

*This opinion is nonprecedential except as provided by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
A25-0169**

Kim Ouk,
Appellant,

vs.

Paul Schnell,
Respondent.

**Filed September 22, 2025
Affirmed
Slieter, Judge**

Carlton County District Court
File No. 09-CV-24-957

Bradford Colbert, Lucy Moran (certified law student practitioner), Rachel Pederson (certified law student practitioner), Legal Assistance to Minnesota Prisoners, St. Paul, Minnesota (for appellant)

Keith Ellison, Attorney General, Bradley D. Simon, Assistant Attorney General, St. Paul, Minnesota (for respondent)

Considered and decided by Bond, Presiding Judge; Slieter, Judge; and Ede, Judge.

NONPRECEDENTIAL OPINION

SLIETER, Judge

Appellant challenges the denial of his petition for a writ of *habeas corpus*, arguing that the district court erred by denying his claims that the commissioner of corrections (1) exceeded his authority by holding a parole-review hearing, (2) violated appellant's procedural due-process rights in conducting the parole-review hearing, and (3) violated

appellant's substantive due-process rights by determining that appellant would not be eligible for parole for another ten years. Because the commissioner acted within his statutory authority and did not violate appellant's constitutional rights, we affirm.

FACTS

Appellant Kim Ouk is currently incarcerated at the Minnesota Correctional Facility in Moose Lake serving a prison sentence for two counts of first-degree murder and two counts of attempted first-degree murder. Ouk was 15 years old at the time he committed these crimes in 1992. Later that year, Ouk was sentenced to two consecutive life sentences for the two first-degree murder convictions, each with the possibility of parole after 30 years, and two consecutive 15-year sentences for the two attempted first-degree murder convictions.

On September 26, 2023, respondent Paul Schnell, Minnesota Commissioner of Corrections, held Ouk's parole-review hearing. Earlier that year, the Minnesota Legislature amended the parole statutes in several relevant ways. *See* 2023 Minn. Laws ch. 52, art. 18, §§ 1-14, at 1116-25. First, it created a Supervised Release Board (the Board) and prospectively transferred parole decision-making authority from the commissioner to the Board beginning on July 1, 2024. *Id.*, § 1, at 1116. The legislature also established a transition period "beginning July 1, 2023, through June 30, 2024." *Id.*, § 12, at 1124. Because the Board was not authorized to review individuals for parole or make release decisions until July 1, 2024, the legislature authorized the commissioner to review and make release decisions for eligible individuals during the transition period. *Id.*

Ouk and his attorney were present during the parole-review hearing. The commissioner reviewed extensive documentation related to Ouk's crimes, including court records, department of corrections (DOC) records, and Ouk's submissions. Ouk's submissions explained that he continued to participate in treatment programming and emphasized his young age at the time of his offenses. The commissioner also received input from prosecutors and victims and reviewed a psychological-evaluation report from a licensed psychologist who met with Ouk and who assessed his mental health and his risk for future violence. The commissioner noted that Ouk had remained discipline-free since his last review and had enrolled in degree-related courses through Ashland University in the year prior to the hearing.

The commissioner granted Ouk parole on his first life sentence so he could begin serving his second life sentence. The commissioner denied Ouk parole on his remaining life sentence. In a letter to Ouk, the commissioner explained that his decision to deny parole on Ouk's second life sentence was based on the following considerations:

- Ouk's identified moderate risk of future violence based on historical and dynamic risk factors.
- Ouk's unwillingness to provide relevant information to his victims and surviving family members.
- The lack of a clear release plan and the release plan challenges resulting from Ouk's outstanding immigration detainer.
- The enormity of Ouk's crimes of conviction, including the number of individual victims affected by his actions.
- The views of the Ramsey County Attorney's Office and victims/survivors.

The commissioner concluded that Ouk could not be “released into the community at this time without posing some risk to the community and significantly outraging community sentiments, including those of [his] victims/survivors.” The commissioner set a review for parole for 2033.¹

Ouk filed a petition for a writ of *habeas corpus* with the district court. The district court denied the petition without a hearing, determining that the new statute conferred authority to the commissioner to conduct parole-review hearings pending the Board’s assumption of that duty in July of 2024.

Ouk appeals.

DECISION

A writ of *habeas corpus* is a statutory civil remedy by which a petitioner may “obtain relief from [unlawful] imprisonment or restraint.” Minn. Stat. § 589.01 (2024). It is an “extraordinary remedy.” *State ex rel. Young v. Schnell*, 956 N.W.2d 652, 673 (Minn. 2021) (quotation omitted).

