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**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-2070**

State of Minnesota,
Respondent,

vs.

Twin Cities Care Services,
Defendant,

Abdulkarim Dahir,
Appellant.

**Filed July 30, 2018
Affirmed in part, reversed in part, and remanded
Reilly, Judge**

Hennepin County District Court
File No. 27-CR-15-10323

Lori Swanson, Attorney General, Adam Kohnstamm, Assistant Attorney General, St. Paul,
Minnesota (for respondent)

Abdulkarim Dahir, Blaine, Minnesota (pro se appellant)

Considered and decided by Reilly, Presiding Judge; Larkin, Judge; and Bjorkman,
Judge.

UNPUBLISHED OPINION

REILLY, Judge

Appellant Abdulkarim Dahir challenges the district court's denial of his motion to
correct clerical errors in court records. We affirm in part, reverse in part, and remand.

FACTS

Appellant is the owner of Twin Cities Care Services (TCCS), a personal-care provider that bills the Minnesota Department of Human Services (DHS) for services provided to eligible Medicaid recipients. In April 2015, the state charged TCCS with six counts of theft by false representation, alleging that the company defrauded the Medicaid program by billing for qualified professional services without the required documentation. Following a court trial, the district court found TCCS guilty of four felony counts of theft of public funds by false representation. The convictions were affirmed on appeal. See *Minnesota v. Twin Cities Care Servs.*, No. A17-0843, 2018 WL 2769156 (Minn. App. June 11, 2018).

The original charging document in the TCCS case included appellant's name and date of birth in the case caption. The state later filed an amended complaint removing appellant's name and birth date from the case caption. Appellant filed a motion to strike his name from the body of the complaint itself, which the district court denied. Appellant then moved to correct the court records and remove his name and personal information from the TCCS complaint caption and from the court file on the basis that the references were the result of clerical errors. The district court denied the motion, determining that "[t]he fact that [appellant] was the owner of [TCCS] was factually accurate and relevant to the charges contained in the Complaint." This appeal follows.

DECISION

We review a district court's ruling on a motion to correct clerical errors de novo. *Brazinsky v. Brazinsky*, 610 N.W.2d 707, 710 (Minn. App. 2000). A "clerical error" is a

mistake that “ordinarily is apparent upon the face of the record and capable of being corrected by reference to the record only. It is usually a mistake in the clerical work of transcribing the particular record. It is usually one of form.” *Wilson v. City of Fergus Falls*, 181 Minn. 329, 332, 232 N.W. 322, 323 (1930). “Clerical mistakes . . . in the record arising from oversight or omission may be corrected by the court at any time.” Minn. R. Crim. P. 27.03, subd. 10. Appellant bears the burden of showing both error and prejudice resulting from the error. *Midway Ctr. Assocs. v. Midway Ctr. Inc.*, 306 Minn. 352, 356, 237 N.W.2d 76, 78 (1975).

This appeal presents two issues: (1) whether records from the TCCS case referring to appellant as a criminal defendant constitute clerical errors, and (2) whether other references to appellant’s association with TCCS should be removed.

With respect to the first issue, the state agrees that court records in the TCCS case referring to appellant as a defendant are clerical errors because the record establishes that appellant was not a party to the case. After the original court filing, the state filed an amended complaint removing appellant’s name and birth date from the case caption. To the extent that any such references remain, we reverse that portion of the district court’s order denying appellant’s motion to remove his name as a defendant in the TCCS case. We remand to the district court with instructions to remove appellant’s name and birth date from the court records, only insofar as those records identify appellant as a criminal defendant in the TCCS case.

With respect to the second issue, appellant argues that he is entitled to an order “[r]emov[ing] any association of TCCS’s conviction with Dahir’s name.” We disagree.

The record establishes that appellant is the owner of TCCS. As such, court records associating appellant with his company are not clerical errors. A clerical error is one which “cannot reasonably be attributed to the exercise of judicial consideration or discretion.” *Gould v. Johnson*, 379 N.W.2d 643, 646 (Minn. App. 1986), *review denied* (Minn. Mar. 14, 1986). In its order denying appellant’s motion, the district court determined that

[Appellant] was the owner of [TCCS], and the state had to prove that the criminal acts were committed by an agent of the corporation and authorized, tolerated, or ratified by corporate management. The fact that [appellant] was the owner of [TCCS] was factually accurate and relevant to the charges contained in the complaint.

Appellant does not challenge the district court’s decision on the ground that this finding was a clerical error as opposed to the exercise of the court’s judicial consideration or discretion. *See id.* Accordingly, we affirm the district court’s denial of the request to remove any association between appellant and his company.

Affirmed in part, reversed in part, and remanded.