

*This opinion is nonprecedential except as provided by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
A24-1643**

In the Matter of the Civil Commitment of: Samuel Omwando Nyaboga.

**Filed April 14, 2025
Affirmed; motion denied
Ross, Judge**

Commitment Appeal Panel
File No. AP23-9115

Samuel O. Nyaboga, St. Peter, Minnesota (self-represented appellant)

Keith Ellison, Attorney General, Anthony R. Noss, Assistant Attorney General, St. Paul, Minnesota (for respondent Commissioner of Human Services)

Mary F. Moriarty, Hennepin County Attorney, Annsara Lovejoy Elasky, Assistant County Attorney, Minneapolis, Minnesota (for respondent Hennepin County)

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

NONPRECEDENTIAL OPINION

ROSS, Judge

Samuel Nyaboga allegedly attacked a woman with an axe, leading to criminal charges and his civil commitment as a mentally ill and dangerous person. He asks us to reverse a Commitment Appeal Panel decision dismissing his petition for discharge from commitment. Because we are unpersuaded by Nyaboga's arguments that he presented a *prima facie* case for discharge, that continuing his civil commitment violates his right to due process, and that he has identified other reasons to reverse the decision, we affirm.

FACTS

Samuel Nyaboga is a 53-year-old Kenyan-born man who allegedly struck and seriously injured a woman with an axe in 2017, leading to criminal charges. The district court decided he was incompetent to stand trial and suspended the criminal proceedings. It ordered him civilly committed as a mentally ill and dangerous person after court-appointed examiners testified that his delusional beliefs would likely lead him to again act violently. The district court civilly committed him indeterminately in March 2019, and he remains committed today.

Mental-health evaluators have occasionally assessed Nyaboga's risk to the public. Dr. Tricia Sudenga evaluated him in February 2024, diagnosing him primarily as having delusional disorder-persecutory type. Other evaluators have also indicated that Nyaboga may suffer from a personality disorder. He reportedly has delusional beliefs, particularly related to his criminal charges, and he tends to "interpret benign events through a persecutorial lens." One example is that he believes a group of Kenyan Americans seek his deportation. Nyaboga nevertheless denies having a mental illness.

Nyaboga's progress in treatment has been inconsistent. On one hand, he has been peaceful, demonstrates good hygiene, works at his commitment facility, has outings with staff, and completes his daily-living activities independently. He has maintained generally stable moods and behavior without any prescribed psychotropic medications since February 2021. But on the other hand, he often blames others for difficult interactions and becomes irritable and stubborn with staff when they confront him about breaking facility rules, believing that staff target him unfairly. And although he attends group meetings and

individual therapy, he does so primarily to socialize and to justify a discharge, and he has said that he does not need the support because he has no mental illness. Evaluations consequently conclude that he has “rigid thinking” and lacks insight into his mental illness.

Recent evaluators recommended that Nyaboga not be discharged from civil commitment. Dr. Sudenga opined that fully discharging him from commitment is “clearly unwarranted” because of his elevated historical, clinical, and risk-management factors. Drs. Ellen Castillo and Rebecca Kastner similarly have concluded that Nyaboga does not meet the criteria to be fully discharged, highlighting multiple possible risk factors. And a 2023 report by Dr. Thomas Lenhardt observes that Nyaboga’s treatment team recommended transferring him to a nonsecure transitional unit but “does not support a Full Discharge.”

This appeal arises from Nyaboga’s petition in February 2023 for a full discharge. A medical director separately petitioned for him to be transferred to a nonsecure facility. The Minnesota Department of Human Services Special Review Board considered both petitions and opted to deny a full discharge but to grant the transfer petition. The commissioner of human services issued an order implementing the board’s transfer recommendation.

Nyaboga asked the Commitment Appeal Panel for rehearing to reconsider the discharge denial. The panel held a “phase 1” hearing before which Nyaboga’s attorney submitted an exhibit list that included a personal statement, a statement from a witness to Nyaboga’s alleged axe offense, risk assessments, a board decision, an evaluation report, and “Individual Case Information.” But at the hearing, Nyaboga’s attorney told the panel that she was not offering those exhibits. Nyaboga alone testified, attempting to persuade

the panel to discharge him from commitment. The commissioner and Hennepin County then moved the panel to dismiss Nyaboga's reconsideration and rehearing request primarily based on his failure to present sufficient evidence to justify discharge, and Nyaboga's attorney gave a brief closing argument. The panel granted the motion to dismiss, denying Nyaboga's petition.

Nyaboga appeals.

DECISION

Nyaboga, representing himself without legal counsel, presented an appellate brief containing assertions that we have found difficult to construe as legal arguments. But we interpret them to argue primarily that the panel erroneously dismissed his petition for discharge, that his continued commitment violates his right to due process, and that his attorney was ineffectual. Neither these nor his other discernible arguments persuade us to reverse the panel's decision.

I

We are not convinced that Nyaboga presented a *prima facie* case for discharge or that the panel misapplied the discharge statute. Nyaboga implies that the panel erroneously dismissed his petition under Minnesota Rule of Civil Procedure 41.02(b). We review *de novo* a panel decision to grant a motion to dismiss under that rule. *In re Civ. Commitment of Opiacha*, 943 N.W.2d 220, 225 (Minn. App. 2020). Our *de novo* review convinces us that the panel did not err by dismissing Nyaboga's petition.

