STATE OF MINNESOTA
IN COURT OF APPEALS
A12-2316

State of Minnesota,
Respondent,

vs.

Akmal Saleem Karon,
Appellant.

Filed October 28, 2013
Affirmed
Smith, Judge

Hennepin County District Court
File No. 27-CR-12-1951

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

Michael O. Freeman, Hennepin County Attorney, Linda K. Jenny, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

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

Considered and decided by Smith, Presiding Judge; Ross, Judge; and Rodenberg, Judge.

U N P U B L I S H E D O P I N I O N

SMITH, Judge

We affirm the imposition of a 120-month sentence because the district court did not abuse its discretion by imposing a sentence within the sentencing guidelines presumptive range.

FACTS

Akmal Saleem Karon pleaded guilty under a plea agreement to one count of first-degree sex trafficking, in violation of Minn. Stat. § 609.322 (2010), after he received profits from the prostitution of a juvenile female. Under the terms of the plea agreement, seven counts of first-degree sex trafficking—three of which involved a second conviction—were dismissed. The parties agreed to cap Karon's sentence at 120 months' imprisonment.

The presumptive sentencing range for first-degree sex trafficking for an offender with a criminal history score of two is 94 to 132 months' imprisonment. Minn. Sent. Guidelines IV-V (2009 & 2010). The probation officer who prepared the presentence investigation report (PSI) stated that a sentence of 132 months, the top end of the guidelines range was appropriate. But the officer also acknowledged that the parties' plea agreement called for a maximum of 120 months and recommended "the highest end of the sentence."

At the sentencing hearing, the district court rejected Karon's request for a 94-month sentence and imposed the agreed-upon cap of a 120-month sentence.

DECISION

I.

We "will not generally review a district court's exercise of its discretion to sentence a defendant when the sentence imposed is within the presumptive guidelines range." *State v. Delk*, 781 N.W.2d 426, 428 (Minn. App. 2010), *review denied* (Minn. July 20, 2010). Only in a "rare" case will we reverse a district court's imposition of a presumptive sentence. *State v. Kindem*, 313 N.W.2d 6, 7 (Minn. 1981).

Karon asserts that the presumptive sentence for his crime is a "middle of the box" sentence of 110 months and that any greater sentence requires the district court to state why sentences are not "typical." The argument fails. A district court must state reasons to support the imposition of a sentence only when it is a departure from the sentencing guidelines. *See* Minn. Sent. Guidelines II.C, D (2009 & 2010). Any sentence within the presumptive guidelines range is not a departure. *Delk*, 781 N.W.2d at 428-29. The district court was not required to state its reasons for imposing a 120-month sentence because the sentence did not depart from the guidelines.

Karon also argues that "[n]othing in the record indicates that the [district] court actually considered the 94-month sentence requested by [Karon] through counsel," and he claims that his criminal history justifies a lesser sentence. At sentencing the district court demonstrated consideration of Karon's circumstances by noting the offense's maximum penalty of 15 years, or 180 months, but imposing a lesser sentence "in accordance with the agreement." Because the district court "deliberately considered

circumstances . . . and exercised its discretion," we will not interfere. *See State v. Pegel*, 795 N.W.2d 251, 254 (Minn. App. 2011).

II.

In a pro se supplemental brief, Karon appears to claim that his plea was not made knowingly, intelligently, and voluntarily, arguing that he did not know about changes to the charges against him made in an amended complaint and implying that his guilty plea was coerced by the prospect of a greater sentence if he went to trial. His arguments are unavailing. The district court may permit amendments to a criminal complaint provided that they occur before trial and that the defendant is allowed continuances as needed to prepare. *State v. Bluhm*, 460 N.W.2d 22, 23-24 (Minn. 1990). The record shows that the amended complaint was filed on March 2, 2012, several months before Karon pleaded guilty on August 29, 2012. The only amendments made were to the statutory citations for Karon's offenses, not the factual allegations made in the complaint, which remained unchanged. The amended complaint was, therefore, not improper.

Karon also asserts that he would not have pleaded guilty but for his fear of a greater sentence were he to be convicted at trial. But such a fear does not invalidate a guilty plea. *See State v. Bradley*, 293 Minn. 445, 445-46, 196 N.W.2d 604, 605 (1972) (holding that fear of conviction at trial "does not preclude the court from accepting [a] plea of guilty"). The record reflects that Karon affirmed that he was pleading guilty because he was in fact guilty.

Karon raises a number of additional issues in his supplemental brief. Because he did not raise them to the district court and because he cites no legal authority in support,

we decline to address them. *See Roby v. State*, 547 N.W.2d 354, 357 (Minn. 1996) (declining to consider arguments made for first time on appeal); *see also State v. Palmer*, 803 N.W.2d 727, 741 (Minn. 2011) (stating that claims in pro se supplemental brief are waived where brief contains no argument or citation to legal authority)

Affirmed.