

*This opinion is nonprecedential except as provided by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
A22-0680**

Jacob Robuck, et al.,
Relators,

vs.

Minnesota Department of Public Safety,
Respondent.

**Filed February 6, 2023
Affirmed
Larson, Judge**

Department of Public Safety

Ferdinand F. Peters, Benjamin Loetscher, Ferdinand F. Peters, Esq. Law Firm, St. Paul,
Minnesota (for relators)

Keith Ellison, Attorney General, Cory J. Marsolek, Assistant Attorney General, St. Paul,
Minnesota (for respondent)

Considered and decided by Gaïtas, Presiding Judge; Bratvold, Judge; and Larson,
Judge.

NONPRECEDENTIAL OPINION

LARSON, Judge

In this certiorari appeal, relators Jacob Robuck and his business, Robuck Automotive, LLC, d/b/a Prime Motors (Prime Motors), challenge respondent Minnesota Department of Public Safety’s (DPS) decision to revoke Robuck’s access to a database that Prime Motors depends on to complete used-automotive transactions. We affirm.

FACTS

Robuck solely owns and operates¹ Prime Motors, a used-automotive dealership. Prime Motors' business transactions depend on a database DPS administers known as MNDRIVE.² Prime Motors accesses MNDRIVE to search for and complete vehicle-title applications and permits, generate out-of-state permits, and estimate vehicle-registration tax. MNDRIVE contains private driver and vehicle information.

Federal and state laws limit access to MNDRIVE to protect private information. To obtain access to MNDRIVE, authorized users must annually sign a Records Access Agreement with DPS. The agreement includes copies of DPS policies and statutes related to MNDRIVE access. The administrative record contains the January 2021 Records Access Agreement Robuck signed. In the agreement, Robuck acknowledged that (1) he read and understood the attached DPS policies related to MNDRIVE; (2) he only had access to MNDRIVE to perform his job duties for Prime Motors; (3) he would not use MNDRIVE "for personal or non-business purposes;" and (4) using MNDRIVE for personal or non-business purposes violated state and federal law. The agreement warned Robuck that illegal use would result in the immediate and permanent loss of MNDRIVE access. Robuck also signed an attestation statement repeating many of these provisions.

DPS sends quarterly emails to MNDRIVE users, including Robuck. As relevant to this appeal, on November 8, 2021, Robuck received an email with the subject line

¹ Since DPS revoked Robuck's MNDRIVE access, Prime Motors hired an administrator to use the MNDRIVE system.

² Driver and Vehicle Services, a division of DPS, administers the database. For simplicity, this opinion refers to DPS and the Driver and Vehicle Services division as "DPS."

“Accessing Driver and Vehicle Services Data and Records Frequently Asked Questions” (the email FAQ) that discussed the prohibition on accessing information for personal use. The email FAQ specifically reminded users that any “personal use is strictly prohibited” and that users could not use their “specially authorized access to [MNDRIVE] to look at information in a way that other Minnesotans cannot.”

Robuck personally received a renewal notice regarding the late registration of a 1997 Chevrolet Suburban. Prime Motors initially owned the Suburban, but Robuck purchased it in his personal capacity and then sold it to a third party in April 2021. Because Robuck thought he sold the Suburban several months earlier, Robuck searched MNDRIVE for the vehicle on November 29, 2021. Robuck first searched MNDRIVE using the Suburban’s license plate number, and then Robuck’s full name, but the searches did not yield the Suburban. Robuck then searched using only his last name, which revealed the year, make and model, registration expiration date, and city for numerous vehicles associated with his last name. The results included information on a 2011 GMC Sierra, which Robuck accessed. Robuck then searched his driver’s license number, which returned the Suburban and Sierra. Robuck then accessed the Suburban’s data.

Robuck’s searches triggered a DPS audit. DPS sent a notice to Robuck on December 13, 2021, reminding him that searching for his personal records in MNDRIVE was prohibited. DPS asked Robuck to provide a business purpose for his November 29, 2021 searches, stating that DPS would otherwise assume Robuck misused MNDRIVE and proceed to permanently revoke Robuck’s access.

