

*This opinion is nonprecedential except as provided by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
A24-1243**

State of Minnesota,
Respondent,

vs.

Brenden Jamel Reynolds,
Appellant.

**Filed June 2, 2025
Affirmed
Ede, Judge**

Dakota County District Court
File No. 19HA-CR-23-658

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

Kathryn M. Keena, Dakota County Attorney, Todd Zettler, Assistant County Attorney,
Hastings, Minnesota (for respondent)

Daniel P. Repka, Repka Law, LLC, St. Paul, Minnesota (for appellant)

Considered and decided by Ede, Presiding Judge; Harris, Judge; and Bentley, Judge.

NONPRECEDENTIAL OPINION

EDE, Judge

In this direct appeal from the final judgment of conviction for first-degree manslaughter, appellant challenges the district court's imposition of an upward durational departure at sentencing. Appellant contends that, although he admitted to the existence of two aggravating factors and the facts underlying those factors pursuant to a plea agreement,

the district court abused its discretion by determining that those factors and the underlying facts provided a substantial and compelling basis for the upward durational departure. Because we conclude that the district court did not abuse its discretion, we affirm.

FACTS

In March 2023, respondent State of Minnesota charged appellant Brenden Jamel Reynolds with murder in the second degree, a violation of Minnesota Statutes section 609.19, subdivision 1(1) (2020). Reynolds later pleaded guilty to manslaughter in the first degree, a violation of Minnesota Statutes section 609.20(1) (2020), under a plea agreement with the state that included dismissal of the murder charge. During the plea hearing, Reynolds testified that he went to a park in West St. Paul in June 2021. At the park, Reynolds encountered the victim, with whom Reynolds had a history. The two men began arguing, which escalated to brandishing firearms. Reynolds shot the victim, who later died as a result.

The parties' plea agreement provided that the state would move for an upward durational departure to a sentence between 103 months and the statutory maximum of 15 years, and Reynolds stipulated that he would not object to the timing of that motion.¹ At the plea hearing, Reynolds agreed to waive his right to a jury trial, admitted to the existence of two aggravating factors that could impact his sentence,² and affirmed the facts

¹ The state did not give notice of its intent to seek an upward durational departure within the required time frame. *See* Minn. R. Crim. P. 7.03 (requiring the state to notify the district court and the defendant of its intent to seek an aggravated sentence within seven days of the omnibus hearing).

underlying those factors: that “there were children present in the park” when the crime occurred; and that the incident took place “in a public park when the park was open[] and there were several members of the public present,” which “increased . . . how dangerous [his] actions were, based on how many people were present.”

Prior to sentencing, the county corrections department filed a presentence investigation report. According to the report, based on Reynolds’s criminal-history score and the offense-severity level, the sentencing-guidelines range was 74 to 103 months. Considering the aggravating factors, however, the report recommended an upward durational departure to a sentence of 129 months.

At the sentencing hearing, Reynolds argued for a 103-month sentence. The state asked for 172 months, an aggravated sentence at the high end of the range the state indicated in the plea agreement that it would request. In support of its argument for this aggravated sentence, the state relied on a five-minute surveillance video of the park at the time of the offense, which it had submitted to the district court at the omnibus hearing.

The district court imposed a sentence of 129 months in prison, determining that there were “substantial and compelling reasons for an aggravated upward departure.” The district court provided the following explanation for the 129-month sentence:

The court has viewed the video multiple times, including today, to refresh my memory about what it depicts. And unfortunately, we don’t see most of what happens, because it happens under the pavilion. So we are left to wonder what

² During his testimony at the plea hearing, Reynolds affirmed that he was “agreeing that the aggravating factors that [the state] provided in their *Blakely* [*v. Washington*, 542 U.S. 296, 296 (2004)] motion were present, namely, that there were kids around, and that this was a park with kids present.”

exactly transpired. But what I do know is that I did see on the video many people, and I did see children. And this was a public park open during operating hours. And these facts were all admitted by Mr. Reynolds at the plea hearing. So based upon that admission, the court does find that these are substantial and compelling reasons for an aggravated upward departure. The people of Dakota County should not be fearful of getting shot at a public park. And their children should not have to witness those types of events. And again, like I said earlier, we don't know what exactly happened under that pavilion, but we do know, Mr. Reynolds, that you brought a gun to the public park that day.

