

*This opinion is nonprecedential except as provided by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
A24-1238**

Vincent James Cobbs,
Appellant,

vs.

Drew Evans, Superintendent, Bureau of Criminal Apprehension,
Respondent.

**Filed April 21, 2025
Affirmed
Smith, Tracy M., Judge**

Ramsey County District Court
File No. 62-CV-23-4374

Christopher X. Nguyen, Aberrant Law PLLC, Minneapolis, Minnesota (for appellant)

Keith Ellison, Attorney General, Angela Helseth Kiese, Assistant Attorney General,
St. Paul, Minnesota (for respondent)

Considered and decided by Ross, Presiding Judge; Smith, Tracy M., Judge; and
Bratvold, Judge.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

Appellant Vincent James Cobbs challenges the summary-judgment dismissal of his civil claims under 42 U.S.C. § 1983 (2018) against respondent Drew Evans, the superintendent of the Minnesota Bureau of Criminal Apprehension (BCA).¹ Cobbs's

¹ We refer to Evans as the BCA in this opinion.

claims stemmed from the BCA's determination that he is subject to a lifetime registration requirement under Minnesota's predatory-offender registration statute, Minnesota Statutes section 243.166 (2024).² Cobbs argues that the district court erroneously determined that the lifetime registration requirement of section 243.166, subdivision 6, applies to him and that the BCA violated his due-process rights by changing the end date of his registration term. We affirm.

FACTS

In April 2006, the state charged Cobbs with three counts of criminal sexual conduct involving his two minor stepsisters. The complaint alleged that Cobbs engaged in sexual contact with Minor A from approximately 1999 up until the most recent occurrence on December 24, 2004, and that, on at least one occasion, the contact included penetration. Based on those allegations, the state charged Cobbs with two counts with respect to Minor A. Count one was for first-degree criminal sexual conduct—penetration with a person under age 16 when the defendant has a significant relationship to the complainant,

² The subdivisions of Minnesota Statutes section 243.166 that are relevant to this appeal are subdivision 1b, which lists crimes requiring predatory-offender registration, and subdivision 6, which requires that persons convicted of certain crimes listed under subdivision 1b register for life. Subdivisions 1b and 6 have been amended several times since the events underlying this matter. *E.g.*, 2001 Minn. Laws 1st Spec. Sess. ch. 8, art. 9, § 4, at 2088-89 (renumbering subsections of subdivision 6); 2005 Minn. Laws ch. 136, art. 3, § 8, at 937-40 (moving the list of crimes requiring registration from subdivision 1 to subdivision 1b); 2021 Minn. Laws ch. 11, art. 4, § 31, at 2061-62 (adjusting cross-references to certain statutes to match renumbering of those statutes, including renumbering within section 609.343); *see also* 2021 Minn. Laws 1st Spec. Sess. ch. 11, art. 4, § 17, at 2041-43 (renumbering, in relevant part, Minn. Stat. § 609.343, subd. 1(h), the statute under which Cobbs was convicted, as Minn. Stat. § 609.343, subd. 1a(h)). We cite to the current version of the statute because the amendments have not changed the substance of either of the subdivisions that are at issue in this appeal.

in violation of Minnesota Statutes section 609.342, subdivision 1(g) (1998). Count two was for second-degree criminal sexual conduct—sexual contact with a person under age 16 when the defendant has a significant relationship to the complainant and the abuse involved multiple acts committed over an extended period of time, in violation of Minnesota Statutes section 609.343, subdivision 1(h)(iii) (1998).

The complaint also alleged that, from approximately 2000 until the last reported incident in July 2004, Cobbs had sexual contact with Minor B. That conduct was alleged to have occurred on at least 20 occasions. Based on those allegations, the state charged Cobbs with count three: second-degree criminal sexual conduct—sexual contact with a person under age 16 when the defendant has a significant relationship to the complainant and the abuse involved multiple acts committed over an extended period of time, in violation of Minnesota Statutes section 609.343, subdivision 1(h)(iii).

In January 2007, Cobbs filed a petition to plead guilty. In the plea petition, he acknowledged that he understood that he had been charged with one count of first-degree and two counts of second-degree criminal sexual conduct for acts that were “committed from 1999 through 2004” and that he “wish[ed] to enter a plea of guilty.” The record on appeal does not contain a transcript of a plea hearing; the parties explained at oral argument that, although efforts were made to obtain a transcript, they were unsuccessful because no record of the plea hearing remains. The district court’s warrant of commitment, however, reflects that the district court entered convictions for count one and count three and dismissed count two. The warrant of commitment lists “1-1-99” as the offense date for both count one and count three.

