

**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-0863**

Donald G. Heilman,
Appellant,

vs.

Patrick C. Courtney,
as Program Manager for Minnesota Department of Corrections,
Respondent.

**Filed December 18, 2017
Affirmed
Florey, Judge**

Ramsey County District Court
File No. 62-CV-16-4240

A.L. Brown, Capitol City Law Group, LLC, St. Paul, Minnesota (for appellant)

Lori Swanson, Attorney General, Eric V. Brown, Assistant Attorney General, St. Paul,
Minnesota (for respondent)

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

S Y L L A B U S

An inmate who enters phase II of the Challenge Incarceration Program (CIP) has not been “released from prison” for the purpose of commencing a conditional-release term imposed under Minn. Stat. § 169A.276, subd. 1(d) (2016).

OPINION

FLOREY, Judge

Appellant, a former inmate with the Minnesota Department of Corrections (DOC), filed a civil suit against respondent, a DOC employee. Appellant alleged that he was incarcerated beyond his lawful sentence because his conditional-release term was miscalculated. The district court granted judgment on the pleadings and dismissed all three of appellant's claims. Appellant challenges the dismissal of two of those claims. Because those claims are premised on the erroneous contention that appellant's conditional-release term commenced when he entered phase II of the CIP, and because appellant was not incarcerated beyond his conditional-release term, we affirm.

FACTS

In July 2016, appellant Donald G. Heilman filed a complaint against respondent Patrick C. Courtney, a program manager with the DOC, alleging false imprisonment, negligence, and the right to redress of injuries as provided by the Minnesota Constitution. According to the complaint, appellant was convicted in June 2007 of first-degree test refusal; he received a 51-month sentence with a five-year conditional-release term; he was released from prison in July 2008 to the CIP, triggering the start of his five-year conditional-release term; and his conditional-release term expired in July 2013.

Appellant alleged that respondent was responsible for calculating his release date. If a person challenged a release date, respondent and those under his charge were responsible for investigating and making necessary corrections. Appellant allegedly informed various prison officials that his scheduled release date was wrong because his

conditional-release term “should have expired in July 2013.” According to the complaint, appellant “was imprisoned until May 2014—nearly a year beyond his lawful sentence,” because of a miscalculation and failure to conduct an audit of his conditional-release term.

Respondent moved for judgment on the pleadings. The parties stipulated to the following timeline of events: on September 13, 2004, appellant was convicted of first-degree DWI and received a stayed sentence; on May 22, 2007, the district court ordered that appellant’s stayed sentence be executed; on December 5, 2007, appellant was accepted into the CIP; in July 2008, appellant completed phase I of the CIP and entered phase II, which allowed him to reside at home; in September 2009, appellant’s CIP status was revoked, and he was returned to incarceration; on December 27, 2010, appellant was released from incarceration and began supervised release; on March 25, 2014, appellant was reincarcerated by the DOC Hearings and Release Unit (HRU); and on May 14, 2014, appellant was released from custody.

Respondent also filed an affidavit with a number of attachments, including appellant’s warrant of commitment, conditions of release, CIP records, and HRU decisions. The district court granted respondent’s motion for judgment on the pleadings and dismissed appellant’s claims with prejudice. This appeal followed.

ISSUE

Did the district court err in granting judgment on the pleadings?

ANALYSIS

Appellant challenges the dismissal of his negligence and false-imprisonment claims. The dismissal resulted from the grant of respondent's motion, under Minn. R. Civ. P. 12.03, for judgment on the pleadings. Appellant asserts that the district court, in granting respondent's rule 12.03 motion, looked beyond the pleadings by relying on the parties' stipulated timeline. *See* Minn. R. Civ. P. 12.03 (stating that a motion for judgment on the pleadings shall be treated as one for summary judgment if matters outside of the pleadings are presented to and not excluded by the district court). We agree that the district court looked beyond the pleadings. The district court also relied on documents that were not referenced in the complaint. *See N. States Power Co. v. Minn. Metro. Council*, 684 N.W.2d 485, 490 (Minn. 2004) (stating that a district court, in addressing a motion to dismiss, may consider documents referenced in a complaint). We therefore review the district court's determination under a summary-judgment standard and consider whether there are any genuine issues of material fact and whether the district court erred in its application of the law. *Id.* at 491. "We will affirm the judgment if it can be sustained on any grounds." *Myers ex rel. Myers v. Price*, 463 N.W.2d 773, 775 (Minn. App. 1990), *review denied* (Minn. Feb. 4, 1991); *see Northway v. Whiting*, 436 N.W.2d 796, 798 (Minn. App. 1989) ("[W]e may affirm a summary judgment if there are no genuine issues of material fact and if the decision is correct on other grounds."). Because appellant's claims are based on his

erroneous assumption that his conditional-release term commenced in July 2008 when he entered phase II of the CIP, we need only address that issue.

