

*This opinion is nonprecedential except as provided by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
A25-1660**

Khalif A. Spry,
Relator,

vs.

Department of Human Services,
Respondent.

**Filed May 4, 2026
Affirmed
Jesson, Judge***

Department of Human Services
File Nos. 3878453, 3892235

Khalif A. Spry, Waite Park, Minnesota (pro se relator)

Keith Ellison, Attorney General, Brian M. Card, Assistant Attorney General, St. Paul,
Minnesota (for respondent)

Considered and decided by Reyes, Presiding Judge; Connolly, Judge; and Jesson,
Judge.

NONPRECEDENTIAL OPINION

JESSON, Judge

After relator Khalif A. Spry was convicted of misdemeanor domestic assault, the
Minnesota Department of Human Services (DHS) disqualified him from holding a position

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

involving direct contact with persons receiving services from facilities licensed by DHS or by the Minnesota Department of Health (MDH). Spry challenged the disqualification on the basis that he did not pose a risk of harm to such persons, but the commissioner of human services upheld Spry's disqualification. Because substantial evidence supports the decision to deny Spry's request to set aside his disqualification, the commissioner considered all mandatory risk-of-harm factors, and the decision was not arbitrary, we affirm.

FACTS

Two of Spry's prospective employers—licensed residential mental health programs—requested that DHS conduct a background study on Spry. As a result of the background study, which revealed a misdemeanor domestic-assault conviction, DHS informed Spry that he was disqualified from providing services to persons receiving care from facilities licensed by DHS or by MDH. *See* Minn. Stat. §§ 245C.14, subd. 1, 144.057, subd. 1 (2024) (requiring the commissioner to disqualify an individual from any position allowing direct contact with persons receiving services if the individual is convicted of, or admits to, certain crimes).

Spry sought reconsideration of his disqualification on the grounds that he did not pose a risk of harm to persons receiving services. After reviewing Spry's submissions and analyzing the nine risk-of-harm factors as required by Minnesota Statutes section 245C.22, subdivision 4(b), the commissioner declined to set aside Spry's disqualification.

Spry appeals by a writ of certiorari.

DECISION

The Minnesota Department of Human Services Background Studies Act (the act), Minn. Stat. §§ 245C.01-.34 (2024), is designed “to ensure the safety of the people who use DHS-licensed facilities.” *Jackson v. Comm’r of Hum. Servs.*, 933 N.W.2d 408, 411 (Minn. 2019). In furtherance of that purpose, the act provides for disqualification of certain individuals from providing direct-contact care to persons served by DHS- or MDH-licensed facilities. Minn. Stat. §§ 245C.03, subd. 1(a)(3), .14, subd. 1, 144.057, subd. 1 (2024). As relevant to this appeal, an individual convicted of misdemeanor domestic assault is presumptively disqualified from direct-contact care positions for seven years. Minn. Stat. §§ 245C.15, subd. 4, 609.2242, subd. 1 (2024).

A disqualification may be set aside upon a finding that “the individual has submitted sufficient information to demonstrate that the individual does not pose a risk of harm to any person served” by a licensed facility. Minn. Stat. §§ 245C.22, subd. 4(a), .21, subd. 3(a)(3) (providing that the individual seeking reconsideration of their disqualification has the burden of submitting information that shows that he or she does not pose a risk of harm).¹ In determining whether to set aside a disqualification on this basis, the commissioner must consider nine statutory risk-of-harm factors:

¹ A license holder may seek a variance from the commissioner to temporarily set aside an individual’s disqualification when “the commissioner has not set aside a background study subject’s disqualification, and there are conditions under which the disqualified individual may provide direct contact services or have access to people receiving services that minimize the risk of harm to people receiving services.” Minn. Stat. § 245C.30, subd. 1(a). Here, Spry’s potential employers did not seek a time-limited variance under section 245C.30.

- (1) the nature, severity, and consequences of the event or events that led to the disqualification;
- (2) whether there is more than one disqualifying event;
- (3) the age and vulnerability of the victim at the time of the event;
- (4) the harm suffered by the victim;
- (5) vulnerability of persons served by the program;
- (6) the similarity between the victim and persons served by the program;
- (7) the time elapsed without a repeat of the same or similar event;
- (8) documentation of successful completion by the individual studied of training or rehabilitation pertinent to the event; and
- (9) any other information relevant to reconsideration.

