

*This opinion will be unpublished and
may not be cited except as provided by
Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A10-2269**

Ronald D. Mann, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed July 11, 2011
Affirmed
Collins, Judge***

Cass County District Court
File No. 11-CR-07-2142

David W. Merchant, Chief Appellate Public Defender, Andrea Barts, Assistant Public
Defender, St. Paul, Minnesota (for appellant)

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Christopher J. Strandlie, Cass County Attorney, Walker, Minnesota (for respondent)

Considered and decided by Peterson, Presiding Judge; Schellhas, Judge; and
Collins, Judge.

* Retired judge of the district court, serving as judge of the Minnesota Court of Appeals
by appointment pursuant to Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

COLLINS, Judge

Appellant challenges the denial of his postconviction petition seeking reduction of his sentence on a conviction for second-degree unintentional murder. Because we conclude that the district court did not abuse its discretion in upholding a sentence within the presumptive-sentence range, we affirm.

FACTS

Appellant Ronald Mann pleaded guilty to second-degree unintentional murder, Minn. Stat. § 609.19, subd. 2 (2006); the victim was his father. Mann admitted at the plea hearing that he threw his father against a refrigerator multiple times, that his father soon died, that he hid his father's body in the surrounding woods to conceal evidence of his actions, and that he lied to neighbors, police officers, and family members about his father's whereabouts for at least one week thereafter.

At sentencing, Mann requested a 150-month sentence; the state recommended 198 months. Mann's criminal-history score was one, thus the presumptive-sentence range was from 141 months to 198 months. After hearing testimony and arguments, the district court found that the victim's age and health rendered him vulnerable, and that the brutality of Mann's attack—combined with his efforts to conceal the murder—amounted to cruelty. The district court imposed and executed a sentence of 186 months. Mann petitioned the district court for postconviction relief, requesting a sentence reduction to 165 months. The district court denied the petition, and this appeal followed.

DECISION

This court reviews a district court's decision to deny postconviction relief for an abuse of discretion. *State v. Rhodes*, 675 N.W.2d 323, 326 (Minn. 2004). Our review of the district court's findings is limited to determining whether there is sufficient evidence in the record to support those findings. *Leake v. State*, 737 N.W.2d 531, 535 (Minn. 2007). We review questions of law de novo. *Id.*

Minnesota employs a sentencing matrix to establish “the presumptive sentence based on offense severity and the defendant’s criminal history score.” *State v. Vazquez*, 330 N.W.2d 110, 112 (Minn. 1983). Within each cell of the sentencing-guidelines matrix, there are three numbers: the lowest number is the minimum sentence allowed by the guidelines, the highest number is the maximum sentence allowed, and the middle number is referred to as the “presumptive fixed sentence.” *State v. Jackson*, 749 N.W.2d 353, 359 n.2 (Minn. 2008); *see also* Minn. Sent. Guidelines IV (2006). “All three numbers in any given cell constitute an acceptable sentence . . . the lowest is not a downward departure, nor is the highest an upward departure.” *Jackson*, 749 N.W.2d at 359 n.2.

Generally, a reviewing court does not modify a district court's decision to sentence a defendant when the sentence imposed is within the guidelines presumptive-sentence range. *State v. Delk*, 781 N.W.2d 426, 428 (Minn. App. 2010), *review denied* (Minn. July 20, 2010). Only when the record presents compelling circumstances will we exercise our authority to modify a sentence within the presumptive-sentence range. *Id.*

Here, because Mann’s criminal-history score was one, his presumptive-sentence range was from 141 months to 198 months. Minn. Sent. Guidelines IV. The sentence of 186 months is within this presumptive-sentence range; nonetheless, Mann contends that the district court erred by not imposing the “presumptive fixed sentence” of 165 months.

Mann argues that the district court failed to consider mitigating evidence regarding his mental health at the time of the murder in determining his sentence. However, the district court record includes the report of a rule 20 competency evaluation, which found that Mann was competent to proceed with trial and that he exaggerated his claims of mental illness. One examiner questioned whether Mann was feigning symptoms of mental illness; another noted that Mann, despite claims that he suffered from bipolar disorder, exhibited no symptoms of such affliction. Mann did not support his petition with any new evidence indicating his mental health was different or worse than had been evaluated. Therefore, because evidence in the record suggests that Mann fabricated or exaggerated his mental-health concerns, and because he offered no new evidence to counter the rule 20 findings, on this ground the district court did not abuse its discretion in denying postconviction relief.

Alternatively, Mann argues that the district court disregarded new evidence of the side effects caused by Chantix, a medication he started using shortly before the murder. Mann included with his petition a printout of side effects attributed to Chantix, including changes in behavior, hostility, agitation, depressed mood, and suicidal thoughts or actions. However, Mann did not provide evidence that he ever exhibited or suffered from any such side effects that he now suggests are “the only possible explanation” for his

misbehavior. Moreover, the record reveals a history of violence predating Mann's use of Chantix, including a report to the police four years before the murder that Mann was behaving out of control and wanted to fire his gun at police officers. In light of Mann's history of violence and aggression, and because Mann made no showing that any of the Chantix side effects applied to him, on this ground the district court did not abuse its discretion in denying postconviction relief.

Finally, we have carefully considered the alternative arguments raised by Mann in his pro se supplemental brief and conclude that none merits relief from Mann's sentence of 186 months.

Affirmed.