

*This opinion is nonprecedential except as provided by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
A24-1880**

State of Minnesota,
Appellant,

vs.

Hardy Mondelus Galette,
Respondent.

**Filed June 30, 2025
Affirmed
Harris, Judge**

Sherburne County District Court
File No. 71-CR-23-1052

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

Dawn Nyhus, Sherburne County Attorney, George R. Kennedy, Assistant County Attorney, Elk River, Minnesota (for appellant)

Cathryn Middlebrook, Chief Appellate Public Defender, Max B. Kittel, Assistant Public Defender, St. Paul, Minnesota (for respondent)

Considered and decided by Bjorkman, Presiding Judge; Bratvold, Judge; and Harris, Judge.

NONPRECEDENTIAL OPINION

HARRIS, Judge

In this appeal by the state, appellant challenges the district court's decision to grant respondent's motion for a downward dispositional departure. Because we conclude the

district court did not abuse its discretion when it stayed respondent's sentence and placed him on probation, we affirm.

FACTS

In August 2023, appellant State of Minnesota charged respondent Hardy Mondelus Galette with felony domestic assault and second-degree assault with a dangerous weapon under Minnesota Statutes sections 609.2242, subdivision 4, and 609.222, subdivision 1 (2022). Galette and the victim, J.T., were in the process of ending a significant romantic relationship. While Galette was at J.T.'s home retrieving his personal items, they argued about an iPad and got into a "confrontation," which led to Galette intentionally hitting J.T. in the head with a brick. J.T. called 911 and later received treatment at the emergency department for bleeding and a concussion.

At the bail hearing, the district court issued a Domestic Abuse No Contact Order (DANCO), prohibiting Galette from having any contact with J.T. or her home. In February 2024, Galette violated that DANCO by communicating with J.T. over the phone. Galette had also violated other DANCOs in Sherburne and other counties.

In August 2024, Galette pleaded guilty to second-degree assault and the state agreed to dismiss the felony domestic-assault charge. The parties did not have an agreement for sentencing. Galette planned to seek a sentencing departure, while the state would argue for an executed presumptive prison sentence. The district court released Galette from custody on conditional bail and lifted the previously imposed DANCO from Sherburne

County. The district court also ordered a presentence investigation (PSI), which recommended a presumptive commitment to prison of 33 months.¹

Galette filed a written motion for a downward dispositional departure based on his remorse, employment, amenability to probation, community and family support, and his participation in anger management. Galette also filed a dispositional advisor memorandum, which described his background, family history, mental-health history, employment, remorse, and his attitude moving forward.

At the sentencing hearing, Galette’s counsel argued that he was particularly amenable to probation given his employment at a landscaping company and his enrollment at a technical college. Galette’s counsel added that Galette is taking medication for his bipolar disorder, attends weekly therapy, and is registered for anger management, which was set to begin the following month. His counsel additionally explained that Galette had given up smoking cigarettes and “every possible illegal substance.” Counsel also stated that “one of the main changes in [Galette’s] life is the fact that he has another child . . . [who] means the world to him.”

¹ Under the Minnesota guidelines, the presumptive sentence for a second-degree assault crime when the offender has a criminal-history score of two is 33 months, and that sentence is presumptively stayed. Minn. Sent’g Guidelines 4.A (2022). However, Minnesota Statute section 609.11, subdivision 4, provides in part, that offenses committed with a dangerous weapon “shall be committed to the commissioner of corrections for not less than one year plus one day, nor more than the maximum sentence provided by law,” which occurred in Galette’s case. Minn. Stat § 609.11, subd. 4 (2022).

The district court next heard from the victim, J.T., who shares a son with Galette. J.T. stated that she had “been saying for the whole time [that she does not] want him to go to prison.” She recognized that “people make mistakes” but explained:

I understand the severity of this case, but this is the father of my child, and life is already hard as it is, and to put him in prison in a box while I have to take care of the kid alone is not fair. It’s not fair to me, it’s not fair to his kid, and I understand that he’s done wrong, and people can change and do change, and I’ve seen that. So[,] I just would like for him to not go to prison so that I don’t have to raise another kid by myself.

J.T. also explained that it was the “heat of the moment, stuff happened” and that “on paper, it looks bad, and [Galette] looks like a horrible person, but [she] [doesn’t] believe that he is.”

The state argued that Galette’s employment history—at the time of the offense and at sentencing—cannot be considered for departures. Additionally, the state argued that Galette’s age, prior convictions, lack of remorse, and cooperation do not support a departure. The state asked the district court to impose an executed sentence of 33 months in prison.

The district court also heard from Galette, who explained his difficulties with probation supervision. Galette also discussed how he was motivated to comply with probation and remain in the community to care for his son, explaining that he “interact[s] with [his] son regularly,” noting that his son is “60 days old,” and stating that “[he] would never do anything to mess that up.”

