, Assistant Attorney General, St. Paul, Minnesota; and

Matthew Haugen, Chippewa County Attorney, Montevideo, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Roy G. Spurbeck, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Bryan, Presiding Judge; Bjorkman, Judge; and Frisch, Judge.

NONPRECEDENTIAL OPINION

FRISCH, Judge

Appellant argues that the district court abused its discretion by imposing a 68-month prison sentence after we remanded the matter for resentencing with a corrected criminal-

history score. Because the district court did not abuse its discretion by imposing a sentence within the presumptive range set forth in the Minnesota Sentencing Guidelines, we affirm.

FACTS

Appellant Braxton Monte Anderson was convicted of one count of criminal vehicular homicide in violation of Minn. Stat. § 609.2112, subd. 1(a)(6) (2018), and the district court sentenced Anderson to 68 months in prison. The district court used a severity level of 8 and a criminal-history score of 2 in determining Anderson's sentence. A 68-month prison sentence was the midpoint of the prescribed Minnesota Sentencing Guidelines range. Minn. Sent'g Guidelines 4.A (2019).

Anderson appealed, arguing in part that he was entitled to be resentenced because the district court used an incorrect criminal-history score. *State v. Anderson*, No. A20-1591, 2021 WL 5047509, at *5 (Minn. App. Nov. 1, 2021) (*Anderson I*). We agreed and remanded the matter for resentencing. *Id.*

On remand, the district court held a hearing and resentenced Anderson to 68 months in prison. In so doing, the district court used a severity level of 8 and a criminal-history score of 1. The sentencing guidelines range was 50-69 months, with a midpoint sentence of 58 months. Minn. Sent'g Guidelines 4.A.

Anderson now appeals.

DECISION

Anderson argues that the district court abused its discretion by resentencing him to 68 months in prison. He asserts that because the resentencing judge did not preside over trial or impose the original sentence, the district court's discretion on resentencing was

limited and the judge was obligated to impose a new sentence at the midpoint of the sentencing guidelines range, which would have been 58 months in prison. We are not persuaded.

First, as a threshold matter, Anderson cites no authority in support of his contention that on resentencing, the district court was limited in its discretion by the original sentencing judge's decision or was required to impose only a sentence at the midpoint of the sentencing guidelines range because the sentence chosen by the original sentencing judge was at the midpoint of the sentencing guidelines range.

Second, on remand, the district court imposed a sentence within the stated range of the Minnesota Sentencing Guidelines.¹ We reverse a sentencing decision only when a district court abuses its "great discretion." *State v. Soto*, 855 N.W.2d 303, 307-08 (Minn. 2014) (quotation omitted). A district court generally does not abuse its discretion when imposing a sentence within the sentencing guidelines range. *State v. Delk*, 781 N.W.2d 426, 428-29 (Minn. App. 2010), *rev. denied* (Minn. July 20, 2010). "All three numbers in any given cell 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).

The district court on remand imposed a sentence of 68 months in prison, applying a severity level of 8 and criminal-history score of 1. The sentencing guidelines range was

¹ We note that on remand, the district court's discretion was limited to the imposition of a sentence *no greater than* 68 months in prison. See *State v. Prudhomme*, 228 N.W.2d 243, 246 (Minn. 1975) (holding that the district court may not impose a greater sentence when resentencing a defendant for the same crime on remand).

50-69 months. Minn. Sent'g Guidelines 4.A. Thus, a sentence of 68 months was within the guidelines range and the imposition of such a sentence was not, by itself, an abuse of discretion.

Third, the fact that the judge who resentenced Anderson differed from the judge who presided over trial and imposed the original sentence has no bearing on the scope of sentencing discretion on remand. The rules of criminal procedure do not distinguish between a sentencing hearing and a resentencing hearing; the rules contemplate that in conjunction with a sentencing hearing, a district court may gather and consider information. *See* Minn. R. Crim. P. 27.03 (describing sentencing proceedings). The resentencing judge conducted a fulsome hearing and received evidence and argument beyond that submitted in *Anderson I*. Following our remand, the district court received a newly prepared sentencing worksheet, a letter from community corrections, and a memorandum from the state. It held a hearing where it heard from the state, Anderson's attorney, and Anderson himself. It also received a victim impact statement and a reading of a victim impact statement submitted in conjunction with the initial sentencing hearing. The district court, having conducted a comprehensive sentencing hearing on remand, determined—like the original sentencing judge—that 68 months' imprisonment was appropriate under the circumstances.

We decline the invitation to craft a new limitation on a district court's sentencing discretion on remand simply because the resentencing judge did not preside over trial or the original sentencing proceeding. Anderson correctly notes that in many circumstances, we defer to district courts in the exercise of sentencing discretion because a district court

“judge sits with a unique perspective on all stages of a case, including sentencing, and the trial judge is in the best position to evaluate the offender’s conduct and weigh sentencing options.” *State v. Hough*, 585 N.W.2d 393, 397 (Minn. 1998). But a district court judge has sentencing discretion regardless of whether a trial occurred. *See State v. Fleming*, 883 N.W.2d 790 (Minn. 2016) (holding that the district court did not abuse its discretion in imposing and executing an upward durational sentencing departure because it properly applied the law after defendant pleaded guilty and waived their right to have a jury decide whether aggravating factors existed). And we accord district courts “great discretion” in sentencing because of their front-row seat to all aspects of the proceedings giving rise to a sentencing determination, the uniqueness of which necessarily encompasses an ability to assess the credibility and demeanor of the defendant and others presenting information bearing on a sentencing decision. *See* Minn. R. Crim. P. 27.03 (describing sentencing proceedings, including information that district court may receive prior to pronouncing a sentence). Thus, the scope of a district court’s broad sentencing discretion is not dependent on whether the sentencing judge presided over an underlying trial.

Fourth, the district court was not required to explain why it resentenced Anderson to a 68-month prison sentence. A district court must exercise its discretion in sentencing by considering potential reasons for a sentencing departure alongside reasons for not departing. *State v. Curtiss*, 353 N.W.2d 262, 263-64 (Minn. App. 1984). As set forth above, the district court held a resentencing hearing and received information related the parties’ respective sentencing requests. The sentence imposed was within the sentencing guidelines range. A “district court is not required to explain its reasons for imposing a

presumptive sentence.” *State v. Johnson*, 831 N.W.2d 917, 925 (Minn. App. 2013). Thus, the absence of an explanation by the district court did not amount to a failure to exercise its discretion. We also decline to craft a new requirement obligating a district court on remand to provide a more detailed explanation of its sentencing decision.

Because we see no abuse of discretion by the district court in resentencing Anderson to a presumptive guidelines sentence of 68 months in prison, we affirm.

Affirmed.