

*This opinion is nonprecedential except as provided by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
A26-0329**

Paul Devereaux,
Appellant,

vs.

Medtronic USA Inc,
Respondent.

**Filed September 28, 2026
Affirmed
Bentley, Judge**

Anoka County District Court
File No. 02-CV-22-281

Colin J. Pasterski, Christopher J. Moreland, Ross D. Stadheim, MSB Employment Justice,
Minneapolis, Minnesota (for appellant)

Jenny Gassman-Pines, Katherine M. Swenson, Erin R. Emory, Greene Espel PLLP,
Minneapolis, Minnesota (for respondent)

Considered and decided by Johnson, Presiding Judge; Smith, Tracy M., Judge; and
Bentley, Judge.

NONPRECEDENTIAL OPINION

BENTLEY, Judge

This is an appeal from a summary judgment for respondent in appellant's lawsuit alleging sex- and age-based employment discrimination. Appellant argues that the district court erred by concluding that, because appellant lived and worked outside of Minnesota

at the time relevant to his claims, he is not entitled to protection under the Minnesota Human Rights Act (MHRA), Minn. Stat. §§ 363A.01-.50 (2024). We affirm.

FACTS

The following facts are taken from the summary-judgment record and stated in the light most favorable to appellant Paul Devereaux.

Employment History

Respondent Medtronic USA Inc. is headquartered in Minnesota but conducts business operations across the United States and internationally. Devereaux started working for Medtronic in 2000 and, at all times relevant to this appeal, he lived in the state of Georgia. He held various roles, including working for more than ten years as a regional vice president for Medtronic's Cardiac Rhythm Management (CRM) business unit within the larger Cardio and Vascular group (CVG). In 2018, Devereaux transferred jobs to work as a regional vice president for another unit within CVG, the Aortic and Peripheral Vascular (APV) unit. In that role, Devereaux oversaw Medtronic's "Central Area," which included Michigan, Ohio, Indiana, St. Louis, Kentucky, Pittsburgh, Georgia, Alabama, Mississippi, Louisiana, and Arkansas. Though based in Georgia, Devereaux traveled as needed, including to Minnesota.

In the fall of 2020, Medtronic announced a plan to reorganize CVG. The APV and CRM units executed the reorganization independently. APV's decision-makers chose to eliminate all regional-vice-president positions within the unit and to instead rely on the leadership of senior directors, which are lower-level positions offering lower pay. In contrast, CRM maintained regional vice presidents within its unit's leadership structure.

Devereaux was aware that the restructuring could impact his position. At the advice of others within the company, he contacted several individuals in leadership roles to express interest in transferring back into a regional-vice-president position within CRM. Though Devereaux continued to express interest in the CRM positions, no one within the company followed up with him about a position. In mid-December, CRM leadership announced the picks for the regional-vice-president positions. Devereaux was not included. He was offered the opportunity to interview for a senior-director position within APV or, alternatively, to receive a severance package. He declined both. Devereaux's last day of work was January 31, 2021, but he remained on the payroll and was not formally discharged until May 1, 2021.

Procedural History

Devereaux filed a complaint against Medtronic, alleging three counts of employment discrimination under the MHRA: (1) disparate-treatment age discrimination; (2) disparate-impact age discrimination; and (3) sex discrimination. More specifically, Devereaux asserted that Medtronic “institute[d] a quota-based directive to achieve specific percentages of gender/racial representation in leadership positions” and “engage[d] in a systemic pattern and practice of utilizing reductions in force or reorganizations in order to change the makeup of its workforce, whether it be based on age, gender, or race.” Devereaux further stated that Medtronic “prohibited [him] from applying to any of the open Regional Vice President positions in [CRM], which [he] was qualified for,” that “[i]nstead, [Medtronic] hired three substantially younger women and one substantially younger man to fill these roles,” and that his position was eliminated as “a pretext to cover up invidious

discrimination.” Invoking the MHRA, Devereaux claimed that Medtronic discriminated against him and other employees “with respect to terminating, hiring, tenure, compensation, terms, conditions, and/or privileges of employment” based on age and sex in violation of Minnesota Statutes section 363A.08, subdivision 2.

