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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-1451**

In the Matter of the Civil Commitment of: Hollis Larson.

**Filed March 16, 2026
Affirmed
Bentley, Judge**

Commitment Appeal Panel (CAP)
File No. AP24-9129

Hollis J. Larson, Moose Lake, Minnesota (self-represented appellant)

Keith Ellison, Attorney General, Anthony R. Noss, Mara Sybesma, Assistant Attorneys General, St. Paul, Minnesota (for respondent Direct Care and Treatment Executive Board)

Considered and decided by Bentley, Presiding Judge; Bratvold, Judge; and Schmidt, Judge.

NONPRECEDENTIAL OPINION

BENTLEY, Judge

This appeal stems from a decision of the Commitment Appeal Panel (CAP), dismissing appellant's petition for discharge from commitment after a phase-one evidentiary hearing. Appellant primarily argues that the CAP erred because his diagnoses do not justify his continued commitment. Appellant also contends that he was denied effective assistance of counsel at the Special Review Board (SRB) hearing that preceded the CAP's de novo consideration of his petition. We affirm.

FACTS

Larson was civilly committed in 2008 and has resided at the Minnesota Sex Offender Program (MSOP) since that time. He was committed after serving prison sentences stemming from 1992 and 1993 convictions for multiple counts of first- and second-degree criminal sexual conduct.¹ In the order for Larson's initial commitment, the district court credited expert testimony that Larson suffered from antisocial personality disorder, among other mental-health conditions, and that his "personality disorders, mood states, and sexual deviancy are intertwined and co-existent in his inability to adequately control his sexual behaviors."

While at MSOP, Larson has had consistent behavioral problems resulting in frequent disciplinary action. Larson also has refused to participate in sex-offender treatment because he does not believe he needs it. As the CAP explained, the most recent mental-health assessment in the record identified that Larson has the following mental-health diagnoses: "encounter for mental health services for perpetrator of nonparental child sexual abuse," "posttraumatic stress disorder," "persistent depressive disorder (dysthymia)," "antisocial personality disorder," mild alcohol and cannabis use disorders that are in sustained remission in his controlled environment, and "problems related to

¹ Larson's background and offense history are summarized in *In re Civ. Commitment of Larson*, No. A08-1188, 2009 WL 1049171, at *1-2 (Minn. App. Apr. 21, 2009), *rev. denied* (Minn. June 30, 2009).

other legal circumstances (civil commitment).” Previous assessments also diagnosed him with “paraphilia not otherwise specified.”²

Larson filed a petition for discharge in October 2022 and was appointed counsel to represent him before the SRB.³ After the SRB recommended denial of the petition, Larson filed a petition for rehearing and reconsideration of that recommendation with the CAP. He waived his right to counsel before the CAP and represented himself in the proceedings.

The CAP held an evidentiary hearing on Larson’s petition for rehearing and reconsideration in May 2025. Larson presented multiple exhibits for the CAP’s consideration, including psychological evaluations, records of head injuries, and documents related to his underlying offenses and initial commitment. Larson also called seven witnesses to testify: a business associate; a friend; two of his sisters; a treating psychologist at MSOP, Dr. Gary Ankarlo; a sexual violence risk assessor, Dr. Jessica Scharf; and the SRB treatment report author. At the end of the hearing, respondent

² Some documents in the record are not accessible to the public. *See* Minn. R. Pub. Access to Recs. of Jud. Branch 4, subd. 1(f)(1). But “we are not precluded ‘from mentioning the contents’ of confidential or sealed documents when the information is ‘relevant to the particular issues or legal argument being addressed in the proceeding.’” *Life Time, Inc. v. Zurich Am. Ins. Co.*, 25 N.W.3d 901, 904 n.1 (Minn. App. 2025), (quoting Minn. R. Pub. Access to Recs. of Jud. Branch 4, subd. 4), *rev. denied* (Minn. Oct. 29, 2025). We also are not “constrained from disclosing information contained in the publicly filed briefs.” *Id.* Any reference to confidential documents herein is based on the parties’ publicly filed briefs, other public records, or is relevant to our determination of the issues on appeal.