Robuck submitted a written explanation to DPS the next day. Robuck described the chronology of the Suburban's ownership and that, when Robuck personally received the renewal notice, he "was confused by this, [Robuck] wanted to make sure the vehicle was no longer held for resale or in [Robuck's] name." Robuck then explained:

There was no ill intent by doing this beyond wanting to clear myself and the dealership of any potential liability of having a vehicle registered to myself or the business that is no longer in our possession. To be honest, I was not aware that I wasn't allowed to access my own information as the sole owner of the business, now I know. The only information or data that was seen was my own.

DPS responded on December 16, 2021, repeating its request that Robuck provide a business purpose for the searches. In response, Robuck sent vehicle purchase contracts and title applications for the respective vehicles.

DPS did not immediately respond, and Robuck retained an attorney who contacted DPS on January 10, 2022. In response, DPS acknowledged receipt of the vehicle contracts and title applications but rejected these documents. DPS repeated that if Robuck claimed a business purpose, he could submit supporting documentation.

In an email to Robuck's attorney on February 9, 2022, DPS expressed its position that, based on Robuck's submissions, it could not conclude he accessed the database for a business purpose. DPS explained that Robuck previously owned both the Suburban and the Sierra, and in the case of the Suburban, "[Robuck] sold [it] privately to someone else with no involvement from the dealership."

In late February 2022, the audit team recommended that DPS revoke Robuck's access. Relying on Robuck's written explanation, the audit team opined that Robuck

impermissibly searched for his own records and reiterated that Robuck had failed to articulate a business purpose for the searches. Permission for revocation was granted on February 28, 2022, and DPS sent Robuck a revocation notice on March 18, 2022.

Robuck appeals.

DECISION

Robuck challenges DPS's decision to permanently revoke his access to the MNDRIVE system. DPS's decision to revoke Robuck's MNDRIVE access is a quasi-judicial agency decision not subject to the Minnesota Administrative Procedure Act, Minn. Stat. §§ 14.63-69 (2022). *See Anderson v. Comm'r of Health*, 811 N.W.2d 162, 165 (Minn. App. 2012), *rev. denied* (Minn. Apr. 17, 2012). Accordingly, our review is limited "to questions affecting . . . jurisdiction[,] . . . the regularity of [DPS's] proceedings, and, as to merits of the controversy, whether the order or determination . . . was arbitrary, oppressive, unreasonable, fraudulent, under an erroneous theory of law, or without any evidence to support it." *Dietz v. Dodge County*, 487 N.W.2d 237, 239 (Minn. 1992) (quoting *State ex rel. Ging v. Bd. of Educ. of Duluth*, 7 N.W.2d 544, 556 (Minn. 1942)).

An agency's quasi-judicial decisions reflect discretionary decision-making and must be accorded judicial deference "to avoid usurpation of the executive body's administrative prerogatives." *Anderson v. County of Lyon*, 784 N.W.2d 77, 81 (Minn. App. 2010) (quoting *Tischer v. Hous. & Redev. Auth. of Cambridge*, 693 N.W.2d 426, 429 (Minn. 2005)). But agency action must be "based on objective criteria applied to the facts and circumstances of the record at hand." *Carter v. Olmsted Cnty. Hous. & Redev. Auth.*, 574 N.W.2d 725, 729 (Minn. App. 1998) (quoting *In re Nw. Bell Tel. Co.*, 386 N.W.2d

723, 727 (Minn. 1986)). “[Agency] discretion is not unlimited and must be explained.”
Id.

I.

We begin with the legal framework that governs Robuck’s access to MNDRIVE. Both federal and state law seek to protect personal information collected in connection with motor-vehicle records and contained in databases like MNDRIVE.

