



## Defendant's Sentencing Memorandum Template | Minnesota State Court

Minnesota courts have a great deal of discretion in sentencing. *State v. Soto*, 855 N.W.2d 303, 307-08. This discretion is limited, though, by the Minnesota Sentencing Guidelines, which prescribe sentences “presumed to be appropriate for the crimes to which they apply.” Minn. Sent. Guidelines 2.D.1 (2020). Accordingly, in order to depart from the guidelines, the court must determine that “there exist identifiable, substantial, and compelling circumstances that distinguish a case and overcome the presumption in favor of the guidelines sentence.” *Soto*, 855 N.W.2d at 308 (Minn. 2014) (quotation omitted).

The Guidelines provide a nonexclusive list of mitigating factors that can justify a downward dispositional departure or allow for a probationary sentence rather than imprisonment. One factor is that the defendant is “particularly amenable to probation.” Minn. Sent. Guidelines, 2.D.3.a.(7). In determining whether a defendant is particularly amenable to probation, courts consider a variety of circumstances, such as “the defendant’s age, his prior record, his remorse, his cooperation, his attitude while in court, and the support of friends and/or family.” *State v. Trog*, 323 N.W.2d 28, 31 (Minn. 1982).

While the Guidelines specify that social or economic factors cannot, on their own, justify a sentencing departure, facts related to those considerations may be relevant to determining whether a defendant is particularly amenable to probation. Minn. Sent. Guidelines Cmt. 2.D.303 (citing *Soto*, 855 N.W.2d at 309); *see* Minn. Sent. Guidelines 2.D.2 (instructing that social factors, including “living arrangements” and “marital status,” cannot be used to justify a sentencing departure). Correspondingly, a defendant’s familial connections may be considered in determining whether he or she is particularly amenable to probation. The Minnesota Supreme Court has evaluated sentencing departures that were based, in part, on familial considerations in a number of cases.

In *Trog*, the Minnesota Supreme Court affirmed a downward dispositional departure from a presumptive executed prison sentence where a number of considerations suggested particular amenability to probation, including family connections. 323 N.W.2d at 28. At sentencing, several people in Trog’s life made compelling statements about their relationships with him, and his defense attorney emphasized “the strong support shown him by family and friends” in arguing for the departure. *Id.* at 30. In affirming the probationary sentence, the supreme court concluded that Trog’s familial support system was an appropriate factor justifying a departure from the Guidelines sentence. *Id.* at 31.

In *State v. King*, the supreme court likewise affirmed a downward sentencing departure, which granted the defendant an extended probation and work release instead of the Guidelines-mandated, year-long prison sentence, where family considerations had clearly motivated the sentencing decision. 337 N.W.2d 674, 675 (Minn. 1983). The court highlighted that “[o]ne of the factors which apparently motivated [the] defendant to accept the harsher probationary sentence was a financial factor: his desire to continue working on work release so that he could help pay the bills and keep his family together.” *Id.* While cautioning that social and financial factors cannot be the sole basis for a departure, the supreme court noted that they can bear indirectly on whether a defendant is “particularly amenable” to probation. *Id.* at 675-76.

In *Soto*, a more recent case, the supreme court reiterated that the district court may consider a defendant’s familial status—specifically, status as a parent—as a factor for determining amenability to probation. 855 N.W.2d at 312. While the supreme court ultimately reversed the district court’s decision to grant a downward departure, the court determined that the district court had not improperly considered that Soto “seemed to have some family support” and might be motivated by the desire to focus on his minor son’s upbringing. *Id.* at 312.

[Insert case-specific analysis about familial considerations, tying to the above case law]

