

*This opinion is nonprecedential except as provided by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
A26-0823**

In the Matter of the Civil Commitment of: Alexander Martinelli.

**Filed September 21, 2026
Affirmed
Reyes, Judge**

Commitment Appeal Panel
File No. AP24-9095

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

NONPRECEDENTIAL OPINION

REYES, Judge

Appellant challenges the denial of his petition for discharge from civil commitment, arguing that the commitment appeal panel (the CAP) clearly erred by finding that (1) he is in need of treatment and supervision; (2) he remains dangerous; and (3) his continued commitment bears a reasonable relation to the original reason for his commitment. We affirm.

FACTS

In 1996, respondent Hennepin County petitioned for the civil commitment of appellant Alexander Martinelli as a sexually dangerous person (SDP) and as a sexual psychopathic personality (SPP) after he was convicted of multiple criminal-sexual-conduct offenses against adolescents. The district court indeterminately committed appellant as an SDP in 1998. Appellant thereafter resided at the Minnesota Sex Offender Program (MSOP) until 2017, when the CAP¹ granted his request for transfer. In 2022, the CAP granted appellant's request for provisional discharge subject to certain conditions and regular contact with a reintegration agent. While on provisional discharge, appellant completed outpatient sex-offender treatment and aftercare.

In 2023, appellant petitioned for full discharge from his civil commitment. The Special Review Board (SRB) held a hearing and recommended granting the discharge petition in June 2024. Both the county and the Commissioner of the Minnesota Department of Human Services, now respondent Direct Care and Treatment Executive Board (the board),² petitioned for a rehearing and reconsideration of the SRB recommendation.

Two experts conducted interviews with appellant and provided reports to the CAP with their recommendations: Dr. Kristine Doucette recommended denying appellant's

¹ “We refer to the entity formerly known as the supreme court appeal panel or judicial appeal panel as the commitment appeal panel [the CAP].” *In re Civ. Commitment of Edwards*, 933 N.W.2d 796, 797 n.1 (Minn. App. 2019), *rev. denied* (Minn. Oct. 15, 2019).

² “Effective July 1, 2025, the legislature transferred the authority to regulate MSOP and secure treatment facilities from the Minnesota Department of Human Services to the Direct Care and Treatment executive board.” *In re Garnett*, 38 N.W.3d 396, 399 n.2 (Minn. App. 2026).

discharge petition, while Dr. Thomas Alberg recommended granting it. Both noted appellant's diagnosis of "Other Specific Paraphilic Disorder, Hebephilia, In a Controlled Environment" (paraphilia).

One day following these reports, appellant entered a thrift store and verbally interacted with a five-year-old child and his parent. Appellant reported this to his reintegration agent the next day. Appellant later agreed that the interaction violated his provisional-discharge conditions, specifically the requirement that he "not have direct or indirect contact with minors . . . unless approved in advance."

Based on this violation, appellant voluntarily returned to MSOP for sixty days. *See* Minn. Stat. § 253D.30, subd. 4 (Supp. 2025) (describing voluntary readmission process). MSOP staff located "masturbatory aids" and condoms in appellant's possession, neither of which he had disclosed to his reintegration agent. Nonetheless, after sixty days, appellant reentered provisional discharge. Both Dr. Doucette and Dr. Alberg submitted updated reports and recommended denying appellant's discharge petition.

The CAP held a hearing on appellant's discharge petition and received testimony from one of appellant's friends, appellant, Dr. Alberg, and Dr. Doucette. After the hearing, the CAP denied appellant's discharge petition.

This appeal follows.

DECISION

Appellant challenges the CAP's denial of his discharge petition, arguing that the CAP clearly erred by finding that (1) he is in need of treatment and supervision; (2) he remains dangerous; and (3) his continued commitment bears a reasonable relation to the

original reason for his commitment. After providing the standard of review and relevant law, we address each of appellant's arguments in turn.