The district court sentenced Cobbs to a prison term of 144 months for count one and a concurrent prison term of 58 months for count three. It stayed execution of the sentences for 30 years and 25 years, respectively, and ordered Cobbs to serve 365 days in jail. The warrant of commitment reflects that Cobbs would be required to register as a predatory offender. It does not provide the start or end date of his registration term.

In April 2007, Cobbs registered for the first time as a predatory offender under section 243.166. As part of his registration, Cobbs completed a “Duty to Register” checklist, through which he acknowledged that he was required to register for a minimum of ten years from the date of his initial registration. He also acknowledged that he was required to register for life if, after August 1, 2000, he committed and was charged as an adult with, and was convicted of, any of a number of offenses, including second-degree criminal sexual conduct under Minnesota Statutes section 609.343, subdivision 1(h).

In annual address-verification forms that Cobbs received from the BCA between 2008 and 2018, the BCA identified Cobbs’s registration period as ending on March 14, 2037, but also stated that registration would end after ten years.³

In August 2018, Cobbs called the BCA and communicated that he had been discharged from probation that month. The following month, Cobbs called the BCA again to inquire about the end date of his registration term. The BCA then reviewed his file, discovered that Cobbs’s conduct underlying his conviction for second-degree criminal sexual conduct “occurred into 2004,” and so determined that a lifetime registration term

³ Specifically, the notices stated: “Begin Registration Date: 11/21/2007”; “End Registration Date: 3/14/2037”; and “Reason End: 10 Years from Start of Registration.”

applied. In November 2018, the BCA informed Cobbs that he was subject to a lifetime registration requirement based on his conviction under Minnesota Statutes section 609.343, subdivision 1(h)(iii), for conduct occurring after August 1, 2000.

In August 2023, Cobbs filed a civil complaint under 42 U.S.C. § 1983 alleging, among other things, that the BCA violated his constitutional rights and “violated the doctrine of collateral estoppel” by determining that Cobbs was required to register as a predatory offender for life rather than for the ten-year term that the BCA had previously communicated to him. Cobbs requested injunctive relief to prohibit the BCA from requiring him to register as a predatory offender and to require the BCA to remove him from the predatory-offender registry. He also requested declaratory relief stating that section 243.166, as applied to him, is unconstitutional.

Cobbs moved for summary judgment, and the BCA moved to dismiss Cobbs’s complaint or for summary judgment. Following a motion hearing, the district court filed an order granting summary judgment for the BCA and denying Cobbs’s motion. In its order, the district court observed that, in 2000, the Minnesota Legislature had amended section 243.166 to provide that lifetime registration applied to violations of Minnesota Statutes section 609.343, subdivision 1(h)—the second-degree criminal-sexual-conduct offense of which Cobbs was convicted in count three. *See* 2000 Minn. Laws ch. 311, art. 2, § 7, at 194-95. The district court concluded that, notwithstanding that a court record shows an “offense date” of 1999, the “record is clear” that Cobbs engaged in this crime “well after” the August 1, 2000 effective date of the amendment. The district court rejected

Cobbs’s constitutional claims and concluded that neither the BCA nor the district court had authority to modify Cobbs’s lifetime registration requirement.

Cobbs appeals.

DECISION

Appellate courts review a district court’s grant of summary judgment de novo. *Hanson v. Dep’t of Nat. Res.*, 972 N.W.2d 362, 371 (Minn. 2022). Summary judgment is appropriate “if the movant shows that there is no genuine issue as to any material fact and the movant is entitled to judgment as a matter of law.” Minn. R. Civ. P. 56.01. Appellate courts “affirm a grant of summary judgment if no genuine issues of material fact exist and if the court accurately applied the law.” *Hanson*, 972 N.W.2d at 371-72. The reviewing court “view[s] the evidence in the light most favorable to the nonmoving party and resolve[s] all doubts and inferences against the moving part[y].” *Id.* at 372 (quotation omitted).

A. Cobbs is required to register for life under section 243.166.

Cobbs argues that he is not required to register for life under section 243.166 because the record establishes that his offenses occurred before August 1, 2000—the effective date of the lifetime registration requirement.⁴ He argues that the BCA lacked authority under either statute or caselaw to “amend the offense date.” Relatedly, he argues that the registration statute does not apply retroactively.

⁴ Although he does not do so explicitly, Cobbs seems to also suggest that a genuine dispute of fact exists as to when the offenses occurred.

