

*This opinion is nonprecedential except as provided by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
A21-1629**

State of Minnesota,
Respondent,

vs.

David Lee Williams, Jr.,
Appellant.

**Filed September 12, 2022
Affirmed
Reilly, Judge**

Benton County District Court
File No. 05-CR-19-1416

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

Philip K. Miller, Benton County Attorney, Kathleen L. Reuter, Assistant County Attorney,
Foley, Minnesota (for respondent)

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

Considered and decided by Larkin, Presiding Judge; Reilly, Judge; and Reyes,
Judge.

NONPRECEDENTIAL OPINION

REILLY, Judge

In this appeal from the final judgment of conviction for second-degree unintentional murder, appellant challenges his sentence, arguing that the district court abused its discretion by imposing an upward departure that unfairly exaggerates the criminality of his

conduct. Because the district court did not abuse its discretion by imposing an upward departure, we affirm.

FACTS

In July 2019, respondent State of Minnesota charged appellant David Lee Williams Jr. with second-degree intentional murder and second-degree unintentional murder. The complaint stated that on July 27 at around 2:55 a.m., the Sauk Rapids Police Department responded to 911 for a medical emergency. At the scene, the officers found Williams next to an unconscious female who was not breathing. The officers identified the female as Williams' partner, 30-year-old C.B. The officers knelt near C.B. and observed that the floor was wet. The officers also saw multiple large bruises on C.B., red and purple marks on her entire body, two black eyes that were swollen shut, and blood around her nose. The officers found red marks on the wall which appeared to be dried blood. The officers reported that C.B. was cold to the touch and believed her to be in a "state of rigor" when they arrived. The officers attempted life-saving measures, but could not revive C.B. Williams later admitted that the assault occurred hours earlier, but that he did not immediately call for medical assistance.

The state filed a notice of intent to seek an aggravated sentence because the victim was particularly vulnerable and Williams treated the victim with particular cruelty. The state later withdrew its notice of intent to seek an aggravated sentence based on vulnerability but moved forward asserting that Williams treated the victim with particular cruelty. The parties reached a plea agreement; Williams waived his right to a jury trial and pleaded guilty to second-degree unintentional felony murder. The presumptive sentencing

guidelines range for the offense was 128 to 180 months. Williams also waived his rights under *Blakely v. Washington*, 542 U.S. 296 (2004), and agreed to admit facts showing he treated the victim with particular cruelty to support an aggravated upward departure. The parties agreed to cap the amount of executed time at 270 months. At the plea hearing, Williams testified that he caused the injuries to victim C.B., that he “hit her with gratuitous violence inflicting pain,” and that he did not render aid immediately.

The Department of Corrections prepared and submitted a presentence investigation report before the sentencing hearing. The report revealed that Williams had a criminal history score of zero and therefore fell within the sentencing guidelines range of 128 to 180 months. But the report recommended that Williams be committed to the Commissioner of Corrections for 270 months.

At the sentencing hearing, the state argued that “substantial and compelling circumstances . . . exist to support a sentencing outside of the range of the grid” including the nature of the injuries sustained by the victim and Williams’ failure to promptly seek medical attention. The state urged the district court to sentence Williams to 270 months, arguing that Williams’ actions and the injuries to the victim were “egregiously cruel.” The defense asked for a sentence of 180 months, arguing that Williams was “remorseful and wants to make amends.”

Following arguments, the district court granted the motion for an upward departure and sentenced Williams to the Commissioner of Corrections for 270 months. The district court believed Williams to be remorseful but stated that the victim “was treated with very unusual cruelty by [Williams].” This appeal follows.

DECISION

Williams argues that the 270-month sentence imposed on him is excessive and exaggerates the criminality of his conduct. He contends that we must reverse his sentence and direct the district court to impose a sentence within the sentencing guidelines range of 128 to 180 months. Generally, a district court must impose a sentence within the presumptive sentencing guidelines range unless there are “identifiable, substantial, and compelling circumstances” to warrant a departure from the guidelines. Minn. Sent. Guidelines 2.D.1 (Supp. 2020). We “will not interfere with a district court’s discretion in sentencing unless the sentence is disproportionate to the offense or unfairly exaggerates the criminality of the defendant’s conduct.” *State v. Vang*, 847 N.W.2d 248, 264 (Minn. 2014). “Substantial and compelling circumstances are those showing that the defendant’s conduct was significantly more . . . serious than that typically involved in the commission of the offense in question.” *State v. Edwards*, 774 N.W.2d 596, 601 (Minn. 2009). We review a district court’s sentencing decision for an abuse of discretion. *State v. Solberg*, 882 N.W.2d 618, 623 (Minn. 2016). “A district court abuses its discretion when its reasons for departure are legally impermissible and insufficient evidence in the record justifies the departure.” *Id.*

