

*This opinion is nonprecedential except as provided by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
A22-1103**

Tasha Dahle,
Relator,

vs.

United Community Action Partnership,
Respondent,

Department of Employment and Economic Development,
Respondent.

**Filed April 10, 2023
Affirmed
Connolly, Judge**

Department of Employment and Economic Development
File No. 48526871-3

Tasha Dahle, Stewart, Minnesota (pro se relator)

United Community Action Partnership, Willmar, Minnesota (respondent employer)

Lossom Allen, Department of Employment and Economic Development, St. Paul,
Minnesota (for respondent department)

Considered and decided by Connolly, Presiding Judge; Larkin, Judge; and Slieter,
Judge.

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

Relator challenges the decision of an unemployment law judge (ULJ) that she was
ineligible for unemployment benefits because she was discharged for the misconduct of

violating respondent-employer's COVID-19 vaccination policy and did not have a sincerely held religious belief precluding her from getting a vaccination. Relator asserts that she did not commit misconduct and that her refusal to be vaccinated was based on religious beliefs. We affirm.

FACTS

Relator Tasha Dahle began employment as a Head Start teacher at respondent United Community Action Partnership (UCAP) in 2000. In 2021, UCAP was required to comply with an Office of Head Start federal performance standard: it mandated vaccination against COVID-19 for all those in contact with children, including teachers, by January 31, 2022, unless they had a medical or religious exemption.

From September to December 2021, UCAP held instructional meetings on the requirement and provided employees who did not want to be vaccinated, among them relator, with forms to obtain exemptions. The form asked relator (1) to “describe the nature of the religious beliefs that guide your objection to the COVID-19 vaccination requirement” and to indicate how these beliefs “conflict with the COVID-19 vaccination requirement”; (2) how long she had held the religious belief underlying her objection; (3) if she did not have a religious objection to other vaccines, to explain her objection to the COVID-19 vaccine, and (4) to provide any additional information she thought might be helpful. On the form, relator wrote only “See attached letter.”

Relator attached a letter she wrote to the UCAP Director of Human Resources, dated December 29, 2021. Its subject was “Request for an exemption to the COVID-19 vaccination.” Relator's letter did not mention or include the words “religion” or

“religious.” It stated that: (1) relator believed she would endanger her safety and well-being if she took the vaccine, but was willing to take other precautions, and her “beliefs and morals play[ed] a huge role in [her] decision”; (2) the vaccine should be an employee’s choice, she did not want to feel pressured and bullied into being vaccinated, and UCAP giving her an ultimatum to be vaccinated or to “resign” from her job was disheartening; (3) she had thought it would be pointless to apply for an exemption earlier and had not done so, UCAP had not encouraged staff to apply for exemptions, and relator wanted to feel wanted and needed by UCAP but felt hurt and let down; (4) as a supervisor herself, she fully supported both those who wanted to be vaccinated and those who made a free choice not to be vaccinated; and (5) she now hoped her exemption would be approved so she could continue her employment. On January 13, 2022, UCAP notified relator that her “religious exemption request” was not granted because “an individual’s personal beliefs are not entitled to any of the exemptions allowed under the Head Start Vaccine Mandate.”

On February 11, 2022, relator submitted her Unemployment Insurance Request for Information. She was asked to explain what her employer said she did or did not do that caused her discharge and answered “Did not complete COVID-19 vaccine.” She was then asked to explain why she did or did not do whatever caused her discharge, and she answered “Religious reasons.”

On February 14, relator claimed unemployment benefits. On February 22, a claims management service told DEED that relator “voluntarily quit due to dissatisfaction with the employer’s COVID-19 vaccine Policy,” she “refused the mandated vaccine per

employer policy,” she “requested an exemption which did not meet the requirements to receive [benefits]” and she “quit continuing work (sic).”

On March 4, 2022, relator submitted responses to DEED’s Custom Fact Finding questions. Asked to explain in her own words why religious beliefs and practices prevented her from complying with the vaccination policy, relator said she was a citizen protected by the Civil Rights Act, which includes religion; she had a right not to be discriminated against based on her beliefs, she had a choice to make a decision about her body which was influenced by her religious beliefs, she believes we should not inject ourselves with foreign substances, and she wants to keep her “body healthy and pure because that is how God made [it].” When asked to identify the religious beliefs and practices or membership in a church or religious body that prevented her vaccination, she said she was a Christian who believes that God will protect and heal her, God will call her when it is time for her to be with him, so she will follow her beliefs and not inject herself with the COVID-19 vaccine, and if she were forced to get the COVID vaccine she would “be scared for her health and safety.”

When relator was asked to describe how receiving a COVID-19 vaccine conflicted with her religious beliefs, she answered that her beliefs “go against injecting [her] body with toxic substances like in the COVID-19 vaccines” and she will rely on her prayers and belief that God will protect her. When asked if she had received other vaccinations in the past, she said she received them as a minor and it was her parents’ choice. Finally, when asked if she requested an exemption from her employer, she said yes: her first request had

been denied because it was after the deadline; she requested reconsideration and was told the exemption was denied; she then requested an appeal and that was denied.