Minnesota Statutes section 243.166, subdivision 1b, provides a list of crimes for which predatory-offender registration is required. Certain criminal-sexual-conduct offenses—including the second-degree offense that Cobbs pleaded guilty to—are on the list. Minn. Stat. § 243.166, subd. 1b(a)(1)(iii). Before 2000, registration under the statute was for ten years, but in 2000 the legislature amended section 243.166, subdivision 6, to require individuals convicted of certain criminal offenses to register for life. 2000 Minn. Laws ch. 311, art. 2, § 7, at 194-95. The offenses requiring lifetime registration include second-degree criminal sexual conduct under section 609.343, subdivision 1(h), which Cobbs was convicted of in count three. *Id.* at 195. The effective date of the amendment was August 1, 2000, and the amendment applied “to persons who commit offenses requiring lifetime registration on or after that date.” *Id.* § 16(c), at 206.

Cobbs argues that the record establishes that his offenses occurred before August 1, 2000, because the district court’s sentencing document identifies the dates of both count one and count three as “1-1-99.” This argument is unavailing. We conclude that, based on the entire record, there is no genuine dispute that count three was based on conduct that Cobbs engaged in on or after August 1, 2000.

First, the single date listed on the warrant of commitment is inconsistent with the nature of the crime in count three. Count three was for violation of section 609.343, subdivision 1(h)(iii). Among the elements of that crime is that “the sexual abuse involved multiple acts committed *over an extended period of time*.” Minn. Stat. § 609.343, subd. 1(h)(iii) (emphasis added).

Second, Cobbs stated in his plea petition that the three crimes to which he was pleading guilty occurred “from 1999 through 2004.” The complaint identified the criminal conduct against Minor A as occurring from 1999 to December 24, 2004. It identified the criminal conduct against Minor B, on the other hand, as occurring “from approximately 2000 until the last reported incident in July 2004.” It is the latter conduct that is the basis for count three.

Because there is not a genuine dispute that Cobbs’s conviction for violating section 609.343, subdivision 1(h)(iii), was for conduct that occurred after the amendment’s effective date of August 1, 2000, lifetime registration is required under section 243.166, subdivision 6. For the same reason, the BCA did not “amend” the offense date of count three, and section 243.166 is not being applied retroactively to an offense that occurred before the effective date of the lifetime registration requirement.

B. Cobbs was not denied his due-process rights.

Cobbs argues that the lifetime registration requirement deprives him of his substantive and procedural due process rights. Under the Due Process Clauses of the Minnesota and United States Constitutions, “the government cannot deprive a person of ‘life, liberty, or property without due process of law.’” *Bedeau v. Evans*, 926 N.W.2d 425, 429 (Minn. App. 2019) (quoting U.S. Const. amends. V, XIV; Minn. Const. art. I, § 7), *rev. denied* (Minn. June 26, 2019).

Appellate courts review the constitutionality of a statute *de novo*. *See Werlich v. Schnell*, 958 N.W.2d 354, 363 (Minn. 2021). “[W]e presume that Minnesota statutes are constitutional and will strike down a statute as unconstitutional only if absolutely

necessary.” *State v. Wiseman*, 816 N.W.2d 689, 692 (Minn. App. 2012), *rev. denied* (Minn. Sept. 25, 2012).

Substantive Due Process

Cobbs argues that section 243.166 deprives him of his substantive due-process rights.⁵ He asserts that the statute “fails its purpose on its face” because the BCA has no information suggesting that requiring Cobbs, or other individuals subject to the registration requirement, to register has assisted with investigations resulting in convictions. The BCA argues that Cobbs failed to raise this argument in district court and that, therefore, we should not consider this argument on appeal. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (“A reviewing court must generally consider only those issues that the record shows were presented and considered by the trial court in deciding the matter before it.” (quotation omitted)). Alternatively, if we are to address the merits of Cobbs’s due-process argument, the BCA responds that, because section 243.166 is civil and regulatory in nature, it need only satisfy rational-basis review and that the statute satisfies that test.

In his complaint, Cobbs raised the issue of substantive due process. We conclude that he sufficiently preserved the issue and turn to the merits of the argument. *See id.*

The Due Process Clause prohibits “certain arbitrary, wrongful government actions, regardless of the fairness of the procedures used to implement them.” *Boutin v. LaFleur*, 591 N.W.2d 711, 716 (Minn. 1999) (quoting *Zinerman v. Burch*, 494 U.S. 113, 125 (1990)). Determining whether a statute violates substantive due process depends in part on

⁵ It is not clear from Cobbs’s briefing whether he is asserting a facial or an as-applied challenge to the statute.

whether the statute implicates a fundamental right. *Wiseman*, 816 N.W.2d at 692-93. When a fundamental right is implicated, the government must demonstrate “a legitimate and compelling interest for abridging that right.” *Boutin*, 591 N.W.2d at 716. But if a statute does not implicate a fundamental right, it need only meet the rational-basis standard of review, which requires that the statute “provide a reasonable means to a permissible [government] objective.” *Id.* at 716-17.

