

DEPARTURE REPORT

<i>Defendant Name (Last, First, Middle)</i>	<i>Sentence Date</i>	<i>County</i>	
<i>Judge Name</i>	<i>Report Date</i>	<i>District Court Case No.</i>	<i>Count No.</i>
<i>Report Completed By (Name/Title):</i>	<i>Contact Email/Phone</i>		

Instructions

In making decisions about departing from the Guidelines, and in writing reasons for departures, judges should consult section 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 section 2.F of the Guidelines;
- (d) A consecutive sentence is not pronounced when consecutive sentencing is presumed under the Guidelines;
- (e) A non-felony sentence is pronounced for an offender convicted of a felony-level offense; or
- (f) The pronounced length of stay exceeds five years or the length of the statutory maximum punishment, whichever is less, in a circumstance other than described in section 3.A.2.d of the Guidelines.

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 section 2.D.1.f).

Durational:
☐ **Mitigated/Downward Prison Duration**

(Less than Guidelines time)

☐ **Aggravated/Upward Prison Duration**

(Greater than Guidelines time)

☐ **Mitigated/Downward Non-Felony Sentence**

(Misdemeanor or Gross Misd. sentence pronounced for felony-level conviction)

☐ **Aggravated/Upward Length of Stay**

(Exceeds 5 yrs. or stat. max., whichever is less; Guidelines section 3.A.2.)

☐ **Consecutive**

(Departure from Guidelines policy on consecutive sentencing)

Please indicate how the sentence was imposed if the sentence was an **aggravated departure**.

☐ Jury determination of aggravating factors

☐ 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 submit by

Email:

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Minnesota Sentencing Guidelines Commission

658 Cedar Street, Suite G-58, St. Paul, MN 55155

Email: sentencing.guidelines@state.mn.us Voice: (651) 296-0144 Website: mn.gov/sentencing-guidelines



Frequently Cited Reasons and Additional Information

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 section 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 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*
- ☐ Veteran amenable under Minn. Stat. § 609.1056, s. 4*
- ☐ 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
- ☐ Witness is unlikely, unable, or unwilling to testify
- ☐ Prevent trauma to witness from testifying

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

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