

*This opinion is nonprecedential except as provided by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
A23-0464**

In the Matter of the Short-Call Substitute Teaching
License Application of Jeronimo Yanez.

**Filed March 11, 2024
Affirmed
Bjorkman, Judge**

Minnesota Professional Educator Licensing and Standards Board

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Considered and decided by Ede, Presiding Judge; Bjorkman, Judge; and Kirk,
Judge.*

NONPRECEDENTIAL OPINION

BJORKMAN, Judge

This certiorari appeal follows a remand from this court directing respondent Minnesota Professional Educator Licensing and Standards Board (the board) to reconsider its denial of relator Jeronimo Yanez's application to become a substitute teacher. We instructed the board to determine whether Yanez's conduct in killing Philando Castile while employed as a police officer violates the moral standards required of teachers and

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

indicates he is unfit to teach in public schools. *In re Short Call Substitute Teaching License Application of Yanez*, 983 N.W.2d 89, 100 (Minn. App. 2022). Yanez challenges the board’s supplemented decision that again denies his application, arguing that (1) the board failed to follow our remand instructions and (2) its decision is not supported by substantial evidence. We affirm.

FACTS

Because the facts underlying this appeal are recited in our previous decision, we do not fully restate them here.

In February 2020, while he was teaching at a private school, Yanez applied for a Minnesota short-call substitute teacher license and his application was denied. He appealed and an administrative-law judge (ALJ) conducted a contested-case hearing in July 2021. At the hearing, the ALJ heard testimony from six witnesses and admitted over 30 exhibits. The evidence from the contested hearing established, in relevant part, that in 2016, while working as a police officer, Yanez fatally shot Castile, a St. Paul School District employee. The shooting garnered significant local, national, and global media attention. In June 2017, a jury acquitted Yanez of second-degree manslaughter and intentional discharge of a firearm that endangered safety.

Following the contested hearing, the ALJ issued findings of fact, conclusions of law, and a recommendation that the board deny Yanez’s application. The ALJ found that Yanez “took a life that he should not have taken” and endangered the other two occupants of the vehicle, one of whom was a young child; prejudged Castile in a manner that indicated “racial bias, microaggressions, and negativity bias” that would be “detrimental to students,

especially students of color”; and his act of killing Castile was “morally wrong, and deeply hurtful and offensive to the community.” The ALJ recommended that the board deny Yanez’s application under Minn. Stat. § 122A.20, subd. 1(a)(1) (2020), based on Yanez’s “immoral character or conduct.”

The board adopted the ALJ’s findings of fact and legal conclusions. In an accompanying memorandum, the board determined, among other things, that the ALJ properly evaluated Yanez’s conduct under the “morals of the community” standard. And the board adopted the ALJ’s recommendation to deny the application.

In his first appeal, we held that (1) the burden is on Yanez to demonstrate that the board should grant his application and (2) the phrase “immoral character or conduct” in Minn. Stat. § 122A.20, subd. 1(a)(1), is unconstitutionally vague. *Yanez*, 983 N.W.2d at 94-97. But we concluded that the infirmity can be cured by applying a narrowing construction that relates the subject character or conduct to the applicant’s proposed work as a teacher in a public school. *Id.* at 97-98.

Accordingly, we remanded for the board “to weigh the evidence and apply the relevant criteria in light of our narrowing construction.” *Id.* at 100. We cautioned that denying a license application based on “immoral character or conduct” requires “great circumspection.” *Id.* And we directed the board to: (1) “identify which factors it is relying upon and the weight being accorded those factors in determining whether Yanez’s conduct violated moral standards for the teaching profession” and (2) “assess whether and how that conduct relates to Yanez’s fitness to teach in the public schools, again identifying the weight being accorded the factors it considers relevant.” *Id.*

On remand, the board reconsidered Yanez’s application on the existing record. The board identified the Code of Ethics for Minnesota Teachers (the code), Minn. R. 8710.2100 (2021), as establishing the factors that define the moral character required of teachers. The code includes ten standards, three of which the board found particularly relevant and against which it evaluated Yanez’s conduct:

First, [Yanez’s] racial profiling and prejudgment of Mr. Castile and [his girlfriend, D.R.] as robbery suspects informed his decision to initiate a traffic stop while the family was on their way home from the grocery store. Such racial profiling and prejudgment is discriminatory conduct . . . contrary to the requirement under the Code of Ethics for Minnesota Teachers that a teacher shall provide professional educator services in a nondiscriminatory manner pursuant to Minnesota Rule 8710.2100, subpart 2.A.

