STATE OF MINNESOTA
IN COURT OF APPEALS
A22-0041

Allen Pyron,
Appellant,

vs.

Leann Bergman, et al.,
Respondents.

Filed August 29, 2022
Affirmed
Bjorkman, Judge

Carlton County District Court
File No. 09-CV-21-1596

Allen L. Pyron, Moose Lake, Minnesota (pro se appellant)

Keith Ellison, Attorney General, Emily B. Anderson, Assistant Attorney General, St. Paul, Minnesota (for respondents)

Considered and decided by Bjorkman, Presiding Judge; Bratvold, Judge; and Halbrooks, Judge.*

NONPRECEDENTIAL OPINION

BJORKMAN, Judge

Appellant challenges the district court's dismissal of his claim that employees of the Minnesota Sex Offender Program impermissibly deprived him of his personal electronic

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

device. Because the Minnesota Tort Claims Act, Minn. Stat. § 3.736 (2020), deprives the courts of subject-matter jurisdiction over appellant's claim, we affirm.

FACTS

Appellant Allen Pyron is civilly committed to the Minnesota Sex Offender Program (MSOP) and resides at its Moose Lake facility. MSOP is statutorily authorized to "establish policies and procedures" for its facilities. *See* Minn. Stat. § 246.014(d) (2020) ("The commissioner of human services may establish policies and procedures which govern the operation of the services and programs under the direct administrative authority of the commissioner."). Under this authority, MSOP adopted Policy No. 420-5250 "Client Property" (the policy). The policy places limits on the personal property clients may possess, including that clients are allowed one "stereo" and one "clock/clock radio." MSOP staff annually inspect client rooms to ensure compliance with the policy. Items found in client rooms that do not comply with the policy are designated as "contraband." Clients must send out or otherwise dispose of contraband per the policy.

In July 2010, Pyron purchased a Boston Acoustic Horizon Trio (the device) for $400. MSOP authorized the purchase, categorizing the device as a clock radio. Pyron later purchased, again with MSOP's approval, a stereo and speakers, which were categorized as a stereo. In January 2019, MSOP re-categorized the device as a stereo, resulting in Pyron possessing two stereos in violation of the policy. Because the device was then considered contraband, Pyron shipped it, at his own expense, to a relative. Pyron thereafter filed a claim within MSOP regarding the device, alleging that MSOP employees wrongly deprived him of its use. MSOP denied the claim.

Pyron then filed a claim in conciliation court against respondent MSOP employees, again alleging that MSOP deprived him of the device by requiring him to dispose of it. The MSOP employees asserted that the conciliation court lacked subject-matter jurisdiction to adjudicate Pyron's claim. The conciliation court referee did not address jurisdiction but awarded Pyron $200, half the cost of the device. The MSOP employees appealed to district court, which dismissed the action based on the lack of subject-matter jurisdiction and official immunity. Pyron appeals.

DECISION

A district court must dismiss an action over which it lacks subject-matter jurisdiction. Minn. R. Civ. P. 12.08(c). We review the question of subject-matter jurisdiction de novo. *Daniel v. City of Minneapolis*, 923 N.W.2d 637, 644 (Minn. 2019).

The Minnesota Tort Claims Act shields state employees from liability for claims of negligent "loss, damage, or destruction of property of a patient or inmate of a state institution except as provided under [Minn. Stat. § 3.7381 (2020)]." Minn. Stat. § 3.736, subd. 3(m). Section 3.7381 sets out the procedure for resolving such claims, authorizing the commissioner of human services to "determine, adjust, and settle . . . claims and demands of $7,000 or less arising from negligent loss, damage, or destruction of property of a patient of a state institution." Minn. Stat. § 3.7381(a). If the commissioner denies the claim, the patient may present it to "the appropriate committees of the senate and the house of representatives and, if approved, [the claim] shall be paid pursuant to legislative claims procedure." *Id.* (b). The legislature expressly provided that "[t]he procedure established

by [section 3.7381] is exclusive of all other legal, equitable, and statutory remedies." *Id.* (c).

Pyron does not dispute that he is a patient in a state institution under the commissioner's control or that the value of the device MSOP employees took from him is less than $7,000. Rather, he contends that his claim is not based on loss or damage to the device; it is based on the MSOP employees' re-categorization of the device as a stereo. We are not persuaded. As a result of the re-categorization, Pyron was required to part with the device; he did so by sending it to a relative. We agree with the district court that Pyron's claim sounds in conversion, reflecting that he lost possession of the device. *See TCI Bus. Cap., Inc. v. Five Star Am. Die Casting, LLC*, 890 N.W.2d 423, 428 (Minn. App. 2017) (defining conversion to mean interference with the use and possession of another's property).[1] Indeed, Pyron acknowledged as much by seeking recovery for its loss through MSOP as provided by section 3.7381.

On this record, we conclude that the exclusivity provision of section 3.7381 deprives the courts of subject-matter jurisdiction over Pyron's claim. We have previously interpreted identical language in a related statute to mean that the statute provides the exclusive remedy for corresponding claims. *Davis v. State, Dep't of Corr.*, 500 N.W.2d

[1] Even if we treated Pyron's argument as challenging only the re-categorization of the device—rather than its loss—he cites no legal support for the proposition that the MSOP employees' decision to re-categorize was improper. Accordingly, he has failed to meet his burden to show error on appeal. *See Waters v. Fiebelkorn*, 13 N.W.2d 461, 464-65 (Minn. 1944) ("[O]n appeal error is never presumed. It must be made to appear affirmatively before there can be reversal . . . [and] the burden of showing error rests upon the one who relies upon it.").

134, 135 (Minn. App. 1993) (interpreting identical language in Minn. Stat. § 3.738, subd. 3 (1992), to provide for the exclusive remedy for claims arising from the injury or death of a patient or inmate), *rev. denied* (Minn. July 15, 1993). The fact Pyron did not obtain a recovery through the section 3.7381 procedures is not determinative.[2] Because the legislature gave the commissioner exclusive authority to resolve claims like Pyron's, the district court properly dismissed this action.[3]

Affirmed.

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[2] At the hearing before the district court, Pyron stated that he appealed the denial of his claim to the relevant legislative subcommittee and was again denied recovery. The record does not support this assertion, but Pyron repeats it in his appellate brief.

[3] Having concluded that the district court lacked subject-matter jurisdiction, we need not consider whether official immunity bars Pyron's claim. But we discern no evident error in the district court's determination that the decision to re-categorize the device was a discretionary act because it involved "individual professional judgment that necessarily reflects the professional goal and factors of a situation." *Vassallo ex rel. Brown v. Majeski*, 842 N.W.2d 456, 462 (Minn. 2014) (quotation omitted). And nothing in the record indicates that the MSOP employees committed "a willful or malicious wrong." *Kariniemi v. City of Rockford*, 882 N.W.2d 593, 600 (Minn. 2016).