OAH 28-1100-40586

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF CORRECTIONS

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| In the Matter of the Risk Level Determination of Joseph Alec Haefs | **ORDER GRANTING THE ECRC'S MOTION FOR SUMMARY DISPOSITION** |

This matter is pending before Administrative Law Judge Joseph C. Meyer pursuant to a Notice and Order for Hearing filed with the Office of Administrative Hearings on January 27, 2025.

Keaon Dousti, Assistant Attorney General, represents the End-of-Confinement Review Committee (ECRC). Joseph Alec Haefs (Petitioner) represents himself and proceeds without legal counsel.

On February 24, 2025, the ECRC filed a Motion for Summary Disposition of Risk Level Administrative Review (Motion). Petitioner was served with the Motion on February 24, 2025, via U.S. mail.[1] Petitioner filed no response to the Motion. The record closed on March 8, 2025, the deadline for Petitioner's response.

Based on the record and for the reasons set forth in the accompanying Memorandum, the Administrative Law Judge makes the following:

**ORDER**

1. The ECRC's Motion for Summary Disposition is **GRANTED**.

2. Petitioner's appeal is **DISMISSED.**

3. Petitioner's assignment of Risk Level 2 is **AFFIRMED**

Dated: April 18, 2025

Joseph C Meyer

JOSEPH C. MEYER
Administrative Law Judge

[1] ECRC Aff. of Service (Feb. 24, 2025).

## MEMORANDUM

### I. Introduction

Petitioner appeals the ECRC's Risk Level 2 assignment under the Minnesota Community Notification Act (Act).[2] The ECRC argues that it should be granted summary disposition because no issues of material fact exist, and Petitioner has not identified any material errors made by the ECRC in making his risk level assignment.[3] Petitioner appealed his risk level assignment, arguing that he had no offense convictions that would require notification and that his charges were more than 10 years old.[4] Based upon a review of the Motion and the record, the ECRC's Motion for Summary Disposition is granted.

### II. Minnesota Community Notification Act and Predatory Offender Registration

The Minnesota Predatory Offender Registration Act requires that offenders who are charged with certain predatory offenses, or who are later convicted of other criminal offenses arising out of the same set of circumstances as the predatory offense, register with state law enforcement.[5] Predatory offenses include, but are not limited to, kidnapping, false imprisonment, criminal sexual conduct, felony indecent exposure, child pornography, and other specific crimes.[6] Registration seeks to ensure that law enforcement is able to locate predatory offenders living, working, or found within the state.[7] Offenders are notified of their duty to register by the district court as part of sentencing.[8]

The Minnesota Community Notification Act, in turn, provides for the community notification of predatory offenders who are registered in the State of Minnesota.[9] The purpose of community notification is to ensure that the public "in the area where a predatory offender resides, expects to reside, is employed, or is regularly found" is provided with information "that is relevant and necessary to protect the public and counteract the offender's dangerousness . . ."[10] The extent of the information disclosed, and the persons to whom the disclosure is made, must relate "to the level of danger posed

[2] Minn. Stat. § 244.052 (2024); Exhibit (Ex.) 1 (Notice of Appeal) (Dec. 20, 2024).
[3] Memorandum in Support of the ECRC's Motion (ECRC Mem.) (Feb. 24, 2025).
[4] Ex. 1.
[5] Minn. Stat. § 243.166, subd. 1b(a) (2024).
[6] Minn. Stat. § 243.166, subd. 1b (2024).
[7] *See generally* Minn. Stat. § 243.166 (2024).
[8] *See* Minn. Stat. § 243.166, subd. 2.
[9] Minn. Stat. § 244.052.
[10] *Id.* at subd. 4(a).

by the offender, to the offender's pattern of offending behavior, and to the need of community members for information to enhance their individual and collective safety."[11]

[11] Minn. Stat. §§ 244.052, subd. 4(a), 243.166, subd. 1b.

