

*This opinion will be unpublished and
may not be cited except as provided by
Minn. Stat. § 480A.08, subd. 3 (2016).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-1082**

State of Minnesota, ex rel. Darrell Gene Weyaus, petitioner,
Appellant,

vs.

Tom Roy, Commissioner of Corrections,
Respondent.

**Filed October 9, 2017
Affirmed
Cleary, Chief Judge**

Ramsey County District Court
File No. 62-CV-16-3252

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

Lori Swanson, Attorney General, Bradley D. Simon, Assistant Attorney General, St. Paul, Minnesota (for respondent)

Considered and decided by Cleary, Chief Judge; Bjorkman, Judge; and Hooten, Judge.

UNPUBLISHED OPINION

CLEARY, Chief Judge

On appeal from the district court’s denial of his petition for a writ of habeas corpus, appellant Darrell Gene Weyaus argues that the district court erred in denying his request to modify his five-year conditional release term, to begin when he was “released from

prison” and placed in a work release program outside the correctional facility. We affirm the district court’s decision.

FACTS

On December 12, 2009, appellant was arrested for driving a motor vehicle with a blood alcohol level of 0.23. At the time, he had a history of at least nine prior driving while impaired (DWI) convictions. Appellant pleaded guilty, and on February 12, 2010, he was sentenced to 57 months in prison, followed by five years of conditional release. He was committed to the commissioner of corrections and first confined at the Minnesota Correctional Facility at Lino Lakes.

On July 12, 2012, the department of corrections (DOC) transferred him from a correctional facility to a work release program at RS-Eden in St. Paul. He remained on work release status until February 11, 2013, when the DOC placed him on supervised release and he was allowed to move to his mother’s residence.

The DOC initially calculated appellant’s conditional release term as expiring on February 9, 2018. But in 2014, he violated the terms of supervised release and he was reimprisoned. He was released from prison in 2015. With the additional prison time, the DOC extended appellant’s conditional release term until November 20, 2018.

On May 23, 2016, appellant filed a petition for a writ of habeas corpus, seeking to compel the DOC to recalculate his conditional release term to begin on July 12, 2012, the day that he was transferred to the work release program at RS-Eden.

In an order filed on May 15, 2017, the district court denied the petition. In a supporting memorandum, the court noted that appellant’s interpretation of the phrase

“released from prison” under Minn. Stat. § 169A.276, subd. 1(d),¹ ignored both the comprehensive statutory framework and the fact that appellant remained a “custodial inmate while enrolled in the work release program and confined to the RS-Eden facility.” The court concluded that under the plain meaning of the statute, the commissioner did not release appellant from prison by extending the privilege of participation in a statutory work release program at a designated facility.

This appeal follows.

D E C I S I O N

In a published opinion filed today, we held that an inmate participating in a work release program authorized by Minn. Stat. § 241.26, has not been released from prison, so as to begin the five-year conditional release term imposed pursuant to Minn. Stat. § 169A.276, subd. 1(d). *State ex rel. Huseby v. Roy*, A17-1073 (Minn. App. Oct. 9, 2017). In *Huseby*, we rejected arguments identical to those raised here by appellant. For the reasons discussed in *Huseby*, we affirm the district court’s order denying appellant’s petition for a writ of habeas corpus.

Affirmed.

¹ Because the relevant statutes discussed have not substantially changed since this offense occurred, the 2016 Minnesota Statutes will be cited throughout this opinion.