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APPENDIX A

**STATE OF MINNESOTA
COURT OF APPEALS**

JUDGMENT

Tina Goede, Relator,

vs.

Astra Zeneca Pharmaceuticals, LP, Respondent,
Department of Employment and Economic
Development, Respondent.

Appellate Court # A22-1320

Trial Court # 48747325-3

Pursuant to a decision of the Minnesota Court of Appeals duly made and entered, it is determined and adjudged that the decision of the Department of Employment and Economic Development herein appealed from be and the same hereby is affirmed and judgment is entered accordingly.

Dated and signed: October 16, 2023

FOR THE COURT

*Attest: Christa Rutherford-Block
Clerk of the Appellate Courts*

/s/

By: Clerk of the Appellate Courts

**STATE OF MINNESOTA
COURT OF APPEALS**

TRANSCRIPT OF JUDGMENT

I, Christa Rutherford-Block, Clerk of the Appellate Courts, do hereby certify that the foregoing is a full and true copy of the Entry of Judgment in the cause therein entitled, as appears from the original record in my office; that I have carefully compared the within copy with said original and that the same is a correct transcript therefrom.

*Witness my signature at the Minnesota Judicial Center,
In the City of St. Paul October 16, 2023
Dated*

*Attest: Christa Rutherford-Block
Clerk of the Appellate Courts*

*By: /s/
Clerk of the Appellate Courts*

APPENDIX B

**STATE OF MINNESOTA
IN COURT OF APPEALS
A22-1320**

Tina Goede,
Relator,

vs.

Astra Zeneca Pharmaceuticals, LP,
Respondent,

Department of Employment and Economic
Development,
Respondent.

**Filed June 12, 2023
Affirmed
Segal, Chief Judge**

Department of Employment and Economic
Development
File No. 48747325-3

James V. F. Dickey, Douglas P. Seaton, Upper
Midwest Law Center, Golden Valley, Minnesota (for
relator)

Astra Zeneca Pharmaceuticals, LP, Wilmington,
Delaware (respondent employer)

Keri A. Phillips, Lossom Allen, Minnesota Department
of Employment and Economic Development, St. Paul,

Minnesota (for respondent department)

Considered and decided by Segal, Chief Judge;
Worke, Judge; and Jesson, Judge.

SYLLABUS

1. An assertion on appeal by the Minnesota Department of Employment and Economic Development that the decision of an unemployment-law judge should be reversed does not alter this court's standard of review under Minnesota Statutes section 268.105, subdivision 7(d) (2022).

2. An unemployment-law judge's denial of unemployment benefits based on an applicant's refusal to comply with an employer's COVID-19 vaccination policy violates the Free Exercise Clause of the First Amendment, and must be reversed, if the applicant's vaccine refusal was based on sincerely held religious beliefs. This court will not disturb a factual finding that an applicant's vaccine refusal was based on purely secular reasons, and not sincerely held religious beliefs, if that finding is supported by substantial evidence.

OPINION

SEGAL, Chief Judge

Relator Tina Goede was discharged from her job because she refused to comply with her employer's COVID-19 vaccination policy. She applied for unemployment benefits asserting that her refusal to

comply was based on her religious beliefs. The unemployment-law judge (ULJ) found that Goede's refusal to be vaccinated was based on purely secular concerns about the efficacy and safety of the COVID-19 vaccine, not on a sincerely held religious belief, and that she was therefore not eligible for unemployment benefits.

On certiorari review, Goede argues that the ULJ's determination lacks support in the record and violates her rights under the Free Exercise Clause of the First Amendment. Because the ULJ's factual finding that Goede's reasons were purely secular, not religious, is supported by substantial evidence, we discern no violation of Goede's free-exercise rights and affirm.

FACTS

Goede was employed by respondent Astra Zeneca Pharmaceuticals LP as an account sales manager. This position required her to meet with customers in-person at hospitals and clinics. Some of these customers, including large health systems, required proof of COVID-19 vaccination as a prerequisite to entering their facilities. Astra Zeneca had a policy requiring employees to obtain a COVID-19 vaccine. The company's policy allowed for religious and medical exemptions. Goede requested but was denied a religious exemption from the COVID-19 vaccination policy on the grounds of her religious beliefs. Astra Zeneca terminated Goede's employment on April 29, 2022, for failing to comply with the company's COVID-19 vaccination policy.

Goede applied for unemployment benefits, asserting that she had refused the COVID-19 vaccination because of her religious beliefs. Respondent Minnesota Department of Employment and Economic Development (DEED) issued a determination of ineligibility, which Goede appealed administratively to a ULJ.

Goede testified at the hearing held before the ULJ that she is Catholic and attends church at least once a week. Goede further testified that she “uphold[s] a Christian worldview” and that “vaccines can violate the scripture.” She explained that her “body is a temple of the Holy Spirit, . . . so vaccines that contain neurotoxins, hazardous substances, viruses, animal parts, foreign DNA, any of that, blood carcinogens, chemical waste is very harmful to [her] body.” She testified that her religion prevents her from getting “[s]ome vaccines depending what they’re made out of,” such as fetal cell lines or tissue. She testified that she has not had any vaccinations as an adult except the tetanus vaccination. Asked how she determines whether she can take a medication or vaccine, Goede testified that she researches it. But Goede also testified that she did not research whether fetal cell lines or tissue have been used in relation to the tetanus vaccination.

When questioned about her concerns specific to the COVID-19 vaccines, Goede testified that she had learned that fetal cell lines or tissue were involved and that “any aborted tissues, anything that is utilized with any of the vaccines, I will not, I will not use.” She acknowledged that the Pope had approved of Catholics

receiving the COVID-19 vaccine but testified that she does not believe that the Pope is “a true Catholic” and was advised by her priest not to get the vaccine.

Goede explained that she would use medications that had been developed using fetal cell lines if it were a matter of “life or death.” She testified that she has a blood-clotting disorder that caused her to have a pulmonary embolism. She stated that she has taken Eliquis regularly for the last 20 years to prevent another embolism. She acknowledged she did not research whether Eliquis involved the use of fetal cell lines because taking Eliquis was “necessary.” She stated:

[I]t’s necessary in my view [because] if I don’t do anything and I can have another clot and die tomorrow. . . . Because I know there’s nothing natural that I can take to prevent this from happening. I always go the natural route first, and if there isn’t anything [then] I have a conversation, and I make sure that what the conversation that I have is, is worth doing what I either need to do or have to do, then that’s the only time that I would ever go against my religion.

At one point during the hearing, the ULJ asked whether Goede would ever be willing to take a COVID-19 vaccine if it was “developed without the use of fetal cells in any way.” Goede answered no and stated: “I don’t take vaccinations.” The ULJ reminded her that she has received the tetanus vaccination and asked,

“[W]hy would a COVID-19 vaccine never be okay to take regardless of its development?” Goede responded: “Because the vaccine doesn’t work.” She continued: “The vaccine has killed more people than it’s saving and I haven’t had the vaccination and I had COVID once. More people that have been vaccinated have gotten COVID multiple times. It doesn’t work. What’s the point?” And she said: “If I was on my deathbed I wouldn’t take it because it doesn’t work.” The following colloquy between the ULJ and Goede then ensued:

Q: So it sounds like you would never take the COVID-19 vaccine regardless of the development because you don’t feel it’s necessary, is that correct?

A: I won’t take any vaccine if I don’t need it. It’s called natural immunity.

Q: Sure. But am I understanding your testimony correctly that you would never take any COVID-19 vaccine regardless of the development of it.

A: If I have a reason to, but no, there is no reason.

Q: If COVID-19 would, would likely kill you, would you take one of the COVID-19 vaccines if it was effective?

A: No, no, because it hasn’t killed me.

Q: Sure, but that’s, I think the thing I’m

trying to understand better and maybe my logic is off, Ms. Goede, [but] it sounds like your pulmonary embolism hasn't killed you yet either, correct?

A: That's completely different. Completely different.

Q: Well, it's something but I, that's what I want to understand better. If you, you won't take something because it hasn't killed you yet, you are taking something even though something hasn't killed you yet. So explain the difference so I can understand.

A: So my pulmonary embolism is completely different. [T]aking the COVID vaccine is, is supposed to help and prevent from you getting the COVID sickness, and this, my pulmonary embolism is something that I will have . . . they are two separate things altogether, completely, so I need to be on Eliquis unless I want to have another pulmonary embolism and perhaps die. I'm not going to die . . . because of COVID and the vaccine . . . doesn't work.

Q: Sure, but if the vaccine worked, would you take it?

A: No.

Q: And why not?

A: Because COVID is the flu, it's just like the flu.

Following the hearing, the ULJ decided that Goede was not eligible for unemployment benefits on the ground of employment misconduct because she failed to comply with Astra Zeneca's COVID-19 vaccination policy. The ULJ found that "Goede does not have a sincerely held religious belief that prevents her from receiving a COVID-19 vaccine." The ULJ explained: "Goede's testimony, when viewed as a whole, shows by a preponderance of the evidence that Goede's concern is about some vaccines, and that she is declining to take them because she does not trust them, not because of a religious belief." The ULJ further stated that "[w]hen looking at the totality of the circumstances, Goede's belief that COVID-19 vaccines are not okay to put in her body is a personal belief not rooted in religion." Goede sought reconsideration, and the ULJ upheld the decision that Goede was not eligible for unemployment benefits.

This certiorari appeal follows.¹

ISSUES

¹ After Goede filed a brief, DEED filed a motion, asserting that the ULJ's decision should be reversed and requesting that the matter be scheduled for expedited consideration by a special term panel. Goede filed a response in support of the motion. We granted the motion, and the matter was submitted on an expedited basis for nonoral consideration at special term.

- I. Does DEED’s assertion that the ULJ’s decision should be reversed alter this court’s standard of review?
- II. Does substantial evidence support the ULJ’s finding that Goede’s refusal of the COVID-19 vaccine was based on purely secular reasons, not sincerely held religious beliefs?

ANALYSIS

I.

Under the Minnesota Unemployment Insurance Law, Minn. Stat. §§ 268.001-23 (2022), a person seeking unemployment benefits begins by filing an application with DEED. Minn. Stat. § 268.07, subd. 1. Based on information received from an applicant or an employer, DEED might issue a determination of ineligibility—a preliminary decision that the applicant does not meet one of the requirements to be eligible for benefits. *See* Minn. Stat. § 268.101, subd. 2. An applicant can appeal a determination of ineligibility and obtain a de novo hearing before a ULJ. Minn. Stat. § 268.105, subd. 1. The ULJ will issue a decision following the hearing, and any party can seek reconsideration of that decision. *Id.*, subds. 1a, 2. The ULJ’s decision on reconsideration is the final agency decision. *Id.*, subd. 2.