The scope of community notification required is related to the risk level assigned to a predatory offender. There are three risk level assignments under Minnesota law: Risk Level 1, Risk Level 2, and Risk Level 3.[12] Each risk level is associated with a different degree of community notification.[13] Risk Level 3 is the highest risk level and requires the broadest degree of notification.[14] In contrast, Risk Level 1 is the lowest risk level and provides for the least extensive notification.[15] The law requires the assignment of a risk level to predatory offenders before they are released from a Minnesota prison or treatment facility, or upon their release from a federal correctional facility in another state if the offender intends to reside in Minnesota.[16]

Risk level assignments are made by ECRCs composed of five individuals with varied offender experience, including the head of the correctional or treatment facility where the offender is confined, a law enforcement officer, a treatment professional trained in the assessment of sex offenders, a caseworker experienced in supervising offenders, and a victim's services professional.[17] ECRCs are established by the Department of Corrections (DOC) at each state correctional facility or state treatment facility where predatory offenders are confined.[18] Another ECRC is maintained for offenders from other states transferred to Minnesota for probation.[19] The ECRCs assess, on a case-by-case basis, the public risk posed by predatory offenders who are about to be released from confinement and determine the risk level assignment for those offenders.[20]

When assigning a risk level to an offender, the ECRC is required to apply the risk factors set forth in Minn. Stat. § 244.052, subd. 3(g), and utilize the "risk assessment scale" developed by the Commissioner of the DOC under Minn. Stat. § 244.052, subd. 2.[21] The statutory risks factors include, but are not limited to the following: (1) the seriousness of the offense should the individual reoffend; (2) the offender's prior offense history; (3) the offender's characteristics; (4) the availability of community supports to the offender; (5) whether the offender has indicated or credible evidence in the record indicates that the offender will reoffend if released to the community; and (6) whether the offender demonstrates a physical condition that minimizes the risk of re-offense.[22]

To ensure that the statutory risk factors are consistently applied and based upon empirical data, the DOC has developed risk assessment scales to weigh the statutory risk factors consistent with actuarial information obtained from test groups of predatory offenders.[23] These scales help the ECRC determine which risk level to assign a predatory offender. The application of the risk assessment scale is conducted by a professional,

[12] *See generally* Minn. Stat. § 244.052.
[13] Minn. Stat. § 244.052, subd. 4.
[14] *Id.*
[15] *Id.*
[16] *See* Minn. Stat. § 244.052, subd. 3(a)(1)-(3).
[17] *Id.* at subd. 3(a)-(b).
[18] *Id.* at subd. 3(a).
[19] *Id.* at subd. 3a(a).
[20] Minn. Stat. § 244.052, subd. 3(a).
[21] *Id.* at subds. 2, 3(d)(i).
[22] Minn. Stat. 244.052, subd. 3(g).
[23] Department of Corrections Policy 205.220 at 4–7 (Aug. 5, 2022) (DOC Policy 205.220).

generally a licensed psychologist, who has been specifically trained on the proper scoring method.[24]

One of the risk assessment scales developed by the Commissioner pursuant to Minn. Stat. § 244.052, subd. 2, is the Minnesota Screening Tool Assessing Recidivism Risk (MnSTARR).[25] The MnSTARR is used to assess an individual's risk of engaging in further criminal behavior. This scale is used, along with the totality of relevant facts and treatment professional recommendations, to assess community notification risk level for predatory offenders who have not committed a sexual offense.[26] The MnSTARR is a statistical tool that estimates or "predicts" the likelihood of non-sexual violence recidivism for predatory offenders following release.[27] The predicted probability of recidivism is then translated into a presumptive risk level and used as guidance for the ECRC in making its risk level assignment.[28] For male registrants, a MnSTARR score of 30 percent or lower is a presumptive Risk Level 1, 30.01 to 59.99 percent is a presumptive Risk Level 2, and 60 percent or higher is a presumptive Risk Level 3.[29]

The ECRC, in its discretion, can deviate from the presumptive risk level identified by the offender's score on the MnSTARR.[30] The ECRC may apply mitigating factors for a downward departure, or special concerns, which are aggravating factors, for an upward departure.[31] DOC Policy 205.220 identifies ten special concerns and six mitigating factors that an ECRC can consider along with an offender's MnSTARR score.[32] For example, an individual whose score on the MnSTARR falls in the presumptive Risk Level 2 category can be elevated to a Risk Level 3 if any special concerns exist to justify increasing his risk level or can be reduced to a Risk Level 1 if any mitigating factors exist to decrease his risk level.[33]

Prior to an ECRC meeting, the treatment professional who scored the risk assessment tool prepares a report and recommendation for the ECRC.[34] The report generally contains: (1) a summary of the offense(s) for which the offender is currently incarcerated; (2) the offender's score on the risk assessment scale and the resulting presumptive risk level; (3) an evaluation of the six statutory risk factors applied to the offender's specific circumstances; (4) an analysis of any mitigating factors or special