“This court reviews a judicial appeal panel’s decision for clear error. . . .” *In re Civ. Commitment of Kropp*, 895 N.W.2d 647, 650 (Minn. App. 2017), *rev. denied* (Minn. June 20, 2017). “In this review, we do not reweigh the evidence as if trying the matter de novo. If the evidence as a whole sustains the panel’s findings, it is immaterial that the record might also provide a reasonable basis for inferences and findings to the contrary.” *Id.* (citation omitted). We defer to a lower tribunal’s assessment of the credibility of expert testimony. *In re Civ. Commitment of Stone*, 711 N.W.2d 831, 839 (Minn. App. 2006), *rev. denied* (Minn. June 20, 2006). When “the findings of fact rest almost entirely on expert testimony, the [lower tribunal’s] evaluation of credibility is of particular significance.” *In re Knops*, 536 N.W.2d 616, 620 (Minn. 1995).

Under Minnesota Statutes sections 253D.01-.36 (2024 & Supp. 2025), a person who is committed as an SDP may petition for a reduction in custody, including full discharge. *See* Minn. Stat. § 253D.27, subd. 2. Following a petition, the SRB conducts a hearing and provides a recommendation. *Id.*, subds. 3-4. Then, the committed person, the county attorney, or the board may petition the CAP for “a rehearing and reconsideration.” Minn. Stat. § 253D.28, subd. 1(a).

The CAP then holds a hearing split into two phases. *See Coker v. Jesson*, 831 N.W.2d 483, 485-86 (Minn. 2013). In the first phase, the committed person bears the “burden of production,” meaning that they must “present[] a prima facie case with competent evidence to show that the person is entitled to the requested relief.” *Id.*

(quotations omitted); *see also* Minn. Stat. § 253D.28, subd. 2(d) (describing committed person’s burden). “If the committed person satisfies [their] burden of production,” they move to phase two, at which “the party opposing the petition bears the burden of proof by clear and convincing evidence that the discharge or provisional discharge should be denied.” *Coker*, 831 N.W.2d at 486 (quotations omitted); *see also* Minn. Stat. § 253D.28, subd. 2(d).

Minnesota Statutes section 253D.31 (the discharge statute) states that, in order to grant a discharge, it must “appear[] to the satisfaction of the [CAP] . . . that the committed person is,” in relevant part, (1) “no longer in need of treatment and supervision” and (2) “no longer dangerous to the public.”

I. The CAP did not clearly err by finding that appellant is in need of treatment and supervision.

Appellant first argues that the CAP clearly erred by finding that he “continues to need [(1)] *treatment* and [(2)] *supervision*.” These arguments are unavailing.

A. The evidence supports the CAP’s finding that appellant is in need of treatment.

Appellant contends that the CAP (1) did not meaningfully analyze his need for treatment; (2) conflated the possibility of “benefit[ing] from aftercare” with the “need for treatment”; and (3) failed to find a need for “inpatient treatment.”

Appellant’s first contention is belied by the record. The CAP heard testimony from two doctors about appellant’s need for treatment, found that Dr. Doucette’s testimony that appellant is still need of treatment was more credible than Dr. Alberg’s testimony to the contrary, and determined that “[t]here is clear and convincing evidence that [appellant] has

not reached a point [at which] he no longer needs treatment.” We defer to the CAP’s credibility determination, which is supported by the record, and conclude that its finding regarding appellant’s need for treatment is not clearly erroneous. *See Stone*, 711 N.W.2d at 839.

We disagree with appellant’s second contention that the CAP erroneously relied on Dr. Doucette’s statement that she “think[s] he would benefit from aftercare.” The CAP considered a variety of testimony before reaching its decision. In addition to stating that appellant would “benefit from aftercare,” Dr. Doucette also testified that appellant *required* provisional discharge and that provisional discharge itself *serves as treatment*. The CAP found all this testimony credible. Appellant does not reference these other statements, even though clear-error review requires us to determine whether “the evidence *as a whole* sustains the panel’s findings.” *Kropp*, 895 N.W.2d at 650 (emphasis added).

Appellant’s third contention that “Minnesota appellate courts have recognized that, despite the 2018 amendment removing the word ‘inpatient,’ constitutional principles continue to require a need for inpatient treatment to justify commitment” under the discharge statute is forfeited. For support, appellant primarily relies on a nonprecedential case that, as he admits, is not binding on this court and, more importantly, did not address this issue. *See* Minn. R. Civ. App. P. 136.01, subd. 1(c) (“Nonprecedential opinions . . . are not binding authority . . . but . . . may be cited as persuasive authority.”). Appellant also relies on cases that address the older, 2016 version of the discharge statute, which used the phrase “inpatient treatment” instead of just “treatment.” *Compare* Minn. Stat. § 253D.31 (2016) (requiring person to be “no longer in need of inpatient treatment”), *with*