The board placed “significant weight” on this factor.

Second, [Yanez’s] decision to fire seven shots into the vehicle, killing Mr. Castile and endangering the lives of [D.R.] and her four-year old daughter was wrongful and unjustified. . . . [This] conduct . . . is contrary to the requirement under the Code of Ethics for Minnesota Teachers that a teacher shall take reasonable disciplinary action in exercising the authority to provide an atmosphere conducive to learning pursuant to Minnesota Rule 8710.2100, subpart 2.D. This means, among other things, that a teacher will not use poor judgment and abuse their disciplinary authority by escalating an interaction with a student with a response that is disproportionate to the situation at hand.

The board placed “substantial weight” on this factor.

Finally, [Yanez’s] decision to stop Mr. Castile’s vehicle and to shoot and kill Mr. Castile created conditions harmful to the health and safety of Mr. Castile and his family. . . . [This] conduct . . . is contrary to the requirement under the Code of Ethics for Minnesota Teachers that a teacher shall make reasonable efforts to protect students from conditions harmful

to health and safety pursuant to Minnesota Rule 8710.2100, subpart 2.B.

The board placed “great weight” on this factor.

The board also determined that Yanez is not fit to teach in the public schools, using the eight-factor test set out in *Morrison v. State Bd. of Educ.*, 461 P.2d 375, 386 (Cal. 1969).

Yanez appeals the board’s denial of his application by writ of certiorari.

DECISION

Judicial review of an agency decision is deferential. *Dokmo v. Indep. Sch. Dist. No. 11*, 459 N.W.2d 671, 674 (Minn. 1990). But we will reverse a challenged decision if it may have prejudiced the relator’s substantial rights because it is affected by an “error of law,” lacks substantial evidentiary support, or is arbitrary or capricious. Minn. Stat. § 14.69(d)-(f) (2022).

I. The board followed this court’s remand instructions.

Yanez asserts three primary arguments: that the board (1) erred by considering whether his conduct as a police officer violates the moral standards required of teachers, (2) erred by considering his fitness to teach under the eight *Morrison* factors, and (3) relabeled its prior findings rather than using “great circumspection.” We address each argument in turn.

A. The board did not err in identifying the code and weighing the code’s relevant standards to determine whether Yanez’s conduct as a police officer violates the moral standards of the teaching profession.

Yanez does not dispute that the code establishes the moral standards required of public-school teachers. We agree that the board did not err by identifying and using the

code to ground its moral-standards analysis. Upon entering the profession, teachers have a number of obligations, including adherence to “a set of principles which defines professional conduct.” Minn. R. 8710.2100, subp. 1. Those principles are reflected in the code, which “sets forth to the education profession and the public it serves standards of professional conduct and procedures for implementation.” *Id.* Yanez contends that these standards may only be used to assess an applicant’s past teaching conduct. This argument is unavailing for several reasons.

First, Yanez cites no authority to support this argument. “An assignment of error on mere assertion, unsupported by argument or authority, is forfeited and need not be considered unless prejudicial error is obvious on mere inspection.” *Scheffler v. City of Anoka*, 890 N.W.2d 437, 451 (Minn. App. 2017), *rev. denied* (Minn. Apr. 26, 2017).

Second, Yanez’s suggested parameters—that the board may only consider past teaching conduct in assessing whether an applicant exhibits “immoral character or conduct”—would unduly restrict the board’s ability to exercise its discretion in licensing matters. By its terms, the code applies to “[e]ach teacher, upon entering the teaching profession.” Minn. R. 8710.2100, subp. 1. As such, it applies to individuals such as Yanez who have worked in other professions before seeking a teaching license. Only allowing the board to consider prior teaching conduct would, in cases involving first-time teachers, prevent the board from considering much evidence of character and conduct at all. But the past informs the present. Limiting the board’s consideration to prior teaching conduct would depart from the customary hiring practice of considering an applicant’s previous

employment experience regardless of the nature of the past employment or the employment sought.