The ULJ’s decision on reconsideration is subject to certiorari review by this court. *Id.*, subd. 7(a). Upon timely filing of a petition for a writ of certiorari, this court

may affirm the decision of the unemployment law judge or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the petitioner may have been prejudiced because the findings, inferences, conclusion, or decision are:

- (1) in violation of constitutional provisions;
- (2) in excess of the statutory authority or jurisdiction of the department;
- (3) made upon unlawful procedure;
- (4) affected by other error of law;
- (5) unsupported by substantial evidence in view of the hearing record as submitted; or
- (6) arbitrary or capricious.

Id., subd. 7(d). Thus, our authority to reverse a ULJ's decision is contingent on our determination that one or more of the six statutory grounds in subdivision 7(d) are satisfied.

DEED is the "primary responding party to any judicial action involving [a ULJ's] decision." *Id.*, subd.

7(e).² In most cases, DEED seeks affirmance of a ULJ's decision. But in some cases, like this one, DEED argues that the ULJ's decision should be reversed. DEED's request for reversal presents us with the preliminary question of whether DEED's request alters our standard for reviewing the ULJ's decision under Minn. Stat. § 268.105, subd. 7(d).

We conclude that we are bound by the statutory grounds for review set out in subdivision 7(d) of Minnesota Statutes section 268.105 and must apply that statutory standard in assessing whether to affirm or reverse the ULJ's determination regardless of the position taken by DEED before this court. *See* Minn. Stat. § 268.105, subd. 2 (stating that the ULJ's decision on reconsideration is "binding on the parties unless judicial review is sought"); *Rowe v. Dep't of Emp. & Econ. Dev.*, 704 N.W.2d 191, 195 (Minn. App. 2005) (holding that the ULJ's "decision is final as to the relator and as to the department" after appeal period expires); *cf.* Minn. Stat. § 268.101, subd. 4 (allowing commissioner to amend determination of eligibility or ineligibility that has not become final if no appeal has been filed).

² In appeals by applicants, employers who are parties to the proceedings before the ULJ are also proper respondents. *See* Minn. Stat. § 268.105, subd. 7(a) (requiring service of petition for writ of certiorari on DEED and "any other party"); *Larson v. Le Mere*, 18 N.W.2d 696, 698 (Minn. 1945) ("Any party who would be prejudiced by a reversal or modification of an order, award, or judgment is an adverse party on whom a writ of certiorari or notice of appeal must be served.").

There is no authority in the statute for us to reverse the ULJ's decision based merely on DEED's request. *See* Minn. Stat. § 268.105, subd. 7(d).³ To the contrary, our statutory mandate remains the same: We may reverse the decision of the ULJ only if one of the six statutory grounds is satisfied. *See id.* Accordingly, we now turn our attention to a review of the merits of this appeal.

II.

An applicant is ineligible for unemployment benefits if she was discharged because of employment misconduct. Minn. Stat. § 268.095, subd. 4(1). Misconduct is defined as “any intentional, negligent, or indifferent conduct, on the job or off the job, that is a serious violation of the standards of behavior the employer has the right to reasonably expect of the employee.” *Id.*, subd. 6(a). “[A]n employee’s decision to violate knowingly a reasonable policy of the employer is misconduct.” *Schmidgall v. FilmTec Corp.*, 644 N.W.2d 801, 806 (Minn. 2002). But even when the

³ The parties to an appeal may settle their dispute and stipulate to dismissal. *See* Minn. R. Civ. App. P. 142.01. Or an appeal may become moot if the appealing party obtains the requested relief. *See, e.g., Sprenger v. Jacobs*, 305 N.W.2d 747, 748 (Minn. 1981) (dismissing as moot appeal challenging condemnation orders that had been vacated). In this appeal, notwithstanding DEED's concession, there remains a live controversy because Goede has not been paid the unemployment benefits to which she asserts she is entitled. *Cf. United States v. Windsor*, 570 U.S. 744, 758 (2013) (holding that standing existed where government did not intend to defend Defense of Marriage Act but had not issued tax refund sought in suit seeking to declare act unconstitutional).

definition of misconduct is satisfied, a decision denying unemployment benefits may be subject to reversal if it violates constitutional rights. Minn. Stat. § 268.105, subd. 7(d)(1).

A decision denying unemployment benefits infringes an applicant's free-exercise rights under the First Amendment if the employee is forced to choose between her sincerely held religious beliefs and her employment. *See Frazee v. Ill. Dep't of Emp. Sec.*, 489 U.S. 829, 832 (1989); *see also Thomas v. Rev. Bd. of Ind. Emp. Sec. Div.*, 450 U.S. 707, 716 (1981) (explaining that "a person may not be compelled to choose between the exercise of a First Amendment right and participation in an otherwise available public program"). Such an infringement is subject to strict scrutiny and thus can only be sustained upon demonstration that it is the least-restrictive means to meet a compelling government interest. *Thomas*, 450 U.S. at 718.⁴ DEED has not asserted a government

⁴ A similar test applies to claims asserted under the Freedom of Conscience Clause of the Minnesota Constitution, Minn. Const. art. I, § 16. *See State v. Hershberger*, 462 N.W.2d 393, 398 (Minn. 1990) (stating that "once a claimant has demonstrated a sincere religious belief . . . the state should be required to demonstrate that public safety cannot be achieved by proposed alternative means"). *Hershberger* is often cited for the proposition that the Minnesota Constitution provides greater protection than the First Amendment to the United States Constitution. That is because the Minnesota Supreme Court relied on the Minnesota Constitution to apply strict scrutiny to a religious infringement after the United States Supreme Court remanded for reconsideration of federal constitutional analysis in light of *Emp't Div., Dep't of Hum. Res. v. Smith*, 494 U.S. 872 (1990). *Smith* held

interest in denying unemployment benefits based on vaccine refusal. Thus, we conclude that a ULJ’s denial of unemployment benefits based on an applicant’s refusal to comply with an employer’s COVID-19 vaccination policy violates the Free Exercise Clause—and must be reversed—if the applicant’s vaccine refusal was based on sincerely held religious beliefs. *See* Minn. Stat. § 268.105, subd. 7(d)(1).

However, “only beliefs rooted in religion are protected by the Free Exercise Clause,” and the Supreme Court has recognized the “difficulty of distinguishing between religious and secular convictions and in determining whether a professed belief is sincerely held.” *Frazee*, 489 U.S. at 833 (quotation omitted). The Court has further noted:

that strict scrutiny did not apply to neutral laws of general application. 494 U.S. at 884-85. But *Smith* recognized and did not overrule the application of strict scrutiny in *Thomas* and other cases addressing unemployment benefits. *Id.* at 883. The Court explained that

a distinctive feature of unemployment compensation programs is that their eligibility criteria invite consideration of the particular circumstances behind an applicant’s unemployment [O]ur decisions in the unemployment cases stand for the proposition that where the State has in place a system of individual exemptions, it may not refuse to extend that system to cases of “religious hardship” without compelling reason.

Id. at 884 (citations omitted). Thus, at least in this context, state and federal constitutional protections are coextensive.

“States are clearly entitled to assure themselves that there is an ample predicate for invoking the Free Exercise Clause.” *Id.*

The question of whether an applicant’s alleged employment misconduct is based on sincerely held religious beliefs is a fact issue. *See Thomas*, 450 U.S. at 716 (instructing that the “function of a reviewing court in this context is to determine whether there was an appropriate finding that petitioner terminated his work because of an honest conviction that such work was forbidden by his religion”); *see also In re Welfare of T.K.*, 475 N.W.2d 88, 91 (Minn. App. 1991) (reviewing for clear error district court finding that religious belief was sincerely held). This court defers to the factual findings of a ULJ if the record “reasonably tends to sustain those findings.” *Schmidgall*, 644 N.W.2d at 804; *see also* Minn. Stat. § 268.105, subd. 7(d)(5). “We view the ULJ’s factual findings in the light most favorable to the decision, giving deference to the credibility determinations made by the ULJ” and “will not disturb the ULJ’s factual findings when the evidence substantially sustains them.” *Rowan v. Dream It, Inc.*, 812 N.W.2d 879, 882 (Minn. App. 2012) (quotation omitted); *see also Wilson v. Mortg. Res. Ctr., Inc.*, 888 N.W.2d 452, 460 (Minn. 2016).

In determining that Goede was ineligible for unemployment benefits, the ULJ found that Goede did not have a sincerely held religious belief that precluded her from complying with her employer’s COVID-19 vaccination policy. In reviewing that finding, we apply the same standard that we apply to any other ULJ finding—affirming or reversing the

finding depending on whether the finding is supported by substantial evidence in the record. *See* Minn. Stat. § 268.105, subd. 7(d)(5).

In this case, the ULJ found that “Goede’s testimony, when viewed as a whole, shows by a preponderance of the evidence that Goede[] . . . declin[ed] to take [the vaccine] because she does not trust [it], not because of a religious belief.” This finding is supported in the record by Goede’s testimony that she would not take the vaccine even if she was on her “deathbed” and no fetal cell lines had been used in its development “because it doesn’t work” and “has killed more people than it’s saving.” The ULJ credited this testimony as setting out Goede’s real reason for refusing to be vaccinated. And the ULJ found Goede’s assertion of religious reasons for refusing the vaccine was not credible because her testimony was “contradictory and illogical.”

The record supports these credibility findings of the ULJ. For example, Goede testified that she researches whether a medical intervention is consistent with her religious beliefs, but she then testified that she did not research the tetanus vaccination before receiving it.⁵ Goede also testified

⁵ Goede argues that the ULJ should not have considered her testimony that she was vaccinated against tetanus without researching it because there is no evidence in the record connecting that vaccine with fetal cell lines. But the point is not whether there is such a connection, but that Goede did not research whether there was such a connection. Goede’s failure to conduct any research regarding the tetanus vaccination, or

that she would take medications that had been tested using fetal cell lines if it were “life or death,” but then testified that she would not take the COVID-19 vaccine even if it were developed without the use of fetal cell lines or if COVID-19 would likely kill her. When pressed on these inconsistencies, Goede responded that she would not take the COVID-19 vaccine because it “doesn’t work,” COVID-19 is “just like the flu,” and the vaccine does more harm than good.

