STATE OF MINNESOTA
IN COURT OF APPEALS
A22-1786

State of Minnesota,
Respondent,

vs.

Keith Darral Carlson,
Appellant.

Filed November 20, 2023
Affirmed
Smith, Tracy M., Judge

Lyon County District Court
File No. 42-CR-21-1125

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

Abby Wikelius, Lyon County Attorney, Julianna F. Passe, Assistant County Attorney, Marshall, Minnesota (for respondent)

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

Considered and decided by Bratvold, Presiding Judge; Reyes, Judge; and Smith, Tracy M., Judge.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

In this direct appeal from a final judgment of conviction for first-degree sale of a controlled substance, appellant Keith Darral Carlson argues that his conviction must be reversed and a new trial ordered because respondent State of Minnesota's peremptory

removal of the only Hispanic prospective juror violated his rights under the Equal Protection Clause. Alternatively, Carlson argues that the district court erred by finding that he was a career offender and by imposing an aggravated sentencing departure. We affirm.

FACTS

The state charged Carlson with first-degree sale of a controlled substance based on an allegation that Carlson sold an ounce of methamphetamine to a cooperating individual in Tracy, Minnesota. Carlson pleaded not guilty and requested a jury trial.

During voir dire for jury selection, the district court asked the potential jurors whether any of them had "ever been the victim of or witness to a crime." Juror 15 did not raise her hand. Carlson's trial counsel later asked Juror 15 whether she lived in Tracy. She responded, "Yes." When the state asked the potential jurors whether any of them had "ever been a witness in a court case," Juror 15 again did not raise her hand.

The state exercised a peremptory strike of Juror 15. Carlson's counsel then raised a *Batson* challenge because Juror 15 was "the only Hispanic juror on the jury panel."[1] The prosecutor said that she was exercising the state's peremptory strike because she believed that Juror 15 was a victim of a crime that was prosecuted in Lyon County and that Juror 15 failed to disclose this information when questioned during voir dire. The prosecutor also noted that Juror 15 lived in Tracy near where the charged offense in this case occurred. Defense counsel then argued that these reasons for exercising the peremptory strike were

[1] *See Batson v. Kentucky*, 476 U.S. 79, 89 (1986) (holding that the Equal Protection Clause of the United States Constitution forbids the striking of prospective jurors based solely on their race); *see also State v. Carridine*, 812 N.W.2d 130, 136-37 (Minn. 2012) (applying *Batson*).

not legitimate. The district court found that Carlson had asserted a prima facie case of discrimination "because the only Hispanic person was struck by the state."[2] But it also found that the state had provided two race-neutral reasons for exercising the peremptory strike. The court then denied Carlson's *Batson* challenge.

At the conclusion of the jury trial, the jury found Carlson guilty of first-degree sale of a controlled substance. The state had previously filed a notice of intent to seek an aggravated sentence pursuant to the career-offender statute, Minnesota Statutes section 609.1095, subdivision 4 (2020). After Carlson waived his *Blakely* right to have a jury decide whether he satisfied the criteria for career-offender sentencing,[3] the district court held a hearing and found that (1) Carlson had five or more prior felony convictions, (2) the present offense was a felony, and (3) the present offense was committed as part of a pattern of Carlson's criminal conduct. The district court granted the state's motion for an aggravated sentencing departure and sentenced Carlson to 165 months in prison.

Carlson appeals.

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[2] The record does not clearly identify Juror 15's racial background—she did not indicate a race on her juror profile—but the district court assumed without finding that she was Hispanic.

[3] *See Blakely v. Washington*, 542 U.S. 296, 302-05 (2004) (holding that a defendant has a Sixth Amendment right to a jury trial to decide the facts on which an upward departure is based); *State v. Henderson*, 706 N.W.2d 758, 760-62 (Minn. 2005) (applying *Blakely* to Minnesota's career-offender statute).

DECISION

Carlson challenges his conviction based on the district court's denial of his *Batson* challenge. Additionally, Carlson challenges the imposition of an aggravated durational sentencing departure. We address each issue in turn.