For the district court to grant a petition for a writ of *habeas corpus*, the petition must allege “sufficient facts to establish a prima facie case for [the petitioner’s] discharge.” *State ex rel. Fife v. Tahash*, 111 N.W.2d 619, 620 (Minn. 1961); *see also Case v. Pung*, 413 N.W.2d 261, 262 (Minn. App. 1987) (stating that the petitioner has the burden of showing

¹ At the time of Ouk’s parole hearing in 2023, Minnesota law did not require that a parole hearing be held within a specific timeframe. In 2024, the legislature amended the laws to require parole hearings every three years, if requested by the inmate. 2024 Minn. Laws ch. 123, art. 8, § 9, at 2314 (codified at Minn. Stat. 244.05, subd. 5(m) (2024)). The legislature expressly stated that the changes would only apply to release hearings conducted on or after July 1, 2024. *Id.*

the illegality of their detention), *rev. denied* (Minn. Nov. 24, 1987). The district court must grant a petitioner’s request for an evidentiary hearing “only if a factual dispute is shown by the petition.” *Seifert v. Erickson*, 420 N.W.2d 917, 920 (Minn. App. 1988), *rev. denied* (Minn. May 18, 1988).

This court may affirm the denial of a *habeas corpus* petition when the petition, on its face, fails to present a case for issuing the writ. *State ex rel. Nelson v. Rigg*, 107 N.W.2d 378, 379 (Minn. 1961). We review questions of law pertaining to a *habeas corpus* proceeding *de novo*, but we afford “great weight” to the district court’s findings of fact, which will not be reversed absent clear error. *State ex rel. Ford v. Schnell*, 933 N.W.2d 393, 401, 406-07 (Minn. 2019) (quotation omitted).

I. The law authorizes the commissioner to hold a parole-review hearing.

Ouk argues that under the language of the new parole law, the commissioner lacked the authority to hold the parole-review hearing. The plain language of the law persuades us otherwise.

This issue presents a question of statutory interpretation. We apply principles of statutory interpretation to session laws. *Cf. Fairmont Hous. & Redevelopment Auth. v. Winter*, 969 N.W.2d 839, 846 n.10 (Minn. App. 2021) (explaining that executive orders, which “have the full force and effect of law, . . . are subject to the principles of statutory interpretation” (quotation omitted)). Appellate courts review questions of statutory interpretation *de novo*. *Borth v. Borth*, 970 N.W.2d 699, 702 (Minn. 2022). “The goal of statutory interpretation is to ascertain and effectuate the intention of the legislature.” *Id.* (quotation omitted). Appellate courts first determine whether a statute’s language is

ambiguous. *Id.* “A statute is ambiguous only if its language is subject to more than one reasonable interpretation.” *Id.* (quotation omitted). In making this determination, appellate courts “analyze the statute’s text, structure, and punctuation and use the canons of interpretation,” and “construe statutory words and phrases according to the rules of grammar and common usage.” *Id.* (quotations omitted). If a statute is unambiguous, appellate courts must apply its plain meaning and engage in no further statutory construction. *Id.*

When the legislature amended the parole statutes in 2023, it prospectively transferred parole decision-making authority from the commissioner to the newly established Board as of July 1, 2024. *See* Minn. Stat. § 244.049, subd. 1 (Supp. 2023). As we have already noted, the legislature also established a transition period between July 1, 2023, and June 30, 2024, during which the commissioner retained that authority. *See* 2023 Minn. Laws ch. 52, art. 18, § 12, at 1124. Because this language provides for a one-year transition period ending on June 30, 2024, *id.*, this language is not codified in the Minnesota Statutes. *See* Minn. Stat. § 244.049 (2024). We therefore refer to the session law. The legislature provided:

Notwithstanding the board’s responsibilities under Minnesota Statutes, section 244.05, subdivision 4a, and beginning July 1, 2023, through June 30, 2024, the commissioner of corrections may review eligible cases under Minnesota Statutes, section 244.05, subdivision 4a, and make necessary release decisions and programming recommendations relevant to the commissioner’s review in accordance with Minnesota Statutes, section 244.05, subdivision 5. The commissioner may only review cases and make decisions under this paragraph after an eligible individual has served at least 15 years of imprisonment.