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[24] *Id.*
[25] Ex. 3a (MnSTARR 2.0 Input); DOC Policy 205.220 at 3. It is unclear from this record whether the MnSTARR has been properly updated and adopted, as DOC Policy references the "MnSTARR" while exhibits in the record refer to the MnSTARR 2.0.
[26] DOC Policy 205.220 at 3.
[27] DOC Policy 205.220 at 3.
[28] *Id.* at 4–5.
[29] *Id.*
[30] *Id.* at 4–7.
[31] DOC Policy 205.220 at 4–7.; *see also In re the Risk Level Determination of R.B.P.*, 640 N.W.2d 351 at 356-57 (Minn. Ct. App. 2002) (holding that an ECRC did not err by applying special concerns to assign an offender to Risk Level 3 when the presumptive risk level was Risk Level 1).
[32] DOC Policy 205.220. at 7.
[33] *Id.* at 4–7.
[34] *See* Ex. 3 (Risk Assessment Recommendation) (Dec. 3, 2024).

circumstances applying to the offender; and (5) a recommended risk level assignment and the rationale for it.[35]

The professional's report and recommendation are instructive for the ECRC but not dispositive. Using the information provided in the report and recommendation, the ECRC can either: (1) follow the professional's recommendation and assign the recommended risk level; or (2) use its own discretion and assign a different risk level based upon its application of the statutory risk factors, its consideration of special concerns or mitigating factors, and the offender's score on the risk assessment scale.[36]

Based on the report and recommendation, the offender's score on the risk assessment tool, the application of mitigating factors or special concerns, and the analysis of the statutory risk factors, the ECRC then assigns the predatory offender to a risk level.[37] The ECRC must prepare a risk assessment report which specifies the assigned risk level and the reasons underlying the committee's decision.[38] An offender who is assigned to Risk Level 2 or 3 may seek administrative review of the ECRC's risk assessment determination within 14 days of receiving notice of the ECRC's decision.[39]

An offender must register as a predatory offender and maintain their registration for a minimum of ten years.[40] Throughout that time, the appropriate level of notice must be given every time the offender changes residences.[41] The offender may request that the ECRC reassess the offender's assigned risk level after three years have elapsed since the initial risk assessment and may renew the request once every two years following subsequent denials.[42]

## III. Undisputed Facts

### A. Petitioner's Background

Petitioner is a 38-year-old man who is required to register as a predatory offender after being charged in 2013 with felony false imprisonment, felony domestic assault, and felony domestic assault by strangulation, and subsequently being convicted of felony domestic assault.[43] This conviction arose from an incident where Petitioner assaulted an intimate partner by kicking her, slamming her head into the ground, head-butting her, and punching her in the face while holding their child.[44] Petitioner also prevented the victim from leaving and strangled her until she blacked out.[45] Petitioner is currently incarcerated

[35] *See id.*
[36] *See generally* Minn. Stat. § 244.052; DOC Policy 205.220.
[37] *See generally* Minn. Stat. § 244.052.
[38] Minn. Stat. § 244.052, subd. 3(f).
[39] Minn. Stat. § 244.052, subd. 6(a).
[40] Minn. Stat. § 243.166, subds. 1b, 3, 5a.
[41] *Id.*, subd. 3.
[42] Minn. Stat. § 244.052, subd. 3(i).
[43] Ex. 3 at 1; Ex. 4 at 82-91 (ECRC Packet).
[44] Ex. 4 at 88.
[45] Ex. 4 at 88-89.

after being convicted of felony second degree assault with a dangerous weapon arising out of an incident that occurred on October 6, 2023.[46] Petitioner's scheduled release date was April 9, 2025.[47]

Petitioner's criminal history also includes convictions for fourth- and fifth-degree assault,[48] violating an order for protection,[49] disorderly conduct,[50] and other offenses.[51]

### B. MnSTARR and Recommendation to ECRC

In anticipation of Petitioner's release, Dr. Halie Rostberg, Psy.D, L.P, a psychologist with the DOC, prepared a risk assessment of Petitioner.[52]

As part of the risk assessment, Dr. Rostberg used the MnSTARR 2.0 to generate Petitioner's presumptive risk level.[53] On November 25, 2024, Dr. Rostberg reported Petitioner's three-year non-sexual violent recidivism estimate was 26.27 percent and, therefore, his presumptive risk level to be Risk Level 1.[54] Dr. Rostberg considered the statutory factors, noting Petitioner's potential dangerousness should he reoffend, criminal history, characteristics, community support, lack of expressed intent to reoffend, and physical condition.[55]

Dr. Rostberg identified four special concerns applicable to Petitioner. Special Concern #1: The degree of likely force or harm used in an offense. Special Concern #2: the degree of likely physical contact. Special Concern #4: the relationship of prior victims to the offender. Special Concern #10: the most appropriate level of community notification.[56] Dr. Rostberg concluded that these special concerns warranted an upward departure from Petitioner's presumptive risk level, and recommended that he be assigned to Risk Level 2.