Williams pleaded guilty to second-degree unintentional murder and admitted facts that showed he treated the victim with particular cruelty to support an aggravated upward departure. “[P]articular cruelty involves the gratuitous infliction of pain and cruelty of a kind not usually associated with the commission of the offense in question.” *Tucker v. State*, 799 N.W.2d 583, 586 (Minn. 2011) (quotations omitted). Williams does not

challenge the district court’s finding that the victim was treated with particular cruelty, nor does he deny that the district court was allowed to grant an upward departure under the Minnesota Sentencing Guidelines. Instead, he argues that his 270-month sentence is excessive when compared to other second-degree murder convictions in Minnesota. He also argues that the general lack of upward departures in second-degree murder cases shows that offenders rarely receive sentences above those in the presumptive guideline ranges.

Williams is correct that our review of sentencing decisions is “guided by past sentences imposed on other offenders.” *State v. McLaughlin*, 725 N.W.2d 703, 715 (Minn. 2007) (quotation omitted). And we have the discretion to modify a sentence in the interests of fairness and uniformity. *State v. Vazquez*, 330 N.W.2d 110, 112 (Minn. 1983).

But our review of the cases relied on by the parties¹ and other relevant caselaw establishes that Williams’ sentence is not excessive or disproportionate to his offense. For example, in *State v. Trevino* appellant killed his partner, hid her body, and filed a false missing-person report. No. A14-0252, 2015 WL 1401464, at *2 (Minn. App. Mar. 30, 2015), *rev. denied* (Minn. June 30, 2015). The autopsy report showed evidence that the victim had been smothered. *Id.* After a nine-day jury trial, appellant was found guilty of second-degree felony murder. *Id.* at *3. The state sought an upward departure from the presumptive sentencing range of 128 to 180 months based on particular cruelty. *Id.* The

¹ The parties cite both precedential and nonprecedential cases to support their arguments. We recognize that nonprecedential cases are not binding authority, but that we may use nonprecedential cases as persuasive authority in analyzing this case. Minn. R. Civ. App. P. 136.01, subd. 1(c).

district court found that appellant treated the victim with particular cruelty because he concealed the victim's body and sentenced him to 330 months of imprisonment, an upward departure of 150 months. *Id.* We concluded that the district court did not abuse its discretion in imposing the aggravated sentence because appellant acted with particular cruelty. *Id.* at *9.

In *State v. Traylor*, appellant was convicted for an assault charge. 641 N.W.2d 335, 338 (Minn. App. 2002), *rev.'d on other grounds*, 656 N.W.2d 885 (Minn. 2003). The district court found that appellant exhibited particular cruelty when he stabbed the victim and refused to allow her to seek medical attention for several hours. *Id.* at 342. The presumptive term of imprisonment for the offense was 51 months, but the district court imposed a sentence of 102 months, twice the guidelines sentence, based on the aggravating circumstances. *Id.* We affirmed the upward departure, concluding that the district court did not abuse its discretion in imposing a double durational departure. *Id.*

In *State v. Weaver*, appellant was convicted of second-degree unintentional felony murder. 796 N.W.2d 561, 565 (Minn. App. 2011), *rev. denied* (Minn. July 19, 2011). Appellant had an argument with his wife and pushed her to the floor after becoming angry. *Id.* Appellant's wife appeared unresponsive and appellant could not find her pulse, so he tried to burn down the house. *Id.* The presumptive sentence for second-degree unintentional murder was 128 to 180 months. *Id.* at 566. The state requested an upward-durational departure, and the district court granted the request, sentencing appellant to 225 months in prison. *Id.* We concluded that appellant's conduct was "significantly more

serious than that typically involved in a felony murder,” and thus determined that the upward departure was not an abuse of discretion. *Id.* at 576.

These cases, although highly fact specific, show that Williams’ 270-month sentence is not an outlier. Williams pleaded guilty to second-degree unintentional murder and agreed that he treated the victim with particular cruelty. Williams admitted that after striking the victim many times, he did not render aid, and he waited about four hours before calling for help. The district court found that the victim “was treated with very unusual cruelty” and that “[e]ach injury on her body represents a separate blow or a separate assault that [Williams] committed upon her, and her body is riddled with injury from head to toe.” Although the presumptive sentencing range for his conviction is 128 to 180 months, the district court granted an upward departure on the aggravating factor of particular cruelty. This departure was legally permissible under the parties’ plea agreement and sufficient evidence justifies the departure. The sentence is not an outlier compared to similar second-degree murder cases with an aggravating factor of particular cruelty. Thus, the district court did not abuse its discretion in sentencing Williams to 270 months in prison.

Affirmed.