Under federal law, “personal information” includes information that “identifies an individual, including an individual’s . . . driver identification number, name, address (but not the 5-digit zip code), [and] telephone number.” 18 U.S.C. § 2725(3) (2015). State departments of motor vehicles, their officers and employees, and contractors are prohibited from “knowingly disclos[ing] or otherwise mak[ing] available to any person or entity” personal information “about an individual obtained by the department in connection with a motor vehicle record.” 18 U.S.C. § 2721(a)(1) (2015). Relevant to Robuck’s access to MNDRIVE, federal law allows DPS to disclose personal information related to motor vehicle matters for

use in the normal course of business by a legitimate business or its agents, employees, or contractors, but only—

(A) to verify the accuracy of personal information submitted by [an] individual to the business or its agents, employees, or contractors; and

(B) if such information as so submitted is not correct[,] . . . to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual.

18 U.S.C. § 2721(b)(3) (2015).

Minnesota law incorporates these federal requirements to protect personal information. Minn. Stat. § 171.12, subd. 7(a) (2022) (“Data on individuals provided to obtain a driver’s license or Minnesota identification card shall be treated as provided by” 18 U.S.C. § 2721, “and shall be disclosed as required or permitted by that section”); Minn. Stat. § 13.6905, subd. 10 (2022) (providing that Minn. Stat. § 171.12, subd. 7 applies to the Minnesota Government Data Practices Act); Minn. Stat. § 168.346 (2022) (stating that certain vehicle and driver data is accessible under federal statute). The Minnesota legislature directed DPS to establish procedures to allow individuals, like Robuck, to access information on the MNDRIVE system and to monitor an individual’s use through “a data audit trail.” Minn. Stat. § 171.12, subd. 1a(a) (2022). Minnesota law expressly requires DPS to “immediately and permanently revoke the authorization of any individual who willfully entered, updated, accessed, shared, or disseminated data in violation of state or federal law.” Minn. Stat. § 171.12, subd. 1a(b) (2022).

DPS adopted Policy 125-1000 related to MNDRIVE access. This policy applies to all “staff,” defined to include “any individuals who have access to” MNDRIVE. Robuck affirmed that he read and understood Policy 125-1000 when he signed the Records Access Agreement in January 2021. Policy 125-1000 expressly provides that “[s]taff will not check their own records or the records of friends, family, or other employees.” And the policy describes “unauthorized actions” to include “accessing records with no business purpose.” The policy warns staff that DPS creates audit files and those “files are reviewed periodically to ensure staff compliance with [DPS] policy and applicable state and federal

laws.” And the policy clearly states the consequence for “willfully” violating state law is “immediate[] and permanent[] revoc[ation]” of MNDRIVE access.

II.

Robuck first challenges whether DPS adequately explained its decision to revoke Robuck’s MNDRIVE access. Robuck focuses on DPS’s failure to explain its interpretation of the words “willfully” and “business purpose.”³

When an agency performs a quasi-judicial function,⁴ the agency “need not necessarily prepare formal findings of fact, but it must, at a minimum, have the reasons for its decision recorded or reduced to writing and in more than just a conclusory fashion.” *Hurrle v. Cnty. of Sherburne ex rel. Bd. of Comm’rs.*, 594 N.W.2d 246, 249 (Minn. App. 1999) (quoting *Honn v. City of Coon Rapids*, 313 N.W.2d 409, 416 (Minn. 1981)). “[T]o facilitate appellate review, an administrative agency must state the facts and conclusions essential to its decision with clarity and completeness.” *Carter*, 574 N.W.2d at 729. An

³ To the extent Robuck’s brief could be construed to argue DPS improperly interpreted the words “willfully” in Minn. Stat. § 171.12, subd. 7, or “use in the normal course of business” in 18 U.S.C. § 2721(b)(3), the argument is forfeited. *Fannie Mae v. Heather Apartments Ltd. P’ship*, 811 N.W.2d 596, 600 n. 2 (Minn. 2012) (“Summary arguments made without citation to legal support are waived.”). Robuck summarily argues that DPS’s “guidance” and Policy 125-1000 are “untethered” from the relevant federal and state laws, while also questioning whether those laws apply to DPS and this case. Robuck failed to offer any textual analysis in more than conclusory terms. This failure is dispositive since Robuck carries the burden of identifying error on appeal. *Waters v. Fiebelkorn*, 13 N.W.2d 461, 464-65 (Minn. 1944).

