

*This opinion is nonprecedential except as provided by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
A25-0694**

Matt Monoleetio Vogel, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed February 2, 2026
Affirmed
Johnson, Judge**

Beltrami County District Court
File Nos. 04-CR-21-3117, 04-CR-22-2316, 04-CR-22-3678

Cathryn Middlebrook, Chief Appellate Public Defender, Chelsie M. Willett, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Keith Ellison, Attorney General, St. Paul, Minnesota; and

David L. Hanson, Beltrami County Attorney, David P. Frank, Chief Assistant County Attorney, Bemidji, Minnesota (for respondent)

Considered and decided by Johnson, Presiding Judge; Ross, Judge; and Ede, Judge.

NONPRECEDENTIAL OPINION

JOHNSON, Judge

In 2023, Matt Monoleetio Vogel pleaded guilty to and was convicted of one charge of second-degree driving while impaired (DWI) and two charges of first-degree DWI in three different cases. At his plea hearing, Vogel admitted that his driver's license had been revoked or canceled on three prior occasions. In 2024, Vogel petitioned for postconviction

relief. He argued that his two first-degree DWI convictions had been erroneously enhanced to felonies based on the prior revocations and cancellation of his driver's license. He also argued that the statute requiring the imposition of a five-year term of conditional release is unconstitutional. The postconviction court denied Vogel's petition. We conclude that Vogel's DWI convictions were properly enhanced and that his constitutional challenge to the conditional-release statute is without merit. Therefore, we affirm.

FACTS

This appeal arises from three cases in which Vogel was charged with and convicted of DWI based on three separate incidents. In each incident, Vogel was stopped by a law-enforcement officer in Beltrami County, he was required by a search warrant to produce a blood or urine sample, and chemical testing showed that he was impaired by methamphetamine.

The first incident occurred in December 2021. For that incident, the state charged Vogel with two offenses, including second-degree DWI, in violation of Minn. Stat. § 169A.20, subd. 1(7) (Supp. 2021). The second incident occurred eight months later in August 2022. For that incident, the state charged Vogel with two offenses, including first-degree DWI, in violation of Minn. Stat. § 169A.20, subd. 1(7) (2022). The third incident occurred four months later in December 2022. For that incident, the state charged Vogel with two offenses, including first-degree DWI, in violation of Minn. Stat. § 169A.20, subd. 1(7).

In May 2023, the state and Vogel entered into a plea agreement. Vogel agreed to plead guilty to six offenses, including one DWI charge in each of the three cases described

above. At the plea hearing, Vogel admitted that, at the time of the first incident, his driver's license had been revoked in September 2018 for an incident occurring in July 2018 and that he had been convicted of fourth-degree DWI in October 2018 for an incident occurring in June 2018. Accordingly, Vogel pleaded guilty to a charge of second-degree DWI, a gross misdemeanor, in the first case. In addition, Vogel admitted that, at the time of the second and third incidents, his driver's license had been canceled because of a DWI incident occurring in June 2022. Accordingly, Vogel pleaded guilty to charges of first-degree DWI, which are felonies, in the second and third cases.

In June 2023, the district court imposed sentences of 364 days in jail for the second-degree DWI conviction in the first case and 72 months of imprisonment for each of the first-degree DWI convictions in the second and third cases. Vogel did not pursue a direct appeal.

In October 2024, Vogel filed a pleading seeking relief under rule 27.03, subdivision 9, of the rules of criminal procedure and section 590.01 of the Minnesota Statutes. The postconviction court treated the filing as a postconviction petition, and neither party has objected to that characterization.

Vogel made two arguments to the postconviction court. First, he argued that two of his DWI charges were erroneously enhanced to first-degree charges on the ground that his prior DWI-related incidents did not satisfy the statutory requirements for enhancement. Second, he argued that the statute requiring the imposition of a five-year term of conditional release upon a first-degree DWI conviction is unconstitutional on the grounds

that the statute imposes a duplicative penalty, violates separation-of-powers principles, and is vague.