Medtronic later moved for summary judgment on multiple grounds. It asserted that “Devereaux cannot maintain MHRA claims” because he does not meet the MHRA definition of “employee” under Minnesota Statutes section 363A.03, subdivision 15. Medtronic also argued on the merits that it had shown nondiscriminatory reasons for its decisions: that the reorganization was a business decision, that CRM looked only at people in its own unit for the regional-vice-president roles, and that the decision-makers had a poor opinion of Devereaux’s attitude.

In his memorandum opposing summary judgment, Devereaux stated that he was no longer “pursuing discrimination claims on the basis that the decision to eliminate his position as [a regional vice president] in the Aortic Peripheral Vascular business was discriminatory,” nor was he “pursuing Count II (Disparate Impact Age Discrimination) of his [c]omplaint.” He clarified that he was pursuing only “Count I (Age Discrimination) and Count III (Sex Discrimination), which are based upon Medtronic’s refusal to transfer him to open [regional vice president] positions within CRM.”

Following a hearing, the district court granted summary judgment for Medtronic. The district court’s order was a single page and did not explain the basis for the district court’s decision. Devereaux appealed the decision to this court, and we reversed and remanded because “the district court did not state any reasons for granting summary

judgment.” *Devereaux v. Medtronic USA Inc.*, No. 24-1348, 2025 WL 1502652, at *1 (Minn. App. May 15, 2025) (order op.).

On remand, the district court stated at a status conference that it had “an opportunity to look at the pleadings,” and it referenced the memoranda of law that the parties submitted in support of their positions on summary judgment.¹ The district court did not invite additional briefing or arguments and instead requested that each party submit a proposed order on the summary-judgment motion. The district court subsequently granted summary judgment for Medtronic, reasoning that Devereaux does not “work in” Minnesota and so is not an “employee” within the meaning of the MHRA and cannot claim its protections.

Devereaux appeals.

DECISION

In an appeal from a grant of summary judgment, appellate courts review the district court’s decision de novo. *Bell v. St. Joseph Mut. Ins. Co.*, 990 N.W.2d 504, 507 (Minn. App. 2023), *rev. denied* (Minn. Aug. 8, 2023). In doing so, this court “view[s] the evidence in the light most favorable to the party against whom summary judgment was granted to determine whether there are any genuine issues of material fact and whether the district court correctly applied the law.” *Dukowitz v. Hannon Sec. Servs.*, 841 N.W.2d 147, 150 (Minn. 2014). Statutory interpretation is an issue of law that this court reviews de novo. *Greene v. Minn. Bureau of Mediation Servs.*, 948 N.W.2d 675, 679 (Minn. 2020).

¹ The case was assigned to a different district court judge because of the previous judge’s retirement.

The MHRA prohibits employment discrimination based on enumerated protected characteristics. In relevant part, it sets out that:

Except when based on a bona fide occupational qualification, it is an unfair employment practice for an employer, because of . . . sex, . . . or age to:

(1) refuse to hire or to maintain a system of employment which unreasonably excludes *a person* seeking employment; or

(2) discharge *an employee*; or

(3) discriminate against *a person* with respect to hiring, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment.

Minn. Stat. § 363A.08, subd. 2 (emphasis added). The MHRA provides definitions for “employee,” “employer,” and “person.” Minn. Stat. § 363A.03, subds. 15, 16, 30. An “employee” is “an individual who is employed by an employer and who resides or works in this state.” *Id.*, subd. 15. An “employer” is “a person who has one or more employees.” *Id.*, subd. 16. And a “person” “includes partnership, association, corporation, legal representative, trustee, trustee in bankruptcy, receiver, and the state and its departments, agencies, and political subdivisions.” *Id.*, subd. 30.