Third, the board implicitly found that policing and teaching are different professions, but there are parallels between the skills required for both. It carefully articulated how Yanez’s conduct as a police officer relates to the moral standards required of teachers in its supplemented order. We see no legal error by the board in considering Yanez’s prior employment experience, including his time working as a police officer, when assessing whether his moral character and conduct conforms with the standards required of public-school teachers.

B. The board did not err in identifying *Morrison* and weighing its eight factors to determine Yanez’s fitness to teach in a public school.

In Yanez’s first appeal to this court, we cited *Morrison* as a “seminal decision” in addressing vagueness challenges to statutes like Minn. Stat. § 122A.20, subd. 1(a)(1), that permit teacher licensing boards to deny applications or impose discipline based on immoral character or conduct. *Yanez*, 983 N.W.2d at 96. *Morrison*’s credentials to teach were revoked when the school district learned that *Morrison* had an affair with another male teacher. *Morrison*, 461 P.2d at 377-78. The education board determined that this constituted “immoral and unprofessional conduct, and an act involving moral turpitude, all of which warrant[ed] revocation.” *Id.* at 378-79. The California Supreme Court reversed, holding that the board cannot “abstractly characterize” an applicant’s conduct as “immoral” or “unprofessional” under California’s education code “unless that conduct indicates that

the [person] is unfit to teach.” *Id.* at 386. The *Morrison* court identified eight factors a board may consider when assessing fitness to teach:

[T]he likelihood that the conduct may have adversely affected students or fellow teachers, the degree of such adversity anticipated, the proximity or remoteness in time of the conduct, the type of teaching certificate held by the party involved, the extenuating or aggravating circumstances, if any, surrounding the conduct, the praiseworthiness or blameworthiness of the motives resulting in the conduct, the likelihood of the recurrence of the questioned conduct, and the extent to which disciplinary action may inflict an adverse impact or chilling effect upon the constitutional rights of the teacher involved or other teachers.

Id. (footnotes omitted).

Yanez argues that the board erred by applying the *Morrison* fitness-to-teach factors to his employment outside the teaching profession. He also criticizes the board’s analysis of each *Morrison* factor, contending that the board gave no genuine weight to any of the factors. We are not persuaded.

First, as noted above, this court already said that the *Morrison* factors provide guidance in assessing whether a person has exhibited immoral character or conduct. *Yanez*, 983 N.W.2d at 96. The underlying facts of *Morrison* itself involve conduct unrelated to teaching. Indeed, numerous other courts across the country have used the eight *Morrison* factors under various circumstances, including those involving persons with no prior teaching experience. *Id.* at 96-97 (collecting cases); see *Ikpa v. Comm’n on Teacher Credentialing*, 2003 WL 1547771, at *4-5 (Cal. 2d Mar. 26, 2003) (affirming the denial of an application for a single-subject teaching permit based on applicant’s heroin convictions as analyzed under the *Morrison* factors); see also *Alford v. Ingram*, 931 F. Supp. 768, 772-

73 (M.D. Ala. 1996) (adopting *Morrison* and ruling in favor of the superintendent stating that an application for a teaching certificate can be denied for immoral conduct—specifically, criminal convictions unrelated to teaching—so long as the superintendent relates the terms of the statute to the fitness to teach).

Second, the board expressly weighed each of the eight factors, finding that three factors significantly support denying Yanez’s application: the likelihood that Yanez’s conduct may adversely affect students or fellow teachers given the deep impact of Castile’s death; the degree of anticipated adversity and resulting threats to the emotional and social wellbeing of the students with Yanez present in the classroom; and the extenuating or aggravating circumstances surrounding the conduct, which resulted in world-wide notoriety of the killing and a demonstration of “extremely poor judgment” by Yanez. The board took care to make detailed findings under each of the eight factors, demonstrating a rational relationship between the facts and the conclusions reached while also stating the impact of that factor on its ultimate decision. Doing so is the task assigned to the board, not this court. On this record, we discern no basis for disturbing the board’s determination that Yanez is unfit to teach.