Minn. Stat. § 245C.22, subd. 4(b). But while the commissioner must consider all nine factors, “any single factor . . . may be determinative of the commissioner’s decision whether to set aside the individual’s disqualification.” *Id.*, subd. 3.

A decision concerning a request for reconsideration of a disqualification is a quasi-judicial agency decision not subject to the Minnesota Administrative Procedure Act (MAPA), Minn. Stat. §§ 14.63-.69 (2024). *Anderson v. Comm’r of Health*, 811 N.W.2d 162, 165 (Minn. App. 2012), *rev. denied* (Minn. Apr. 17, 2012). We review whether such a decision “was arbitrary, oppressive, unreasonable, fraudulent, under an erroneous theory of law, or without any evidence to support it.” *Id.* (quotation omitted).² Agency decisions

² Spry’s argument on appeal references the “arbitrary or capricious” standard of review set out in the MAPA. See Minn. Stat. § 14.69(f) (permitting a reviewing court to “reverse or modify” an agency decision that is “arbitrary or capricious”), *see, e.g., Citizens Advocating Responsible Dev. v. Kandiyohi Cnty. Bd. of Comm’rs*, 713 N.W.2d 817, 832 (Minn. 2006) (applying the “arbitrary and capricious” standard to review an agency decision under MAPA). Because we review the commissioner’s decision under the common law, we follow the standard set out in *Anderson*, which references review only for arbitrariness. 811 N.W.2d at 165.

“enjoy a presumption of correctness” and when reviewing such a decision, we show deference to the agencies’ special knowledge and expertise. *Stang v. Minnesota Tchrs. Ret. Ass’n Bd. of Trs.*, 566 N.W.2d 345, 347 (Minn. App. 1997) (quotation omitted).

Here, Spry sought reconsideration of his disqualification and, after making findings on all mandatory nine risk-of-harm factors, the commissioner declined to set aside Spry’s disqualification, concluding that Spry had offered insufficient evidence to prove that he did not pose a risk of harm. On appeal, Spry argues that we must reverse the commissioner’s decision for three reasons: (1) the decision was not supported by substantial evidence; (2) the decision was arbitrary; and (3) the commissioner failed to meaningfully engage with the nine risk-of-harm factors. Because Spry’s arguments overlap and are substantively identical, we address them together.

Our review centers on Spry’s assertion that the commissioner’s decision to not set aside his disqualification was not supported by substantial evidence—and for that reason, was arbitrary. Substantial evidence means evidence that a reasonable person could accept as sufficient to support a conclusion and requires more than a scintilla or some evidence. *Am. Fed’n of State, Cnty. & Mun. Emps., Council No. 14 v. County of Ramsey*, 513 N.W.2d 257, 259 (Minn. App. 1994). As relevant here, an agency’s decision is considered arbitrary if it lacks a rational connection to the facts. *Sweet v. Comm’r of Hum. Servs.*, 702 N.W.2d 314, 318 (Minn. App. 2005), *rev. denied* (Minn. Nov. 15, 2005). We review the commissioner’s analysis of each factor to determine whether it is supported by substantial evidence.

1. The nature, severity, and consequences of the event or events that led to the disqualification

Spry was convicted of misdemeanor domestic assault for committing an act to cause fear of immediate bodily harm or death, a disqualifying offense under the act. *See* Minn. Stat. §§ 245C.14, subd. 1(1), .15, subd. 4, 609.2242, subd. 1(1). In declining to set aside the disqualification based on the assault, the commissioner noted that “[a]ssault-related events are of concern to DHS because when dealing with vulnerable populations, you need to be able to resolve conflict in a calm, nonviolent, nonthreatening manner.” The commissioner relied on the criminal complaint, which Spry submitted in support of his request for reconsideration, in finding that Spry, among other things: (1) verbally abused the victim, the mother of his child; (2) took the victim’s phone and smashed it; (3) grabbed the victim and held her down in a chair while screaming at her when she tried to leave with their child; and (4) tried to prevent the victim from leaving by standing in front of her vehicle. And the commissioner considered Spry’s guilty plea petition, in which Spry stated that he “physically took the phone away from [the victim] and smashed it and destroyed it . . . [and] in so doing by how I was acting and what I was saying I put [the victim] in fear of immediate bodily harm.” Given these records and statements, the commissioner’s findings regarding the severity and nature of the disqualifying event are supported by substantial evidence.