“An offender convicted of first-degree DWI and sentenced to prison is subject to a mandatory five-year conditional-release term,” which “begins when the offender is ‘released from prison.’” *Maiers v. Roy*, 847 N.W.2d 524, 527 (Minn. App. 2014) (quoting Minn. Stat. § 169A.276, subd. 1(d)), *review denied* (Minn. Aug. 19, 2014). Appellant’s claims are premised on his contention that his five-year conditional-release term started in July 2008 when he entered phase II of the CIP and ended in July 2013, prior to his remand back into incarceration in March 2014. The issue then is whether appellant was “released from prison” when he entered phase II of the CIP, which presents a question of statutory interpretation subject to de novo review. *State v. Noggle*, 881 N.W.2d 545, 547 (Minn. 2016). “The object of all interpretation and construction of laws is to ascertain and effectuate the intention of the legislature.” Minn. Stat. § 645.16 (2016). When legislative intent is clear from plain and unambiguous statutory language, we will not engage in further construction and will follow that plain language. *State v. Leathers*, 799 N.W.2d 606, 608 (Minn. 2011).

The CIP is an early-release program that is “intensive, structured, and disciplined” and contains a “high level of offender accountability and control.” Minn. Stat. § 244.171, subd. 1 (2016). Offenders may participate in the program “for all or part of [their] sentence.” Minn. Stat. § 244.17, subd. 1(a) (2016). The CIP is broken into three phases. Minn. Stat. § 244.172 (2016). Phase I lasts at least six months, during which the offender is confined in a state correctional facility and must successfully participate in intensive

treatment, education, and work programs.¹ *Id.*, subd. 1. Phase II lasts at least six months and consists of an “intensive supervision and surveillance program.” *Id.*, subd. 2. Phase III continues until there is a determination “that the offender has successfully completed the program or until the offender’s sentence, minus jail credit, expires, whichever comes first.” *Id.*, subd. 3. If an offender successfully completes phase III of the CIP, the offender is entitled to supervised release for the remainder of his or her sentence. *Id.*

Supervised release is defined as “the release of an inmate pursuant to section 244.05,” which generally requires supervised release “upon completion of the inmate’s term of imprisonment.” Minn. Stat. §§ 244.01, subd. 7, .05, subsd. 1, 1b. Because an offender in the CIP is not placed on supervised release until the offender “successfully completes phase III,”² an offender in the CIP is not “released from prison” until after completion of phase III. Minn. Stat. § 244.172, subd. 3. Appellant makes no claim that he completed phase III of the CIP. Rather, he acknowledges that his CIP status was revoked, and he was returned to incarceration.

In *State ex rel. Huseby v. Roy*, this court recently held that an inmate’s transfer to a residential work-release program outside of a correctional facility did not constitute a release from prison and did not begin his five-year conditional-release term. ___ N.W.2d

¹ In *State ex rel. Guth v. Fabian*, this court held that an offender removed from the CIP is entitled to credit against his or her sentence for time served during phase I of the CIP. 716 N.W.2d 23, 30-31 (Minn. App. 2006), *review denied* (Minn. Aug. 15, 2006).

² The CIP statute previously required that an offender be placed on supervised release after reaching phase III. Minn. Stat. § 244.172, subd. 3 (1992). It was later amended so that an offender would be placed on supervised release upon completion of phase III. 1994 Minn. Laws ch. 636, art. 6, § 20, at 2292 (codified at Minn. Stat. § 244.172, subd. 3 (1994)).

___, ___ 2017 WL 4478212, at *1, *4 (Minn. App. Oct. 9, 2017), *pet. for review filed* (Minn. Nov. 8, 2017). We rejected the idea that simply leaving the confines of a correctional facility constitutes a “release from prison,” and concluded that the physical location of the inmate is not determinative. *Id.* at *3-4. Likewise, in this case, we conclude that a transfer to phase II of the CIP is not a “release from prison.”

Appellant’s conditional-release term did not commence before his supervised-release period commenced. Prior interpretation of the statutes governing supervised release and conditional release for DWI offenders indicates that “both conditional release and supervised release are mandated to begin at the same time, i.e., the offender’s release from prison.” *Maiers*, 847 N.W.2d at 530. In *State ex rel. Duncan v. Roy*, the supreme court noted that “the Legislature clearly provided that the conditional-release term for an individual convicted of [DWI] begins after that individual is released from prison,” and “[t]he practical effect of this provision is that an inmate convicted of DWI serves a conditional-release term concurrently with a supervised-release term, without regard to whether the time is served in the community or in prison.” 887 N.W.2d 271, 277 (Minn. 2016).

Conditional release and supervised release for DWI offenders “are necessarily concurrent until one of them expires.” *Maiers*, 847 N.W.2d at 530. Appellant stipulated to the fact that his supervised-release term did not commence until December 2010. We therefore conclude that appellant’s conditional-release term also commenced in December 2010, and appellant’s reincarceration between March and May of 2014 occurred within his five-year conditional-release term.

D E C I S I O N

Appellant's admission into phase II of the CIP did not start his conditional-release term. Appellant's five-year conditional-release term did not begin until December 2010, when he began the supervised-release period. As such, appellant's conditional-release term did not expire until December 2015, and appellant's reincarceration between March and May of 2014 was lawful. No genuine issues of material fact remain.

Affirmed.