⁴ Robuck relies heavily on *In re PolyMet Mining, Inc.*, 965 N.W.2d 1 (Minn. App. 2021), *rev. denied* (Sept. 30, 2021), as the proper standard for determining whether DPS adequately explained its decision. But *In re PolyMet* specifically applied the Minnesota Administrative Procedures Act, Minn. Stat. § 14.69, rather than the common-law standard that applies here. Thus, we apply the caselaw specific to quasi-judicial decisionmaking to analyze Robuck’s argument.

agency must also “explain on what evidence it is relying and how that evidence connects rationally with its choice of action.” *Id.* In evaluating an agency’s findings, we look to the agency’s contemporaneous record. *Metro 500, Inc. v. City of Brooklyn Park*, 211 N.W.2d 358, 362 (Minn. 1973).

Here, DPS explained its decision, applying objective criteria and articulating the evidence it relied upon. In its letter notifying Robuck of the audit, DPS specifically noted it would apply the standards in Policy 125-1000, Minn. Stat. § 171.12, subd. 1a(b), and the Records Access Agreement. In its letter revoking Robuck’s access to MNDRIVE, DPS stated that its audit showed Robuck “willfully” accessed the Suburban and Sierra records “without a lawful business purpose” and that this access violated “state and federal law.” In doing so, DPS cited 18 U.S.C. § 2721(b)(3), Minn. Stat. § 171.12, subd. 1a(a)-(b), and DPS policy.

DPS also explained the factual basis for its decision in the audit team’s recommendation that DPS permanently revoke Robuck’s access. There, DPS clearly relied on Robuck’s own admissions in response to the audit as the factual basis to support its determination. Further, DPS sent Robuck’s attorney an email, contained in the administrative record, that describes the basis for DPS’s decision, including the relevant standard and the facts DPS relied upon for revocation.

For these reasons, DPS created an adequate contemporaneous administrative record to facilitate appellate review.

III.

Robuck next challenges the merits of DPS's decision, arguing the decision is arbitrary and unsupported by substantial evidence.

An agency's quasi-judicial decisions "must be supported by 'substantial' evidence." *Carter*, 574 N.W.2d at 730 (quoting *Soo Line R. Co. v. Minn. Dep't of Transp.*, 304 N.W.2d 301, 305-06 (Minn. 1981)). "Substantial evidence" means "1) such relevant evidence as a reasonable mind might accept as adequate to support a conclusion; 2) more than a scintilla of evidence; 3) more than 'some evidence'; 4) more than 'any evidence'; and 5) evidence considered in its entirety." *Reserve Mining Co. v. Herbst*, 256 N.W.2d 808, 825 (Minn. 1977).⁵ On appeal, the relator bears the burden to demonstrate that the agency's findings are unsupported by the record when considered in its entirety. *State ex rel. Indep. Sch. Dist. No. 276 v. Dep't of Educ.*, 256 N.W.2d 619, 627 (Minn. 1977).

We further review whether an agency's quasi-judicial decision is arbitrary. *Dietz*, 487 N.W.2d at 239. An agency engages in arbitrary decision-making when it (1) relies "on factors which the legislature had not intended it to consider"; (2) "entirely failed to consider an important aspect of the problem"; (3) "offered an explanation for the decision that runs counter to the evidence"; or (4) makes a decision that "is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Minn. Transitions Charter Sch. v. Comm'r of Minn. Dep't of Educ.*, 844 N.W.2d 223, 235 (Minn. App. 2014)

⁵ Although *Reserve Mining* applied the Minnesota Administrative Procedure Act, we have applied the same "substantial evidence" definition to quasi-judicial decision-making. See, e.g., *Am. Fed'n of State, Cnty. & Mun. Emps., Council No. 14, St. Paul v. County of Ramsey*, 513 N.W.2d 257, 259 (Minn. App. 1994).