This appeal follows.³

DECISION

Reynolds asserts that the district court abused its discretion by imposing the 129-month sentence—an upward durational departure of 26 months from the top of the presumptive sentencing guidelines range. He contends that, despite his agreement to the existence of two aggravating factors that support an upward durational departure and his admission to the facts underlying those factors, the district court abused its discretion by determining that those aggravating factors and underlying facts provide a “substantial and compelling” basis to justify the upward departure. More specifically, Reynolds maintains that “the district court may only upwardly depart if those aggravating factors establish substantial and compelling circumstances” and that the state failed to prove such “substantial and compelling circumstances.” We disagree that the district court abused its discretion in sentencing Reynolds.

³ We stayed Reynolds’s appeal to allow the district court to consider a motion to correct the record. After the record was corrected, we dissolved the stay.

Appellate courts generally review a district court's decision to depart from the sentencing guidelines for an abuse of discretion. *State v. Rund*, 896 N.W.2d 527, 532 (Minn. 2017). "If the reasons given for an upward departure are legally permissible and factually supported in the record, the departure will be affirmed." *State v. Edwards*, 774 N.W.2d 596, 601 (Minn. 2009). But "if the district court's reasons for departure are improper or inadequate, the departure will be reversed." *Id.* (quotation omitted). "The shorter the departure, the greater the deference given to the district court's discretion." *Dillon v. State*, 781 N.W.2d 588, 596 (Minn. App. 2010), *rev. denied* (Minn. July 20, 2010).

The Minnesota Sentencing Guidelines exist to "maintain uniformity, proportionality, rationality, and predictability in sentencing." Minn. Stat. § 244.09, subd. 5 (2024). For felony offenses, the guidelines specify a presumptive sentence, Minn. Sent'g Guidelines 2.C (2020), which is "presumed to be appropriate for all typical cases sharing criminal history and offense severity characteristics," Minn. Sent'g Guidelines 1.B.13 (2020). *See also State v. Jones*, 745 N.W.2d 845, 848 (Minn. 2008). A district court must impose a sentence within the presumptive sentencing range unless there are "identifiable, substantial, and compelling circumstances" to warrant a departure. Minn. Sent'g Guidelines 2.D.1 (2020). "Substantial and compelling circumstances are those showing that the defendant's conduct was significantly more or less serious than that typically involved in the commission of the offense in question." *Edwards*, 774 N.W.2d at 601 (quotation omitted); *see also State v. Hicks*, 864 N.W.2d 153, 157 (Minn. 2015).

To impose an upward sentencing departure, the district court "must disclose in writing or on the record the particular substantial and compelling circumstances that make

the departure more appropriate than the presumptive sentence.” Minn. Sent’g Guidelines 2.D.1.c (2020). The sentencing guidelines provide a nonexclusive list of aggravating factors that district courts may use as reasons to justify an upward departure. *State v. Vanengen*, 3 N.W.3d 579, 582 (Minn. 2024); *State v. Fleming*, 883 N.W.2d 790, 797 n.8 (Minn. 2016) (explaining that “[t]he factors listed in the guidelines . . . are non-exclusive, . . . and courts may consider other factors that demonstrate identifiable, substantial, and compelling reasons for departure” (citing Minn. Sent’g Guidelines 2.D.3, 2.D.1)); *see also* Minn. Sent’g Guidelines 2.D.3 (2020). Moreover, the sentencing guidelines expressly state that the aggravating factors “may be used as reasons for departure.” Minn. Sent’g Guidelines 2.D.3. Minnesota Supreme Court “precedent recognizes that an aggravating factor may explain ‘why the *facts* of the case provide the district court a substantial and compelling basis for imposition of a sentence outside the range on the [sentencing-guidelines] grid.’” *Vanengen*, 3 N.W.3d at 582 (quoting *State v. Rourke*, 773 N.W.2d 913, 921 (Minn. 2009) (explaining that an “aggravating factor *is a reason* explaining why the *facts* of the case provide the district court a substantial and compelling basis for imposition of a sentence outside the range on the grid” (emphasis added))).