Dr. Rostberg provided a memorandum to the ECRC detailing her assessment and recommendation in advance of the meeting.[57]

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[46] Ex. 4 at 26.
[47] Ex. 3 at 1.
[48] Ex. 4 at 22-23.
[49] Ex. 4 at 23.
[50] Ex. 4 at 23.
[51] Ex. 4 at 21-25.
[52] Ex. 3.
[53] Ex. 3 at 2; Ex. 3a (MnSTARR Scoring Sheet).
[54] Ex. 3 at 2; Ex. 3a; Ex. 8 at 5 (DOC Policy 205.220).
[55] Ex. 3 at 2–4.
[56] Ex. 3 at 4.
[57] Ex. 3.

## C. ECRC Meeting and Petitioner's Appeal

The ECRC convened on December 16, 2024, to address Petitioner's risk level assignment.[58] Petitioner attended the ECRC meeting.[59] Dr. Rostberg's recommendation was read into the record.[60]

Petitioner argued that his predatory offense occurred more than 10 years prior, and that he had been discipline-free throughout his incarceration.[61] Further, Petitioner reported that he had been participating in substance abuse programming and hoped to continue to do so upon release.[62]

The ECRC deliberated and, by a three to two split vote, assigned Petitioner to Risk Level 2 consistent with Dr. Rostberg's recommendation.[63]

On December 20, 2024, Petitioner timely appealed the ECRC's risk level determination.[64] In response to the Notice of Appeal, the ECRC filed a Notice and Order for Hearing with the Office of Administrative Hearings, initiating this contested case proceeding, on January 27, 2025.[65]

# IV. Summary Disposition Standard of Review

Summary disposition is the administrative law equivalent to summary judgment.[66] Summary disposition is appropriate where there is no genuine issue of material fact and where the application of law to undisputed fact will resolve the controversy.[67] The Office of Administrative Hearings has generally followed the summary judgment standards developed in the district courts in considering motions for summary disposition of contested case matters.[68]

The Administrative Law Judge's function on a motion for summary disposition, like a district court's function on a motion for summary judgment, is not to decide issues of fact, but solely to determine whether genuine factual disputes exist with regard to material

[58] Ex. 2 at 1 (ECRC Risk Assessment Report) (Dec. 16, 2024).
[59] Ex. 2 at 1; Ex. 9 (ECRC Recording) (Dec. 16, 2024).
[60] Ex. 9.
[61] Ex. 2 at 2; Ex. 9.
[62] Ex. 2 at 2; Ex. 9.
[63] Ex. 2 at 2; Ex. 9.
[64] Ex. 1.
[65] Notice and Order for Hearing (Jan. 27, 2025).
[66] *Pietsch v. Minnesota Bd. of Chiropractic Exam'rs*, 683 N.W.2d 303, 306 (Minn. 2004); *see also* Minn. R. 1400.5500(K) (2023).
[67] *Sauter v. Sauter*, 70 N.W.2d 351, 353 (Minn. 1955); *Louwagie v. Witco Chemical Corp.*, 378 N.W.2d 63, 66 (Minn. Ct. App. 1985); *Gaspord v. Washington County Planning Commission*, 252 N.W.2d 590, 590–91 (Minn. 1977); *See* Minn. R. 1400.5500 K; Minn. R. Civ. P. 56.03.
[68] *See* Minn. R. 1400.6600 (2023).

issues.[69] The Administrative Law Judge does not weigh the evidence on a motion for summary disposition.[70]

In deciding a motion for summary disposition, the Administrative Law Judge must view the evidence in the light most favorable to the non-moving party.[71] All doubts and factual inferences must be resolved against the moving party.[72] If reasonable minds could differ as to the import of the evidence, judgment as a matter of law should not be granted.[73]

The moving party has the initial burden of showing the absence of a genuine issue concerning any material fact.[74] If the moving party is successful, the nonmoving party then has the burden of proof to show specific facts that are in dispute that can affect the outcome of the case.[75]

