

*This opinion is nonprecedential except as provided by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
A25-1492**

In the Matter of the Civil Commitment of: Luis Antonio Serna.

**Filed March 9, 2026
Affirmed
Worke, Judge**

Commitment Appeal Panel
File No. AP24-9119

Luis A. Serna, Moose Lake, Minnesota (pro se appellant)

Keith Ellison, Attorney General, Katherine Wong, Assistant Attorney General, St. Paul, Minnesota (for respondent Direct Care and Treatment Board)

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

Considered and decided by Worke, Presiding Judge; Bratvold, Judge; and Florey, Judge.*

NONPRECEDENTIAL OPINION

WORKE, Judge

Appellant, who is indeterminately committed as a sexually dangerous person (SDP), challenges the decision of the commitment appeal panel (CAP) to dismiss his petition for discharge. We affirm.

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

FACTS

In 2001, appellant Luis Antonio Serna was indeterminately civilly committed as a SDP, and has been at the Minnesota Sex Offender Program (MSOP) facility since. Serna has been diagnosed with Other Specified Paraphilic Disorder, and Other Specified Personality Disorder, with Antisocial Features. His adult sexual-offending history includes three convictions and two allegations of offenses against juvenile and adult females.

Since 2013, Serna has declined to participate in treatment at MSOP and has indicated no intention of participating. His stated reasons for declining treatment include lack of progress, disagreements with aspects of clinical documentation, and difficulties with his memory. Serna was also not concerned with recidivism because of his age (76 years old), and he believed that his offending was motivated by “anger and alcohol,” and those factors are no longer present in his life. But, because Serna has declined treatment, he “has not discussed his offending behaviors or sexuality,” and has failed to “demonstrate insight into the motivators for his offending.”

In May 2023, Serna requested a custody reduction or full discharge. The Special Review Board (SRB) held a hearing before recommending denying Serna’s request based on his lack of progress in treatment and remaining treatment needs. The SRB stated that Serna’s history presents a number of factors associated with future risk for reoffending and he therefore remained an “untreated individual who sexually offended and has not addressed the issues for which he was civilly committed.”

Serna requested a rehearing and reconsideration of his petition by the CAP. At a hearing, Serna testified and offered several exhibits, including: (1) a June 6, 2024 treatment

report, (2) a June 18, 2024 sexual-violence risk assessment, (3) an April 14, 2025 quarterly treatment progress report, and (4) a December 30, 2024 mental-health assessment.¹ After Serna rested, respondent Direct Care and Treatment Executive Board moved to dismiss Serna’s petition under Minn. R. Civ. P. 41.02(b). Respondent Hennepin County joined the motion to dismiss.

On August 6, 2025, the CAP granted the motion to dismiss and denied Serna’s petition. The CAP concluded that Serna failed to meet his burden to support a custody reduction. The CAP relied on the record showing that “[Serna] has not been participating in MSOP treatment since 2013.” The CAP did not find evidence of “progress [showing] . . . that [Serna] no longer requires the security and institutionalization” of MSOP. The CAP found that the evidence failed to show that Serna could not participate in treatment or that he was no longer dangerous.

This appeal followed.

DECISION

Serna argues that he is entitled to full discharge from commitment.² A person who is committed as a SDP may petition for a reduction in custody, including full discharge. Minn. Stat. § 253D.27, subd. 2 (2024). When the SRB recommends denying a

¹ These documents are in the record; however, Serna did not provide this court with a transcript of the hearing. *See* Minn. R. Civ. App. P. 110.02, subd. 1 (stating that, if a transcript is necessary for an appeal, it is duty of appellant to order that transcript).

² Serna’s petition also included a request for a custody reduction, which the CAP denied. On appeal, Serna challenges only the denial of his request for full discharge, and our analysis is limited to that issue. We note, however, that, based on our analysis, Serna also failed to meet his burden to support a custody reduction.

change-in-custody petition, the committed person may seek rehearing and reconsideration from the CAP. Minn. Stat. § 253D.28, subd. 1(a) (2024). After the committed person has presented evidence in support of the petition, respondents may move to dismiss the petition, pursuant to Minn. R. Civ. P. 41.02(b). *See Coker v. Jesson*, 831 N.W.2d 483, 489 (Minn. 2013).