Goede argues that it was improper for the ULJ to rely on these types of inconsistencies. To the extent that Goede’s argument references inconsistencies in Goede’s religious practices, we agree that the courts are not to weigh whether a set of religious beliefs or practices are internally consistent and logical. The Supreme Court has observed that “religious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit First Amendment protection” and has admonished that “[c]ourts should not undertake to dissect religious beliefs.” *Thomas*, 450 U.S. at 714-15. But we do not read the ULJ’s decision as engaging in such a dissection. Rather, the ULJ’s finding relied not on inconsistencies in her religious beliefs or practices, but

another medication she takes, contradicted her testimony that she researches medications and vaccines before taking them. And this was a legitimate fact for the ULJ to consider in assessing credibility, particularly when combined with Goede’s straightforward declaration that she would refuse to take the vaccine even if the vaccine had no connection to fetal cell lines or tissue.

on inconsistencies in Goede’s testimony concerning her reasons for refusing to be vaccinated. Inconsistencies in her testimony about her reasons for refusing to be vaccinated are appropriate considerations when, as here, the ULJ was tasked with assessing credibility. This is a significant distinction.

The applicable standard of review dictates that “[w]e view the ULJ’s factual findings in the light most favorable to the decision, giving due deference to the credibility determinations made by the ULJ.” *Rowan*, 812 N.W.2d at 882 (quotation omitted). “If [the ULJ] engages in reasoned decisionmaking, the court will affirm, even though it may have reached a different conclusion had it been the factfinder.” *Cable Commc’ns Bd. v. Nor-West Cable Commc’ns P’ship*, 356 N.W.2d 658, 669 (Minn. 1984); *see also Swenson v. Civ. Serv. Comm’n*, 151 N.W.2d 254, 258 (Minn. 1967) (explaining that courts must “refrain from substituting their judgment concerning the inferences to be drawn from the evidence for that of the agency”). Staying true to that standard of review, we conclude that there is substantial evidence in this record to support the ULJ’s finding that Goede refused to be vaccinated not because of her religious beliefs, but because of her purely secular concern about safety and efficacy, namely that the vaccine “killed more people than it[] sav[ed]” and “doesn’t work.” And, as such, we further conclude that the ULJ’s decision that she was ineligible for unemployment benefits does not violate Goede’s rights under the Free Exercise Clause.

Goede argues that the ULJ’s finding must nevertheless be reversed because Goede cited religious

reasons for her refusal, regardless of whether she also gave testimony concerning the safety and efficacy of the vaccine. Goede maintains that, as long as she testified that religious beliefs played a role in her decision to refuse to be vaccinated, then her refusal is protected under the First Amendment and the ULJ's decision must be reversed. The ULJ, however, rejected on credibility grounds Goede's testimony that her refusal to take the COVID-19 vaccine was based on her religious beliefs, and we have concluded that that credibility finding is supported by substantial evidence. Consequently, this is not a case implicating a violation of the Free Exercise Clause when we give due deference to the ULJ's credibility determination.

Both Goede and DEED cite to the Eighth Circuit's decision in *Wiggins v. Sargent*, 753 F.2d 663, 666 (8th Cir. 1985), as authority for reversing the ULJ's decision. But we do not read *Wiggins* as being inconsistent with the ULJ's decision here.

Wiggins involved a claim by a group of prisoners that they were denied the right to practice their religion while in prison. They alleged that they were followers of the Church of Jesus Christ Christian, an organization that existed outside the prison, and that they were students of the Sword of Christ Good News Ministries, which preaches that "the white race consists of God's chosen people" and that the members of the church "are the literal and spiritual descendants of Abraham and the 'lost tribes' of Israel." 753 F.2d at 665. The district court ruled that, while it

did not doubt the religious sincerity of

the individual plaintiffs, . . . it nevertheless . . . found that the notion of white supremacy was secular and that making such a notion more palatable by cloaking it in the garb of fundamentalist Christianity may result in attracting followers and creating the appearance of spiritual credibility, but it does not warrant the protection of the free exercise clause of the First Amendment.

Id. at 665-66 (quotations omitted).

The Eighth Circuit, however, reversed and remanded the case to the district court for reconsideration. The court reasoned that, even though “the notion of white supremacy may be, and perhaps usually is, secular, in the sense that it is a racist idea, [that] does not necessarily preclude it from also being religious in nature, in the sense that it may be based upon a literal interpretation of Biblical teachings.” *Id.* at 667. The Eighth Circuit further explained that the district court may have been “under the mistaken impression that an idea or belief cannot be both secular and religious” and that “a belief can be both”; “[t]he categories are not mutually exclusive.” *Id.* at 666. The court thus sent the case back to the district court to “reexamine the entire issue of whether the inmates’ beliefs are religious and whether they are therefore entitled to some free exercise clause protection.” *Id.* at 667.

In *Wiggins*, the Eighth Circuit’s basis for reversing and remanding the case was that the district

court had rejected out of hand the prisoners' claims that their religion was a religion within the meaning of the Free Exercise Clause, instead of a purely secular dogma of white supremacy. By contrast here, the ULJ's determination did not reject the notion that Goede's religious beliefs were entitled to First Amendment protection. Instead, the ULJ found that Goede's reasons for refusing the vaccination were purely secular—her lack of trust in the safety and efficacy of the vaccine. This finding was thus based on the ULJ's assessment of which parts of Goede's testimony concerning her reasons for refusing the vaccine should be credited, not the legitimacy of Catholicism as a religion or Goede's particular application of that religion. We thus reject Goede's argument that the ULJ's decision is inconsistent with *Wiggins*.

DECISION

Notwithstanding DEED's assertion in this appeal that the ULJ's decision should be reversed, we must review the ULJ's decision under the standard set out in Minnesota Statutes section 268.105, subdivision 7(d). Applying that standard, we conclude that substantial evidence in the record supports the ULJ's finding that Goede engaged in employment misconduct when she refused to comply with her employer's COVID-19 vaccination policy because her reasons for refusing to be vaccinated were secular and not due to a sincerely held religious belief. Accordingly, the ULJ's decision to deny unemployment benefits did not violate Goede's free-exercise rights and was not arbitrary and capricious.

Affirmed.

APPENDIX C

MINNESOTA UNEMPLOYMENT INSURANCE

Document ID: 161824364

08/26/2022

TINA M GOEDE
12330 73RD ST NE
OTSEGO MN 55330-5059

Issue Identification Number: 48747325-3

NOTICE OF FILING ORDER OF THE UNEMPLOYMENT LAW JUDGE

A copy of the unemployment law judge's order on a request for reconsideration is enclosed and served upon you in accordance with Minnesota Statutes, section 268.105, subdivision 2.

NOTICE TO THE PARTIES: Minnesota Statutes, section 268.105, subdivision 5a, provides:

No collateral estoppel. No findings of fact or decision or order issued by an unemployment law judge may be held conclusive or binding or used as evidence in any separate or subsequent action in any other forum, be it contractual, administrative, or judicial, except proceedings provided for under this chapter, regardless of whether the action involves the same or related parties or involves the same facts.

ALSO MAILED TO:

ASTRA ZENECA PHARMACEUTICALS LP,
EMPLOYER

MINNESOTA UNEMPLOYMENT INSURANCE

Document ID: 161434894

In the Matter of:

Tina Goede,
Applicant

AND

ASTRA ZENECA PHARMACEUTICALS LP,
Employer

ORDER OF AFFIRMATION

**BASED ON THE APPEAL FILES AND
RECORDS, AND BECAUSE:**

1. On June 22, 2022, the unemployment law judge issued a findings of fact and decision in the above-entitled matter.
2. On July 12, 2022, Tina Goede filed a request for reconsideration asking the unemployment law judge to reconsider that decision.
3. Minnesota Statutes, section 268.105, subdivision 2, sets out the procedure on a request for reconsideration.
4. The unemployment law judge has fully considered the request and determined that the decision dated June 22, 2022 is factually and legally correct.

IT IS ORDERED: The findings of fact and decision dated June 22, 2022 is affirmed.

IT IS ORDERED: The findings of fact and decision dated Wednesday, June 22, 2022 is affirmed.

This decision results in an overpayment of unemployment benefits in the amount of \$0.00. To view your overpayment details, log into your account at www.uimn.org. The Unemployment Insurance Program will take action to collect the overpaid unemployment benefits.

Dated: Friday, August 26, 2022

Unemployment Law Judge

MEMORANDUM

On request for reconsideration, Tina Goede argues that the unemployment law judge incorrectly determined that her decision not to receive a COVID-19 vaccine was employment misconduct. Goede provides additional information to support her argument.

Minnesota Statutes, section 268.105, subdivision 2, paragraph (c) states that in deciding a request for reconsideration, the judge must not consider any evidence that was not submitted at the original hearing, except for purposes of determining whether to order an additional hearing.

The judge must order an additional hearing if a party

shows that evidence which was not submitted at the hearing: (1) would likely change the outcome of the decision and there was good cause for not having previously submitted that evidence; or (2) would show that the evidence submitted at the hearing was likely false and the likely false evidence had an effect on the outcome of the decision.

The information Goede submitted in her request for reconsideration does not show that the evidence submitted at the hearing was likely false and that the likely false evidence had an effect on the outcome of the decision. In addition, Goede does not have good cause for failing to submit the evidence during the hearing.

Goede has not provided any information or arguments that require changing the decision or ordering another hearing. The decision is affirmed as factually and legally correct.

RIGHT OF APPEAL

This decision will become final unless you request review by the Minnesota Court of Appeals. Minnesota Statutes, section 268.105, subdivision 7(a), provides:

The Minnesota Court of Appeals must, by writ of certiorari to the department, review the unemployment law judge's decision on reconsideration, provided a petition for the writ is filed with the court and a copy is served upon the unemployment law judge or the

commissioner and any other involved party within 30 calendar days of the sending of the unemployment law judge's decision on reconsideration under subdivision 2.

Three calendar days are added to the 30-calendar-day period by Court rule, because the unemployment law judge's decision is mailed to you.

Any party who would like a review must petition the Court directly for issuance of a writ of certiorari. Petitions must conform to the Court's rules.