It is not sufficient for the nonmoving party to rest on mere averments or denials; it must present specific facts demonstrating a genuine issue for trial.[76] A genuine issue is one that is not sham or frivolous.[77] A material fact is a fact whose resolution will affect the result or outcome of the case.[78]

While the purpose and useful function of summary disposition is to secure a just, speedy, and inexpensive determination of an action, summary disposition cannot be used as a substitute for a hearing where any genuine issue of material fact exists.[79] Summary disposition is only proper where there is no fact issue to be decided.[80]

## V. Analysis

While Petitioner did not respond to the ECRC's Motion, the argument advanced in his Notice of Appeal is that he had no offense convictions that would require predatory offender registration and that his charges were more than 10 years old.[81]

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[69] *See, e.g., DLH, Inc. v. Russ*, 566 N.W.2d 60, 70 (Minn. 1997).
[70] *Id.*
[71] *Ostendorf v. Kenyon*, 347 N.W.2d 834, 836 (Minn. Ct. App. 1984).
[72] *Ahlm v. Rooney*, 143 N.W.2d 65, 68 (Minn. 1966).
[73] *DLH*, 566 N.W.2d at 69.
[74] *Thiele v. Stich*, 425 N.W.2d 580, 583 (Minn. 1988).
[75] *Zappa v. Fahey*, 245 N.W.2d 258, 260 (Minn. 1976).
[76] *Ahlm*, 143 N.W.2d at 67–68 (Minn. 1966).
[77] *Highland Chateau, Inc. v. Minnesota Dep't of Public Welfare,* 356 N.W.2d 804, 808 (Minn. Ct. App. 1984), rev. denied (Minn. Feb. 6, 1985).
[78] *Zappa*, 245 N.W.2d at 259–60 (Minn. 1976); *see also O'Malley v. Ulland Bros.*, 549 N.W.2d 889, 892 (Minn. 1996).
[79] *Sauter*, 70 N.W.2d at 353.
[80] *Id.*
[81] Ex. 1.

It is true that the Petitioner's 2013 domestic assault conviction does not, by itself, require predatory offender registration.[82] However, offenders are required still required to register if they were charged with one of the statutes that requires registration and convicted of "another offense arising out of the same set of circumstances."[83] Here, Petitioner's 2013 domestic assault conviction arose out of the same set of circumstances that led him to be charged with false imprisonment under Minn. Stat. § 609.255, subd. 2 (2024). The current version of Minn. Stat. § 243.166, subd. 1b, does not include false imprisonment on the list of charges requiring registration. Petitioner was, however, required to register upon being released from custody for the 2013 conviction because the statute in effect at that time did include the specific subdivision of the false imprisonment statute.[84] At present, Petitioner is required to continue registering for 10 years after originally registering in connection with the offense or until the probation, supervised release, or conditional release period expires, whichever occurs later.[85] In other words, while it is true that the 2013 charges and convictions would not require predatory offender registration if they transpired today, Petitioner is not relieved of his obligation to register.

Petitioner also argues that because the events requiring registration occurred more than 10 years ago, assignment to Risk Level 1 appropriate.[86] In making this argument, Petitioner focuses solely on conduct leading to charges that require predatory offender registration. Petitioner has, however, engaged in violent conduct against an intimate partner much more recently than 10 years ago. Most recently, in October 2023, Petitioner struck his intimate partner in the chest with a shovel and then threw her out of the bed of a pickup truck,[87] leading to a conviction for second degree assault with a dangerous weapon.[88] So, while the predatory offense that underpins Petitioner's registration requirement is more than 10 years old, Petitioner's recent history does not demonstrate that he is no longer a danger to the community.

As Petitioner's MnSTARR 2.0 placed him presumptively in Risk Level 1, it is not necessary to examine whether the MnSTARR 2.0 was correctly scored. Risk Level 1 is the lowest possible risk level, so even if there were an error in the MnSTARR 2.0 scoring, it would not be a material error because correcting any such error could not reduce Petitioner's presumptive risk level any further.

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[82] *See* Minn. Stat. § 243.166, subd. 1b (enumerating the offenses for which predatory offender registration is required).
[83] Minn. Stat. § 243.166, subd. 1b(a)(1).
[84] Minn. Stat. § 243.166, subd. 1b (2012).
[85] Minn. Stat. § 243.166, subd. 6(a). When sentenced for the 2013 offense, Petitioner was placed on supervised probation with a discharge date of November 8, 2018. For purposes of resolving the Motion, it is sufficient to note that Petitioner must register until at least November 8, 2028, without analyzing whether any other events have extended that time period under Minn. Stat. § 243.166, subd. 6.
[86] Ex. 1.
[87] Ex. 4 at 44.
[88] Ex. 4 at 21.

