

*This opinion is nonprecedential except as provided by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
A25-0648**

Abdikafi Fowzi Abdi,
Appellant,

vs.

John Norman Melchior,
Respondent.

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

Hennepin County District Court
File No. 27-CV-23-16658

Jeremy L. Brantingham, Brantingham Law Office, P.A., Minneapolis, Minnesota (for appellant)

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Considered and decided by Smith, Tracy M., Presiding Judge; Frisch, Chief Judge;
and Segal, Judge.

NONPRECEDENTIAL OPINION

SEGAL, Judge

This appeal involves a challenge to the district court's grant of summary judgment, dismissing appellant's negligence suit against respondent-snowplow operator for injuries

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

incurred when the snowplow slid into appellant's semi-truck. The district court dismissed the suit, finding that the suit was barred by both official immunity and statutory snow-and-ice immunity. Appellant argues that neither type of immunity is applicable because respondent violated a ministerial duty, and appellant's injuries were caused by respondent's negligence, not the snow or ice conditions on the roadway. We affirm.

FACTS

In December 2022, the semi-truck driven by appellant Abdikafi Fowzi Abdi lost traction due to the icy conditions as Abdi drove up the circular freeway ramp from I-35W North to I-494 West. The semi-truck became stuck, fully blocking the ramp and causing a backup of other vehicles. The state patrol and the freeway incident response team redirected traffic and closed the ramp.

Respondent John Norman Melchior was operating a snowplow as a part of his employment with the Minnesota Department of Transportation (MnDOT) when his supervisor called him to de-ice the ramp. When Melchior arrived at the scene, his supervisor was present directing traffic away from the blocked ramp. Because the bottom of the ramp was blocked by traffic, the only way for Melchior to access the ramp to treat the ice was to start at the top of the ramp and drive backward.

According to Melchior's supervisor, MnDOT policy typically requires a second person to act as a flagger—a spotter—when backing up a snowplow to signal if it is safe to back up. If no flagger is available, the operator can still proceed but is directed to stop the snowplow, exit the vehicle, and visually inspect the planned path for “personnel or

obstructions” to ensure that it is safe to proceed. And the operator must “constantly use side and rear-view mirrors” and “always back slowly and cautiously.”

Melchior attested that, upon arriving at the top of the ramp, he got out of the snowplow “to find out what [he] was dealing with as [he] backed down.” Melchior then backed down the ramp, laying down salt and brine on the right side of the ramp. He stopped the plow about ten feet from Abdi’s semi-truck. Melchior then drove forward to the top of the ramp, exited the snowplow a second time to check his route, and began to back down the ramp to de-ice the left side of the ramp. Melchior applied the brakes to stop the snowplow on his second run, again about ten feet in front of Abdi’s semi-truck. But this time, the snowplow slid backward on the ice and collided with the front grill of Abdi’s semi-truck. Abdi, who was standing in the cab of the semi-truck at the time, suffered injuries when the collision caused him to fall forward.

Abdi filed suit against Melchior alleging negligence in the operation of the snowplow. Specifically, Abdi claimed in his complaint that Melchior was negligent because Melchior “backed up [the snowplow] without a flagger for guidance.” Melchior sought summary judgment in his favor, arguing that he was immune from suit on the basis of both official and statutory snow-and-ice immunity.¹ Abdi opposed the motion, arguing

¹ Statutory snow-and-ice immunity provides “that the state and its employees are not liable for . . . a loss caused by snow or ice conditions on a highway or public sidewalk that does not abut a publicly owned building or a publicly owned parking lot, except when the condition is affirmatively caused by the negligent acts of a state employee.” Minn. Stat. § 3.736, subd. 3(d) (2024).

that there were genuine issues of material fact and that statutory snow-and-ice immunity did not protect Melchior from his negligence.

The district court granted Melchior's motion for summary judgment. The district court determined that Melchior was entitled to official immunity under the undisputed facts because there was "no evidence to suggest that Melchior acted contrary to MnDOT policy," and the allegedly negligent conduct was an operational-level discretionary act within the scope of Melchior's duties as a governmental employee. The district court also found that Melchior was immune from suit under statutory snow-and-ice immunity because the undisputed evidence failed to demonstrate either that Melchior "violated official snow plowing policies, or that the incident was affirmatively caused by a negligent act." The district court therefore determined that Melchior was immune from Abdi's suit and ordered judgment in favor of Melchior.

DECISION

On appeal, Abdi argues that official immunity is not applicable because Melchior had a ministerial duty to look to see if there were any occupants in Abdi's semi-truck before backing down the ramp and that statutory snow-and-ice immunity is not applicable because Abdi's injuries were caused by Melchior's negligent driving, not the condition of the road. Because we conclude that Melchior's conduct is protected by official immunity, we address only that issue and need not decide whether Melchior's conduct is also protected by statutory snow-and-ice immunity.

A district court properly grants summary judgment when 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 the law.” Minn. R. Civ. P. 56.01; *Staub v. Myrtle Lake Resort, LLC*, 964 N.W.2d 613, 620 (Minn. 2021). “A fact is ‘material’ for purposes of summary judgment if its resolution will affect the outcome of the case.” *Sayer v. Minn. Dep’t of Transp.*, 790 N.W.2d 151, 162 (Minn. 2010). Appellate courts review de novo the grant of summary judgment to determine “whether there are genuine issues of material fact and whether the district court erred in its application of law.” *Montemayor v. Sebright Prods., Inc.*, 898 N.W.2d 623, 628 (Minn. 2017) (quotation omitted). A reviewing court views the evidence in the light most favorable to the party against whom summary judgment was granted. *STAR Ctrs., Inc. v. Faegre & Benson, L.L.P.*, 644 N.W.2d 72, 76-77 (Minn. 2002). “All doubts and factual inferences must be resolved against the moving party.” *Montemayor*, 898 N.W.2d at 628 (quotation omitted).