In *Vanengen*, the supreme court explained that

the Sentencing Guidelines Commission and the Minnesota Legislature adopted the broad language that recognizes that committing an offense in a victim’s zone of privacy is a substantial and compelling reason to justify an upward departure by, respectively, adding it as a permissible aggravating factor to the guidelines and enacting it into law.

Id. at 585. And in *State v. Parker*, the supreme court rejected an appellant’s argument that an “additional rationale” is required before concluding that an aggravating factor “is a sufficient basis to enhance a sentence from the presumptive guidelines range.” 901 N.W.2d 917, 928–29 (Minn. 2017). We therefore conclude that the existence of an aggravating factor supported by underlying facts in the record is all that is required to justify an upward durational departure.

This conclusion aligns with our decision in *State v. Castillo-Alvarez*, in which we held that, when “the facts supporting departure and the reason supporting departure are indistinguishable[,] . . . the district court’s failure to ‘explain’ [the aggravating] factor did not preclude the court from using it as a reason for departure.” 820 N.W.2d 601, 623 (Minn. App. 2012), *aff’d sub nom.*, *State v. Castillo-Alvarez*, 836 N.W.2d 527 (Minn. 2013). Reasoning that “[n]o purpose is served by requiring the district court to separately state on the record that the [aggravating] factor is a reason for departure” and that “[a]n upward departure may be supported based on the presence of a single aggravating factor[,]” we “conclude[d] that the . . . factor properly support[ed] the departure.” *Id.* (citing *State v. O’Brien*, 369 N.W.2d 525, 527 (Minn. 1985) (stating that the presence of a single aggravating factor is sufficient to support an upward departure); *Dillon*, 781 N.W.2d at 599).

Here, Reynolds admitted to the existence of the aggravating factors and the underlying facts that the crime occurred in the presence of children and in a public park during operating hours. *See* Minn. Sent’g Guidelines 2.D.3, 2.D.3.b(13); *see also Fleming*, 883 N.W.2d at 797–98 (affirming an upward durational departure based on the defendant’s

act of “fir[ing a] gun six times in a park filled with children” and “the large number of potential victims put in real and significant danger as a result of his firing the handgun six times in a public park during the height of its use that day” (quotation omitted)). Reynolds testified to the facts underlying the aggravating factors by agreeing that “there were children present in the park when this incident occurred” and that the incident took place “in a public park when the park was open[] and there were several members of the public present,” which “increased . . . how dangerous [his] actions were, based on how many people were present.” Because the aggravating factors and the underlying facts are indistinguishable, we conclude that no further explanation by the district court was necessary for the court to impose the upward durational departure. *See Castillo-Alvarez*, 820 N.W.2d at 623.

Reynolds’s admissions to these aggravating factors and underlying facts are also supported by the surveillance video submitted at the omnibus hearing. On appeal, Reynolds argues that the video shows “most people walking into and out of the camera angle after the shooting” and that “[t]his indicates that, after Reynolds’s crime, people were not afraid.” The video defeats this claim because it depicts children and adults running away from the pavilion after the shooting. But more fundamentally, the aggravating factors and underlying facts that Reynolds admitted to and on which the district court relied in sentencing do not require fear—instead, it is sufficient that the offense was committed in the presence of children and in a public park during operating hours, both of which the record amply supports. *See Minn. Sent’g Guidelines* 2.D.3, 2.D.3.b(13); *see also Fleming*, 883 N.W.2d at 797–98. Because these aggravating factors are grounds for an upward

durational departure that are “legally permissible and factually supported in the record,” we discern no abuse of discretion requiring reversal. *See Edwards*, 774 N.W.2d at 601.

Even if the district court did need to make a separate determination that the aggravating factors presented substantial and compelling circumstances for the upward durational departure, we would still affirm. The district court explained that the court “did see on the [surveillance] video many people, . . . did see children[, a]nd this was a public park open during operating hours.” And the district court observed that “these facts were all admitted by . . . Reynolds at the plea hearing.” On those bases, the district court expressly determined that “these are substantial and compelling reasons for an aggravated upward departure.” The district court did not abuse its discretion in doing so.

Because the district court’s stated reasons are legally permissible and factually supported by the record, we conclude that the court did not abuse its discretion by imposing a 26-month upward durational departure.

Affirmed.