

STATE OF MINNESOTA
IN COURT OF APPEALS

Minnesota Board of Architecture,
Engineering, Land Surveying,
Landscape Architecture, Geoscience
and Interior Design,

Respondent,

vs.

Charles L. Marohn, Jr.,

Petitioner.

**PETITION FOR WRIT OF
CERTIORARI**

**COURT OF APPEALS
NO: _____**

Agency or Board:

**Minnesota Board Of
Architecture, Engineering, Land
Surveying, Landscape
Architecture, Geoscience And
Interior Design**

File No. 2020-0043

Date of Decision:

July 12, 2022

**Date And Description Of Event
Triggering Appeal Time:**

**Receipt of final decision on July
12, 2022**

To: The Court of Appeals of the State of Minnesota

Petitioner Charles L. Marohn petitions the Court of Appeals for a Writ of Certiorari to review a decision of the Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design (“Board”), rendered as a final order on July 12, 2022. The initial contested

hearing was filed on June 3, 2021. The matter was then reviewed before an Administrative Law Judge (“ALJ”) of the Office of Administrative Hearings (“OAH”), which made a recommendation in favor of the Board’s initial determination, on May 31, 2021, where the Board determined that Mr. Marohn violated Minn. Stat. §326.02 governing professional licensure, and granted the Board summary disposition from the OAH proceeding. On July 12, 2022, the Board entered a final order imposing censure, reprimand, an ethics course requirement and civil penalty in the amount of \$1500 for the violation.

A. Grounds and Statutory Provisions for Certiorari Review.

Mr. Marohn requests the issuance of the Writ applicable under Minn. Stat. §§14.63 to 14.69. In 2000, after graduation from the University of Minnesota with a degree in civil engineering, Mr. Marohn obtained a professional engineering license from the Board. Mr. Marohn worked as a professional engineer from 2000 to 2012. In 2009, Mr. Marohn founded a “Strong Towns,” a nonprofit corporation based in Minnesota that advocates for, among other reforms, local governments to spend less taxpayer dollars on construction and infrastructure projects. In 2012, Mr. Marohn ceased working as a professional engineer and devoted all of his time to working for Strong Towns. Nonetheless, Mr. Marohn maintained as professional engineering license with the Board.

From 2018-2020, Mr. Marohn mistakenly failed to renew his professional engineering license. In 2020, when Mr. Marohn realized his mistake, Mr. Marohn

both reinstated his professional engineering license for 2018-2020 and renewed his professional engineering license for 2020-2022 and the Board issued both licenses.

Minn. Stat. §326.02 subd. (1) and (3) prohibit anyone other than a licensed professional engineer from referring to themselves as a “professional engineer.” After Mr. Marohn reinstated and renewed his professional engineering license, the Board filed a complaint against Mr. Marohn asserting that Mr. Marohn had referred to himself as a professional engineer when engaged in political advocacy for Strong Towns while unlicensed during 2018-2020. The Board admits that since 2012, Mr. Marohn had not engaged in either practicing, or offering to practice, engineering services. In addition, in reinstating his professional engineering license in 2020, Mr. Marohn signed a statement stating that he had not referred to himself as a “professional engineer” while unlicensed. As a result, the Board also found that the Mr. Marohn violated Minn. R. 1805.0200 which prohibits persons from making misrepresentations in their license applications. After commencing a contested case before the OAH, the OAH recommended in a May 31, 2022 decision that the Board sustain the complaint against Mr. Marohn and the Board censure Mr. Marohn and order penalties against him. On July 12, 2022, the Board issued its final determination ordering that Mr. Marohn be censured, reprimanded, required to take ethics courses and pay a civil penalty of \$1500.

Mr. Marohn files this Petition for Writ of Certiorari seeking an Order from the Court of Appeals reversing the Board’s final decision. Mr. Marohn challenges

the Board's interpretations of Minn. Stat. §§326.02, 326.111, Minn. R. 1805.0200 and other applicable statutory provisions within its purview, asserting that the Board applied those provisions inconsistent with a proper interpretation of those statutes and rules or that the Board's decision violated the U.S. and Minnesota Constitutions.

B. Background Of The Underlying Complaint Asserting Violations Of Minn. Stat. §326.02 And Minn. R. 1805.0200.

The person who filed with the original complaint with the Board, David Dixon, an engineer from South Dakota, attended a public speaking event, at which Mr. Marohn was a speaker. Mr. Marohn's speech consisted of public policy advocacy and criticism of professional engineering, urban planning and issues related to its impact on wasteful government spending and sub-optimal community outcomes. Disagreeing with Mr. Marohn's outlook and conclusions, Dixon preceded to research him on the internet. It was there that he discovered Mr. Marohn was unlicensed at the time and listed that he is a licensed professional engineer in some of his writings and other media. Dixon filed a complaint with the Board, detailing a narrative and accusing Mr. Marohn of identifying himself as a professional engineer while unlicensed in violation of Minn. Stat. §326.02. The Board conducted an inquiry and initiated a contested disciplinary hearing process on June 3, 2021 against Mr. Marohn before the OAH.

As set forth above, the OAH agreed in its recommendation, with the conclusions and penalties set forth by the Board on May 31, 2022 and the Board adopted this recommendation and entered its final order on July 12, 2022.

C. Relief for Writ Should be Granted.

The Board's final order rests upon impermissible interpretations of Minn. Stat. §326.02 and Minn. R. 1805.0200. There are essentially four issues to resolve:

1. Whether the Board erred in determining violations on the part of Mr. Marohn by adopting an overbroad interpretation of the relevant portions of Minn. Stat. §326.02 and Minn. R. 1805.0200 in rendering its final order.
2. Whether Minn. Stat. §326.02 and Minn. R. 1805.0200 are facially or as applied, unconstitutionally overbroad.
3. Whether the U.S. Constitution, Minnesota Constitution and Minn. Stat. §§645.16 and 646.17 were breached by the Board when it interpreted Mr. Marohn's speech as violative of Minn. Stat. §326.02.
4. Whether the Board erred in its final order with regard to disciplinary action against Mr. Marohn, where Board assessed excessive penalties against Mr. Marohn, in view of Minn. Stat. §14.045 and its own customary practice in other cases.

To summarize, Mr. Marohn challenges the authority of the Board to discipline Mr. Marohn for identifying himself as a professional engineer while unlicensed when not engaged, or offering to engage, in the practice of engineering and while in fact engaged in political advocacy. The Board's interpretation of Minn. Stat. §326.02 and Minn. R. 1805.0200 are (i) not consistent with statutory principles and (ii) either facially or as applied by the Board violative of the First

Amendment of the United States Constitution, Article 1, §3 of the Minnesota Constitution and applicable state statutes, and are thus void and unenforceable.

For these reasons Petitioner's relief for a Writ should be granted.

Dated: August 4, 2022.

/s/William F. Mohrman

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