“A genuine issue of material fact . . . may not be established by unverified and conclusory allegations or metaphysical doubt about the facts.” *McBee v. Teams Industries, Inc.*, 925 N.W.2d 222, 230 (Minn. 2019) (quotations omitted). To demonstrate a genuine issue of material fact, the nonmoving party “must offer specific facts to show that there is a genuine issue of material fact for trial.” *Southcross Com. Ctr., LLP v. Tupy Props, LLC*, 766 N.W.2d 704, 707 (Minn. App. 2009).

Official immunity protects “a public official charged by law with duties which call for the exercise of . . . judgment or discretion [from being] personally liable to an individual for damages unless he is guilty of a willful or malicious wrong.” *Vassallo ex rel. Brown v. Majeski*, 842 N.W.2d 456, 462 (Minn. 2014) (quotation omitted). “Official immunity can apply to any act that involves an exercise of independent judgment,

even at the ‘operational level.’” *Id.* at 462. Whether official immunity applies turns on “(1) the conduct at issue; (2) whether the conduct is discretionary or ministerial and, if ministerial, whether any ministerial duties were violated; and (3) if discretionary, whether the conduct was willful or malicious.” *Id.*

We look to the “nature, quality, and complexity” of a duty to distinguish whether a duty is ministerial or discretionary. *Schroeder v. St. Louis Cnty.*, 708 N.W.2d 497, 507-08 (Minn. 2006). “[G]overnmental entities have the authority to eliminate by policy the discretion of their employees.” *Mumm v. Mornson*, 708 N.W.2d 475, 493 (Minn. 2006). This occurs when the governmental entity “sets a sufficiently narrow standard of conduct,” and the employee “is bound to follow the policy.” *Vassallo*, 842 N.W.2d at 462-63 (quotation omitted). “A ministerial duty leaves nothing to discretion; it is a simple, definite, duty arising under and because of stated conditions.” *Mumm*, 708 N.W.2d at 490. In contrast, a duty is discretionary “if it involves more individual professional judgment that necessarily reflects the professional goal and factors of a situation.” *Id.* at 490-91. The application of immunity is a question of law reviewed de novo. *Vassallo*, 842 N.W.2d at 462.

At oral argument, Abdi asserted that there are genuine issues of material fact as to whether Melchior violated a ministerial duty set by MnDOT policy by not doing a sufficient safety check when he exited his snowplow prior to backing up.² He maintains

² Melchior argues that Abdi’s insufficient-safety-check argument is not properly before this court, because it is a new theory raised for the first time on appeal. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (stating that a party may not “obtain review by raising the same general issue litigated [at the district court] but under a different theory”). As

that a sufficient safety check would include checking to see if anyone was in the cab of the semi-truck.

Abdi points to no official MnDOT policy, written or otherwise, dictating the scope of a safety check when backing up a snowplow without a flagger. Abdi relies instead on deposition testimony of Melchior and his supervisor concerning MnDOT training. As noted above, they attested that when backing a snowplow without a flagger, operators are instructed they must exit the snowplow and visually check for people and obstructions in the operator's planned path immediately before backing up. Abdi argues that Melchior's failure to check for occupants in the semi-truck cab when he "knew the risk of sliding into the [semi-truck]" constitutes a violation of MnDOT policy. We are not persuaded.

The policy identified by Abdi does not set a "sufficiently narrow standard" to establish a ministerial duty dictating that snowplow operators must check for occupants in vehicles before backing up. *See Vassallo*, 842 N.W.2d at 462-63. While the MnDOT policy identified by Abdi, as described in deposition testimony, does require a snowplow operator to exit the snowplow and check the planned path before backing up, it is silent as to the extent of that check beyond the planned path. As a result, the MnDOT policy does not set a "simple, definite, duty arising under and because of stated conditions" that an

noted above, Abdi's complaint asserted the absence of a flagger as the basis for his negligence claim, and this theory is also the theory of recovery addressed in the district court's summary judgment order. But we need not resolve whether the issue is properly before us because, assuming without deciding that it is, we conclude that the district court did not err in granting summary judgment in favor of Melchior. *See Doe v. Archdiocese of St. Paul*, 817 N.W.2d 150, 163 (Minn. 2012) (stating that "we may affirm a grant of summary judgment if it can be sustained on any grounds").

operator check the inside of any vehicles near the planned path. *See Mumm*, 708 N.W.2d at 490 (“A ministerial duty leaves nothing to discretion; it is a simple, definite, duty arising under and because of stated conditions.”).

The policy instead leaves the decision of whether to expand the safety check beyond obstructions in the planned path to the discretion of the snowplow operator. *See id.* at 490-91 (stating that a duty is discretionary “if it involves more individual professional judgment that necessarily reflects the professional goal and factors of a situation”). The question of whether Melchior’s safety check should have included looking for occupants in the cab of the semi-truck is thus left to the discretion of the snowplow operator and is not a ministerial duty under MnDOT policy.

The undisputed evidence also demonstrates that Melchior exited the snowplow and looked for obstructions in his planned path immediately before backing up the snowplow both times and thereby complied with his ministerial duties under MnDOT policy. We further note that Abdi makes no claim that Melchior acted willfully or maliciously. *See Vassallo*, 842 N.W.2d at 462 (stating that a discretionary duty of a governmental official is protected by official immunity unless the conduct was willful or malicious). We thus conclude that Melchior is protected by official immunity from Abdi’s suit and affirm the grant of summary judgment in Melchior’s favor.

Affirmed.