C. The board did not simply relabel its prior findings.

As noted above, the board followed our remand instructions to identify and weigh factors relevant to the moral standards required of public-school teachers and Yanez’s fitness to teach. What Yanez characterizes as mere “relabeling” of the board’s prior findings is precisely the contextualization of the board’s findings and analysis that we directed the board to do. The board’s supplemented order includes 33 pages of factual

findings and conclusions of law and a 7-page memorandum that addresses Yanez's various arguments and more fully explains the board's analysis of the *Morrison* fitness-to-teach factors. The supplemented order adopts almost all of the ALJ's findings of fact and includes dozens of the board's own factual determinations. In short, the board's supplemented order is substantially different than its prior order, demonstrating the great circumspection it was required to, and did, employ.

II. Substantial evidence supports the board's decision.

Yanez does not argue that any of the board's findings lack support in the record. But he contends that the board's decision lacks substantial evidentiary support because the board improperly weighed competing evidence. He specifically faults the board for not crediting evidence of Yanez's success teaching in a private school and for considering the report and testimony of Dr. Joseph Gothard, Ed.D., who Yanez argues is not qualified to offer expert testimony and is biased against Yanez. The record defeats these arguments.

The board's written decision includes numerous findings regarding the testimony of the principal of the private school where Yanez taught during the 2020-21 school year.¹ The findings include that Yanez received a 3.8 out of 4 on his teaching performance review, a score the principal described as "unusually high for a first-year teacher" and akin to "the level of a tenured teacher." And the findings reflect the principal's support for Yanez's application despite his awareness that Yanez fatally shot Castile. But the board also found that the principal lacked expertise concerning teacher licensure and that his testimony only

¹ Yanez represented to the board at the remand hearing that he was still teaching at the private school.

addressed “aptitude to teach in a relatively small private school setting where families have chosen to send their children, presumably knowing that [Yanez] was a member of the faculty.” Ultimately, the board credited the testimony regarding Yanez’s success teaching in the private school but determined it was outweighed by other evidence.

Yanez’s challenge to Dr. Gothard’s qualifications to present expert testimony also fails. Dr. Gothard testified as an expert in the field of education and teacher ethics. He holds a master’s degree in educational administration and a doctorate in educational leadership and has worked as a teacher or school administrator since 1993. Dr. Gothard has served as Superintendent of the St. Paul Public School District since July 2017.² He has received numerous trainings and certifications in race and equity work, as it relates to the education setting, and has frequently presented on these topics.

Not only does the record persuade us that Dr. Gothard is qualified to offer expert testimony, but he related his expertise to Yanez’s circumstances and the issues facing the board. After reviewing all relevant evidence, Dr. Gothard opined that Yanez prejudged Castile and took his life in a manner that endangered others. He asserted that Yanez’s prejudgments of Castile indicate racial bias, microaggressions, and negativity bias that are detrimental to students, especially students of color. He explained that “[l]icensed educators are responsible for countless decisions on any given day” and Yanez’s conduct does not show that he could “provide professional education services in a

² Yanez argues that Dr. Gothard should have been excluded as a witness for bias because he was Castile’s “ultimate boss.” This argument is unavailing. Dr. Gothard joined the St. Paul Public School District the year after Castile died, so they never worked together.

nondiscriminatory manner, . . . make reasonable efforts to protect students from conditions harmful to health and safety, and . . . take reasonable disciplinary action in exercising authority to provide an atmosphere conducive to learning” as required by the code. Dr. Gothard questioned Yanez’s ability to meet the ethical demands for a diverse student population and opined that Yanez’s presence as a teacher in a Minnesota classroom poses a risk of retraumatizing students, staff, and families. The board made extensive findings regarding Dr. Gothard’s testimony, concluding it was highly credible and persuasive as to the moral standards required of teachers and Yanez’s fitness to teach.

In sum, both of Yanez’s sufficiency arguments essentially ask us to reweigh the evidence and supplement the board’s decision-making. That is not our role. The board received extensive evidence, including testimony from experts in the fields of education and policing. As this court directed, the board considered and weighed the evidence as it relates to Yanez’s moral character, his conduct, and his fitness to teach. Yanez’s disagreement with the board’s determinations does not constitute a basis to reverse.

Affirmed.