We begin with a brief discussion of the scope of the issue on appeal. In his summary-judgment briefing, Devereaux argued that the MHRA protects “employees” from discrimination, and that “Devereaux is an employee under the [Act].” Devereaux’s complaint alleged claims under subsections (1), (2), and (3) of section 363A.08, subdivision 2, related to both his discharge from the APV unit and the failure to hire or transfer him to the CRM unit, but at summary judgment he dropped his discharge theory under subdivision 2(2). He opposed summary judgment only with respect to the failure-to-

hire and failure-to-transfer theories under subsections (1) and (3). Even though the text of subsections (1) and (3) prohibits discriminatory practices against “a person,” not “an employee,” Devereaux invoked only the definition of employee and did not assert any distinction between the individuals protected under subsections (1) and (3) and subsection (2). For purposes of this nonprecedential opinion, consistent with the parties’ presentation of the issues at summary judgment, we assume without deciding that the definition of “employee” applies to theories of discriminatory conduct asserted under subsections (1) and (3), as it does to a claim under subsection (2).² In other words, we assume for purposes of this case that an individual bringing a claim under subdivisions (1) and (3) must be “an individual who is employed by an employer and who resides or works in this state.” Minn. Stat. § 363A.03, subd. 15. And, because Devereaux never resided in

² In his briefing for this appeal, Devereaux argues that the statutory definition of “person” is broader than the definition of “employee,” such that he should be able to bring his claims as a “person” even if he does not meet the definition of “employee.” But Devereaux did not raise that argument in his summary-judgment briefing before the district court. Nor did he raise it in his principal brief in the first appeal to this court. Rather, he included the theory for the first time in his reply brief in the first appeal and in his proposed order following remand. The district court did not consider the argument in its order granting summary judgment, which is the order before us on appeal. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (stating that this court should consider “only those issues that the record shows were presented and considered by the trial court” and that a party may not “obtain review by raising the same general issue litigated below but under a different theory” (quotation omitted)); *cf. Annis v. Annis*, 84 N.W.2d 256, 261 (Minn. 1957) (“The general rule . . . is that litigants are bound . . . by the theory or theories, however erroneous or improvident, upon which the action was actually tried below.”). The district court addressed the argument briefly in its denial of Devereaux’s request for leave to bring a motion for reconsideration, but “a district court’s decision to deny a motion for reconsideration” is not appealable. *Anderson v. Indep. Sch. Dist.* 696, 924 N.W.2d 911, 925 (Minn. App. 2019). For these reasons, we conclude that Devereaux forfeited the argument that he may bring a claim under the MHRA as a “person,” even if he cannot bring a claim as an “employee.”

Minnesota and lived in Georgia at all times relevant to this case, the question before us is whether he met the definition of an individual who “works in this state.” *Id.*

Turning to the merits of that question, we begin with the plain language of the statute. *See City of Brainerd v. Brainerd Invs. P’ship*, 827 N.W.2d 752, 755 (Minn. 2013) (“When legislative intent is clear from the statute’s plain and unambiguous language, we interpret the statute according to its plain meaning without resorting to other principles of statutory interpretation.”). We construe “words and phrases . . . according to rules of grammar and according to their common and approved usage.” Minn. Stat. § 645.08(1) (2024); *see also In re Surveillance & Integrity Rev.*, 999 N.W.2d 843, 856 (Minn. 2024) (stating that courts “may consult dictionary definitions as part of the inquiry into a statute’s plain meaning” (quotation omitted)).

Applying the dictionary definition of “in,” as it appears in the phrase “works in this state,” an employee is an individual who works “[w]ithin the limits, bounds, or area of” Minnesota. *The American Heritage Dictionary of the English Language* 885 (5th ed. 2018). In other words, the statutory language requires physical presence in the state. Reading “works in this state” as a whole, then, for someone to be an “employee” within the scope of the MHRA, the plain language of the statute requires that individual be physically present in Minnesota while working. Minn. Stat. § 363A.03, subd. 15.

Considering the circumstances of this case, there is no genuine issue of material fact that Devereaux was not physically present “in” Minnesota at the time relevant to his employment-discrimination claims. In his previous position with Medtronic, Devereaux worked primarily from a home office in Georgia, but traveled often for work. That travel

included brief trips to Minnesota every year for meetings, trainings, and other work events. But at the time of the events relating to his failure-to-hire or transfer theories, Devereaux had not traveled to Minnesota in more than eight months. And he did not travel to Minnesota in connection with or in pursuit of any of the CRM positions that are the subject of his complaint. These facts are not sufficient to establish that Devereaux had a physical presence in Minnesota such that he was an individual who “works in this state” within the meaning of the MHRA. He therefore cannot recover as an “employee” under section 363A.08, subdivision 2.

