

*This opinion is nonprecedential except as provided by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
A21-1111**

Michael Benson,
Appellant,

vs.

Nancy Johnston, Executive Director of the Minnesota Sex Offender Program,
Respondent.

**Filed April 4, 2022
Affirmed
Ross, Judge**

Carlton County District Court
File No. 09-CV-21-816

Michael Benson, Moose Lake, Minnesota (pro se appellant)

Keith Ellison, Attorney General, Emily B. Anderson, Assistant Attorney General, St. Paul,
Minnesota (for respondent)

Considered and decided by Worke, Presiding Judge; Ross, Judge; and Larkin,
Judge.

NONPRECEDENTIAL OPINION

ROSS, Judge

Patient Michael Benson petitioned the human-services commissioner's special review board to reduce his custody, seeking discharge from his indeterminate civil commitment to the Minnesota Sex Offender Program. The board recommended denying his petition, and he sought review from the commitment appeal panel. Before the panel

responded, Benson unsuccessfully petitioned the district court to order his immediate release by a writ of habeas corpus. Because Benson has an adequate, alternative remedy at law, we affirm the district court's decision denying habeas corpus relief.

FACTS

Michael Benson is a patient in the Minnesota Sex Offender Program. The state civilly committed Benson indeterminately beginning in 1993 because he was found to be what is now statutorily called a sexually psychopathic personality. He had pleaded guilty to first-degree criminal sexual conduct in 1989 and admitted to having committed at least five other sexual assaults. Benson immediately appealed his commitment, and we affirmed. *In re Benson*, No. C0-93-1357, 1993 WL 459840, at *1–2 (Minn. App. Nov. 9, 1993). This case represents at least his eighth litigated challenge to his commitment since that affirmance.

Benson petitioned the human-services commissioner's special review board in March 2021 under Minnesota Statutes section 253D.27 (2020), to order him released from the program. The board recommended denying Benson's petition. He then petitioned for a rehearing before the commitment appeal panel, and, one week later, he also sought release by petitioning the district court for a writ of habeas corpus.

The appeal panel had not heard Benson's petition for a rehearing, and the district court denied his habeas petition. The district court addressed Benson's several arguments offered to support his petition. It rejected as previously raised and rejected his assertion that the evidence at his original commitment hearing did not establish that he had a mental disorder and that the administrative process to review his petition for release is

unconstitutionally slow. It rejected as previously decided his contention that the discharge procedure in Minnesota Statutes section 253D.31 (2020) is unconstitutionally vague as having been resolved by established precedent.

Benson appeals.

DECISION

Benson challenges the district court's order denying his petition for a writ of habeas corpus. We review questions of law arising from a habeas corpus decision de novo. *State ex rel. Ford v. Schnell*, 933 N.W.2d 393, 401 (Minn. 2019). Habeas corpus relief is limited to obtaining relief from imprisonment or other restraint. Minn. Stat. § 589.01 (2020). A civilly committed person may challenge the legality of his commitment by the writ of habeas corpus, *State ex rel. Anderson v. U.S. Veterans Hosp.*, 128 N.W.2d 710, 714 (Minn. 1964), but not if he has an adequate alternative remedy at law. *State ex rel. Young v. Schnell*, 956 N.W.2d 652, 674 (Minn. 2021). It also is not a vehicle by which one can obtain judicial review of an issue previously raised. *Joelson v. O'Keefe*, 594 N.W.2d 905, 908 (Minn. App. 1999), *rev. denied* (Minn. July 28, 1999). Under this framework, Benson's petition fails.

The state provides Benson a statutory discharge procedure, which he has on multiple occasions invoked seeking his release. This includes his ongoing litigation before the appeal panel. We are not persuaded by Benson's allegation that the special review board chairperson made comments during his hearing calling into question whether the panel would honor the mental-disorder prerequisite to continued civil commitment. The appeal panel's decisions may be appealed to this court, which would review the panel's legal

analysis de novo and correct any errors. Minn. Stat. § 253B.19, subd. 5 (2020); *Larson v. Jesson*, 847 N.W.2d 531, 534 (Minn. App. 2014) (stating the standard of review from decisions of the appeal panel). We likewise are not persuaded by his contention that the appeal-panel process fails to constitute an adequate remedy because he has already shown in that process that he suffers from no mental disorder and therefore is entitled to immediate release. It is true that a civilly committed patient is entitled to immediate release “upon a showing that [he] is no longer dangerous or mentally impaired.” *Kansas v. Hendricks*, 521 U.S. 346, 368–69 (1997). But the administrative-hearing process affords Benson the opportunity to make this showing. *See In re Civil Commitment of Opiacha*, 943 N.W.2d 220, 227 (Minn. App. 2020) (summarizing how a committed person can show they are entitled to discharge before the special review board and appeal panel). That administrative process is the avenue through which a patient may offer the factual support for his discharge claim, buttressed by its corresponding judicial-appeal process to correct any alleged unfairness or unsupported fact findings. The same process is also available to sufficiently resolve Benson’s contention that he has never previously raised the mental-disorder issue. We hold that the district court appropriately denied Benson’s habeas petition because of his adequate alternative remedy at law.

Benson argues most forcefully contending that the state’s judicial branch is biased against him. The allegation is particularly serious because judicial impartiality is “the very foundation of the American judicial system” and is protected by both the Minnesota and United States Constitutions. *Payne v. Lee*, 24 N.W.2d 259, 262, 264 (Minn. 1946) (citing Minn. Const. art. I, § 8 (requiring justice “completely and without denial”); U.S. Const.

amend. XIV, § 1 (requiring due process)). But Benson does not allege that the district court judge acted with bias when he denied his habeas petition currently on review. Nor does he cite any evidence that would support that allegation. He instead faults the “unprincipled shysters for three decades” who have been motivated by “sex disgust” and a “clear hostility and unchecked drunken power.” Paraphrasing as best we can, Benson indicts the system of indeterminate civil commitment arising from sexual disorders as being an unfair and disproportionate process of punishment that is prejudiced against sex offenders. Whether the allegations have merit or not, they do not constitute a legal argument against the district court’s reasons for denying Benson’s habeas petition, and we limit our review to that decision. We therefore do not address these allegations further.

Affirmed.