2. Whether there is more than one disqualifying event

The parties agree that substantial evidence supports the commissioner’s finding that there is one disqualifying event—Spry’s misdemeanor domestic-assault conviction.

3. The age and vulnerability of the victim at the time of the event

The commissioner found that the victim of Spry's domestic-assault conviction "is an adult woman with no known vulnerabilities." Neither party disputes that substantial evidence in the record supports this finding.

4. The harm suffered by the victim

In the order declining to set aside the disqualification, the commissioner found that "[t]he victim suffered loss of property, trauma, and fear of immediate bodily harm or death." The commissioner also determined it likely that the victim suffered physical harm. Spry contends that this constitutes error because it mischaracterizes his conviction as one involving physical harm.

We disagree. In deciding Spry's request for reconsideration, the commissioner properly characterized Spry's conviction as misdemeanor domestic assault for placing the victim in fear of immediate bodily harm or death. And while the commissioner found that it was "very likely that the victim did suffer physical harm from [Spry] grabbing her and shouting in her face," there is evidence in the record to support this finding. The criminal complaint provided that, in addition to verbally abusing and threatening the victim, Spry grabbed the victim to prevent her from leaving her residence, shoved her onto a chair, and held her down while screaming into her face. Further, police noted a red mark on the victim's jaw upon arriving at the scene. The commissioner's finding that Spry committed domestic assault by placing the victim in fear of imminent bodily harm and that Spry may have also physically harmed the victim is supported by substantial evidence.

5. Vulnerability of persons served by the program

The commissioner found that the persons served by the relevant residential mental health programs are “vulnerable due to age; physical, intellectual, or developmental disability; mental illness; or substance abuse disorder.” Spry does not dispute that substantial evidence supports this finding. In fact, Spry acknowledged in his request for reconsideration that the clients he serves are vulnerable and often struggle with mental-health crisis or substance abuse. This factor is especially impactful on the commissioner’s decision to deny Spry’s request for reconsideration because the act requires the commissioner to “give preeminent weight to the safety” of the people served through its licensed programs and facilities. Minn. Stat. § 245C.22, subd. 3.

6. The similarity between the victim and the persons served by the program

The commissioner found that the victim and the persons served by the DHS-licensed programs were “similar.” Spry argues that the victim is distinguishable from program participants because the victim is an “adult peer, not a vulnerable adult” and the domestic-assault incident occurred in the victim’s “private home during a relationship separation.”

We recognize that the commissioner found that the victim was “an adult woman with no known vulnerabilities” under the third risk-of-harm factor, which differentiates her from the program participants, who the commissioner found “may be particularly vulnerable to acts of theft or assault due to age, physical, intellectual, or developmental disability, mental illness, or substance use disorder.” But substantial evidence supports that the victim and program participants are alike in other ways. For example, the residential mental-health programs offer services to women and involve home visits.

Similarly, the victim is a woman and the domestic-assault incident occurred when Spry came to her residence. Just as the victim was isolated in her home with Spry and was endangered by Spry's poor judgment and crisis-management skills, the program participants could similarly be isolated and endangered by Spry's poor judgment and crisis-management skills. Therefore, substantial evidence supports the commissioner's finding that the victim and program participants possess similarities.

7. The time elapsed without a repeat of the same or similar event

The commissioner found that the disqualifying event was "recent" as it occurred about a year and a half prior and noted that Spry remained on probation for the offense. The commissioner also acknowledged that since the offense, Spry had "minor speeding tickets but no major new charges." Substantial evidence in the record supports these findings.

8. Documentation of successful completion by the individual studies of training or rehabilitation pertinent to the event

Spry argues that the commissioner ignored substantial evidence of his rehabilitation efforts. This argument is unavailing. In analyzing the eighth factor, the commissioner found that Spry had completed a 36-hour domestic-violence course and an eight-hour anger-management course and had received professional training in de-escalation and crisis management. The commissioner acknowledged Spry's rehabilitation efforts yet acted within her discretion in "determin[ing] that the evidence of [Spry's] rehabilitation was not sufficient to conclude that [Spry] does not pose a risk of harm to individuals with whom he would have direct contact." *See Sweet*, 702 N.W.2d at 319.