In February 2025, the postconviction court filed an order in which it denied Vogel’s petition. With respect to Vogel’s first argument, the postconviction court concluded that a “qualified prior impaired driving incident” may be either a prior DWI conviction or a prior DWI-related loss of license but need not be both. Second, the postconviction court concluded that Vogel did not establish that the conditional-release statute is unconstitutional. Vogel appeals.

DECISION

I. DWI Enhancements

Vogel first argues that the postconviction court erred by rejecting his challenge to the enhancements of his two first-degree DWI convictions.

“It is a crime for any person to drive, operate, or be in physical control of any motor vehicle” if “the person’s body contains any amount of a controlled substance listed in Schedule I or II” Minn. Stat. § 169A.20, subd. 1(7). Methamphetamine is a Schedule II controlled substance. Minn. Stat. § 152.02, subd. 3(d)(2) (2022); *State v. Clarin*, 913 N.W.2d 717, 719 (Minn. App. 2018), *rev. denied* (Minn. Aug. 7, 2018).

The level of a DWI offense depends on whether there are aggravating factors. *See* Minn. Stat. § 169A.20, subd. 3. If there are no aggravating factors, a person who violates section 169A.20 is guilty of fourth-degree DWI, a misdemeanor offense. Minn. Stat. § 169A.27, subds. 1-2 (2022). “[I]f one aggravating factor was present when the violation was committed,” a person is guilty of third-degree DWI, a gross-misdemeanor offense.

Minn. Stat. § 169A.26, subds. 1(a), 2 (2022). “[I]f two or more aggravating factors were present when the violation was committed,” a person is guilty of second-degree DWI, also a gross-misdemeanor offense. Minn. Stat. § 169A.25, subds. 1(a), 2 (2022). And a person is guilty of first-degree DWI, a felony offense, if the person previously has been convicted of felony DWI or if the person “commits the violation within ten years of the first of three or more qualified prior impaired driving incidents.” Minn. Stat. § 169A.24, subds. 1(1)-(2), 2 (2022).

The term “aggravating factor” is defined to include “a qualified prior impaired driving incident within the ten years immediately preceding the current offense.” Minn. Stat. § 169A.03, subd. 3(1) (2022). Vogel focuses his argument on the phrase “qualified prior impaired driving incident,” which appears both in the statutory definition of “aggravating factor” and in the first-degree-DWI statute. That phrase is defined by statute as follows: “‘Qualified prior impaired driving incident’ includes prior impaired driving convictions and prior impaired driving-related losses of license.” Minn. Stat. § 169A.03, subd. 22.¹ Vogel contends that the statutory definition of “qualified prior impaired driving incident” requires the state to prove two facts with respect to each prior incident: *both* a “prior impaired driving conviction[.]” *and* a “prior impaired driving-related loss[.] of license.” He emphasizes that the statutory definition uses the word “and,” which, he asserts, “is typically used in the conjunctive form.”

¹The latter part of that definition—“prior impaired driving-related losses of license”—also is defined by statute, as follows: “‘Prior impaired driving-related loss of license’ includes a driver’s license suspension, revocation, cancellation, denial, or disqualification” Minn. Stat. § 169A.03, subd. 21(a).

Vogel’s argument is inconsistent with another relevant statute and is foreclosed by caselaw. A statute captioned “determining qualified prior DWI incidents” provides, “When a person has a prior impaired driving conviction and a prior impaired driving-related loss of license based on the same course of conduct, *either the conviction or the loss of license may be considered a qualified prior impaired driving incident, but not both.*” Minn. Stat. § 169A.09 (2022) (emphasis added). In *State v. Miller*, 689 N.W.2d 177 (Minn. App. 2004), *rev. denied* (Minn. Jan. 26, 2005), this court took note of section 169A.09 and stated that, “because ‘qualified prior impaired driving incident’ expressly ‘includes’ both convictions and license revocations, . . . *if either of these events took place within the preceding ten years, the offense is eligible for enhancement under Minn. Stat. § 169A.24.*” *Id.* at 179 (emphasis added) (quoting Minn. Stat. § 169A.24 (2002)). We explained further in *Miller* that, when the statutory definition of “qualified prior impaired driving incident” is read together with section 169A.09, “the plain meaning is that . . . either a conviction or a license revocation suffices.” *Id.*

Thus, the postconviction court did not err because the district court properly enhanced Vogel’s DWI convictions.