³ Larson has previously filed other appeals seeking a reduction in custody. *See Larson v. Jesson*, 847 N.W.2d 531 (Minn. App. 2014); *In re Civ. Commitment of Larson*, No. A14-0662, 2014 WL 6090699 (Minn. App. Nov. 17, 2014), *rev. denied* (Minn. Jan. 20, 2015); *Larson*, 2009 WL 1049171.

Minnesota Department of Human Services (DHS) and respondent Goodhue County moved to dismiss Larson’s discharge petition.⁴

After the hearing, the CAP granted the motion to dismiss and denied the petition. In a memorandum accompanying its order, the CAP stated that Larson did not present “prima facie evidence to support moving to a further hearing on discharge, under either the statutory criteria for discharge or due process considerations.” It also stated that

[Larson] did not produce competent evidence that, if true, could show he is capable of making an acceptable adjustment to open society, is no longer dangerous to the public, and no longer in need of treatment and supervision. [Larson] is not participating in sex offender treatment and he has an Antisocial Personality Disorder that drove his sexual offending.

Larson appeals.

DECISION

A person who is civilly committed as a sexually dangerous person may seek a reduction in custody by petitioning for transfer, provisional discharge, or full discharge. Minn. Stat. §§ 253D.29-.31 (2024 & Supp. 2025). The committed person may file a petition with the SRB, which then conducts a hearing and issues a recommendation to the CAP. Minn. Stat. § 253D.27, subds. 2, 4 (2024). If the SRB recommends denial of the petition, the committed person may submit a request with the CAP for rehearing and reconsideration of the SRB’s recommendation. Minn. Stat. § 253D.28, subd. 1(a) (2024). The CAP proceeding then advances in two phases.

⁴ Both parties moved to dismiss, but the county did not file a responsive brief on appeal.

At a phase-one hearing on a petition for discharge, the petitioner bears the burden of production to make a prima facie case by producing “sufficient, competent evidence that, if proven, would entitle the petitioner to relief.” *Coker v. Jesson*, 831 N.W.2d 483, 485-86 (Minn. 2013) (quotation omitted). If the petitioner satisfies their burden of production during the phase-one hearing, the CAP holds a phase-two hearing at which the party opposing the petition bears the burden of proving “by clear and convincing evidence that the discharge . . . should be denied.” *Id.* at 486 (quotation omitted).

After the phase-one hearing, the party opposing the petition may move to dismiss it under Minnesota Rule of Civil Procedure 41.02(b) on the basis that the petitioner did not meet their burden to establish a prima facie case for discharge. *See id.* at 488 (explaining the applicability of the rule to CAP proceedings). When considering a motion to dismiss under rule 41.02(b), the CAP may not weigh evidence or make credibility assessments and must view the evidence in the light most favorable to the petitioner. *Id.* at 490-91. If the CAP determines that the petitioner failed to present a prima facie case, it will dismiss the petition and forgo the phase-two hearing. *See Larson v. Jesson*, 847 N.W.2d 531, 535 (Minn. App. 2014).

This court reviews the CAP’s dismissal of a discharge petition under rule 41.02(b) de novo. *Id.* at 534.⁵ In doing so, we view the evidence in the light most favorable to the

⁵ The CAP also denied Larson’s petition on the merits. Typically, appellate courts review the CAP’s denial of a petition absent a rule 41.02(b) dismissal for clear error. *Larson*, 847 N.W.2d at 534. Here, we apply the de novo standard of review because, even under that greater level of scrutiny, we conclude that Larson has not established a basis to reverse the CAP’s decision.

petitioner without weighing evidence or assessing credibility. *See Foster v. Jesson*, 857 N.W.2d 545, 549 (Minn. App. 2014).

We first consider Larson’s arguments that the CAP erred in dismissing his petition. We then address his alternative argument that he is entitled to relief because he received ineffective assistance of counsel during his SRB hearing.