For forms and instructions, download the *Unemployment Appeal Packet* on-line at www.mncourts.gov -> Help Topics -> Filing an Unemployment Appeal -> Unemployment Appeal Packet.

A review before the Court is conducted in accordance with the Minnesota Rules of Civil Appellate Procedure.

It is important for you to file a weekly continued request for benefits during the appeal process. If the Court's decision is in your favor, you will be paid only for weeks that you have properly requested, provided all other eligibility requirements are met.

APPENDIX D

MINNESOTA UNEMPLOYMENT INSURANCE

Document ID: 161824364

06/22/2022

TINA M GOEDE
12330 73RD ST NE
OTSEGO MN 55330-5059

Issue Identification Number: 48747325-2

**NOTICE OF DECISION
OF THE UNEMPLOYMENT LAW JUDGE**

Under Minnesota Statutes 268.105, subdivision 1, the enclosed decision of the Unemployment Law Judge is served on you.

NOTICE TO THE PARTIES: The law of the State of Minnesota at Minnesota Statutes 268.105, subdivision 5a, provides that the findings of fact and decision issued are only for unemployment insurance benefit entitlement purposes and do not affect any other legal or contractual matter.

ALSO MAILED TO:

ASTRA ZENECA PHARMACEUTICALS LP,
EMPLOYER

MINNESOTA UNEMPLOYMENT INSURANCE

Document ID: 161824364

In the Matter of:

Tina Goede,
Applicant,

AND

ASTRA ZENECA PHARMACEUTICALS LP,
Employer.

**FINDINGS OF FACT
AND DECISION**

An evidentiary hearing, under Minnesota Statutes 268.105, subdivision 1, was conducted on Tuesday, June 14, 2022, as a result of the Applicant 's appeal from a Determination of Ineligibility issued on Thursday, May 26, 2022.

ISSUE(S)

Whether the applicant was discharged because of employment misconduct.

FINDINGS OF FACT

The appeal of Tina Goede was heard by telephone conference on June 14, 2022. Goede, the applicant, participated. The employer, Astra Zeneca Pharmaceuticals LP (Astra Zeneca), did not

participate.

Goede was employed full-time by Astra Zeneca as an account sales manager from February 15, 2021, to April 29, 2022. Goede's final rate of pay was \$150,000 per year plus bonuses. Goede went to hospitals and clinics to sell Astra Zeneca's products. Goede met with people in-person at these locations.

Goede is a Christian and attends a Catholic church regularly.

In the past, Goede has received some vaccines. Goede is willing to take a tetanus vaccine and has received a tetanus vaccine in the past several years. Goede did not research the tetanus vaccine before receiving it.

Goede avoids taking medications unless she feels they are necessary. Goede stopped taking most over-the-counter medications about 10 years ago when she discovered fetal cell lines were used in the development or testing of the drugs. Goede also tries to avoid medications that contain neurotoxins, foreign DNA, or chemicals she finds concerning.

Goede has a blood clotting disorder. Prior to 2022, Goede had a pulmonary embolism. Goede was prescribed Eliquis to avoid another pulmonary embolism. Goede could die if she had another pulmonary embolism. Goede did not do research on this medication before taking it because she felt it was necessary to save her life. Goede continues to take the medication without knowledge about its development or testing.

Whenever Goede considers pharmaceuticals or other medical treatments, she considers whether she feels the treatment or medication is necessary. If she feels the treatment is necessary, she will accept it. If she feels it is not necessary, she declines it. Goede is willing to take medications if they will save her life or prevent serious outcomes, even if they were created or manufactured using fetal cell lines or other cells or compounds she tries to avoid.

On August 23, 2021, the U.S. Food and Drug Administration (FDA) fully approved the Pfizer COVID-19 vaccine for us in individuals ages 16 years of age and older.

Goede feels COVID-19 vaccines are not necessary for her. Goede does not feel the development and ingredients of COVID-19 vaccines are appropriate to put in her body.

On February 10, 2022, Goede was informed that she must receive a COVID-19 vaccine, or obtain an exemption, or she would be discharged. Goede could apply for both a religious exemption and a medical exemption.

Goede applied for a religious exemption in a timely manner.

Goede did not request a medical exemption because she does not have any medical reason that would prevent her from being vaccinated from COVID-19. Goede spoke to her hematologist who treats her blood disorder about whether her condition would prevent

her from receiving a COVID-19 vaccine. Her hematologist advised her to get a COVID-19 vaccine.

Goede does not have a sincerely held religious belief that prevents her from receiving a COVID-19 vaccine.

On March 31, 2022, Goede was informed that her exemption was denied. Goede was told she needed to get vaccinated by April 20, 2022, or she would be discharged.

On April 29, 2022, Goede was discharged because she did not receive a COVID-19 vaccine and was not exempted from the requirement.

REASONS FOR DECISION

The findings of fact are based on the applicant's testimony. It is not credible that Goede has a sincerely held religious belief that prevented her from receiving a COVID-19 vaccine.

Goede testified that her religious beliefs prevent her from receiving a COVID-19 vaccine. She testified that her body is a temple and that she cannot inject toxins into it. Goede also claimed that she cannot take medications that are developed or tested on fetal cells as part of her religion. Goede claims she has had these beliefs for 20 years and that she does research on any medication or treatment she takes. Goede stated that vaccines are against her religion.

Goede's testimony regarding these points were contradictory and illogical. Notably, Goede also

testified that she does take a medication that she has not researched the origin of. Goede has taken the tetanus vaccine without researching it, even though she testified that vaccines are against her religion and that she has had that belief for decades. Goede ultimately explained that she was willing to take medications that would save her life, regardless of its origins or the ingredients it contained.

Overall, Goede's argument appears to be if she does not want to take a medication or doesn't think it is essential to keeping her alive, that it is against her religion. This is a notably broad view and appears disingenuous when looking at the facts as a whole. This is not a central tenant or unchangeable dogma. It is not a religious principle.

Goede's testimony, when viewed as a whole, shows by a preponderance of the evidence that Goede's concern is about some vaccines, and that she is declining to take them because she does not trust them, not because of a religious belief.

When looking at the totality of the circumstances, Goede's belief that COVID-19 vaccines are not okay to put in her body is a personal belief not rooted in religion.

Goede also claimed that her blood clotting disorder prevents her from getting at COVID-19 vaccine. This is not credible because Goede testified that she spoke with her hematologist who treats her disorder, and he advised her to get a COVID-19 vaccine. It is highly unlikely a medical specialist would advise Goede to get

a vaccine if she had a condition that would make the vaccine medically inappropriate.

Minnesota Statutes, section 268.095, subdivision 4, states that an applicant who has been discharged from employment by an employer is ineligible for unemployment benefits only if the applicant was discharged because of employment misconduct or aggravated employment misconduct.

Minnesota Statutes, section 268.095, subdivision 6, paragraph (a) states that employment misconduct is any intentional, negligent, or indifferent conduct, on or off the job, that displays clearly a serious violation of the standards of behavior the employer has a right to reasonably expect of the employee.

Astra Zeneca has the right to reasonably expect that employees will get the COVID-19 vaccine. The vaccine prevents the spread of COVID-19 and severe illness. Goede entered hospitals and clinics and interacted with people in-person while working.

Because the preponderance of the evidence shows that Goede does not have a sincerely held religious belief that prevents her from receiving the COVID-19 vaccine, or a medical reason why she cannot receive a vaccine, Goede's conduct was a serious violation of Astra Zeneca's reasonable expectations.

Accordingly, Goede was discharged because of employment misconduct and is ineligible for unemployment benefits as a result of this separation from employment.

Effective October 31, 2021, ineligibility for unemployment benefits under Minnesota Statutes, section 268.095 begins the Sunday of the week of the separation from employment and lasts until the end of the calendar week the applicant has had wages paid in subsequent covered employment of \$1,650.

DECISION

On April 29, 2022, Tina Goede was discharged from employment because of employment misconduct and is ineligible for the payment of unemployment benefits. Should Goede satisfy the period of ineligibility any unemployment benefits paid will not, under Minnesota Statutes, section 268.047, subdivision 1, be used in computing the future unemployment tax rate of Astra Zeneca Pharmaceuticals LP.

This determination results in an overpayment of unemployment benefits in the amount of \$0.00. To view your overpayment details, log into your account at www.uimn.org/uimn/. The Unemployment Insurance Program will take action to collect the overpaid unemployment benefits.

Dated: Wednesday, June 22, 2022

Unemployment Law Judge

To review your account log in to www.uimn.org

If you have any questions about this decision, you may contact the Unemployment Insurance Program. You must have your Issue Identification Number available

when you call.

It is important for you to request benefits according to your assigned schedule during the reconsideration process. If the decision is in your favor, you will be paid for weeks that you have properly requested, provided all the other eligibility requirements are met.

REQUEST FOR RECONSIDERATION

If you believe this decision is factually or legally incorrect, you may request the unemployment law judge to reconsider the decision. You may do this by logging in to your account at www.uimn.org, by fax, or by mail (fax number and address are listed at the bottom of this page). A request for reconsideration must include the issue identification number.

Under Minnesota Statute 268.105, subdivision 2, this decision will be final unless a request for reconsideration is filed with the unemployment law judge on or before Tuesday, July 12, 2022.

APPENDIX E

**STATE OF MINNESOTA
IN SUPREME COURT**

A22-1320

[DATE STAMP]
FILED
September 19, 2023
Office of
Appellate Courts

Tina Goede,
Petitioner,

vs.

Astra Zeneca Pharmaceuticals, LP,
Respondent,

Department of Employment and
Economic Development,
Respondent.

O R D E R

Based upon all the files, records, and
proceedings herein,

IT IS HEREBY ORDERED that the petition of
Tina Goede for further review is denied.

Dated: September 19, 2023

BY THE COURT:

/s/

Lorie S. Gildea

Chief Justice

APPENDIX F

**STATE OF MINNESOTA
IN COURT OF APPEALS**

A22-1320

TINA GOEDE,
Relator,

vs.

ASTRA ZENECA PHARMACEUTICALS, LP,
and

DEPARTMENT OF EMPLOYMENT AND
ECONOMIC DEVELOPMENT,

Respondents.

NOTICE OF MOTION
AND MOTION FOR
EXPEDITED
CONSIDERATION

NOTICE OF MOTION

TO: Relator Tina Goede:

The following motion is being submitted to the Minnesota Court of Appeals on this date, without request for oral argument.