After hearing testimony, the district court stated that it “tr[ie]d to read as much information as [it] [could] in anticipation of sentencing, especially when . . . looking at a significant departure under these types of circumstances.” The district court explained that it reviewed, among other things, the PSI in this case and another pending matter in Stearns County.

The district court imposed a 39-month stayed sentence after finding that Galette was particularly amenable to treatment.² In October 2024, the district court filed a departure report with the Minnesota Sentencing Guidelines Commission. In its departure report, the district court noted the reasons for departure were (1) “[Galette] [was] particularly amenable to probation, chemical dependency treatment, domestic abuse treatment and mental health treatment” and (2) “[Galette] has family support, specifically [J.T.] (mother of defendant’s child) who spoke at his sentencing [hearing].”

The state appeals.

DECISION

I. The district court did not abuse its discretion by granting Galette’s downward dispositional departure under the Minnesota Sentencing Guidelines.

The state argues that the district court abused its discretion by granting Galette’s motion for a downward dispositional departure because the record does not support the

² If the duration for a sentence that is a presumptive commitment is located in the shaded areas of the sentencing grid, as it is here at 33 months, “the standard range of 15 percent lower and 20 percent higher than the fixed duration displayed is permissible without departure, provided that the minimum sentence is not less than one year and one day, and the maximum sentence is not more than the statutory maximum.” Minn. Sent’g Guidelines 2.C.1 (2022).

district court's finding that Galette is particularly amenable to probation and treatment. More specifically, the state asserts that Galette's prior history and recent performance on probation show the opposite and asks us to reverse the district court's grant of a dispositional departure. We are not persuaded.

The Minnesota Sentencing Guidelines "prescrib[e] a sentence or range of sentences that is presumed to be appropriate." *State v. Soto*, 855 N.W.2d 303, 308 (Minn. 2014) (quotation omitted). "Because the [sentencing] guidelines' goal is to create uniformity in sentencing, departures are justified only in exceptional cases." *State v. Solberg*, 882 N.W.2d 618, 625 (Minn. 2016). The sentencing guidelines require the district court to impose the presumptive sentence "unless there exist identifiable, substantial, and compelling circumstances to support a departure." Minn. Sent'g Guidelines 2.D.1 (2022). "Substantial and compelling circumstances are those circumstances that make the facts of a particular case different from a typical case." *State v. Olson*, 765 N.W.2d 662, 664 (Minn. App. 2009). The district court has broad discretion when imposing a sentence and we will only reverse a district court's sentencing decision if it abuses that discretion. *Soto*, 855 N.W.2d at 307-08. The district court's grant of a downward dispositional departure is an abuse of discretion if "the district court's reasons are improper or insufficient and there is insufficient evidence of record to justify the departure." *Id.* at 308 (quotation omitted).

In determining whether substantial and compelling reasons support a downward dispositional departure, the district court may consider offender-related and offense-related factors. *State v. Walker*, 913 N.W.2d 463, 468 (Minn. App. 2018). One such factor is "a defendant's particular amenability to individualized treatment in a probationary setting."

Soto, 855 N.W.2d at 308 (quoting *State v. Trog*, 323 N.W.2d 28, 31 (Minn. 1981)). In evaluating a defendant’s particular amenability, district courts look to the *Trog* factors, such as “the defendant’s age, his prior record, his remorse, his cooperation, his attitude while in court, and the support of friends and/or family.” *Trog*, 323 N.W.2d at 31. Notably, “a single mitigating factor may support a downward sentencing departure.” *Solberg*, 882 N.W.2d at 625.

Here, the district court carefully evaluated all of the relevant information and found one factor—the support of family—as a substantial and compelling basis to grant a departure. The district court considered the *Trog* factors, the dispositional advisor’s report, two PSIs, and the testimony presented at the sentencing hearing. At sentencing, J.T. pleaded with the district court to grant a departure, arguing that although Galette made a mistake, “people can change and do change.” She also stated, “[Galette] is the father of my child, and life is already hard as it is, and to put him in prison in a box while I have to take care of the kid alone is not fair.” Moreover, the district court found that Galette was cooperative and showed remorse. And in its departure report, the district court noted that it granted a departure because it found that Galette was particularly amenable to probation and had family support, specifically J.T.

In sum, we are not convinced that the district court abused its discretion. The district court has broad sentencing discretion; it is not our role to substitute our judgment for that of the district court after it has weighed competing evidence. *State v. Sejnoha*, 512 N.W.2d 597, 601 (Minn. App. 1994), *rev. denied* (Minn. Apr. 21, 1994). The record shows that the district court evaluated the relevant information and found a single factor to determine that

Galette was particularly amenable to individualized treatment. *See Solberg*, 882 N.W.2d at 625 (holding that a single mitigating factor may support departure). Because the district court based the dispositional departure on a valid departure ground and the record supports it, we conclude that the district court did not abuse its discretion by granting a downward dispositional departure.

Affirmed.