The commitment statutes designate the factors that must be met before a person who is committed as mentally ill and dangerous may be discharged. He may be discharged only

if he “is capable of making an acceptable adjustment to open society, is no longer dangerous to the public, and is no longer in need of treatment and supervision.” Minn. Stat. § 253B.18, subd. 15(a) (2024). In weighing the possibility of discharge, the panel must “consider whether specific conditions exist to provide a reasonable degree of protection to the public and to assist the patient in adjusting to the community,” advancing the committed person to a phase 2 hearing only if those conditions are met. *See* Minn. Stat. §§ 253B.18, subd. 15(b), 253B.19, subd. 2(c) (2024). The record supports the determination that these requirements were not met here.

We have no difficulty determining that those requirements were not met because Nyaboga presented insufficient evidence to support his request. He had the burden at the phase 1 hearing to “present[] a *prima facie* case with competent evidence” that shows he is entitled to the discharge. Minn. Stat. § 253B.19, subd. 2(c); *Opiacha*, 943 N.W.2d at 225. A party opposing the petition may challenge a petitioner’s *prima facie* case by moving to dismiss under Minnesota Rule of Civil Procedure 41.02(b). *Opiacha*, 943 N.W.2d at 225. When considering a motion to dismiss, the panel must “view the evidence produced at the first-phase hearing in a light most favorable to the committed person.” *Id.* (quotation omitted). For the reasons below, we conclude that the panel followed this procedure and properly dismissed Nyaboga’s petition.

The record informs us that Nyaboga’s hearing testimony failed to establish a *prima facie* case for discharge. A mentally ill and dangerous person’s uncorroborated and conclusory assertions that he does not pose a risk to the public are generally insufficient to establish his *prima facie* case at a phase 1 hearing. *See In re Civ. Commitment of Poole*,

921 N.W.2d 62, 63–64, 68–69 (Minn. App. 2018) (reviewing a petition for discharge from a person committed as a sexually dangerous person (SDP) and as a sexual psychopathic personality (SPP)), *rev. denied* (Minn. Jan. 15, 2019); *see also Opiacha*, 943 N.W.2d at 225 (suggesting that, like proceedings for discharge as an SDP or SPP, discharge proceedings for a person committed as mentally ill and dangerous also require a *prima facie* case). Nyaboga’s testimony suggested that his treatment is going reasonably well, but he presented no documentary evidence establishing either that he is not mentally ill or is ready to be discharged safely into the community. His mostly conclusory assertions did not establish that he meets the statutory discharge factors. And even if we were to consider the documents in the record, Nyaboga’s argument would still fail. The record contains statements contradicting Nyaboga’s assertions, as experts who assessed him after he petitioned for discharge concluded that discharging him would create a public-safety risk. While the record indicates that Nyaboga has in some ways done well in treatment, it includes no documentary evidence establishing that he is not mentally ill and is ready to safely re-enter the community. His testimonial evidence, considered in the light most favorable to him, does not establish a *prima facie* case for discharge.

Nyaboga unpersuasively maintains that continuing his civil commitment violates his right to due process. Due process requires that a person committed as mentally ill and dangerous must be discharged when he is no longer mentally ill or dangerous. *See Lidberg v. Steffen*, 514 N.W.2d 779, 783–84 (Minn. 1994) (citing *Addington v. Texas*, 441 U.S. 418 (1979) and *Jones v. United States*, 463 U.S. 354, 370 (1983)). Nyaboga’s conclusory

assertions failed to establish that he is no longer mentally ill or dangerous. His due-process argument therefore fails.

II

Nyaboga next contends that he was improperly prevented from submitting evidence at the panel hearing that might have established his *prima facie* case. The contention fails. He points specifically to his attorney's decision not to offer the exhibits included in his prehearing exhibit list, his inability to hear or understand that the exhibits were not being offered, and the alleged lack of a chance for an adequate closing argument. We see no reversible error in the proceedings. The panel gave Nyaboga an opportunity to offer the exhibits when it twice asked his attorney if she wanted to do so and she twice declined. The transcript exchanges also do not support the supposition that Nyaboga lacked understanding. It is true that the audio during the online Zoom hearing was apparently delayed such that the panel initially struggled to understand Nyaboga, and the panel speculated that their audio may have been delayed for Nyaboga, but he never suggested that he could not hear or understand others. Our reading of the question-answer exchanges during the hearing as transcribed in the record raises no apparent concern that he had any difficulty understanding, and the transcript includes his attorney's concise closing argument, unrestrained and uninterrupted by the panel. His procedural challenges fail.

III

Nyaboga suggests too that his counsel's performance at the hearing was ineffective. To succeed on an ineffective-assistance claim, a person seeking discharge must show both that his attorney's performance "fell below an objective standard of reasonableness" and

that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *In re Civ. Commitment of Johnson*, 931 N.W.2d 649, 657 (Minn. App. 2019) (quoting *Strickland v. Washington*, 466 U.S. 668, 687–88 (1984)) (citation omitted), *rev. denied* (Minn. Sept. 17, 2019). And an appellant bears the burden on appeal to show error and resulting prejudice. *Loth v. Loth*, 35 N.W.2d 542, 546 (Minn. 1949). Assuming without deciding that Nyaboga could meet the first element, he fails to show that any of his attorney’s actions prejudiced the outcome of his discharge petition. We therefore reject his ineffective-assistance suggestion.

IV

Nyaboga advances various other arguments—mostly undeveloped. None merits further discussion. We also deny the commissioner’s motion to strike Nyaboga’s addendum and portions of his brief, which the commissioner says include information outside the record and new factual assertions. We have decided this appeal relying only on the record, *see* Minn. R. Civ. App. P. 110.01, and it is therefore unnecessary for us to further consider the commissioner’s motion to strike.

Affirmed; motion denied.