Here, Serna presented a change-in-custody petition, the SRB recommended denying the petition, and Serna requested a rehearing and reconsideration. After Serna presented his evidence to the CAP at a hearing, respondents moved to dismiss, and the CAP granted that motion. This court reviews the CAP’s decision to grant the motion to dismiss de novo. *In re Civ. Commitment of Opiacha*, 943 N.W.2d 220, 225 (Minn. App. 2020).

Serna argues that he is entitled to full discharge from civil commitment because there is no evidence that he cannot control his sexual behavior, his diagnosis of antisocial behavior does not justify commitment, and “MSOP employees” “arbitrarily re-diagnosed” him with a paraphilic disorder.

On a petition for discharge or provisional discharge, the committed person “bears the burden of going forward with the evidence, which means presenting a prima facie case with competent evidence to show that the person is entitled to the requested relief.” Minn. Stat. § 253D.28, subd. 2(d) (2024). The burden is a “burden of production,” not persuasion. *Coker*, 831 N.W.2d at 490. On a motion to dismiss, at the close of the petitioner’s case, the CAP must “view the evidence . . . in a light most favorable to the committed person.” *Id.* at 491.

A person committed as a SDP can be fully discharged if the CAP determines that he is (1) “capable of making an acceptable adjustment to open society,” (2) “no longer dangerous to the public,” and (3) “no longer in need of treatment and supervision.” Minn. Stat. § 253D.31 (2024). In making this determination, the CAP considers “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.* If these specific conditions do not exist, then the “discharge shall not be granted.” *Id.* “‘Shall’ is mandatory.” Minn. Stat. § 645.44, subd. 16 (2024).

The CAP must apply the statutory criteria in a manner consistent with due-process protections. *Call v. Gomez*, 535 N.W.2d 312, 318 (Minn. 1995). These protections are satisfied when the commitment bears a “reasonable relation” to the purpose for which the individual was originally committed. *Id.* at 319. A “reasonable relation” exists if the committed person continues to (1) “need further inpatient treatment and supervision for his sexual disorder” and (2) poses a danger to the public. *Id.*

Here, the CAP determined that, because Serna has declined treatment since 2013, he remains untreated and a danger to the public. Serna claims that his diagnosis does not qualify for commitment, but paraphilic disorders and antisocial personality disorders qualify for commitment. *See In re Civ. Commitment of Poole*, 921 N.W.2d 62, 68-69 (Minn. App. 2018) (affirming denial of discharge from MSOP when committed person failed to establish that he no longer needed treatment for his “paraphilic disorder” and, as such, remained a danger to the public), *rev. denied* (Minn. Jan. 15, 2019); *In re Linehan*, 594 N.W.2d 867, 878 (Minn. 1999) (upholding commitment as SDP when offender was

diagnosed with “antisocial personality disorder”). In his reply brief, Serna claims that “MSOP employees” “arbitrarily re-diagnosed” him with a paraphilic disorder. But he provides no support for that assertion. Serna’s diagnoses are those for which commitment is justified.

Serna also argues that he can control his behavior, but Serna’s exhibits at the hearing show that he has failed to engage in treatment. A report noted that, because Serna does not participate in treatment, it was difficult to conduct an accurate assessment of his risk of sex reoffending. Without treatment, and without an accurate assessment, the record does not support Serna’s claim that he is able to control his sexual behavior. Serna argues that there is “no evidence he cannot control” his sexual behaviors. But it was his burden to provide evidence to support his claim that he is able to control his sexual behaviors. Based on this record, we conclude that the CAP did not err by granting respondents’ motion to dismiss Serna’s petition for full discharge from civil commitment.

Affirmed.