I. The district court did not clearly err when it denied Carlson's *Batson* challenge.

Carlson first argues that his conviction must be reversed and a new trial ordered because the prosecutor's peremptory removal of the only Hispanic prospective juror violated his rights under the Equal Protection Clause. "Peremptory challenges allow a party to strike a prospective juror that the party believes will be less fair than some others and, by this process, to select as final jurors the persons they believe will be most fair." *State v. Martin*, 773 N.W.2d 89, 100 (Minn. 2009) (quotation omitted). But challenges based on the race of a prospective juror violate the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. U.S. Const. amend. XIV, § 1; *Batson*, 476 U.S. at 84.

Minnesota courts have adopted the three-step framework established in *Batson* to determine whether racial discrimination motivated a peremptory challenge. *Martin*, 773 N.W.2d at 101; *see also* Minn. R. Crim. P. 26.02, subd. 7(3). Under this framework,

> (1) the defendant must make a prima facie showing that the prosecutor executed a peremptory challenge on the basis of race; (2) the burden then shifts to the prosecution to articulate a race-neutral explanation for striking the juror in question; and (3) the district court must determine whether the defendant has carried the burden of proving purposeful discrimination.

Martin, 773 N.W.2d at 101.

Generally, a district court's determination of a *Batson* challenge will not be reversed unless clearly erroneous. *State v. Harvey*, 932 N.W.2d 792, 811 (Minn. 2019); *State v. Pendleton*, 725 N.W.2d 717, 724 (Minn. 2007). But, because of "the importance of clarity at each step of the analysis," when the district court fails to follow this "prescribed procedure," appellate courts will "examine the record without deferring to the district court's analysis." *State v. Seaver*, 820 N.W.2d 627, 633 (Minn. App. 2012) (quotations omitted).

As further described in subsection C below, the district court did not make a finding at step three of the *Batson* analysis. We therefore examine the record without deferring to the district court's analysis. We begin with step one.

A. Step One—Prima Facie Case of Discrimination

Carlson asserts, and the state concedes, that the question as to whether the defendant made a prima facie showing of racial discrimination is moot. When the district court proceeds to step two of the *Batson* analysis, "the question as to step one is moot on appeal." *State v. Lufkins*, 963 N.W.2d 205, 210 (Minn. 2021). Here, the district court concluded that Carlson made "a prima facie case of purposeful discrimination because the only Hispanic person was struck by the state." The district court then moved on to step two. As a result, the district court's ruling on step one is moot and we do not address it further.

B. Step Two—Race-Neutral Explanation

The state offered two reasons for striking Juror 15: (1) the prosecutor believed that Juror 15 was a witness in a previous case and failed to disclose that information during voir

dire in this case and (2) Juror 15 lived near the charged offense in this case. The prosecutor explained:

> THE PROSECUTOR: [Juror 15] said that she hasn't been a witness in a case. I believe she was a victim in . . . *State v. Avila*.
> . . . .
> THE COURT: . . . [D]o you think she is or do you know she is?
> THE PROSECUTOR: . . . I didn't do the trial but . . . I did the appeal. And that's the [name] . . . that was in the record. I know she lives in Tracy and . . . additionally she lives in close proximity to the area where this happened.

The district court then summarized those reasons:

> [The prosecutor] believed that [Juror 15] had provided some inaccurate responses to some of the questions, that she had in fact been a witness in a prior case that the county attorney's office had prosecuted . . . or had family members that testified. Also [the prosecutor] indicated that [Juror 15] . . . lived . . . in the neighborhood . . . in Tracy.

The district court found that both of the state's proffered race-neutral reasons for striking Juror 15 were valid.

> [T]he court . . . finds that the state . . . established a race or gender-neutral reason for the exercise of that peremptory strike, specifically . . . that [Juror 15] had provided . . . what the state believed to be inaccurate information in response to voir dire questions and also because she resided in the . . . same neighborhood.

Carlson concedes that the district court did not err in determining that Juror 15's residence in Tracy—near where the charged offense occurred—constituted a race-neutral explanation for striking Juror 15. And, indeed, "courts have allowed peremptory challenges

based on residence when related to the facts of the case." *State v. James*, 520 N.W.2d 399, 403 (Minn. 1994).

Carlson asserts, however, that the prosecutor's belief that Juror 15 was a witness in a previous case and that Juror 15 failed to disclose this information when questioned was not a valid race-neutral reason for the strike.