2023 Minn. Laws ch. 52, art. 18, § 12, at 1124.

Though neither party argues that the statute is ambiguous, the parties dispute the plain meaning of the term “necessary” as used in the text. We agree that the language is unambiguous, and so we must enforce the plain meaning of the statute. *State v. Culver*, 941 N.W.2d 134, 139 (Minn. 2020). For the reasons we explain below, this unambiguous language authorized the commissioner to review eligible cases, which included conducting Ouk’s parole-review hearing.

Ouk argues that the commissioner was only authorized to “*release* individuals and/or *make programming recommendations* when *necessary*.” See 2023 Minn. Laws ch. 52, art. 18, § 12(b), at 1124. Ouk points to the language that the commissioner “may review eligible cases under Minnesota Statutes, section 244.05, subdivision 4a, and make necessary release decisions and programming recommendations relevant to the Commissioner’s review in accordance with Minnesota Statutes, section 244.05, subdivision 5.” *Id.* Ouk claims that the use of the word “may,” which vests the commissioner with discretionary authority, juxtaposed against the statutory language related to the newly created Board that prospectively mandates the Board to make such decisions, means the “Commissioner is not required to review cases and is instead granted limited authority to hear certain cases and take limited actions where necessary.” He further argues that, when the language of the transition period states the commissioner make “necessary release decisions,” this means the commissioner can only make decisions

that are “absolutely needed.” The state, in contrast, maintains that Ouk offers an overly rigid interpretation of “necessary.”

Ouk’s interpretation of the transition-period language is inconsistent with its plain meaning. The legislature provided only one prerequisite for the commissioner to review Oak’s case during the transition period: that his case must be eligible under Minn. Stat. § 244.05, subds. 4a, 4b (Supp. 2023). The parties do not dispute that Ouk’s case is an “eligible” one. Therefore, consistent with the legislative prerogative that the commissioner “may” review eligible cases, he acted within the scope of his statutory authority when he conducted Ouk’s parole-review hearing.

Ouk’s argument that the word “necessary” prohibits the commissioner from conducting his parole-review hearing also fails because his interpretation is an unreasonable one. Numerous appellate court decisions have rejected Ouk’s interpretation of the word “necessary,” particularly when such a reading does not fit within the context of the statutory language. *See, e.g., In re Speed Limit for Union Pac. R.R. Through City of Shakopee*, 610 N.W.2d 677, 685 (Minn. App. 2000) (declining to interpret “necessary” to mean “absolutely necessary” and instead adopting the less stringent definition “reasonably necessary”), *rev. dismissed* (Minn. July 7, 2000). And the transition-period language provides no additional limiting phrases regarding the commissioner’s authority. Further, the transition-period language directs the commissioner to make necessary release decisions “in accordance with Minnesota Statutes, section 244.05, subdivision 5.” 2023 Minn. Laws ch. 52, art. 18, § 12(b), at 1124. In turn, Minn. Stat. § 244.05, subd. 5 (Supp. 2023), includes several provisions related to the conduct of a parole-review hearing.

Therefore, when the commissioner opted to review a given case for parole, it then became reasonably necessary to hold a parole-review hearing to effectuate the commissioner's review.

The transition-period language provided by the legislature unambiguously granted the commissioner the authority to conduct Ouk's parole-review proceeding.

II. The commissioner did not violate Ouk's procedural due-process rights.

Ouk argues that, in administering his parole-review hearing, "the Commissioner did not identify or provide sufficient notice of the procedural requirements [the Commissioner] intended to follow, nor did he provide Ouk with [the] significant material he relied upon in making his decision." Ouk claims his procedural due-process rights were therefore violated.

Under both the United States and Minnesota Constitutions, individuals facing the loss of a constitutionally or statutorily protected liberty interest at the hands of the government must be afforded due process of law. U.S. Const. amend. XIV, § 1; Minn. Const. art. I, § 7; *see also State ex rel. Taylor v. Schoen*, 273 N.W.2d 612, 617 (Minn. 1978). We review whether procedural due process has been violated *de novo*. *Sawh v. City of Lino Lakes*, 823 N.W.2d 627, 632 (Minn. 2012). In reviewing a due-process claim, we conduct a two-step analysis. *Id.* First, we assess whether the individual has been deprived of "a protected life, liberty, or property interest." *Id.* Second, we determine "whether the procedures followed by the [government] were constitutionally sufficient." *Id.* (quoting *Swarthout v. Cooke*, 562 U.S. 216, 219 (2011)).

As to the first step, we assume without deciding that Ouk has a protected liberty interest in parole under the Minnesota Constitution.² We then turn to whether the procedures followed were constitutionally sufficient.