MOTION

On December 23, 2022, Relator Tina Goede filed a brief in this matter. After thorough review of the

record, Respondent Department of Employment and Economic Development (“DEED”) will not be filing a brief. “A motion for summary reversal prior to briefing is not authorized by the Rules of Civil Appellate Procedure or by case law.”¹ However, because DEED and Goede agree that this matter should be reversed, DEED respectfully requests that the matter be set for expedited review by a special term panel. DEED requests expedited review so that Goede can be paid unemployment benefits for weeks of unemployment as soon as possible.

The ULJ made a finding of fact that Goede does not have a sincerely held religious belief that prevents her from receiving a COVID-19 vaccine. The ULJ’s finding of fact is not supported by substantial evidence. DEED respectfully requests that the Court reverse the decision.

BACKGROUND

The following facts are undisputed: Goede worked for Astra Zeneca Pharmaceuticals LP (“Astra Zeneca”) as an account sales manager in the renal division.² Astra Zeneca required employees to upload proof of full COVID-19 vaccination by March 31, 2022, or apply for a medical or religious exemption by

¹ *In re Estate of Magnus*, 436 N.W.2d 821, 822 (Minn. App. 1989).

² T. 6. (Transcript references will be indicated “T.” with the page number following.).

February 28, 2022.³ Goede applied for a religious exemption.⁴

On March 31, 2022, Goede received an email stating that Astra Zeneca did not approve her religious exemption.⁵ The email stated that if Goede did not get her first vaccination by April 20, 2022, her last day of employment would be April 29, 2022.⁶

Goede chose not to get a COVID-19 vaccine.⁷ On April 29, 2022, Astra Zeneca discharged Goede because she did not get a COVID-19 vaccine.⁸

Goede applied for unemployment benefits with DEED. On May 26, 2022, DEED issued a Determination of Ineligibility, stating that Goede was discharged because she did not comply with Astra Zeneca's COVID-19 vaccination policy.⁹ The determination held that this was employment

³ T. 8.

⁴ T. 9.

⁵ T. 10.

⁶ *Supra.*

⁷ *Supra.*

⁸ T. 6-7.

⁹ E. 1, p. 1. (Exhibits in the record will be indicated "E." with the exhibit number followed by the page number.)

misconduct, and Goede was therefore ineligible for unemployment benefits.¹⁰ Goede appealed the determination and an unemployment law judge (“ULJ”) held a *de novo* evidentiary hearing. Goede participated in the hearing. Astra Zeneca did not participate.

The ULJ issued a decision, finding that Goede does not have a sincerely held religious belief that prevents her from receiving a COVID-19 vaccine.¹¹ The ULJ concluded that, based on this finding, Goede was discharged because of employment misconduct and is therefore ineligible for unemployment benefits under Minn. Stat. § 268.095, subd. 6(a).¹² Goede requested reconsideration and the ULJ affirmed the decision.¹³

ARGUMENT

The Court should reverse.

When reviewing a ULJ’s decision, the Minnesota Court of Appeals may affirm the decision or remand for further proceedings.¹⁴ The Court of Appeals may reverse or modify the decision if the appellant’s

¹⁰ *Supra.*

¹¹ R-3, p. 3.

¹² *Supra.*, p. 5.

¹³ R-6, p. 2.

¹⁴ Minn. Stat. § 268.105, subd. 7(d) (2020).

substantial rights were prejudiced because the decision was “unsupported by substantial evidence in view of the hearing record as submitted,” among other reasons.¹⁵ Substantial evidence is “(1) such relevant evidence as a reasonable mind might accept as adequate to support a conclusion; (2) more than a scintilla of evidence; (3) more than some evidence; (4) more than any evidence; or (5) the evidence considered in its entirety.”¹⁶ “Any legal conclusion that results in an applicant being ineligible for unemployment benefits must be fully supported by the facts.”¹⁷

This case hinges on whether Goede had a sincerely held religious belief to refuse a COVID-19 vaccine.¹⁸ If Goede had a sincerely held religious belief, her refusal to get the vaccine was not employment misconduct.¹⁹ Whether a person’s conduct is motivated by a sincerely held religious belief is a question of

¹⁵ Minn. Stat. § 268.105, subd. 7(d)(5) (2020).

¹⁶ *Minn. Ctr. For Env'tl. Advocacy v. Minn. Pollution Control Agency*, 644 N.W.2d 457, 466 (Minn. 2002).

¹⁷ Minn. Stat. § 268.031, subd. 2 (2020).

¹⁸ *Frazee v. Illinois Dept. of Employment Sec.*, 489 U.S. 829, 832-33 (1989); *Logue v. Olympus America, Inc.*, No. A22-0282, 2022 WL 3581809, *2 (Minn. App. Aug. 22, 2022).

¹⁹ *Frazee*, 489 U.S. at 832-33; *Logue*, 2022 WL 3581809, at *2.

fact.²⁰ The Court has stated, “[T]he sincerity of a religious belief is a quintessential fact question that must be analyzed. This question of sincerity often hinges on credibility and whether the applicant has been consistent in observing or honoring this belief.”²¹

The ULJ made the finding of fact that Goede does not have a sincerely held religious belief that prevents her from receiving a COVID-19 vaccine.²² The ULJ found Goede’s testimony to lack credibility because it was “contradictory and illogical.”²³ Specifically, the ULJ reasoned that Goede’s testimony she does not take medications that are developed or tested on fetal cells was inconsistent with testimony that she took a medication she had not researched the

²⁰ *Matter of Welfare of T.K.*, 475 N.W.2d 88, 91 (Minn. App. 1991) (reviewing finding that parents had a sincerely held religious belief for clear error); *Logue v. Olympus America, Inc.*, No. A22-0282, 2022 WL 3581809, *2 (Minn. App. Aug. 22, 2022) (citing *Matter of T.K.*, 475 N.W.2d at 91) (nonprecedential); *Potter v. St. Joseph's Medical Center*, A18-0736, 2018 WL 6729836, *3 (Minn. App. Dec. 24, 2018) (nonprecedential).

²¹ *Potter*, 2018 WL 6729836 at *3 (citing *E.E.O.C. v. Union Independiente de la Autoridad de Acueductos y Alcantarillados de Puerto Rico*, 279 F.3d 49, 56 (1st Cir. 2002) and *Int’l Society for Krishna Consciousness, Inc. v. Barber*, 650 F.2d 430, 441 (2d Cir. 1981)); see also *Osman*, 2009 WL 5091919 at *5 (citing the same cases as *Potter*).

²² R-3, p. 3.

²³ R-3, p. 4.

origin of.²⁴ The ULJ further reasoned, “Goede has taken the tetanus vaccine without researching it, even though she testified that vaccines are against her religion and that she has had that belief for decades.”²⁵ The ULJ concluded, “When looking at the totality of the circumstances, Goede’s belief that COVID-19 vaccines are not okay to put in her body is a personal belief not rooted in religion.”²⁶

The ULJ’s finding and credibility determination are unsupported by substantial evidence in view of the record as a whole. While the evidence shows that Goede’s refusal was based in part on personal beliefs regarding the safety and efficacy of the vaccines, it also shows that Goede’s refusal was based at least in some part on sincerely held religious beliefs.²⁷ Goede testified regarding her religious beliefs and how they informed her decision to refuse a COVID-19 vaccine:

Well, I, I uphold a Christian worldview and I’m deeply rooted in the bible, and so and I believe that yeah, vaccines can violate the scripture. So my religious belief prohibits injection of foreign substances into my body, so to inject any substance, which would alter

²⁴ *Supra.*

²⁵ *Supra.*

²⁶ *Supra.*

²⁷ *See Wiggins v. Sargent*, 753 F.2d 663, 664-65 (8th Cir. 1985) (stating that “a belief can be both secular and religious” and the “categories are not mutually exclusive”).

that state into which I was born would be criticized basically to God and question his omnipotence. So my body is my temple of God and so basically, you know, do you not know that your body is a temple of the Holy Spirit, which is in me and from what I receive from God, so vaccines that contain neurotoxins, hazardous substances, viruses, animal parts, foreign DNA, any of that, blood carcinogens, chemical waste is very harmful to my body.²⁸

Goede further testified that the COVID vaccines use “embryo, fetal (inaudible) cells.” Goede testified, “I am, I’m prolife so that goes along with that, so any aborted tissues, anything that is utilized with any of the vaccines, I will not, I will not use.”²⁹ Goede testified that she has had that belief “since I’ve been an adult,” or 20 years.³⁰

Goede testified that she is a Catholic and attends St. Michael’s Catholic Church at least once a week, if not more.³¹ The ULJ asked if Goede discussed COVID vaccination with a clergy member, and Goede replied, “Always. That’s where I go first.”³² When asked what the clergy member advised, Goede

²⁸ T. 17.

²⁹ T. 19-20.

³⁰ T. 21.

³¹ T. 29.

³² T. 30.

testified, “Well they (inaudible) it, and then they said it’s, you know, it’s they, they chose, they know that that’s not what we’re supposed to do, so they advised me not to.”³³ Goede testified that the pope is “not a true Catholic” and that she goes “to my priest and that’s who I pay attention to.”³⁴

The ULJ found that Goede’s testimony regarding her religious beliefs was contradictory because Goede took a medication that she had not researched and she received a tetanus vaccine.³⁵ When asked how she decided whether to take a medication, Goede replied, “Cause I do my research.”³⁶ Goede testified that she would take a medication that was against her religion “if it’s going to save my life.”³⁷ Goede testified that she took Eliquis, a blood thinner, because she had had a pulmonary embolism in her lung.³⁸ The ULJ asked Goede how she determined whether or not fetal cell lines were used to develop this medication, and Goede replied, “No, because my PE was unprovoked, so it’s something that I’m going to

³³ *Supra.*

³⁴ T. 31.

³⁵ R-3, p. 4.

³⁶ T. 22.

³⁷ T. 23.

³⁸ T. 25-26.

need to stay on for life.”³⁹ When asked how taking the medication squared with her religious beliefs, Goede testified:

If it’s necessary in my view, if it’s, if it’s, if it holds the fact that if I don’t do anything and I can have another clot and die tomorrow, then yes. Because I know there’s nothing natural that I can take to prevent this from happening. I always go the natural route first, and if there isn’t anything that I have a conversation, and I make sure that what the conversation that I have is, is worth doing what I either need to do or have to do, then that’s the only time that I would ever go against my religion.⁴⁰

At first, Goede testified that she had not received any vaccines as an adult.⁴¹ Goede then admitted that she got a tetanus vaccine at some point in “the last 10 years.”⁴² Goede testified that she did not research the tetanus vaccine to see if fetal cell lines were used in development or manufacture. When asked why not, Goede replied, “Honestly, I just, I just

³⁹ T. 25-26.