II. Conditional Release

In a *pro se* supplemental brief, Vogel argues that the postconviction court erred by rejecting his constitutional challenge to the statute that required the district court to impose a five-year term of conditional release. On appeal, he argues that the statute is unconstitutional for only one reason: vagueness.

The statute challenged by Vogel provides that, if a person is convicted of first-degree DWI and sentenced to prison, the district court “shall provide that after the person has been released from prison the commissioner [of corrections] shall place the person on conditional release for five years.” Minn. Stat. § 169A.276, subd. 1(d) (2022). The commissioner “shall impose any conditions of release that the commissioner deems appropriate.” *Id.* “If the person fails to comply with any condition of release, the commissioner may revoke the person’s conditional release and order the person to serve all or part of the remaining portion of the conditional release term in prison.” *Id.*

Vogel contends that section 169A.276, subdivision 1(d), is unconstitutionally vague on the ground that there is too much uncertainty concerning the conditions the commissioner might impose and the criteria the commissioner might apply when deciding whether to revoke conditional release. Vogel characterizes his argument as a facial challenge, which is appropriate because, at the time of proceedings in the postconviction court, he had not yet been placed on conditional release, let alone had his conditional release revoked.

“Facial challenges are disfavored for several reasons.” *McCaughtry v. City of Red Wing*, 831 N.W.2d 518, 522 (Minn. 2013) (quoting *Washington State Grange v. Washington State Republican Party*, 552 U.S. 442, 450-51 (2008)). They “often rest on speculation” and, thus, “raise the risk of premature interpretation of statutes on the basis of factually barebones records.” *Id.* (quotations omitted). In addition, they “also run contrary to the fundamental principle of judicial restraint that courts should neither anticipate a question of constitutional law in advance of the necessity of deciding it nor formulate a

rule of constitutional law broader than is required by the precise facts to which it is to be applied.” *Id.* (quotation omitted). Accordingly, “in a facial challenge to constitutionality, the challenger bears the heavy burden of proving that the legislation is unconstitutional in all applications.” *Id.* (quotation omitted). That burden requires the challenger to “establish that no set of circumstances exists under which the Act would be valid.” *Id.* (quotation omitted).

The void-for-vagueness doctrine is based on the Due Process Clause of the Fourteenth Amendment to the United States Constitution. U.S. Const. amend. XIV, § 1; *State v. Ness*, 834 N.W.2d 177, 184 (Minn. 2013) (citing *Kolender v. Lawson*, 461 U.S. 352, 358 (1983)). A statute may be unconstitutionally vague ““if it fails to provide people of ordinary intelligence a reasonable opportunity to understand what conduct it prohibits”” or ““if it authorizes or even encourages arbitrary and discriminatory enforcement.”” *Ness*, 834 N.W.2d at 184 (quoting *Hill v. Colorado*, 530 U.S. 703, 732 (2000)).

Vogel, who is representing himself on this issue, has not cited any caselaw applying the void-for-vagueness doctrine to Minnesota’s conditional-release statute or any similar release statute. Likewise, the state did not cite any such caselaw in its responsive brief. The state cites caselaw for the proposition that Minnesota’s conditional-release scheme does not violate the constitutional separation-of-powers principle because “the commissioner’s statutory authority over supervised and conditional release operates within and does not impede the court’s sentencing authority.” *State v. Schwartz*, 628 N.W.2d 134, 140-41 (Minn. 2001). But that opinion has little relevance to the void-for-vagueness doctrine. This court’s independent research reveals that federal appellate courts have

recognized that a condition imposed on supervised release may violate the void-for-vagueness doctrine. *See, e.g., United States v. Evans*, 883 F.3d 1154, 1162-64 (9th Cir. 2018); *United States v. Sandidge*, 863 F.3d 755, 758-59 (7th Cir. 2017); *United States v. Maloney*, 513 F.3d 350, 357-59 (3d Cir. 2008). Unconstitutionally vague conditions are more likely to appear in as-applied challenges. *See, e.g., Sandidge*, 863 F.3d at 758-59; *Maloney*, 513 F.3d at 359. Because Vogel makes a facial challenge, however, he must prove “that the legislation is unconstitutional in all applications” such that “no set of circumstances exists under which the Act would be valid.” *See McCaughtry*, 831 N.W.2d at 522 (quotations omitted). Accordingly, we seek to determine whether there is any possible set of circumstances in which conditional release may be imposed and enforced in Minnesota consistent with the Due Process Clause.