In the 1999 case of *Boutin*, the supreme court concluded that section 243.166’s registration requirement was a civil regulatory provision, and not punitive, and thus did not implicate the fundamental right to a presumption of innocence. *Id.* at 717. Applying the rational-basis test, the supreme court determined that the “primary purpose” of section 243.166 “is to create an offender registry to assist law enforcement with investigations” and decided that the registration requirement is rationally related to the state’s legitimate interest in solving crimes. *Id.* at 717-18.

In its 2021 decision in *Werlich*, the supreme court ruled that *Boutin* “does not foreclose constitutional challenges to the consequences resulting from registration as a predatory offender when the Legislature has expanded the requirements and consequences of that registration beyond those considered in that decision.” 958 N.W.2d at 358. The supreme court concluded that a requirement in a child-protection statute mandating investigation if a registered predatory offender lives in the same home with their child was a collateral consequence that implicated the fundamental right to parent. *Id.* at 365. The supreme court decided that the party challenging registration had therefore stated a claim sufficient to avoid dismissal of his complaint. *Id.*

In *Bedeau*, which was decided two years before *Werlich*, we considered a substantive-due-process challenge to the predatory-offender registration statute, determined that the statute did not implicate a fundamental right, and concluded that, because its purpose was rationally related to the legitimate state interests of aiding with investigations and solving crimes, it did not violate the appellant's substantive-due-process rights. 926 N.W.2d at 429-31. We determined that the registration requirements imposed by the statute place "only a minimal burden on offenders," though we also noted that this burden has become more "substantial" over the course of amendments to section 243.166. *Id.* at 432 & n.2.

Cobbs has not identified any fundamental right that is affected by the consequences of his registration requirement. As a result, consistent with *Boutin*, we conclude that rational-basis review applies. We also conclude, as we did in *Bedeau*, that the statutory purposes animating section 243.166 are reasonably related to the registration requirement. Cobbs provides no authority for the proposition that, for the statute to be upheld, the BCA must prove that the registration requirement is in fact furthering the legislative purpose of aiding in law enforcement investigations. Accordingly, Cobbs's substantive-due-process challenge fails.

Procedural Due Process

Cobbs also argues that the BCA's failure to provide him notice of the change to his registration date until shortly after he was discharged from probation deprived him of his right to procedural due process. The BCA counters that this claim fails for two reasons: (1) Cobbs's registration requirement does not implicate a liberty interest under the Due

Process Clause and (2) even if Cobbs had established a liberty interest, he received due process because the statute relies on a criminal conviction and the conviction process provides all the process that is due.

A two-step analysis applies to a procedural-due-process claim. *Sawh v. City of Lino Lakes*, 823 N.W.2d 627, 632 (Minn. 2012). First, for due process to be required, the government must have deprived an individual of a protected life, liberty, or property interest. *Id.* “[A] liberty interest is implicated when a loss of reputation is coupled with the loss of some other tangible interest.” *Boutin*, 591 N.W.2d at 718. This is referred to as the “stigma-plus” test. *Id.* Minnesota appellate courts have applied the stigma-plus test to procedural-due-process challenges to the registration statute. *See, e.g., Bedeau*, 926 N.W.2d at 432; *Boutin*, 591 N.W.2d at 718-19.

Second, if a person is deprived of a protected interest, the procedures followed by the government must be constitutionally sufficient or the person’s due process rights are violated. *Sawh*, 823 N.W.2d at 632. “Fundamentally, procedural due process requires notice and an opportunity to be heard at a meaningful time and in a meaningful manner.” *State v. Rey*, 905 N.W.2d 490, 494 (Minn. 2018) (quotation omitted).

Beginning with the first step, in *Boutin*, the supreme court concluded that, while the requirement to register caused stigma, it did not result in the loss of another recognized interest, without which the stigma-plus test was not satisfied. 591 N.W.2d at 718. Cobbs has not explained how changes to the registration statute since *Boutin* have caused him the loss of any other recognized interest sufficient to meet the stigma-plus standard. We therefore conclude that he has not established that he was deprived of a liberty interest.

Moreover, even if Cobbs had established a liberty interest, he has not explained how the BCA's correction of his registration requirement to accord with the statute is constitutionally defective. As the BCA notes, the registration requirement is based on a conviction in the criminal system—a system that is subject to due-process requirements. Moreover, as the BCA argues, should Cobbs ever be charged with failure to register, he will have due process afforded during those criminal proceedings as well.

Accordingly, we conclude that the BCA's correction of Cobbs's registration term did not violate his right to procedural due process.

Affirmed.