⁴⁰ T. 28.

⁴¹ T. 18.

⁴² T. 18.

haven't."⁴³

Importantly, Goede testified regarding other ways in which she lives consistently with her beliefs. Goede testified that she does not take over-the-counter medications:

ULJ: And in the last several years, have you taken medications like Tylenol, Advil, things like that?

Goede: I stick to natural. I try not to take any of that stuff because it's not good.

ULJ: Have you ever taken any of those?

Goede: I have.

ULJ: When was the last time you taken [sic] an over the counter sort of painkiller?

Goede: Probably 10 years ago.

ULJ: Okay. And, and are you aware that those medications use, used fetal cell lines to test them?

Goede: I am, yes. That's why I don't take

⁴³ T. 39.

them anymore.⁴⁴

Goede further testified that she has not received a flu vaccine as an adult.⁴⁵ In light of Goede's testimony regarding other ways in which she is consistent with her beliefs, the fact that she takes Eliquis to prevent a life-threatening pulmonary embolism, and got a tetanus vaccine at some point within the last 10 years, does not show that she lacked a sincerely held religious belief to refuse a COVID-19 vaccine.

The ULJ reasoned that Goede's refusal to get certain vaccines was "because she does not trust them, not because of a religious belief."⁴⁶ Goede testified that the COVID-19 vaccines don't work and that "COVID is the flu."⁴⁷ Goede's concerns about efficacy and safety do not show that she did not also have a sincerely held religious belief.⁴⁸ She could have both.

In sum, the ULJ's finding of fact and credibility determination are not supported by substantial evidence in the record. Goede's testimony shows that she had a sincerely held religious belief that prevented her from getting a COVID-19 vaccine. DEED requests

⁴⁴ T. 24.

⁴⁵ T. 36.

⁴⁶ R-3, p. 4.

⁴⁷ T. 36.

⁴⁸ See *Wiggins*, 753 F.2d at 664-65.

that the Court reverse the ULJ's decision.

Dated this 20th day of January, 2023.

/s/ Keri Phillips

Keri Phillips (#0389959)

Lossom Allen (#0396143) Department
of Employment and Economic Development

1st National Bank Building

332 Minnesota Street, Suite E200

Saint Paul, Minnesota 55101-1351

Lossom.Allen@state.mn.us

(651) 259-7281

Attorneys for Respondent-Department

APPENDIX G

**STATE OF MINNESOTA
IN COURT OF APPEALS**

Tina Goede,
Relator,

vs.

Department of Employment and
Economic Development; Astra Zeneca
Pharmaceuticals LP,
Respondents,

PETITION FOR WRIT OF CERTIORARI

COURT OF APPEALS #:

DEED Case #:48747325-3

Date of Initial Decision: June 22, 2022

Date and Description of Event Triggering Appeal:
Order of Affirmation on Reconsideration (August 26,
2022)

TO: The Court of Appeals of the State of Minnesota:

Relator Tina Goede hereby petitions the Court
of Appeals for a Writ of Certiorari pursuant to Minn.
Stat. §268.105, subd. 7, to review a decision of the
unemployment law judge of the Department of

Employment and Economic Development (DEED) issued on the date noted above, upon the grounds:

1. The unemployment law judge erred in finding that: (1) Ms. Goede's employer terminated her for employment misconduct; and (2) Ms. Goede's religious beliefs preventing her from complying with her employer's mandatory COVID-19 vaccination policy were insincere.
2. Pursuant to Minn. Stat. §268.105, Subd. 7(d)(1), (5), and (6), reversal is required because: (a) DEED's refusal to extend unemployment benefits to Ms. Goede because of her sincerely held religious beliefs violated her Free Exercise and Freedom of Conscience rights under the First Amendment to the United States Constitution and Article I, Section 16 of the Minnesota Constitution; (b) the ULJ's findings are unsupported by substantial evidence in view of the hearing record as submitted, and (c) the ULJ's decision was arbitrary and capricious.
3. Ms. Goede asks the Court of Appeals to issue the Writ of Certiorari, and, upon the briefing and hearing of this matter, reverse the decision of the ULJ and order unemployment benefits be paid to Ms. Goede.
4. Upon her prevailing, Ms. Goede also asks the Court of Appeals to award her costs and disbursements and reasonable attorney fees under 42 U.S.C. §1988 and Minn. Stat. § 15.471, *et seq.*, as DEED's decision was not

substantially justified.

Respectfully submitted,

Dated: September 22, 2022

UPPER MIDWEST LAW CENTER

By: /s/ James V. F. Dickey
Douglas P. Seaton (MN Bar No. 127759)
James V. F. Dickey (MN Bar No. 393613)
Dustin T. Lujan (WY Bar No. 7-5574)
(*pro hac vice* admission to be sought)
8421 Wayzata Blvd., Suite 300
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Attorneys for Relator

APPENDIX H

**STATE OF MINNESOTA
DEPARTMENT OF EMPLOYMENT AND
ECONOMIC DEVELOPMENT
(DEED)**

Tina Goede, Applicant

vs.

Berkley Risk Administrators Company, LLC,
Employer

Docket No. 48747325

Date: June 14, 2022

The following persons appeared at the hearing:

Tina Goede, Applicant

The Court: Currently 2:15, I do not have a number for AstraZeneca listed on, on the online appeal record. They didn't provide a name or contact for the hearing, so we'll proceed with them. I'm dialing the applicant now 763-249, I'm sorry, 763-245-9256.

Tina Goede: Hello?

The Court: Is this Tina Goede?

Tina Goede: Goede, yes, it is.

The Court: Ms. Goede this is Judge Gibson calling from the Minnesota Unemployment Insurance office regarding your unemployment hearing. Are you ready to being in a hearing?

Tina Goede: I am.

The Court: Will there be anyone else participating on your behalf other than yourself?

Tina Goede: No.

The Court: Do you have that notice of hearing packet that was sent?

Tina Goede: I do.

The Court: So I'll start by explaining my directions for today's hearing. First, I will read an opening statement. This covers important information. Next, I will have you say and spell your name for the record. I will ask you to raise your right hand and swear to tell the truth, then we will go over the documents the Department mailed to you. I will decide which documents will be evidence in this matter. I will ask questions for background information, after that I will ask you questions about what happened in your case. This is called your testimony. You'll have a chance to tell me anything relevant I did not ask you about. And at the end you can give a closing statement if you'd like. Do you have any questions about this process?

Tina Goede: I don't.

The Court: This is a hearing on Issue ID#48747325 regarding the benefit account of Tina Goede. The employer is AstraZeneca Pharmaceuticals LP. This appeal is being held on June 14th, 2022 by telephone conference call before Unemployment Law Judge Gibson. Time is approximately 2:17 p.m. The hearing is being recorded as required by law. This is an appeal by the applicant dated June 2nd, 2022. The appeal is taken from a determination dated May 26th, 2022. The determination held that the applicant is ineligible. The issue appears to be whether the applicant has been available, I'm sorry, whether the applicant was discharged because of employment misconduct. The purpose of this hearing is to take testimony and obtain other evidence. This information will be used to decide your rights under the Minnesota Unemployment Insurance law. The hearing is the only opportunity available to present testimony and other evidence on the issues involved. Certain other government agencies may have access to information fathored at this hearing if this is allowed by statute or the information may be disclosed pursuant to a court order, if you refuse to answer a question, I may infer the answer is unfavorable to you. The parties have the right to request that the hearing be scheduled so the documents or witnesses can be presented by subpoena if necessary. The fact in this case will be determined by a preponderance of the evidence. In other words evidence in support of a fact that is more convincing and has a greater probability of the truth then the evidence opposing the fact, an applicant's entitlement to unemployment benefits must be determined based upon the information available without regard to a burden of proof. After the hearing, I will apply the law

to the facts and issue a written decision, which will be sent by mail. Appearing on her own behalf is Ms. Goede. Will you say your full name and spell your last name?

Tina Goede: It's Tina Goede and the last name is spelled G as in George, o as in orange, e as in Edward, D as in dog, e as in Edward.

The Court: Are you still receiving mail at 12330 73rd Street Northeast, Otsego, Minnesota 55330?

Tina Goede: I am yes.

The Court: Do you have any objection to being sworn in under oath?

Tina Goede: I do not.

The Court: Will you please raise your right hand?

Tina Goede: I have it up.

The Court: Do you, do you swear that the testimony you will give in this hearing will be the truth, the whole truth and nothing built the truth so help you God?

Tina Goede: I do.

The Court: Let the record show that Ms. Goede has been sworn in under oath. Now we'll go through those exhibits if you turning your packet to about the

third sheet, you should see a determination of ineligibility. This is exhibit 1. It's two (2) pages. After that is three (3) short pages of address and online appeal information. Did you submit this online appeal?

Tina Goede: I did.

The Court: This is Exhibit 2, it's three (3) pages. After that is an unemployment insurance request information form. Did you complete this questionnaire online as well?

Tina Goede: I did.

The Court: This is Exhibit 3 and it's three (3) pages. After that is - one moment here. A, a questionnaire that's not completed but it has attached letter from the Equifax, the employer's agent. This will be Exhibit 4, it's five (5) pages and then after that is an Equifax letter from the employer. This will be Exhibit 5, one (1) page. Those are all of the documents that I received for the hearing. Did you send in additional documents that are missing?

Tina Goede: No, I did not.

The Court: Do you have any objection to Exhibits 1 through 5 being received as evidence?

Tina Goede: I do not.

The Court: Exhibits 1 through 5 are received. Just give me a moment here as I pull up my notes. Just one more minute. I'm sorry this is taking longer

than I'd like.

Tina Goede: Okay.

The Court: So now Ms. Goede it looks like, when did you start working at AstraZeneca?

Tina Goede: I started there February 15th of 2021.

The Court: What was your last date of employment there?

Tina Goede: Last day was 4/29/2022.

The Court: And what was your, what part of AstraZeneca did you work at? Sort of what was the, the division or what did you, sort of what part of (inaudible, two speaking at once ...)?