Minn. Stat. § 253D.31 (2024) (requiring person to be “no longer in need of treatment”); *see In re Civ. Commitment of Poole*, 921 N.W.2d 62, 66, 66 n.2 (Minn. App. 2018), *rev. denied* (Minn. Jan. 15, 2019); *In re Civ. Commitment of Fugelseth*, 907 N.W.2d 248, 253-54 (Minn. App. 2018), *rev. denied* (Minn. Apr. 17, 2018). We conclude that appellant forfeited this argument by failing to brief it adequately on appeal. *Kropp*, 895 N.W.2d at 653 (“Minnesota appellate courts decline to reach an issue in the absence of adequate briefing.”) (citation omitted).

Because we defer to the CAP’s credibility determination, which is supported by the record, we conclude that the CAP did not clearly err by finding that appellant is in need of treatment. *See Stone*, 711 N.W.2d at 839.

B. The evidence supports the CAP’s finding that appellant is in need of supervision.

Appellant also contends that the CAP clearly erred by finding that he is in need of supervision because “[t]he supervision required by section 253D.31 must be clinically necessary to prevent sexual harm, not merely helpful for reintegration.”

“Minnesota appellate courts decline to reach an issue in the absence of adequate briefing.” *Kropp*, 895 N.W.2d at 653. Appellant failed to offer any substantive argument about why the “supervision” contemplated by the discharge statute requires “clinical necessity,” or what would constitute “clinical necessity.”³

³ Martinelli also relies on two cases, *Fugelseth* and *Call v. Gomez*, neither of which address the meaning of the term “supervision” in the current discharge statute. *See Fugelseth*, 907 N.W.2d at 253-54 (focusing on meaning of term “inpatient treatment” in earlier version of discharge statute); *Call v. Gomez*, 535 N.W.2d 312, 316-17 (Minn. 1995) (addressing

The record supports the CAP's findings. When asked if they believed appellant required further supervision, Dr. Alberg and Dr. Doucette disagreed. Dr. Alberg testified: "I think he probably doesn't, but I think he needs to be able to demonstrate that." Dr. Doucette testified: "Yes. Based on his risk level, his dynamic needs, his recent revocation, [and] some of his decision-making, I would say so, yes." The CAP "found Dr. Doucette's opinion and analysis more specific and credible" on this issue. The CAP ultimately "found clear and convincing evidence that [appellant's] course of treatment and present mental status indicate that he continues to need . . . supervision."

Because we defer to the CAP's credibility determination, which is supported by the record, we conclude that the CAP did not clearly err by finding that appellant is in need of supervision. *See Stone*, 711 N.W.2d at 839.

II. The CAP did not clearly err by finding that appellant remains dangerous.

Appellant next argues that the CAP clearly erred by finding that appellant remains dangerous because (1) the question of dangerousness must focus on whether appellant is "dangerous to adolescent[s]" and (2) appellant lacks "constitutional dangerousness" which requires "proof of serious difficulty in controlling behavior." We disagree.

As to appellant's first argument, he cites one nonprecedential case that is not binding on this court and not persuasive in this context. *See Minn. R. Civ. App. P. 136.01, subd. 1(c)*. We conclude that appellant's first argument fails.

burden-of-proof criteria for discharge of "persons committed as mentally ill and dangerous" (citing Minn. Stat. § 253B.18, subd. 15 (1992))).

For his second argument, it appears that appellant conflates the requirements for an initial civil commitment with the requirements for a continuation of civil commitment.⁴ The supreme court has explained that a lack of control “is part of the threshold showing that must be met to justify commitment,” but “[c]onfinement may *continue* without meeting this threshold.” *Call*, 535 N.W.2d at 319 (emphasis added). Because binding caselaw states that an ability to control sexual impulses does not in itself justify discharge, appellant’s second argument fails. *See id.*

We conclude that the CAP did not clearly err by finding that appellant remains dangerous.

III. The CAP did not clearly err by finding that appellant’s continued commitment bears a reasonable relation to the original reason for his commitment.

Lastly, appellant challenges the CAP’s finding that his continued commitment bears a reasonable relation to the original reason for his commitment, arguing that (1) he no longer has a mental illness or, alternatively, he has control over his mental illness and (2) the CAP’s analysis underlying its decision was “utterly lacking.”⁵ We are not persuaded.