(quoting *Trout Unltd., Inc. v. Minn. Dep't of Agric.*, 528 N.W.2d 903, 907 (Minn. App. 1995)), *rev. denied* (Minn. May 28, 2014).⁶

Robuck first argues DPS's decision that he did not conduct the MNDRIVE searches for a "lawful business purpose" is arbitrary and unsupported by substantial evidence. We are not persuaded. Federal law carves out a narrow exception for DPS to disclose private driver and vehicle information to use "in the normal course of business" for specified purposes. 18 U.S.C. § 2721(b)(3). Minnesota law incorporates these protections. Minn. Stat. § 171.12, subd. 7(a); Minn. Stat. § 13.6905, subd. 10; Minn. Stat. § 168.346. And DPS has adopted Policy 125-1000 that expressly interprets the exception to mean that MNDRIVE users "will not check their own records" and defines "unauthorized actions" to include "accessing records with no business purpose." DPS requires all MNDRIVE users to read Policy 125-1000 before they obtain access to the system.

Here, DPS relied on Robuck's own admission that he accessed his *own record* to protect his *personal* interests. Robuck admitted to DPS that Prime Motors initially owned the Suburban, but Robuck purchased it in his *personal* capacity and then sold it to a third party. Robuck stated that when he received the renewal notice, he decided to use the MNDRIVE system "to make sure the vehicle was *no longer held for resale or in [Robuck's] name.*" DPS expressly told Robuck that his admission showed that "the [DPS] records . . . Robuck looked at were for a personal vehicle he previously owned and that he

⁶ This definition of arbitrary decision-making traces back to the U.S. Supreme Court's formulation under federal law, but has been applied in cases like *Minnesota Transitions Charter School* to our review of an agency's quasi-judicial decision. See *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

sold privately to someone else with no involvement from the dealership.” Thus, with respect to the Suburban, Robuck admitted he accessed the Suburban data to protect his personal, rather than his business, interests. DPS’s decision is not arbitrary and is supported by substantial evidence in the record.

Robuck next argues that DPS’s decision that he “willfully” accessed records to immediately and permanently trigger the revocation of his MNDRIVE access is arbitrary and unsupported by substantial evidence. *See* Minn. Stat. § 171.12, subd. 1a(b). Again, we are not persuaded. Robuck admitted that he purposefully accessed MNDRIVE to search for a vehicle that he sold in his personal capacity. And the record shows Robuck knew or should have known that accessing MNDRIVE for private purposes violated federal and state law. To obtain access to MNDRIVE, Robuck signed the Records Access Agreement. There, Robuck acknowledged that he only had access to MNDRIVE to perform his job duties for Prime Motors, he would not use MNDRIVE “for personal or non-business purposes,” and using MNDRIVE for such purposes violated state and federal law. In signing the Records Access Agreement, Robuck also affirmed that he read and understood Policy 125-1000, which expressly provides that MNDRIVE users “will not check their own records.” Further, just days before he entered the searches, Robuck received the email FAQ that specifically discussed the prohibition on accessing information for personal use. For these reasons, DPS’s decision that Robuck “willfully” accessed the records is not arbitrary and is supported by substantial evidence in the record.

Finally, Robuck argues that nothing in Minn. Stat. § 171.12, subd. 1a(b), warrants the “draconian result” that occurred in this case. Specifically, Robuck submits that DPS

could have taken some interim measures less severe than his permanent removal from the entire MNDRIVE system. We agree with Robuck that the consequences of a single personal-use violation are harsh. But our role as a court reviewing an agency decision is limited. And the Minnesota legislature did not give DPS the discretion that Robuck appears to assume. Section 171.12, subdivision 1a(b), expressly provides that DPS “*must* immediately and permanently revoke the authorization of any individual who willfully . . . accessed . . . data in violation of state or federal law.” Because the record shows Robuck willfully accessed the Suburban’s data in the MNDRIVE system without a business purpose, DPS imposed the statutory penalty that Minn. Stat. § 171.12, subd. 1a(b), requires.

Affirmed.