Tina Goede: I was renal division.

The Court: I'm sorry. Can you say that again?

Tina Goede: Yeah . I was in the renal division. I was an account sales manager.

The Court: Okay. I see. You were selling product.

Tina Goede: Yes. I'm sales.

The Court: You said account sales manager?

Tina Goede: Yep.

The Court: And what was your salary or, or hourly

Tina Goede: Salary was \$150,000.00 for the year plus bonus.

The Court: Okay. Were you normally a, a full-time 40 - plus-hour employee or something different?

Tina Goede: 40 - plus.

The Court: Okay. So Ms. Goede, now it looks like you were discharged from employment, is that correct?

Tina Goede: Well, depends what you, discharged or let go, however you want to say it, - -

The Court: Sure.

Tina Goede: - - yeah.

The Court: So it sound s like the employer decided to end the employment relationship. Is that a correct understanding?

Tina Goede: Yes, the employer decided to end the relationship, correct.

The Court: And did they give an explanation for why they were discharging you?

Tina Goede: They discharged me because they did not, they didn't accept my religious exemption for the COVID vaccination.

The Court: I see. In other words, they discharged because you, you weren't vaccinated and they didn't exclude you from, from being vaccinated.

Tina Goede: No, I'm not vaccinated, that's why I put in my religious exemption to not get vaccinated because I don't believe in that, and I put that in and they did not accept my religious exemption and I tried to ask questions in regards to it, and I couldn't get anyone to answer my question. We had one (1) (inaudible, two speaking at once.)

The Court: So when did you find out that you were going to be required to be vaccinated or exempted or lose your job?

Tina Goede: So Thursday, February 10th of '22, we got our first email basically stating they sent to employees who selected that I'm not vaccinated in what we call work days and so that was our first announcement basically stating that we either had to get if you checked that you weren't vaccinated, you would have to by a certain days I can say here you had to access the workday and then you had to get vaccinated or upload proof of full vaccination by March 31st or apply for medical, religious, or any applicable state exemptions by February 28th.

The Court: Okay, hold on just a second just slow down because I'm taking notes here.

Tina Goede: Okay.

The Court: - - So you had to get vaccinated by you said March 31st, is that correct?

Tina Goede: Correct.

The Court: Or apply for medical or religious or other exemption by what day you said in February?

Tina Goede: By February 28th.

The Court: 28th, okay.

Tina Goede: Correct.

The Court: So walk me through what happened next. You found out about this requirement, the deadlines, then what, what went and how next?

Tina Goede: Yeah, so I followed suit, I went in the workday and obviously I had already checked the box that I wasn't vaccinated, so let's see. The next step was so then I did apply for my religious exemption, and I got that in before the 28th of February, so a couple of days before that, that timeframe.

The Court: Okay, so what happened next?

Tina Goede: And so I - -

The Court: Oh go ahead.

Tina Goede: I'm sorry.

The Court: Yeah, I said go, what happened next and it sounds like you were going to tell me.

Tina Goede: Oh, yeah. So then I submitted the exemption and I don't know a few days, weeks, few weeks I should say had gone by, and they wanted some more information so they sent another, if you will, another email, and then I had to click on a link to answer some questions in regards to my religious exemption. So I think I had about six (6) or seven (7) questions that I had to answer by a certain time, and I did that, and I sent that back. And then I would say I think was it another week later, I got another email sent to me with another link and I had seven (7) days to answer some more questions. So I put in my religious exemption, and then I got two (2) more emails stating that I needed to answer a few more questions in regards to my religious exemption, which I did and I got them all in before the time was up. So I, I complied with everything that my company had requested of me.

The Court: Sure, so then what happened after you answered all these questions?

Tina Goede: So then basically, I was in a waiting period and they sent an email saying sorry it's taking us so long, we are looking at everything, you will be informed on March 31st to find out whether or not, you know, things were approved basically. So then I received an email on March 31st of 2022 basically stating that my religious exemption was not approved.

The Court: Okay, so on March 31st, you were

told then what, what was said after that?

Tina Goede: Then after that, what they stated is I would have if I were to get vaccinated, I'd have to get my first vaccination by April 20th of 2022. If I did not get my first vaccination by April 20th of 2022, I, my last day would then be April 29th of 2022.

The Court: Okay. And so it sounds like you did, you did not get a, any vaccine by April 20th, is that a correct understanding?

Tina Goede: That's correct, yeah.

The Court: And, and so did you tell them that or did they ask you at some point so they knew whether or not you had been started the vaccination process?

Tina Goede: No, basically, what - - if they would have known that I had gotten the first vaccine, I would have went into what's called workday through with my company and would have gone in there and put my information that I got my first (inaudible, audio cut out), I'd put my numbers and - -

The Court: I see, so you had to, you had to tell them for them to, to start, or not exempting, but start to delay the process of letting you go.

Tina Goede: Well, no. I, so yeah, if I were to get the vaccination on the 20th, then I would have went into my workday and put that information in there, but I did not so then.

The Court: Sure, so because you hadn't told them you were starting that process, they knew you hadn't, correct?

Tina Goede: Correct.

The Court: Okay. And then so then what happened next after April 20th came and passed, what happened next?

Tina Goede: I got an email sent to me basically saying what I needed to do with my equipment, and anything else

The Court: When did the email get sent to you telling you what to do with your equipment?

Tina Goede: Yep, to send it back and I mean and, and -

The Court: Oh no, what date, what date did they send that?

Tina Goede: I'm sorry.

The Court: Yeah, what date did they send the email?

Tina Goede: That email I don't know exact, what the exact date was when they had sent that. They sent an email with a couple different things as to what to do with the equipment, how to send it back, and so on and so forth, and let's see, that would have been sometime in April I received that.

The Court: Was it after April 20th or before?

Tina Goede: It was before April 20th.

The Court: Oh, so you had already been instructed what to do to put in your equipment before they even knew if you were going to get the vaccine started by April 20th.

Tina Goede: Sent that out prior to whether or not you were going to get vaccinated or not.

The Court: I see. But then did you ever hear from anyone again after you did not have a vaccine by April 20th ? Did anyone talk to you?

Tina Goede:; No, I didn't hear from anyone I tried to reach out because we were supposed to reach out to what we call My Support or AZ My Support because I had questions as to why it doesn't, it didn't get approved and then I had other questions within regards to the full exemption and, and why things didn't go the way that I thought they would, so I would call into that the 800 number and I tried to ask the questions. They would say that they didn't know the answers, and I said well, I would like to talk to somebody that could provide me with these answers to my questions. I think I, I'm an employee and I should, I respect, I, I need those answers. And so I was given a lead name s from one of the, the call center reps, and basically it was their manager, and I think I emailed her, left her, yeah, I emailed her and she was on vacation, and then she got back to me and I wanted to converse with her on the phone, and she said email

would be best. And so I said well, this is about my exemption I have some questions. I didn't really want to put them in email, I wanted to talk with her on the line, and she wouldn't do so, and she never answered my questions.

The Court: Sure, but it sounds like did anyone ever tell you that they were going to let you go or they changed their mind or anything like that?

Tina Goede: No.

The Court: Do you know of other people that lost their job on April 29th?

Tina Goede: Unfortunately, I don't. I don't know who was not vaccinated or who wasn', (inaudible, two speaking at once ...) what they were - -

The Court: And did you, Ms. Goede, did you have a medical reason why you could not be vaccinated or was this purely a religious issue?

Tina Goede: Well, it's religious but I, I, I probably do. I know I do have a medical reasoning as well, too. But I put in my religious exemption for it.

The Court: Sure, but could you have applied for a medical exemption ?

Tina Goede: I probably could have.

The Court: If you have a medical reason why you could not get vaccinated, why wouldn't you do

that?

Tina Goede: I don't know. I don't really, I didn't really think about it that much because I mean - -

The Court: What's the medical reason you can't get a COVID-19 vaccine?

Tina Goede: Because I have blood, blood clotting factor V deficiency and I've already had a PE in my lung.

The Court: Have you talked with a medical professional to determine whether or not you get a COVID-19 vaccine?

Tina Goede: I had my hematologist tell me that I could, I'd be okay.

The Court: Oh, your hematologist told you, you could get vaccinated, is that correct?

Tina Goede: Well, that's what he said.

The Court: Okay, so you have talked to a specialist, a hematologist, who advised you could get vaccinated even with your condition.

Tina Goede: (Inaudible ...) that, that's according to him, yeah.

The Court: Sure, but has any medical professional told you, you could not, any, any, any treating professional that you have?

Tina Goede: No, I haven't asked them.

The Court: Sure. So the only person that you had, the only medical professional you had a discussion with said you could, and that's the hematologist, - -

Tina Goede: Correct.

The Court: - - or hematologist people that specialize in blood disorders.

Tina Goede: Yes.

The Court: Do you know think he would know whether or not you should get vaccinated?

Tina Goede: I would definitely get a second or third opinion.

The Court: Sure. But do you think this is a, a qualified individual that could, could make this assessment?

Tina Goede: I'm not sure. I don't know how to answer that.

The Court: How, how long have you seen this person as a treating practitioner?

Tina Goede: Two (2) years.

The Court: Do you think he's treated you appropriately with your other conditions or is he happy

with the care you're getting for the conditions you have?

Tina Goede: This is the only condition he's treating with.

The Court: Sure. Are you satisfied with his treatments so far with your condition?

Tina Goede: So far.

The Court: What, does he work for a hospital system or is he on his own?

Tina Goede: No, he works for a hospital system.

The Court: What's the system?

Tina Goede: North Memorial.

The Court: Okay. And is your blood clotting disorder the only, the only medical condition that would prevent you from getting a COVID-19 vaccine?

Tina Goede: For medical, yes.

The Court: Okay. And now we'll talk about is there, are there religious, religious reasons why you cannot get a COVID-19 vaccine.

Tina Goede: Yes.

The Court: Can you explain?

Tina Goede: Well, I, I uphold a Christian worldview and I'm deeply rooted in the bible, and so and I believe that yeah, vaccines can violate the scripture. So my religious belief prohibits injection of foreign substances into my body, so to inject any substance, which would alter that state into which I was born would be criticized basically to God and question his omnipotence. So my body is my temple of God and so basically, you know, do you not know that your body is a temple of the Holy Spirit, which is in me and from what I receive from God, so vaccines that contain neurotoxins, hazardous substances, viruses, animal parts, foreign DNA, any of that, blood carcinogens, chemical waste is very harmful to my body.