A striking party's explanation need not be "persuasive or even plausible," *Martin*, 773 N.W.2d at 101, and "will be deemed race-neutral unless a discriminatory intent is inherent in the [party's] explanation," *Pendleton*, 725 N.W.2d at 726 (quotation and alteration omitted). Only at step three of the *Batson* analysis, when the defendant argues that the strike was purposefully discriminatory, will the explanation's persuasiveness be considered. *Martin*, 773 N.W.2d at 101. Misrepresentation by a potential juror may be a legitimate race-neutral reason for a strike. *State v. Adams*, 936 N.W.2d 326, 330 (Minn. 2019).

Carlson asserts that the state's explanation here was not valid because "it rested on speculation rather than specific facts" or "specific evidence." He contends that the state needed to corroborate that Juror 15 was in fact the person whom the prosecutor remembered as the victim in a previous case and that, absent evidence to substantiate that fact, the state's reason was too "vague, unsubstantiated, or speculative" to constitute a valid reason.

To support his argument, Carlson relies primarily on *Lufkins*. In that case, the supreme court concluded that the state did not meet its burden of production at step two of *Batson* when the state's reason for the strike was that law enforcement "flagged" a juror's

name without any explanation. *Lufkins*, 963 N.W.2d at 211. The supreme court stated that the state's burden is "to offer a reasonably specific *explanation* that the court can use to determine whether that reason is related to the case being tried." *Id.* Because the state gave no explanation for why law enforcement flagged the juror, the state failed to satisfy its burden. *Id.*

Here, unlike in *Lufkins*, the state offered a specific explanation for the strike—Juror 15 failed to disclose her participation in a previous case. The Minnesota Supreme Court has "consistently said that misrepresentation is a legitimate race-neutral reason for striking a potential juror." *Adams*, 936 N.W.2d at 330.

Contrary to Carlson's assertion, *Lufkins* does not impose a requirement that the striking party present evidence to support a specific explanation. It is true, as Carlson emphasizes, that in *Lufkins* the supreme court noted that "the State did not offer an arrest record for [the juror] or any explanation as to why law enforcement flagged [the juror's] name." 963 N.W.2d at 211. But the supreme court did so in distinguishing that case from *State v. Moore*, 438 N.W.2d 101, 107 (Minn. 1989). *Lufkins*, 963 N.W.2d at 211. In *Moore*, the supreme court held that a juror's arrest record is a valid race-neutral reason for a peremptory strike. The supreme court did not hold that an arrest record or other evidence was required when the state offers a specific explanation.

Carlson asserts, though, that the state's reliance on the prospective juror's name here was "especially troublesome" because "a name can be a proxy for an individual's race." But that argument goes not to whether the state's explanation was race-neutral but instead

to whether the state's reason for the strike was in fact a pretext for racial discrimination. In other words, it belongs at step three, not step two.

Because a discriminatory intent is not inherent in either of the state's explanations, the district court did not clearly err when it found that the state met its burden to articulate a race-neutral explanation for striking Juror 15.

C. Step Three—Purposeful Discrimination

Carlson and the state agree that the district court failed to apply step three of *Batson*. We likewise agree. The district court denied Carlson's *Batson* challenge immediately after it found that the state articulated a race-neutral explanation for striking Juror 15. Following the state's offer of its race-neutral explanations, the court engaged in the following colloquy with Carlson's trial counsel:

> THE COURT: Anything else that you want to place on the record regarding the challenge?
>
> DEFENDANT'S COUNSEL: Well . . . it's a pretty common name and she didn't indicate she was a victim of a crime. . . . I don't know if she's confused with somebody else. She didn't indicate she was the victim. She didn't indicate that . . . living in Tracy had anything to do with her knowledge of the case.
>
> THE COURT: And . . . I don't think the state has to show a for cause. The state just has to identify a race neutral reason for the strike. . . . Is there anything else that you'd like to place on the record regarding your objection?
>
> DEFENDANT'S COUNSEL: Other than I don't think those are legitimate reasons but no.

The district court then ruled on Carlson's *Batson* challenge:

> [T]he court finds that the state . . . has identified a race neutral basis for the challenge. . . . I'm going to deny the challenge. . . .

> I would indicate that under *Batson* the explanation for the strike need not be quote, "persuasive or even plausible and that absent an inherent discriminatory intent would be considered race neutral." So the court finds that the state has established a race neutral reason to strike. And for those reasons . . . the court denied the challenge.