Vogel correctly asserts the challenged statute authorizes the commissioner of corrections to impose conditions of release and to revoke conditional release but does not expressly impose limitations on the commissioner’s authority. *See* Minn. Stat. § 169A.276, subd. 1(d). But the statute refers to other laws that do limit the commissioner’s authority. In considering whether the statute is unconstitutionally vague, it is appropriate to refer to other laws governing conditional release. *See Ness*, 834 N.W.2d at 184-86 (considering rules of criminal procedure in determining whether section 629.75, subdivision 1, is unconstitutionally vague).

The challenged statute states that conditional release for a person convicted of first-degree DWI “is governed by provisions relating to supervised release.” Minn. Stat. § 169A.276, subd. 1(d). The statute governing supervised release requires the

commissioner to “adopt by rule standards and procedures for the revocation of supervised or conditional release.” Minn. Stat. § 244.05, subd. 2 (2022). The statute further provides, “Procedures for the revocation of release shall provide due process of law for the inmate.” *Id.*

The rules adopted by the commissioner specify nine standard conditions that apply to all persons on supervised release or conditional release. Minn. R. 2940.2000 (2021). Special conditions are allowed, but they must be jointly developed by a person’s supervising agent and a program-review team, and they must be approved by an executive hearing officer. Minn. R. 2940.2100-.2300 (2021). When a person is placed on release, the person must receive notice of the applicable conditions, which must be read to the person. Minn. R. 2940.2500 (2021). In addition, the person must sign a document stating the conditions, and the signing shall be witnessed. *Id.* These administrative rules and procedures help ensure that “people of ordinary intelligence” have “a reasonable opportunity to understand what conduct [a condition] prohibits.” *See Ness*, 834 N.W.2d at 184 (quotations omitted).

Similarly, revocation of supervised release and conditional release also is regulated by the administrative rules adopted by the commissioner. The general nature of the conduct that may lead to revocation is specified in an administrative rule. Minn. R. 2940.3600 (2021). Supervising agents are required to investigate alleged violations. Minn. R. 2940.3900 (2021). A person whose release may be revoked is entitled to a hearing before an executive hearing officer, who shall give notice to the state public defender’s office. Minn. R. 2940.3500, .4100, .4300 (2021). Furthermore, a person whose conditional release

was revoked may obtain judicial review of the commissioner's revocation decision by filing a petition for writ of habeas corpus. *State v. Schnagl*, 859 N.W.2d 297, 303 (Minn. 2015).

The applicable statutes and administrative rules limit the commissioner's direction in numerous ways. In doing so, the applicable statutes and administrative rules ensure that section 169A.276, subdivision 1(d), does not "encourage[] arbitrary and discriminatory enforcement" and that due process is provided. *See Ness*, 834 N.W.2d at 184-86 (quotation omitted); *see also Village of Hoffman Estates v. Flipside, Hoffman Estates, Inc.*, 455 U.S. 489, 504 (1982) (acknowledging that local governmental entity "may adopt administrative regulations that will sufficiently narrow potentially vague or arbitrary interpretations" of ordinance and thereby "minimize the dangers of arbitrary enforcement"). In light of these procedural safeguards, it is relatively easy to envision a constitutional application of the laws governing conditional release. *See McCaughtry*, 831 N.W.2d at 522. Consequently, Vogel's facial challenge fails because he cannot prove that the laws governing conditional release are unconstitutional in all applications. *See id.*

Thus, the postconviction court did not err by concluding that section 169A.276, subdivision 1(d), is not unconstitutionally vague on its face.

In sum, the postconviction court did not err by denying Vogel's petition.

Affirmed.