On March 8, 2022, relator was sent a notice of determination of her ineligibility. At the evidentiary hearing on April 7, 2022, the ULJ questioned relator.

Q. [W]hy didn't you fill out the [exemption] form as it was given to you?

A. The form was not fillable, and my answers did not fit in the space provided.

Q. . . . [I]n your written attachment, why didn't you follow the questions the form asked?

A. I believe I filled it out the best that I could. . . .

Q. . . . I'm not really seeing anything in [the letter] about religion. Are you . . . claiming that this was a religious belief that prevented you from getting the vaccine?

A. Correct.

Q. Okay. And are you a member of a[n] organized religion?

A. Yes, I'm a Christian and I . . . go to Faith Lutheran Church in Hutchinson, Minnesota.

Q. Okay. So, what is the basis or the nature of your religious belief that makes . . . the vaccine against your religious belief?

A. . . . [I]f you looked at [the Custom Fact Finding questions], those questions . . . I was better able to answer.

. . . .

Q. . . . [Y]ou said . . . that your religion interferes with you getting vaccinated, and I'm wondering if it's just the Covid vaccine that your religion is preventing you from getting or if it's all vaccines.

A. . . . I've learned that vaccinations are like poisons in your body.

Q. . . . So, you're saying that you didn't choose to have your children vaccinated?

A. Not with the Covid, but they did have [vaccinations]. My children are adults, so yes, they did have vaccinations when I was a younger parent. Yes.

Q. Okay. So, how long has this religious belief against vaccines been something that you follow?

A. Since I've learned about it, probably . . .

. . . .

A. Probably in the last eight to ten years, maybe.

. . . .

Q.. Okay. How old are your children?

A. I have five children. 27, 26, 19, 18, and 14.

. . . .

Q. . . . I'm talking about all kinds of medications, pain medications, antibiotics. You refuse pain medication?

A. How, how they're made and the process that they're made in. Not all medications are made in a certain way.

Q. Okay. So, what is the certain way you're objecting to?

A. Like unfamiliar things that I don't know about. Like people use different, like, I don't have it listed but in the Bible it indicates how different parts of, of the body are used in vaccinations, and I don't have that quoted in front of me

Following the hearing, relator was sent the ULJ's Findings of Fact and Decision.

The ULJ first addressed whether relator had quit or been discharged, given the language of the policy that those who would not be vaccinated and had no exemption would "voluntarily resign." The ULJ determined that, regardless of the "voluntary resign" language in the UCAP policy, relator had been discharged.

The ULJ went on to determine that relator had committed misconduct, reasoning that relator violated the standard of behavior her employer had a right to reasonably expect by refusing the COVID-19 vaccination because her application for a religious exemption did not mention religion or any religious tenet as the basis of her beliefs that the vaccine

does not work, is not safe, and would cause her to fear for her own health and safety, and that those beliefs were the basis of relator's "lay opinion that the vaccine is not safe or effective." The ULJ also found that relator gave no religious basis for her belief that it is a violation of her rights for her employer to require vaccination.

On May 2, 2022, relator requested reconsideration, stating that: (1) prior to the hearing, she had not been given all the evidence, specifically the final version of the policy and the exemption form; (2) she was not given a list of witnesses; (3) her exemption was denied because she had not mentioned any religious beliefs, but her "personal beliefs and religious beliefs are intertwined"; (4) UCAP had not asked for information on her religious beliefs; and (5) UCAP was discriminating against her religious beliefs.

On July 1, 2022, relator was sent an order of affirmation of the ULJ's decision. Relator challenges the affirmation of the ULJ's decision, arguing that the decision was based on an unlawful procedure that prejudiced relator's substantial rights and that the ULJ erred in finding that relator had committed misconduct in not complying with UCAP's vaccination requirement.

DECISION

1. Procedural errors

This court may reverse or modify the decision of the ULJ "if the substantial rights of the petitioner may have been prejudiced because the findings, inferences, conclusion, or decision are . . . made upon unlawful procedure." Minn. Stat. § 268.105, subd. 7(d)(3) (2022). "[W]e review findings of fact in the light most favorable to the ULJ's decision and

will rely on findings that are substantially supported by the record.” *Fay v. Dep’t. of Emp. & Econ. Dev.*, 860 N.W.2d 385, 387 (Minn. App. 2015) (quotation omitted).

Relator alleges two procedural errors: that she did not have the final version of the policy or the exemption form in front of her during the hearing, and that she was not informed of the witnesses UCAP would call. The ULJ found that both documents “were already familiar to [relator]” and concluded that, “[b]ecause [relator] was already acquainted with the documents, her substantial rights were not prejudiced” by their admission. Moreover, the “voluntary resignation” language added to the final policy had been held to be ineffective. Relator does not deny that she was familiar with both the final policy and the exemption form, nor does she identify any substantial rights that were prejudiced by their admission into evidence, and she does not challenge the ULJ’s finding that her event log shows she “was or should have been aware of who would appear as witnesses for [UCAP].”