The district court made no factual finding on whether the race-neutral reasons were pretexts for discrimination.

We therefore examine the record to determine whether Carlson met his burden of proving purposeful discrimination. *See Seaver*, 820 N.W.2d at 633. The challenger to a strike must prove at step three "that the peremptory strike was motivated by racial discrimination and that the proffered reasons were merely a pretext for the discriminatory motive." *Pendleton*, 725 N.W.2d at 726 (quotation omitted). Here, Carlson's trial counsel argued that the state's race-neutral explanations were not "legitimate" because Juror 15 might not have been the victim in the previous case and Juror 15 had not indicated that she had knowledge of the case because she lived in Tracy. When the district court asked defense counsel whether they wanted to put anything else on the record regarding the *Batson* objection, counsel said no. Carlson's cursory arguments against the validity of the state's reasons are insufficient to carry his burden of proving that the reasons were pretexts for purposeful discrimination.

We also find unpersuasive Carlson's more expansive arguments that the record demonstrates racial discrimination. Carlson makes three arguments to support his claim that the peremptory strike was purposefully discriminatory.

First, Carlson contends that the state did not strike other prospective jurors "who had closer factual connections to the case." As Carlson notes, the United States Supreme Court has explained that, if a prosecutor's proffered reason for striking a non-white prospective juror applies equally to a white juror who is permitted to serve, "that is evidence tending to prove purposeful discrimination," which is properly considered at *Batson*'s third step. *Miller-El v. Dretke*, 545 U.S. 231, 241 (2005). Carlson points to the fact that the state did not strike white prospective jurors who had connections with witnesses or who lived in Marshall, even though an issue at trial was whether Carlson lived in Tracy on Harvey Street—at the residence where the charged offense occurred—or whether he lived in Marshall. But "prospective jurors are not similarly situated unless they possess the full combination of factors and characteristics cited by the State" as the reasons for striking the challenged juror. *State v. Onyelobi*, 879 N.W.2d 334, 351 (Minn. 2016) (quotation omitted). Here, the record does not demonstrate that the white prospective jurors were similarly situated to Juror 15 because there are no facts showing that they withheld information during voir dire. Furthermore, the state struck the only other prospective juror who indicated that they lived in Tracy.

Second, Carlson suggests that the state did not engage Juror 15 in any meaningful voir dire examination about her residence in Tracy. Failure to conduct a meaningful voir dire examination on a topic of alleged concern can be evidence of a pretext for discrimination. *Dretke*, 545 U.S. at 246. The record demonstrates, however, that the state's first question during voir dire was whether the potential jurors were "familiar with Harvey Street in Tracy" or "acquainted with anybody that lives on that street or in its vicinity in

Tracy." In addition, Carlson's trial counsel had already questioned Juror 15 about her residence in Tracy before the state began its questioning of potential jurors. The state did not need to engage in further voir dire of Juror 15 to establish that she lived in Tracy.

Third, Carlson asserts that the state excluded "100%" of the Hispanic prospective jurors. He relies on the statistical disparity in *Miller-El v. Cockrell*, 537 U.S. 322 (2003). In that case, the state exercised its peremptory strikes to exclude 91% of the eligible black prospective jurors, a disparity unlikely to have been produced by happenstance. *Id.* at 342. Specifically, the state struck 10 out of 11 black prospective jurors. But this case is distinguishable from *Cockrell*, because, here, unlike in *Cockrell*, the state only struck one Hispanic prospective juror who happened to be the only Hispanic prospective juror. The Minnesota Supreme Court has consistently held that the peremptory removal of the only ethnically or racially diverse prospective juror itself is insufficient to establish a *Batson* violation. *See Moore*, 438 N.W.2d at 107; *State v. Bowers*, 482 N.W.2d 774, 776-78 (Minn. 1992); *State v. Everett*, 472 N.W.2d 864, 868-69 (Minn. 1991).

On this record, we conclude that the district court did not clearly err when it denied Carlson's *Batson* challenge.

II. The district court did not abuse its discretion when it found that Carlson was a career offender and sentenced him to an aggravated durational departure.

