

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0923**

Wayne Nicolaison,
Appellant,

vs.

Peter Puffer, et al.,
Respondents.

**Filed March 29, 2021
Affirmed
Gaïtas, Judge**

Carlton County District Court
File No. 09-CV-20-94

Wayne Nicolaison, Moose Lake, Minnesota (self-represented appellant)

Keith Ellison, Attorney General, R.J. Detrick, Assistant Attorney General, St. Paul,
Minnesota (for respondents)

Considered and decided by Larkin, Presiding Judge; Cochran, Judge; and Gaïtas,
Judge.

NONPRECEDENTIAL OPINION

GAÏTAS, Judge

Appellant Wayne Nicolaison, a patient of the Minnesota Sex Offender Program (MSOP), sought a declaratory judgment that provides he must be prescribed a specific medication to treat his acid reflux disease and that the Medical Assistance program must pay for that medication. The district court dismissed the complaint for failure to state a

claim on which relief can be granted because the complaint asserts only the Uniform Declaratory Judgments Act (UDJA), and not an underlying cause of action, as a basis for relief. On appeal, Nicolaison argues that the district court erred by failing to liberally construe his complaint, and that his complaint, liberally construed, asserts several viable causes of action. We affirm.

FACTS¹

Nicolaison is committed indefinitely to the MSOP in Moose Lake. His complaint alleges that for several years, MSOP medical staff prescribed him Zantac to treat his acid reflux disease. Nicolaison has a Medical Assistance card that he used to pay for the prescription Zantac. His complaint alleges that in December 2019, when he went to request a refill of the prescription, respondent Keri² Ovsak who is a nurse practitioner, informed him that Zantac had been recalled. According to Nicolaison, Ovsak then told him that he would need to purchase the over-the-counter medication Omeprazole from the MSOP canteen as an alternative treatment.

Omeprazole, according to the complaint, is available at the canteen for \$13.99 per bottle. Nicolaison receives monthly cash assistance through Hennepin County Welfare Agency in the amount of \$102 and has no other source of income. The complaint alleges that the cash assistance is for “personal needs,” such as clothing, telephone calls, hygienic

¹ For the purposes of reviewing a case dismissed pursuant to Minn. R. Civ. P. 12.02(e), we accept the facts alleged in the complaint as true. *Walsh v. U.S. Bank, N.A.*, 851 N.W.2d 598, 606 (Minn. 2014).

² Respondents represent that Nicolaison’s pleadings misspell Ovsak’s first name as “Carrie.”

supplies, postage, and electronics, and that it is not for “medical treatments” because medical treatments are “to be paid for by medical assistance.” Since the time that Nicolaison’s Zantac prescription expired, his symptoms of acid reflux have returned.

Nicolaison sued respondents Peter Puffer, allegedly the MSOP facility director during the relevant period, and Ovsak under the Uniform Declaratory Judgments Act (UDJA), Minn. Stat. §§ 555.01-.16 (2020), seeking a declaratory judgment that “Defendants are liable to treat [his] ‘acid reflux disease’ [by] prescribing Omeprazole” and that Medical Assistance will pay for the Omeprazole. Respondents moved to dismiss the complaint for failure to state a claim, arguing that Nicolaison’s complaint sought relief based only on the UDJA, which does not create an independent cause of action. They also argued that the complaint was substantively meritless because the facts alleged do not give rise to a claim for relief.

Following a hearing, the district court granted the motion to dismiss the complaint. The district court reasoned that “[t]he UDJA is not an independent source of jurisdiction and, as such, a party seeking a declaratory judgment must have an independent underlying cause of action based upon a common law or statutory right.” The district court concluded that because Nicolaison had “not pled an independent underlying cause of action based upon any common law or statutory right,” his complaint must be dismissed.

Nicolaison appeals.

DECISION

On appeal from a district court’s order dismissing a complaint for failure to state a claim under rule 12.02(e) of the Minnesota Rules of Civil Procedure, “the only question

before [the reviewing court] is whether the complaint sets forth a legally sufficient claim for relief.” *Barton v. Moore*, 558 N.W.2d 746, 749 (Minn. 1997). In analyzing this question, we liberally construe the complaint in the light most favorable to the plaintiff. *See Abel v. Abbott Nw. Hosp.*, 947 N.W.2d 58, 68 (Minn. 2020); *Gertken v. State*, 493 N.W.2d 290, 292 (Minn. App. 1992), *review denied* (Minn. Feb. 9, 1993). We accept the facts alleged in the complaint as true and construe all inferences in favor of the nonmoving party. *Sipe v. STS Mfg, Inc.*, 834 N.W.2d 683, 686 (Minn. 2013); *St. James Capital Corp. v. Pallet Recycling Assocs. of N. Am., Inc.*, 589 N.W.2d 511, 514 (Minn. App. 1999). Whether the complaint is sufficient to survive dismissal under rule 12.02(e) is a question of law that is reviewed de novo. *See Walsh*, 851 N.W.2d at 606.

Nicolaison’s complaint purports to be based on the UDJA. The UDJA provides that when a person’s “rights, status, or other legal relations are affected by a statute, municipal ordinance, contract, or franchise,” the person “may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract, or franchise and obtain a declaration of rights, status, or other legal relations thereunder.” Minn. Stat. § 555.02. The UDJA gives the district court the “power to declare rights, status, and other legal relations whether or not further relief is or could be claimed.” Minn. Stat. § 555.01. “The purpose of the statute is to settle uncertainty and it is to be liberally construed and administered.” *All. for Metro. Stability v. Metro. Council*, 671 N.W.2d 905, 915 (Minn. App. 2003); *see* Minn. Stat. § 555.12.