The Minnesota Supreme Court has described the minimum due-process requirements for a parole release decision; they are that the potential parolee: (1) “receive a formal parole hearing upon first becoming eligible for parole”; (2) “receive a written notice of the date and hour of the hearing reasonably in advance”; (3) “[s]ubject to security considerations,” be provided the opportunity to appear in person and present documentary evidence in support of the application; (4) be provided a recorded proceeding; and (5) in “a reasonable time following the hearing . . . be given a full and fair explanation” of the decision in writing if parole is denied. *Taylor*, 273 N.W.2d at 617. The procedures implemented by the commissioner in conducting Ouk’s parole-review hearing comport with these due-process requirements. *See id.*

Ouk acknowledged that he received notice of his parole-review hearing, understood the purpose of the hearing, had sufficient time to prepare for the hearing, and was prepared

² Ouk agrees that under the federal constitution he has no such liberty interest. *See Greenholtz v. Inmates of Neb. Penal & Corr. Complex*, 442 U.S. 1, 7, 11 (1979) (holding that there is no constitutional or inherent right of a convicted person to be conditionally released before the expiration of a valid sentence). Instead, Ouk claims such a right under the Minnesota Constitution. However, no Minnesota appellate court has yet held that a liberty interest in parole exists under the Minnesota Constitution. In a Minnesota Supreme Court decision subsequent to *Greenholtz*, the supreme court determined that a *habeas corpus* petition is an appropriate means of reviewing allegations of the failure of parole authorities to follow applicable laws, but a concurrence joined by two other justices added that, in light of the *Greenholtz* decision, “[we] believe the *Taylor* procedures for parole consideration should be reaffirmed on the basis of our state constitution.” *Kelsey v. State*, 283 N.W.2d 892, 896 (Minn. 1979) (Scott, J., concurring specially).

to proceed with the hearing. Ouk attended the hearing with his attorney. The commissioner received and reviewed extensive information from Ouk as well as from multiple other sources. Ouk does not claim that he was prevented from providing any relevant information to the commissioner for his consideration, or that the commissioner ignored any information presented by him. And Ouk was given a written statement of the reasons for the commissioner's decision.

The commissioner did not violate Ouk's procedural due-process rights.

III. The commissioner did not violate Ouk's substantive due-process rights.

Ouk argues that the commissioner's decision to set his subsequent parole-review hearing in ten years was arbitrary and capricious because the commissioner failed to provide any rational explanation for extending his incarceration for that period and without an earlier review hearing. Ouk adds that, as a result, the commissioner's decision violated his constitutional right to substantive due process.

Substantive due process protects individuals against "certain arbitrary, wrongful government actions regardless of the fairness of the procedures used to implement them." *In re Linehan*, 594 N.W.2d 867, 872 (Minn. 1999) (quotations omitted). "When assessing a due process challenge, the analysis [appellate courts] apply depends on whether the statute implicates a fundamental right." *State v. Bernard*, 859 N.W.2d 762, 773 (Minn. 2015).

When a fundamental right is at stake, appellate courts apply the strict-scrutiny test to substantive due-process challenges under which "the state must show a legitimate and compelling interest for abridging that right." *Werlich v. Schnell*, 958 N.W.2d 354 (Minn.

2021) (quotation omitted). But when no fundamental right is at stake, as Ouk concedes is not, appellate courts apply the rational-basis test, under which a challenged government action will be deemed constitutional unless the plaintiff shows that the action does not “provide a reasonable means to a permissible objective.” *Id.* (quotation omitted).

In applying a rational-basis review, appellate courts must determine whether “(1) the [s]tate has a permissible objective” in carrying out the challenged action and “(2) whether the [commissioner] used reasonable means to obtain that objective and whether those means were arbitrary or capricious.” *Young*, 956 N.W.2d at 667. Ouk argues that the commissioner’s parole decision fails the rational-basis standard because he failed to “justify his decision in terms of an articulated governmental interest.”

Ouk makes no claim that the commissioner does not have a permissible objective when considering whether to place Ouk on parole. We therefore turn to the second prong of the rational-basis review, whether the commissioner used reasonable means to obtain that objective and whether those means were arbitrary or capricious.

As we have noted, the commissioner considered all the records from the crime and the DOC and testimony and statements from both parties’ counsel, Ouk, and his victim. The commissioner’s decision to continue Ouk’s incarceration was reasonable to obtain a permissible objective and was not arbitrary or capricious.

The commissioner did not violate Ouk’s substantive due-process rights.

Affirmed.