I

A petitioner who is civilly committed as a sexually dangerous person “shall not be discharged unless it appears to the satisfaction of the [CAP] . . . that the committed person 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. § 253D.31. The CAP also must consider “whether specific conditions exist to provide a reasonable degree of protection to the public and to assist the committed person in adjusting to the community.” *Id.*

Larson does not directly address the statutory factors relevant to a discharge determination and instead broadly argues that he no longer suffers from a mental-health condition that justifies his commitment. We first consider his arguments within the statutory framework and construe them as a challenge to the CAP’s determination that he did not make a prima facie case that he “is no longer dangerous to the public” and “is no longer in need of treatment and supervision.” *Id.* We then address the due-process issue he raises.

The only evidence Larson presented at the phase-one hearing that supported his position that he does not suffer from a mental-health condition that justifies his

commitment were his own assertions. We already have rejected the premise that, “by themselves, conclusory assertions by a committed person are sufficient to avoid dismissal of a petition for discharge from MSOP.” *In re Civ. Commitment of Poole*, 921 N.W.2d 62, 69 (Minn. App. 2018), *rev. denied* (Minn. Jan. 15, 2019).

The other evidence Larson presented, even viewed in the light most favorable to him, does not make a prima facie case for discharge. That is, it does not possibly show that he no longer needs treatment and supervision, or that he is not a danger to the public. To the contrary, the record shows that Larson has participated in minimal treatment during his commitment and continues to suffer from antisocial personality disorder.⁶ Dr. Scharf testified that there is a correlation between antisocial personality disorder and sexual offending and that treatment is beneficial towards risk reduction. She also averred that low motivation for treatment, a diagnosis of antisocial personality disorder, and certain hostile behaviors are all related to the risk of recidivism.⁷

⁶ Larson disputes that he suffers from antisocial personality disorder and maintains instead that he suffers from posttraumatic stress disorder and “organic brain damage” that “mimic[s] the symptoms of [antisocial personality disorder].” His position is not reflected in the record.

⁷ Larson argues that the CAP erred by not holding a hearing to establish the admissibility of expert testimony from Dr. Scharf and that the CAP acted improperly by making credibility determinations, weighing the evidence, and not viewing the evidence in the light most favorable to him. Regarding his argument about the admissibility of Dr. Scharf’s testimony, we note that Larson called her as his witness and then moved to strike her testimony after it was unfavorable to his position. We are not persuaded by his arguments that her testimony was inadmissible. That said, we would reach the same conclusion even if we were to set aside her testimony. Viewing the evidence in the light most favorable to Larson in our de novo review, including his mental-health assessments, medical records, Dr. Ankarlo’s testimony, and the testimony of his personal witnesses, the record still does

Larson disputes that a diagnosis of antisocial personality disorder is sufficient to justify his continued civil commitment because it does not necessarily mean he is sexually dangerous. But we have already implicitly rejected that position on review of Larson's prior challenges to his commitment. *See In re Civ. Commitment of Larson*, No. A14-0662, 2014 WL 6090699, at *3 (Minn. App. Nov. 17, 2014) (citing expert testimony that Larson's "more prominent and primary diagnosis" is "his antisocial personality disorder" and upholding his commitment even assuming any paraphilic disorder diagnoses are inaccurate), *rev. denied* (Minn. Jan. 20, 2015); *In re Civ. Commitment of Larson*, No. A08-1188, 2009 WL 1049171, at *4 (Minn. App. Apr. 21, 2009) (crediting that two experts "testified that Larson's antisocial and narcissistic personality disorders were significant factors in their determination" that Larson meets the criteria for commitment as a sexually dangerous person), *rev. denied* (Minn. June 30, 2009). Other caselaw supports that antisocial personality disorder may be a basis to justify civil commitment. *See, e.g., In re Linehan*, 594 N.W.2d 867, 877-78 (Minn. 1999) (affirming Linehan's commitment as a sexually dangerous person based in part on a diagnosis of antisocial personality disorder). In his present petition, Larson has not offered evidence, aside from his own assertions, that he no longer needs treatment and supervision relating to his antisocial personality disorder or that he is no longer a danger to the public. Rather, the record supports the CAP's conclusion that Larson "is not participating in sex offender treatment" and that he still suffers from the antisocial personality disorder "that drove his sexual offending."

not establish a prima facie case that he no longer needs treatment and supervision relating to his antisocial personality disorder.