2. Misconduct

“Determining whether a particular act constitutes disqualifying misconduct is a question of law that we review de novo.” *Stagg v. Vintage Place, Inc.*, 796 N.W.2d 312, 315 (Minn. 2011).

An applicant is ineligible for unemployment benefits if he was discharged because of employment misconduct. Minn. Stat. § 268.095, subd. 4(1) (2022). Misconduct is defined as “any intentional, negligent, or indifferent conduct, on the job or off the job, that is a serious violation of the standards of behavior the employer has the right to reasonably expect of the employee.” *Id.*, subd. 6(a) (2022). “[A]n employee’s decision to violate

knowingly a reasonable policy of the employer is misconduct.” *Schmidgall v. FilmTec Corp.*, 644 N.W.2d 801, 806 (Minn. 2002). But even when the definition of misconduct is satisfied, a decision denying unemployment benefits may be subject to reversal if it violates constitutional rights. Minn. Stat. § 268.105, subd. 7(d)(1).

A decision denying unemployment benefits infringes an applicant’s free-exercise rights under the First Amendment if the employee was forced to choose between her sincerely held religious beliefs and her employment. *See Frazee v. Illinois Dep’t of Emp. Sec.*, 489 U.S. 829, 832 (1989); *see also Thomas v. Rev. Bd. of Indiana Emp. Sec. Div.*, 450 U.S. 707, 716 (1981) (explaining that “a person may not be compelled to choose between the exercise of a First Amendment right and participation in an otherwise available public program”). Such an infringement is subject to strict scrutiny and thus can only be sustained upon demonstration that it is the least restrictive means to meet a compelling government interest. *Thomas*, 450 U.S. at 718.

The issue of whether employment misconduct is based on sincerely held religious beliefs is a fact issue. *See Thomas*, 450 U.S. at 716 (instructing that “function of a reviewing court in this context is to determine whether there was an appropriate finding that petitioner terminated his work because of an honest conviction that such work was forbidden by his religion”); *see also In re Welfare of T.K.*, 475 N.W.2d 88, 91 (Minn. App. 1991) (reviewing for clear error district court finding that religious belief was sincerely

held). The ULJ’s factual findings should not be disturbed if the evidence in the record “reasonably tends to sustain those findings.” *Schmidgall*, 644 N.W.2d at 804.

The issue here is whether relator’s refusal to be vaccinated is the result of a sincerely held religious belief. *See State v. Pedersen*, 679 N.W.2d 368, 373 (Minn. App. 2004) (addressing whether appellant’s medical use of marijuana was a “sincerely held religious belief”), *rev. denied* (Minn. Aug. 17, 2004).

[A]ppellant failed to provide the court with any evidence that her medicinal use of marijuana involves a religious ceremony, [or] a principle, tenet, or dogma pertaining to the spiritual or eternal

. . . [I]t is necessary that [appellant’s] use of marijuana be somehow tied to her religion and the established practices and beliefs within her religion. Here, appellant has failed to provide any evidence that establishes a connection between the practice of her religion and the medicinal use of marijuana. In our view, her belief in the medicinal use of marijuana is a personal, secular belief, driven more by her medical needs than any philosophical principle or religious tenet. . . . [T]he marijuana plant provides appellant with significant relief from her illness, but this therapeutic effect is not religious. Thus, we conclude that appellant’s medicinal use of marijuana is not a sincerely held religious belief.

Id. at 376; *see also Logue v. Olympus America, Inc.*, No. A22-0282, 2022 WL 3581809, at *1 (Minn. App. Aug. 2, 2022) (affirming a ULJ’s decision that an employee’s “failure to comply with [an] employer’s mandatory COVID-19 vaccine policy was motivated by secular rather than religious beliefs”).¹

¹ Although *Logue* is a nonprecedential opinion, its similarity to this case makes it persuasive.

Relator also asserted that the ULJ erred in finding that relator did not have a sincerely held religious belief that prevented her from receiving a COVID-19 vaccine. The ULJ noted that the UCAP form asked specific questions about relator's religious beliefs and practices that she chose not to answer and that her letter, like her hearing testimony, focused on the safety and effectiveness of the vaccine, "which is not a religious consideration"; therefore, her refusal to comply with her employer's COVID-19 vaccination policy was motivated by secular rather than religious beliefs. The record substantially supports the ULJ's findings that relator's failure to answer the questions about her religion on the application for a religious exemption and her failure to mention religion in the letter she submitted in lieu of the application indicated that her decision not to be vaccinated was not based on religious beliefs. Insofar as her testimony at the hearing did concern religion, the ULJ was free to disregard that testimony as inconsistent with her unfilled application form and her letter. The record supports the ULJ's conclusion that relator's decision was based on a personal, not a religious, view of the COVID-19 vaccination.

Affirmed.