Devereaux argues that this court should conclude that the MHRA’s protections apply to “non-resident employees who had some contact with Minnesota.” He asserts that he has alleged “Minnesota connections” that are “continuous and substantial,” pointing to evidence that he “spent numerous days per year in Minnesota” and would have returned to Minnesota for work purposes if he remained with Medtronic. Devereaux also points out that he “communicated with his Minnesota supervisors and colleagues by phone, email, and/or Zoom on a daily basis.” We are not convinced by these arguments. Devereaux’s regular contact with people who live or work in Minnesota does not amount to him being “in this state” within the statute’s plain meaning for the reasons described above.

Additionally, Devereaux’s visits to Minnesota were associated with his previous position with Medtronic, and Devereaux has made clear that he is no longer pursuing a discharge claim related to that position. To the extent Devereaux focuses on potential future travel to Minnesota that would have accompanied a position in the CRM unit, that interpretation ignores that the statute uses the present tense “works.” Present tense verbs

“express[] action in the present time.” *American Heritage*, *supra*, at 1394. In the context of the statute, “the present time” is most naturally understood as the time when the alleged unfair employment practice occurred.³ Devereaux did not work in Minnesota when the CRM hiring decisions were being made.

Devereaux also cites decisions from the U.S. District Court for the District of Minnesota that he argues interpreted the phrase “works in this state” to include a broader range of contacts with Minnesota. *See, e.g., Lapushner v. Admedus Ltd.*, Civ. No. 20-572, 2020 WL 5106818, at *5 (D. Minn. Aug. 31, 2020); *Wilson v. CFMOTO Powersports, Inc.*, Civ. No. 15-3192, 2016 WL 912182 (D. Minn. Mar. 7, 2016). But we are not bound by those decisions, nor do we find them persuasive. *See Midland Credit Mgmt. v. Chatman*, 796 N.W.2d 534, 536 n.3 (Minn. App. 2011) (“Only the decisions of the Minnesota Supreme Court and the U.S. Supreme Court are binding on this court.”). The plain language of the statute creates a physical presence requirement, not a contacts requirement. Moreover, in both *Lapushner* and *Wilson*, there were ties between the alleged discrimination that took place and the employee’s physical presence in Minnesota. In *Lapushner*, the plaintiff was discriminated against while attending meetings in Minnesota, 2020 WL 5106818, at *1-3, 5, and in *Wilson*, the plaintiff began experiencing discrimination after attending trainings in Minnesota where others in the company learned

³ We recognize that applying the definition of “employee” to a failure-to-hire claim under subsection (1) or (3) of section 363A.08, subdivision 2, is not a precise fit because discrimination in hiring presumes that the person does not yet work at the company or in the desired role. But for the reasons previously explained, we consider the arguments as they were presented to the district court.

of his race for the first time, 2016 WL 912182, at *1-2, 6. There are no similar allegations here about Devereaux's physical presence in Minnesota. Furthermore, there are more recent federal cases applying Minnesota law that reject Devereaux's proposed contacts-based approach. *See Kuklenski v. Medtronic USA, Inc.*, 134 F.4th 528, 531-33 (8th Cir. 2025); *Walton v. Medtronic USA, Inc.*, No. 22-CV-0050, 2024 WL 3071477, at *2-3 (D. Minn. June 20, 2024). Both cases conclude that the plain language of the employee definition necessitates a physical presence, consistent with our conclusion here. *Kuklenski*, 134 F.4th at 531-33; *Walton*, 2024 WL 3071477, at *2-3. We find the reasoning in these cases more persuasive than the cases relied on by Devereaux for the reasons discussed above.

Before concluding, we note that Devereaux also argues on appeal that the district court abused its discretion by denying two motions to compel discovery that he filed prior to Medtronic's summary-judgment motion. Because we affirm the district court's grant of summary judgment, we do not reach those arguments. The discovery sought by Devereaux in his motions is unrelated to the question whether he was "an employee" under the MHRA, so the discovery issues are moot.

Affirmed.