9. Any other information relevant to reconsideration

In analyzing the final risk-of-harm factor, the commissioner considered various materials Spry included in his request for reconsideration, including: (1) a letter from Spry's probation agent stating that Spry was cooperative and low risk; (2) an annual evaluation from Spry's employer stating that he met expectations at work; and (3) letters of support from Spry's prior football coaches and his mother. The commissioner also acknowledged Spry's request for reconsideration itself, wherein Spry claimed that he was arrested due to "many extremely false allegations made by [the victim]," that he "did not commit an act of domestic violence" or physically harm the victim, and that he was coerced into taking a plea deal because if he had gone to trial he would have been required to register as a sex offender. Based on this evidence, the commissioner determined that Spry had "ignore[d] the significant trauma that can be inflicted by words alone, let alone by abusive actions such as taking an intimate partner's phone and throwing it out a door." Accordingly, the commissioner found that Spry refuses to take responsibility for his actions and blames the victim for his domestic-assault conviction. Substantial evidence supports the conclusion that Spry's "extreme minimization and poor insight into [his] own actions and the effect of [his] actions on other people" call into doubt Spry's good judgment and ability to work with vulnerable populations.

The commissioner's set-aside denial is supported by substantial evidence in the record. Spry was recently convicted of domestic assault by placing the victim in fear of imminent bodily harm, an offense which carries a presumptive seven-year disqualification period under the act. Minn. Stat. §§ 245C.15, subd. 4, 609.2242, subd. 1. And following

his conviction, Spry has repeatedly attempted to minimize the negative impact that his conduct had on the victim. Spry's refusal to accept responsibility for his harmful actions provides substantial support for the commissioner's decision to deny his reconsideration request.

To persuade us otherwise, Spry raises three arguments. First, he relies on *Dorsey v. Commissioner of Human Services*, for the proposition that the commissioner failed to meaningfully evaluate all nine risk-of-harm factors. No. A12-0316, 2013 WL 141651 (Minn. App. Jan. 14, 2013). But *Dorsey* is factually dissimilar to this case. In *Dorsey*, this court reversed the commissioner's decision denying relator's request for reconsideration because the commissioner's findings on the risk-of-harm factors were "conclusory" and "speculative" and failed to consider evidence of relator's rehabilitations efforts. *Id.* at *3. Unlike *Dorsey*, the commissioner here engaged with all nine statutory factors at length and considered Spry's rehabilitation evidence, including his anger-management and domestic-violence course completions and his professional crisis-management training. Spry's reliance on *Dorsey* is misguided.

Second, Spry argues that the commissioner erred in stating that Spry's disqualification date was July 24, 2024. We agree that the record reflects that Spry was disqualified on July 24, 2025. However, the commissioner's misstatement of Spry's disqualification date appears to be a harmless clerical error and is immaterial to the commissioner's decision to deny Spry's request for reconsideration. *See* Minn. R. Civ. P. 61 (requiring that harmless error be ignored); *see also Goldman v. Greenwood*, 748 N.W.2d 279, 285 (Minn. 2008) (citing this aspect of Minn. R. Civ. P. 61).

Third, Spry contends that the commissioner erred in relying on factual allegations made in the criminal complaint because those allegations were “contradicted before trial” and because Spry “took an *Alford* plea under duress.”³ This argument fails. Spry submitted the criminal complaint with his request for reconsideration and does not point to any authority providing that the commissioner may not consider information submitted by a disqualified individual in analyzing the risk-of-harm factors. In fact, the act explicitly requires that the commissioner consider “any . . . information relevant to reconsideration,” Minn. Stat. § 245C. 22, subd. 4(b)(9), including the “information” the disqualified individual submitted to show they “do[] not pose a risk of harm,” Minn. Stat. § 245C.21, subd. 3(a)(3).

In sum, because substantial evidence in the record supports the commissioner’s decision, we conclude that Spry has not established that a lack of evidentiary support warrants reversing the commissioner’s decision not to set aside his disqualification. We therefore conclude that Spry’s argument that the commissioner’s decision was arbitrary based solely on the lack of sufficient evidentiary support fails for the same reasons.

Affirmed.

³ Nothing in the record supports Spry’s assertion that he entered an *Alford* plea, in which “‘an individual accused of a crime may voluntarily, knowingly, and understandingly consent to the imposition of a prison sentence’ while not admitting guilt.” *Doe 136 v. Liebsch*, 872 N.W.2d 875, 879 (Minn. 2015) (quoting *North Carolina v. Alford*, 400 U.S. 25, 37 (1970)).