We acknowledge that Larson presented several nonexpert witnesses who testified that they do not believe Larson is dangerous and believe that he could adjust to life in the community. Their testimony may have been relevant to the CAP's consideration of "whether specific conditions exist to provide a reasonable degree of protection to the public and to assist the committed person in adjusting to the community." Minn. Stat. § 253D.31. But their testimony is not relevant to whether Larson has ongoing treatment and supervision needs, or whether Larson's treatment needs reveal a risk to the community. *Cf. Fryklind v. Jackson*, 252 N.W. 232, 234 (Minn. 1933) ("It is settled that a lay witness may state facts within his own knowledge and observation as to another's health, but may not express mere opinion.").

Because Larson did not present competent evidence that, if true, could establish that he no longer needs treatment and supervision and that he is not a danger to the public, he has not made a prima facie case for discharge under the statute. *See* Minn. Stat. § 253D.31.

For similar reasons, we also conclude that he has not established that his continued commitment amounts to a due-process violation. To satisfy due process, an individual's continued commitment must generally "bear some reasonable relation to the purpose for which the individual is committed." *Lidberg v. Steffen*, 514 N.W.2d 779, 783 (Minn. 1994) (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). In *Lidberg*, the Minnesota Supreme Court concluded that requiring an individual to follow statutory discharge provisions satisfied that reasonable-relationship demand. *Id.*; *see also Call v. Gomez*, 535 N.W.2d 312, 319 (Minn. 1995) (holding that the reasonable-relationship requirement is satisfied if the committed person "is confined for only so long as he or she continues both

to need further inpatient treatment and supervision for his . . . disorder and to pose a danger to the public”). As discussed, when Larson was committed in 2008, his central diagnosis was antisocial personality disorder. The record indicates that Larson still meets the criteria for that diagnosis and that he has not actively participated in treatment to address it. Because that evidence shows he is still in need of treatment and the record does not support that he is no longer a danger to the public, his continued commitment is reasonably related to his original commitment. *See Call*, 535 N.W.2d at 319. Accordingly, due process does not require Larson’s discharge from commitment.

II

Larson alternatively argues that his appointed counsel at the SRB hearing was ineffective and violated his right to counsel under Minnesota Statutes section 253D.20 (2024). Larson contends that the attorney appointed to represent him during his 2024 SRB hearing failed “to be a vigorous advocate,” because he “refused to present, or file, any of Larson’s motions or other documents” and “failed to rebut or object to and/or failed to offer conflicting evidence” against the offered expert testimony. He further argues that if his attorney had done those things, the result of his SRB hearing would have been different.

We analyze ineffective-assistance-of-counsel claims in civil commitment cases under the standard set forth in *Strickland v. Washington*, 466 U.S. 668 (1984). *See In re Civ. Commitment of Johnson*, 931 N.W.2d 649, 657 (Minn. App. 2019), *rev. denied* (Minn. Sept. 17, 2019). To succeed on an ineffective-assistance-of-counsel 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.” *Id.* (quoting *Strickland*, 466 U.S. at 687-88, 694). The burden is on the person raising the ineffective-assistance-of-counsel claim to show error and resulting prejudice. *Id.* at 659.

Even assuming without deciding that Larson's counsel for the SRB hearing fell below an objective standard of reasonableness, Larson is not entitled to relief because he has not alleged any resulting prejudice. The CAP reviewed his petition de novo. *See* Minn. Stat. § 253D.28, subd. 3 (2024) (“The panel shall consider the petition de novo.”). Before the CAP, Larson chose to represent himself, waived his right to counsel, and was able to present his case as he desired. He had control over the strategy, the evidence presented, and the questioning of witnesses. The CAP then took all of the evidence and his arguments into consideration and made an independent decision on his discharge petition. He has not explained how his counsel's strategy at the SRB affected the CAP's de novo consideration of his petition.

As a result, Larson cannot show he was prejudiced by any alleged ineffective assistance of counsel he received before the SRB, and he is not entitled to relief.

Affirmed.