This court has explained, though, that the UDJA “is not an express independent source of jurisdiction.” *All. for Metro. Stability*, 671 N.W.2d at 915. And “the [UDJA]

cannot create a cause of action that does not otherwise exist.” *Id.* at 916; *see also Anderson v. County of Lyon*, 784 N.W.2d 77, 80 (Minn. App. 2010), *review denied* (Minn. Aug. 24, 2010).

Nicolaison is a self-represented litigant. Though courts may make “some accommodations” for self-represented litigants, “this court has repeatedly emphasized that [self-represented] litigants are generally held to the same standards as attorneys and must comply with court rules.” *Fitzgerald v. Fitzgerald*, 629 N.W.2d 115, 119 (Minn. App. 2001). “While [a self-represented] appellant . . . is usually accorded some leeway in attempting to comply with court rules, he is still not relieved of the burden of, at least, adequately communicating to the court what it is he wants accomplished and by whom.” *Carpenter v. Woodvale, Inc.*, 400 N.W.2d 727, 729 (Minn. 1987).

Nicolaison appears to argue that the district court erred by failing to liberally construe his complaint, and that the complaint, if liberally construed, contains underlying causes of action based on (1) the commitment order, (2) the Due Process and Equal Protection Clauses of the United States Constitution, and (3) Minnesota Statute section 256B.0625, subdivision 13 (2020), which governs Medical Assistance benefits. In so arguing, he appears to concede that the UDJA is not an independent source of jurisdiction—as the district court correctly held—and that he must assert an underlying cause of action based on statutory or common law.³

³ Nicolaison asserts, for example, that “[t]he error of the [district] court upon review” is that the complaint “indeed provided an independent cause of action based upon common law or statutory rights.”

After a careful review, we conclude that Nicolaison’s complaint, even liberally construed, does not assert a claim upon which relief could be granted. *See* Minn. R. Civ. P. 12.02(e). The complaint specifically seeks a declaratory judgment “as to the responsible party’s cost for care for the purchase of medication to treat severe ‘acid reflux disease.’” Regarding the “responsible party,” he asserts that Medical Assistance must pay the cost of the requested medication. To support this position, the complaint references only the 1992 order of the district court that authorized Nicolaison’s indefinite commitment (the commitment order). The commitment order states that “Appropriate public funding will pay for the costs of care and treatment to the extent [Nicolaison] is unable to pay.”

As to Nicolaison’s assertion that the complaint raises certain constitutional challenges, the complaint makes no reference to due process, equal protection, the Fourteenth Amendment, or the United States Constitution. Nor does it allege facts that could support such claims.⁴

⁴ Under the Due Process Clause of the Fourteenth Amendment to the United States Constitution, the state cannot “deprive any person of life, liberty, or property, without due process of law.” U.S. Const. amend. XIV, § 1. Due process “imposes constraints on governmental decisions which deprive individuals of ‘liberty’ or ‘property’ interests within the meaning of the Due Process Clause.” *Mathews v. Eldridge*, 424 U.S. 319, 332, 96 S. Ct. 893, 901 (1976). Nicolaison’s complaint does not specifically identify any constitutionally protected liberty or property interests affected here, nor does it describe the process that was necessary to lawfully deprive him of such an interest.

The Equal Protection Clause, for its part, provides that “[no state shall] deny to any person within its jurisdiction the equal protection of laws.” U.S. Const. amend. XIV, § 1. The Equal Protection Clause “direct[s] that all persons similarly circumstanced shall be treated alike,” but “only invidious discrimination” violates the Constitution. *In re Estate of Turner*, 391 N.W.2d 767, 769 (Minn. 1986) (quotation omitted). Thus, unless the discrimination involves a suspect classification or fundamental right, the state need only have a rational basis for the differential treatment. *See id.* The complaint does not assert

The complaint similarly does not reference any specific statutory provisions governing Medical Assistance benefits. In his appellate brief, Nicolaison references Minnesota Statutes section 256B.0625, subdivision 13, which describes the “drugs” that Medical Assistance covers. But the complaint does not cite or reference this statute and, even if it did, Nicolaison has not shown how the Medical Assistance benefit statute permits a cause of action against the respondents here, who have no responsibility for administering the Medical Assistance program.

The commitment order, which requires that “[a]ppropriate public funding will pay for the costs of care and treatment to the extent [Nicolaison] is unable to pay,” is referenced in the complaint, and the complaint could be liberally read to suggest that the commitment order is the basis for respondents’ alleged obligation to prescribe Nicolaison the requested medication. But Nicolaison does not cite any authority for the proposition that a court order can form the basis for a declaratory judgment action under the UDJA.

Moreover, even if Nicolaison can base his action for declaratory judgment on a violation of the commitment order, he has not alleged facts to support a claim that the respondents violated that order. Again, the commitment order states that “[a]ppropriate public funding will pay for the costs of care and treatment *to the extent [Nicolaison] is unable to pay.*” (Emphasis added.) Nicolaison does not allege that he is unable to pay for the over-the-counter medication; instead, he alleges that he *should not have to pay* for the

that respondents treated Nicolaison differently than similarly-situated individuals, much less on the basis of a suspect classification or fundamental right. He accordingly did not adequately plead an equal-protection violation.

medication out of his monthly cash assistance of \$102. Accordingly, he has not alleged facts to show that the respondents violated their obligations under the commitment order.

The district court did not err in determining that Nicolaison could not bring a claim based solely on the UDJA. And even liberally construed, the complaint does not assert an underlying cause of action based upon any common law or statutory right.

Affirmed.