⁴ To support an initial SDP commitment, the district court must find that the individual “has manifested a sexual, personality, or other mental disorder or dysfunction” that “does not allow [the person] to adequately control their sexual impulses.” Minn. Stat. § 253D.02, subd. 16(a)(2); *In re Linehan*, 594 N.W.2d 867, 876 (Minn. 1999).

⁵ Martinelli also asserts that the CAP’s decision “violates due process,” but he cites caselaw referencing the compliance of another discharge statute with due-process principles, and he does not challenge the discharge statute here. Because his assertion is inadequately briefed, we decline to consider it. *See Kropp*, 895 N.W.2d at 653.

Respondent-board questions whether due process is a basis for discharge separate from statute and asks this court to “issue a precedential opinion on this issue only,” citing *In re Civ. Commitment of Opiacha*, 943 N.W.2d 220, 227 (Minn. App. 2020), and *Call*,

A. We defer to the CAP’s credibility determinations regarding appellant’s diagnoses and remission status.

Appellant contends that either (1) his paraphilia has remitted or (2) even if not remitted, he can control his paraphilia.

As a preliminary matter, we note that appellant’s second argument here is the same as his argument about control in the context of dangerousness, which we rejected above. We conclude that this argument fails here for the same reasons.

The CAP heard testimony and received written reports from Dr. Alberg and Dr. Doucette, both of whom diagnosed appellant with “Other Specified Paraphilic Disorder, Hebephilia, In a Controlled Environment.” Dr. Alberg explained that “hebephilia” means “[a]ttraction to teenagers.” An MSOP mental-health assessment also included this paraphilia diagnosis and explained that “[t]he specifier [‘]In a Controlled Environment[’] indicates that [appellant] currently resides in a supervised facility with limited opportunities to engage in behaviors congruent with his sexual offenses.”

Dr. Alberg and Dr. Doucette disagreed in their testimony about whether appellant’s paraphilia is in remission. Dr. Alberg testified that “we can consider [the paraphilia] in remission” in part because appellant has “been in the community, he hasn’t acted on any kind of situations where he’s been seeking adolescents.” Nonetheless, Dr. Alberg acknowledged that appellant will “always” have symptoms of paraphilia, including an

535 N.W.2d at 319. Martinelli asserts in reply that this “issue was not raised below, not briefed before the CAP, [and is] not necessary to resolve the case.” Because we agree with Martinelli, we decline to consider this question for the first time on appeal. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (stating that appellate courts generally do not consider issues not presented to district court).

attraction to adolescents. Dr. Doucette testified that appellant's paraphilia was not in remission because "[t]here ha[ve] been indications that he's reported continued sexual interest in that age group," including as evidenced by Dr. Alberg's testimony.

The CAP noted that Dr. Alberg did not indicate in his reports that any of appellant's disorders were in remission. The CAP ultimately "found Dr. Doucette more specific and more credible that the sexual disorder is not in remission."

Because appellant's diagnosis and remission status rests entirely on expert testimony, we defer to the CAP's determination that Dr. Doucette credibly testified that appellant's paraphilia is not in remission. *See Stone*, 711 N.W.2d at 839.

B. The CAP's analysis was not clearly erroneous.

Appellant contends that the CAP's "reasonable relation analysis regarding [appellant's] disorders is utterly lacking, leading to conclusory findings that are counter to the evidence as a whole."

This argument is belied by the record and the discharge statute. The CAP order included a one-paragraph "decision" section and an eight-page "[r]ationale" section. In the decision section, the CAP explained that it found that appellant's "continued civil commitment remains reasonably related to the reason for the initial commitment." When providing its rationale, the CAP analyzed the facts of the case, the testimony, and all the evidence presented.

Furthermore, the discharge statute does not require any particular analysis when the CAP denies a discharge petition but rather notes that a committed person "shall not be discharged unless [certain factors] appear[] to the satisfaction of the [CAP]." Minn. Stat.

§ 253D.31. The CAP found that these factors were not all apparent and then denied appellant's discharge petition. Because "the evidence as a whole sustains the panel's findings," we conclude that the CAP did not clearly err. *Kropp*, 895 N.W.2d at 650.

Affirmed.