Carlson argues that the district court abused its discretion by finding that he was a career offender and by imposing an aggravated sentencing departure. "We review a district court's decision to depart from the presumptive guidelines sentence for an abuse of discretion." *State v. Solberg*, 882 N.W.2d 618, 623 (Minn. 2016). "If the reasons given for

an upward departure are legally permissible and factually supported in the record, the departure will be affirmed. But if the district court's reasons for departure are improper or inadequate, the departure will be reversed." *State v. Edwards*, 774 N.W.2d 596, 601 (Minn. 2009) (quotation omitted).

Under Minnesota's career-offender statute, the district court may impose an aggravated durational departure up to the statutory maximum sentence if (1) "the factfinder determines that the offender has five or more prior felony convictions" and (2) "that the present offense is a felony that was committed as part of a pattern of criminal conduct." Minn. Stat. § 609.1095, subd. 4. Carlson argues both that the state did not prove that he has at least five prior felony convictions and that the evidence was insufficient to support the finding that his present offense was committed as part of a pattern of criminal conduct.

A. Prior Felony Convictions

A "prior conviction" for purposes of the career-offender statute "means a conviction that occurred before the offender committed the next felony resulting in a conviction and before the offense for which the offender is being sentenced under this section." *Id.*, subd. 1(c) (2020). "[F]ive sequential felony offenses and convictions are required (i.e., offense/conviction, offense/conviction, offense/conviction, etc.)." *State v. Huston*, 616 N.W.2d 282, 283 (Minn. App. 2000).

Through conviction records and the testimony of a probation officer familiar with Carlson's criminal history, the state presented evidence that Carlson has the following convictions:

Crime	Date of Offense	Date of Conviction
Third-degree burglary	Feb. 22, 1991	July 29, 1991
Fifth-degree controlled substance crime	July 3, 1991	Nov. 13, 1992
Theft of motor vehicle	Dec. 15, 1992	Jan. 8, 1993
Offering forged checks	Dec. 1994	Mar. 14, 1996
Fifth-degree controlled substance crime	Nov. 1, 1998	Aug. 10, 2000
Second-degree controlled substance crime	Jan. 9, 2002	Apr. 9, 2003
Unlawful possession of a firearm	Jan. 9, 2002	Apr. 9, 2003
First-degree controlled substance crime	Feb. 3, 2012	Apr. 16, 2013
Failure to appear	Mar. 23, 2021	Dec. 19, 2021

Carlson admits that four of these convictions are prior felony convictions. But he argues that the remaining five convictions—specifically, the 1991 third-degree burglary conviction, the 1991 fifth-degree controlled-substance-crime conviction, the 1994 offering-forged-checks conviction, the 2002 unlawful-possession-of-a-firearm conviction, and the 2021 failure-to-appear conviction—do not qualify as prior felony convictions.

The state agrees, and the district court did not rule otherwise, that only one of Carlson's convictions for unlawful-possession-of-a-firearm and second-degree controlled-substance crime may qualify as a prior felony conviction because they both have the same offense and conviction dates. The state also agrees, and the district court did not rule otherwise, that Carlson's failure-to-appear conviction does not qualify as a prior felony conviction because this conviction occurred after the present offense. We therefore must address whether, among the remaining convictions, the record supports at least one more prior felony conviction. We begin with the conviction for offering forged checks.

Carlson argues that his conviction for offering forged checks does not qualify as a prior felony conviction because it is unclear whether the conduct underlying that conviction remains a felony. He observes that the relevant statutory provision has been amended to

increase the monetary threshold for the forged checks from $200 to $250 and states that, because the record does not disclose the monetary amount that was at issue in his crime, it is possible that his conduct would no longer constitute a felony. He suggests that the Minnesota Supreme Court's decision in *State v. Franklin*, 861 N.W.2d 67 (Minn. 2015), therefore precludes consideration of this conviction. We disagree.

In *Franklin*, the supreme court held that a felony conviction that has been deemed a misdemeanor by operation of Minnesota Statutes section 609.13 by the time of the defendant's current sentencing does not qualify as a prior felony conviction for purposes of the career-offender statute. *Id.* at 69. Under section 609.13, a felony conviction is deemed a misdemeanor "if the imposition of the prison sentence is stayed, the defendant is placed on probation, and the defendant is thereafter discharged without a prison sentence." Minn. Stat. § 609.13, subd. 1(2) (2020). Contrary to Carlson's argument, nothing in *Franklin* precludes consideration of a conviction based upon conduct that may not currently constitute a felony due to an intervening change in the governing law.