Dr. Rostberg addressed the six statutory risk factors[89] and the ECRC properly considered those factors.[90] Except for the length of time since the original predatory offense, Petitioner did not allege any mitigating circumstances that would have lowered his risk level from his presumptive risk level. But the original offense was considered as part of the required factors under Minn. Stat. § 244.052, subd. 3(g). Moreover, after a review of the record, none of the enumerated mitigating circumstances apply to Petitioner.[91] Accordingly, the ECRC only committed a material error if it erroneously applied the four special factors in departing from Petitioner's presumptive risk level.

Special Concern #1 considers the degree of likely force or harm used in an offense, should the registrant re-offend.[92] There is ample evidence in the record to support the ECRC's concern about the degree of likely force or harm should Petitioner re-offend. As previously discussed, in October 2023, Petitioner struck an intimate partner in the chest with a shovel. Further, in September 2023, Petitioner was charged with grabbing an intimate partner by the throat and threatening to kill her.[93] The ECRC did not err by applying Special Concern #1.

Special Concern #2 considers the degree of likely physical contact.[94] As previously discussed, Petitioner's original predatory offense and more recent violent offenses have involved physical assaults against intimate partners including strangulation and striking with a shovel. This fact suggests reason to be concerned about the degree of likely physical contact with intimate partners. Thus, the ECRC did not err by applying Special Concern #2.[95]

Special Concern #4 considers the relationship of prior victims to the registrant.[96] As previously discussed, Petitioner has a history of violent and predatory conduct directed at intimate partners. Thus, the ECRC has reason to be considered that Petitioner poses a threat to future intimate partners, and the ECRC did not err by applying Special Concern #4.

Special Concern #10 considers the most appropriate level of community notification.[97] While the MnStARR 2.0 is an actuarial tool that produces a recidivism estimate which is then translated into a presumptive risk level, it is important to bear in mind that the statutory risk levels establish specific requirements with respect to who may be notified of where a predatory offender will reside, expect to reside, be employed, or regularly be found.[98] If Petitioner were assigned to Risk Level 2, law enforcement may

[89] Ex. 3 at 2–4; Minn. Stat. § 244.052, subd. 3(g).
[90] Ex. 2; Ex. 9.
[91] Ex. 8 at 3-4.
[92] DOC Policy 205.220 at 7.
[93] Ex. 4 at 52.
[94] DOC Policy 205.220 at 7.
[95] While the ECRC did not err by applying Special Concern 2, Special Concern 1 and 2 were applied in this case to address nearly identical concerns such that the application of both special concerns does not significantly increase the overall weight of either special concern were they applied in isolation.
[96] DOC Policy 205.220 at 7
[97] DOC Policy 205.220 at 7
[98] Minn. Stat. § 244.052, subd. 4.

provide this information to future intimate partners if they are identified as "individuals the agency believes are likely to be victimized" by Petitioner.[99] Such notification would not be permitted if Petitioner were assigned to Risk Level 1.[100] Because the ECRC has demonstrated a pattern of violent and predatory conduct directed at intimate partners, the ECRC did not err by applying Special Concern #10 to justify assignment of a risk level that could permit disclosure to future intimate partners.

In sum, the ECRC did not err by applying any of the four specified special concerns, nor did it err by departing upward from Petitioner's presumptive risk level based on those special concerns.

During the ECRC, Petitioner spoke about his success with substance abuse programming and desire to continue that programming upon release.[101] Such efforts are commendable, and the Administrative Law Judge hopes Petitioner is successful in his substance abuse recovery.

Petitioner is reminded that he may request that the ECRC reassess his risk level assignment after three years have elapsed since the ECRC's meeting on December 16, 2024.[102] If the request is denied, Petitioner may renew the request once every two years following any subsequent denials.[103]

## VI. Conclusion

Because Petitioner has failed to raise a genuine issue of material fact related to the ECRC's risk level assignment, the ECRC's Motion for Summary Disposition is **GRANTED**. Petitioner's appeal of his risk level determination is **DISMISSED** and his assignment of Risk Level 2 is **AFFIRMED**.

**J.C.M.**

[99] Minn. Stat. § 244.052, subd. 4(b)(2).
[100] Minn. Stat. § 244.052, subd. 4(b)(1).
[101] Ex. 8.
[102] Minn. Stat. § 244.052, subd. 3(i).
[103] *Id.*