

18 APR 2022

**MSGC****Departure Report**

<b>Offender Name</b> (Last, First, Middle):	<b>Date of Sentence:</b>	<b>Sentencing County Name:</b>
<b>Judge Name:</b>	<b>Date of Report:</b>	<b>District Court Case No.:</b>
<b>Report Completed By</b> (Name/Title):	<b>Contact Information:</b>	

**Instructions**

In making decisions about departing from the Guidelines, and in writing reasons for departures, judges should consult § 2.D of the ***Minn. Sentencing Guidelines and Commentary***. This report should be completed by the Court when:

- (a) The pronounced disposition (prison/probation) differs from the presumptive disposition under the Guidelines;
- (b) The length of the sentence pronounced by the Court differs from the presumptive sentence length;
- (c) A consecutive sentence is given in a circumstance other than described in § 2.F of the Guidelines;
- (d) A consecutive sentence is not pronounced when consecutive sentencing is presumed under the Guidelines; or
- (e) A non-felony sentence is pronounced for an offender convicted of a felony-level offense.

**Type of Departure (check all that apply)****Dispositional:**
☐ **Mitigated/Downward**  
(Stay – Guidelines presume prison)

☐ **Aggravated/Upward**  
(Prison – Guidelines presume stay)

☐ **NOT** an aggravated/upward dispositional departure: Sentence was executed pursuant to offender's right to demand execution, offense date after 7/31/2015 (Guidelines § 2.D.1.f).
**Durational:**
☐ **Mitigated/Downward**  
(Less than Guidelines time)

☐ **Aggravated/Upward**  
(Greater than Guidelines time)

☐ **Non-Felony Sentence**  
(Misdemeanor or Gross Misd. sentence pronounced for felony-level conviction)

☐ **Consecutive**  
(Departure from Guidelines policy on consecutive sentencing)
**Aggravated Departure:**

If the sentence is an aggravated departure, please indicate how the sentence was imposed:

☐ Jury determination of aggravating factors  
(other than the fact of a prior conviction)

☐ Defendant waived right to jury determination of aggravating factors
**Reason(s) for Departure**

Please do one or more of the following: 1) Check the appropriate reason(s) for departure on the checklist of frequently cited departure reasons on page 2; 2) Write the reasons in the space below; or 3) Attach the relevant pages from the sentencing order or sentencing transcript.

**PLEASE SEND TO:****Minnesota Sentencing Guidelines Commission****658 Cedar Street, Suite G-58, St. Paul, MN 55155****Voice: (651) 296-0144 Email: [sentencing.guidelines@state.mn.us](mailto:sentencing.guidelines@state.mn.us)**

(Rev. 07/2017)

Section 1, below, contains frequently cited reasons for departure provided to the Court for convenience. Check all reasons that apply. An asterisk (\*) denotes a reason listed in Guidelines § 2.D.3, which is a nonexclusive list. Reasons with no asterisk are not enumerated in the Guidelines, but may be sanctioned elsewhere in law. Items listed in section 2 are requested as additional information. **The Court may also record reasons for departure in the space provided on page 1.**

### Section 1. Frequently Cited Reasons for Departure

#### Related to Nature of Current Offense

##### Reasons Frequently Used as Mitigating Factors:

- ☐ Offender played minor or passive role\*
- ☐ Victim was aggressor in incident\*
- ☐ Crime less onerous than usual

##### Reasons Frequently Used as Aggravating Factors:

- ☐ Victim treated with particular cruelty\*
- ☐ Victim was particularly vulnerable\*
- ☐ Victim injury/psychological impact on victim
- ☐ Current conviction is offense w/ victim injury (including Crim. Sex. Conduct) and there is a similar prior\*
- ☐ Major economic offense--involves 2 or more of the following:\*
- ☐ multiple victims/multiple incidents per victim
  - ☐ use of position/status
  - ☐ high degree planning/soph./lengthy period of time
  - ☐ actual/attempted loss greater than usual/than min.
  - ☐ similar prior conduct
- ☐ Committed, for hire, a crime against the person\*
- ☐ Committed crime as part of a group of three or more persons who all actively participated in the crime\*

- ☐ Major controlled substance crime involving 2 or more of the following:\*
- ☐ 3 or more separate transactions
  - ☐ offender or accomplice possessed equipment, paraphernalia, or monies evidencing wholesale trafficking
  - ☐ involved manufacture for use by others
  - ☐ offender or accomplice possessed firearm or other dangerous weapon during offense
  - ☐ high position in drug distribution hierarchy
  - ☐ high degree of sophistication/lengthy period of time
  - ☐ use of position/status
  - ☐ separate acts in 3 or more counties
  - ☐ prior conv. under Minn. Stat. § 609.1095, s. 1(d), except prior under chap. 152, including attempt or conspiracy
  - ☐ sale to a minor or vulnerable adult
  - ☐ occurred in a zone or correctional/treat. facility
  - ☐ Multiple victims or multiple incidents per victim
  - ☐ Crime committed in victim's home or zone of privacy
  - ☐ Position of authority, superiority, confidence or trust
  - ☐ Crime more onerous than usual offense

#### Related to Individual Offender

##### Reasons Frequently Used as Mitigating Factors:

- ☐ Lacked substantial capacity for judgment (not drug/alc.)\*
- ☐ Particularly amenable to probation
- ☐ Particularly amenable to treatment:
- ☐ Chem. dependency    ☐ Sex offender    ☐ Other
  - ☐ Convicted of controlled substance offense, is particularly amenable to probation based on adequate evidence that offender is chemically dependent and has been accepted by, and can respond to, a treatment program in accordance with Minn. Stat. § 152.152\*

- ☐ Impose restitution/ensure financial penalties paid
- ☐ Ensure compliance w/ probation or allow longer supervision
- ☐ Shows remorse/accepts responsibility
- ☐ Current Severity Level 1-4 offense and priors resulted from crime spree\*

##### Reasons Frequently Used as Aggravating Factors:

- ☐ Has failed on probation/unamenable to probation
- ☐ Career Offender under Minn. Stat. § 609.1095, s. 4
- ☐ Dangerous Offender under Minn. Stat. § 609.1095, s. 2
- ☐ Engrained Offender under Minn. Stat. § 609.3455, s. 3a

#### Related to Requests for Executed Sentence

- ☐ Request prison to avoid probation and/or jail
- ☐ Request prison as part of a plea agreement
- ☐ Request prison--revocation/prison on another offense
- ☐ Request prison--other reasons \_\_\_\_\_

#### Related to Recommendations Regarding Sentence

- ☐ Recommended by court services
- ☐ Recommended by treatment professional

### Section 2. Additional Information Requested (if applicable)

#### Regarding Victim/Witness

- ☐ Recommendation or agreement of victim/victim's family
- ☐ Prevent trauma to witness from testifying
- ☐ Witness is unlikely, unable, or unwilling to testify

#### Regarding Plea Agreements and Prosecutorial Recommendations

- ☐ Prosecutor objects to the departure
- ☐ Departure recommended by prosecutor
- ☐ Prosecutor does not object to the departure
- ☐ Plea agreement on sentence
- ☐ Prosecutor motion to sentence without regard to Minn. Stat. § 609.11

#### PLEASE SEND TO:

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\* Indicates reasons specified in the *nonexclusive* list in § 2.D.3 of the Minn. Sentencing Guidelines and Commentary.