Because Carlson admitted to having four prior felony convictions and his offering-forged-checks conviction qualifies as a prior felony conviction, the state proved that Carlson has at least five prior felony convictions.

B. Pattern of Criminal Conduct

"[A] 'pattern of criminal conduct' may be demonstrated by proof of criminal conduct similar, but not identical, in motive, purpose, results, participants, victims or other shared characteristics." *State v. Gorman*, 546 N.W.2d 5, 9 (Minn. 1996). This prong of the career-offender statute is different from the prior-felony-convictions prong in "that a

'pattern of criminal conduct' may be demonstrated by reference to past felony or gross misdemeanor convictions or by proof, through clear and convincing evidence, of prior, uncharged acts of criminal conduct." *Id.* "[D]etermination of a pattern of criminal conduct involves a comparison of different criminal acts, weighing the degree to which those acts are sufficiently similar. This determination goes beyond a mere determination as to the fact, or number, of the offender's prior convictions." *Henderson*, 706 N.W.2d at 762 (quotation omitted).

The district court explained its finding of a pattern of criminal conduct as follows:

> The state has proven beyond a reasonable doubt that the present felony offense was committed as part of a pattern of criminal conduct. The two most recent prior convictions involved methamphetamine. The most recent conviction . . . involved the sale of methamphetamine. The other . . . involved the possession of a significant amount of methamphetamine (54 grams). The other prior controlled substance convictions involved the possession of crack/cocaine and a "relatively large amount" of marijuana. All of these prior convictions are sufficiently similar to the present offense to constitute a pattern of criminal conduct.

Carlson contends that the district court improperly relied on two of his four previous controlled-substance crime convictions because the factual bases for those offenses were unknown. He relies on *State v. McClenton*, 781 N.W.2d 181 (Minn. App. 2010), *rev. denied* (Minn. June 29, 2010). In that case, we concluded that the state failed to prove the "facts" by which a jury could determine whether the defendant's previous offenses of possession of a firearm by a prohibited person, attempted theft from a person, and attempted sale of a simulated controlled substance had similar characteristics establishing a pattern of criminal conduct. *McClenton*, 781 N.W.2d at 194. But the convictions in *McClenton* were facially

dissimilar. Here, in contrast, the four prior convictions cited by the district court—including the two that Carlson challenges—were, like his current offense, for controlled-substance crimes.

As the state points out, in nonprecedential opinions involving the career-offender statute in controlled-substance cases, we have held that four prior drug convictions were sufficient to support the finding of a pattern of criminal conduct because the nature of the criminal conduct is evident from the convictions themselves. *See State v. Clarke*, No. A13-0801, 2014 WL 1875779, at *3 (Minn. App. May 12, 2014) ("[W]here the current offense for which [appellant] was sentenced is a drug offense and [appellant] has four prior drug convictions, the nature of drug offenses is sufficient to show a pattern—a series of acts that are recognizably consistent—of criminal conduct." (quotation omitted)), *rev. denied* (Minn. Aug. 5, 2014); *State v. McDonald*, No. A15-0268, 2016 WL 596222, at *5 (Minn. App. Feb. 16, 2016) (distinguishing *McClenton* because appellant's "four prior controlled-substance crimes were facially identical" and "facially similar to his present controlled-substance crimes"), *rev. denied* (Minn. Apr. 19, 2016). Although these cases are not binding authority, we find them persuasive here. *See* Minn. R. Civ. App. P. 136.01, subd. 1(c).

Carlson points out the long periods of time between some of his convictions and explains that, after receiving probation on his 2012 conviction, he had a period of more than eight years when he was sober and law-abiding. While Carlson's drug convictions span over 30 years, the career-offender statute "does not impose a time limit for includable prior convictions." *State v. Worthy*, 583 N.W.2d 270, 280 (Minn. 1998). It also "allows the

court to consider a defendant's entire criminal history to determine whether the defendant meets the statutory criteria of a repeat-felony offender." *Vickla v. State*, 793 N.W.2d 265, 271 (Minn. 2011). Thus, Carlson's four prior drug convictions were sufficient to support the district court's finding that his present controlled-substance offense was committed as part of a pattern of criminal conduct.

In conclusion, the district court did not abuse its discretion when it found that Carlson was a career offender and sentenced him to an aggravated durational departure.

Affirmed.