

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF CORRECTIONS

In the Matter of the Risk Level  
Determination of Ross Matthew Wenner

**ORDER GRANTING  
ADDITIONAL TIME**

This matter is pending before Administrative Law Judge LauraSue Schlatter pursuant to a Notice and Order for Hearing filed with the Office of Administrative Hearings on December 21, 2015.

Karen Andrews, Assistant Attorney General, represents the End-of-Confinement Review Committee – Central Office (ECRC). Ross Matthew Wenner (Petitioner) represents himself without legal counsel.

On December 23, 2015, the ECRC filed a Motion for Summary Disposition. Petitioner was personally served with the motion on December 28, 2015. On January 11, 2016, Petitioner filed a Notice of Appearance, dated January 4, 2015, indicating his intent to appear at a hearing for this matter. Petitioner did not file a response to the ECRC's Motion for Summary Disposition.

Based upon Petitioner's filing and the record, the Administrative Law Judge makes the following:

**ORDER**

Petitioner is **GRANTED** additional time to respond to the ECRC's Motion for Summary Disposition. Petitioner must file his response by **January 27, 2016**. The response must be received at the Office of Administrative Hearings **by 4:30 p.m.** on that date.

Dated: January 12, 2016

s/LauraSue Schlatter  
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LAURASUE SCHLATTER  
Administrative Law Judge

## MEMORANDUM

On December 23, 2015, the ECRC filed a Motion for Summary Disposition. According to an Affidavit of Personal Service, Petitioner was personally served with the Motion for Summary Disposition, including all attached exhibits, on December 28, 2015. On January 11, 2016, Petitioner filed a Notice of Appearance, dated January 4, 2015, indicating his intent to appear at “the hearing of my appeal of risk level determination.”<sup>1</sup> In his Notice of Appearance, Petitioner asserts that “[t]he only evidence [he] will need to bring forward is the audio recording of the ECRC meeting and MN Policy 205.220 to show [his] Risk Level 3 is erroneous.”<sup>2</sup>

Despite his clear intent to provide evidence to prove the ECRC erroneously assigned him a Risk Level 3, Petitioner did not file a response to the ECRC’s Motion for Summary Disposition. Pursuant to Minnesota Rule 1400.6600 (2015), Petitioner had ten working days from service of the motion to respond, meaning his response is due today, January 12, 2016.

Due to the possibility that summary disposition may result in dismissal of Petitioner’s appeal without an evidentiary hearing, and because Petitioner, who is not represented by legal counsel, indicates a lack of understanding regarding the current procedural posture of his appeal, providing additional time for Petitioner to write and file a response to the ECRC’s Motion for Summary Disposition is fair and reasonable.<sup>3</sup> Accordingly, the Administrative Law Judge will give Petitioner 10 additional working days to submit a written response to the ECRC’s motion.

**L. S.**

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<sup>1</sup> Notice of Appearance at 1 (January 4, 2016).

<sup>2</sup> *Id.*

<sup>3</sup> See Minn. R. 1400.8606, subp. 3(H) (2015) (administrative law judges have the authority and duty to “make preliminary, interlocutory, or other orders as necessary to assure a fair hearing”).