The Court: Could you get any vaccines based on your religion?

Tina Goede: There have been when I was growing, I didn't really have a choice, so I know I've been vaccinated with certain vaccines, but that wasn't my choice. But moving further, I, I haven't gotten any vaccines that I'm not supposed to get pretty much.

The Court: Sure, and yeah, and I think, so let me ask that question again just to make sure that you're answering the question I'm asking. So does your religion prevent all vaccines or just some vaccines from being received?

Tina Goede: Some vaccines depending what they're made out of.

The Court: Okay, and so what vaccines could, are you allowed to get through your religion?

Tina Goede: With that, I've gotten the only ones, well, those are, that's when I was young, though, too. So honestly, as I've been an adult, I haven't got any vaccines.

The Court: Sure, but it sounds like you are allowed through your religion to get some vaccines even if you choose not to, is that a correct understanding of your position?

Tina Goede: Again, depending what's in the vaccine.

The Court: Okay. So I guess I'm trying to understand is - -

Tina Goede: Oh, (to speaking at once...) - -

The Court: Oh go ahead, go head, go ahead.

Tina Goede: - - I'm just saying as an adult, I haven't gotten any vaccines.

The Court: You haven't gotten the MMR vaccine or tetanus vaccine or anything like that?

Tina Goede: Well, I take that back. Tetanus I have, excuse me, tetanus I have.

The Court: When have you gotten that vaccine?

Tina Goede: I don't remember when I got it last. I know the last 10 years I believe if I remember right.

The Court: Sure, yeah, it goes every 10 years, so have you been up to date on that?

Tina Goede: Yeah, I'm up to date on that.

The Court: Sure, so it sounds like you are allowed to get a tetanus vaccine. What other vaccines could you get if you wanted, you might choose not to, but what are (inaudible) 23:09 religion to get?

Tina Goede: That's all I've gotten.

The Court: Oh sure. And I want to, I'm going to give a silly example and don't, don't imply that this is, you know, this isn't part of your religion, probably I guess I shouldn't speak, but for example, your religion might allow you to eat chicken, but you just may not like chicken, you may choose not to eat chicken, does that make sense? So, so I want to know what you're allowed to do, not necessarily what you choose to do, because there are probably many things that you're allowed to do that you choose not to for many reasons. Does that make sense?

Tina Goede: Yeah, that makes sense. So basically, that's - -

The Court: So, so, yeah, go ahead, you can answer.

Tina Goede: Neurotoxins or hazardous

substances or any (inaudible) viruses or ani- animal parts, from human blood, those types of vaccines I don't put into my system.

The Court: And with the COVID- 19 vaccine, what about these vaccines would, would be of concern?

Tina Goede: Because with the COVID vaccination, there is, they're using, you know, embryo, fetal (inaudible) cells, all different things that again, my religion does not, does not pertrated [sic} to use. I am, I'm prolife so that goes along with that, so any aborted tissues, anything that is utilized with any of the vaccines, I will not, I will not use.

The Court: And, and one moment here. Let me just pull up some information. So first of all, just to make sure I understand, just I want to say for the record and you can dispute this if you disagree, but sort of announced in the news you probably remember this on, on August 23rd of 2021, so almost a year ago, the US Food and Drug Administration, the FDA, fully approved or authorized the Pfizer COVID-19 vaccine or individuals 16 years and older. Do you agree that that happened?

Tina Goede: I believe so. I, I don't have it in front of me, so.

The Court: Sure, but it sounds like you're not disputing that, that, that vaccine, the Pfizer vaccine has been fully authorized for, for many months, correct?

Tina Goede: Well, it's still under emergency use.

The Court: Yeah, and I think that actually that, that changed to from emergency use to fully authorization as of August 23rd of 2021 for the Pfizer vaccine. But I, I want to also just indicate that I'm just looking at some, some information here and for the, the Pfizer and the Moderna vaccines, as I understand it, they didn't use fetal cell lines or fetal cell tissue to create the vaccines. They did use them, they didn't use fetal cell lines to test the vaccine after they were created, do you agree with that?

Tina Goede: No, not necessarily.

The Court: So do you believe that the Pfizer and Moderna vaccines use fetal cells to create their vaccines?

Tina Goede: Yes.

The Court: And what medical evidence do you have to support that or scientific evidence, I should say? So if, if they, if they only used the fetal cells to test the vaccines but not create the vaccines, would you be okay taking a Pfizer or Moderna vaccine?

Tina Goede: No.

The Court: And why would that still not be okay?

Tina Goede: Because it goes against my religion.

The Court: So even using testing a medication on using fetal cells would be, means you couldn't use the medication or the vaccine.

Tina Goede: Correct .

The Court: And how long have you had that, that, that position or belief?

Tina Goede: How long since I've been an adult.

The Court: I don't know you are how old, so could you sort of give a, give a number of years if you would?

Tina Goede: 20.

The Court: 20, okay, so 20 years, and has that been the same consistent belief that whole time?

Tina Goede: Yes.

The Court: And, and when you're, when you're approaching a medication or a vaccine, how do you go about 6 deciding whether or not you can take it? something.

Tina Goede: 'Cause I do my research.

The Court: Have you taken any, - -

Tina Goede: (Inaudible, two speaking at once.)

The Court: Oh I'm sorry, go ahead.

Tina Goede: Depends if it's life or death.

The Court: Explain that.

Tina Goede: (Inaudible, two speaking at once ...) say something.

The Court: Oh, I see. So in other words, if, if, and I, I, I certainly am not implying that I want this to happen to you, so please don't, don't take this way. But if something you have a, a condition, you go to the hospital and they say you have a condition, if you don't take this medication what's created using fetal cell lines, you will die, would you be able to take that medication in your religion?

Tina Goede: I would because I wouldn't want to die. That's a different (inaudible, two speaking at once ...) - -

The Court: Sure, so even though, even though it wouldn't be allowed under your religion, you would choose to take it anyway, correct?

Tina Goede: Well if it's going to save my life, yes.

The Court: Sure, but with that, would your religion allow you to take it or would it still be against your religion to take it, even though you choose too?

Tina Goede: It's against my religion but if it's life or death, then I would take it.

The Court: I see, so if it's life or death. - -

Tina Goede: (Inaudible, two speaking at once ...) circumstance.

The Court: Sure, and, and, and again and I, and I really hope you don't think I'm implying that I want any of these things to happen to you. I definitely don't. I just want to talk about hypotheticals so I, I hope you hear me when I say that. But let's say, you know, if you didn't take a, a medication that wasn't life or death, but would you would have significant change or significant paralysis or something if you didn't take a medication that use fetal cell lines, would you take it at that point even though it wouldn't cause you to die, just cause major life impacts?

Tina Goede: No.

The Court: Sure. So you would be willing to get sort of paralysis, paralyzed, major significant issues and still refuse a medication or vaccine?

Tina Goede: Yes.

The Court: Okay it sounds like if you were going to die, then you would take the medication regardless of how it was made or tested?

Tina Goede: Depending on the circumstances.

The Court: Sure. And in the last several years, have you taken medications like Tylenol, Advil, things like that?

Tina Goede: I stick to natural. I try not to take any of that stuff because it's not good.

The Court: Have you ever taken any of those?

Tina Goede: I have.

The Court: When was the last time you taken an over the counter sort of painkiller?

Tina Goede: Probably 10 years ago.

The Court: Okay. And, and are you aware that those medications use, used fetal cell lines to test them?

Tina Goede: I am, yes. That's why I don't take them anymore.

The Court: But you said that you, you've had that belief in the last 20 years . Why were you taking them 10 years ago ?

Tina Goede: Because I didn't know that .

The Court: But I thought you said you did your research to make sure.

Tina Goede: I do on most things but I didn't do it on my ibuprofen or my Tylenol.

The Court: When did you discover that these had connections to fetal cell lines?

Tina Goede: 10 years ago.

The Court: One moment here. Have you taken any heartburn medications or anything like that in the last several years or since adulthood, I should say.

Tina Goede: No.

The Court: Are you prescribed any medications in the last 10 years?

Tina Goede: I am.

The Court: What medications have you taken in the 16 last I guess I should say 20 years that you've been prescribed?

Tina Goede: Eliquis.

The Court: And what type of business, or not business, I'm sorry, what type of medication is that? What is it for?

Tina Goede: It's blood thinner because of my PE, I'm on it.

The Court: How do you determine whether or not fetal cell lines were used to, to, to develop or test this medication ?

Tina Goede: No, because my PE was unprovoked, so it's something that I'm going to need to stay on for life.

The Court: What do you mean unprovoked? I don't understand.

Tina Goede: We don't know what triggered my PE, my pulmonary embolism that was in my left lung. So because we don't know what provoked it, I, I need to stay on this blood thinner because I already have a factor V deficiency and we don't know what caused this PE, so it's unprovoked.

The Court: Well does your, does your religion allow you to take medications if something is unprovoked?

Tina Goede: Yes, it does.

The Court: How? What, what, what in sort of in scripture would sort of explain that to you? So where in the bible, where in your religion would, would that say, you know, if it's an unprovoked condition, you can take any medications regardless of their origin.

Tina Goede: Well, it's not going to say that exact words.

The Court: Sure but what, where are you pulling that from is maybe the better question.

Tina Goede: What am I pulling what from?

The Court: Pulling the sort of the information from that tells you, you can take a medication if you have an unprovoked medical condition?

Tina Goede: I'm not saying that the bible does tell me that, I just know that I'm going to.

The Court: I see. So in other words, regardless of whether your religion allows it, you've decide you're going to do this. Is that a correct understanding of your testimony?

Tina Goede: (Inaudible, audio cutting out, two speaking at once ...) - -

The Court: - - Is that sort of (inaudible, two speaking at once ...) this is not, this is not life or death, though, correct, you're not going to die if you don't take this medication, are you?

Tina Goede: I could, absolutely.

The Court: Oh, I see. So you can take a medication even if it, it sort of avoids a potential situation where you could die even if it's not sort of life or death at that moment.

Tina Goede: Sure, yeah.

The Court: Well I hope Ms. Goede that you understand that I, I'm not you and I, you know, I, I don't know what your religious beliefs are unless we talk about them and you tell me. Does that make sense? So I have to, I have to ask those questions so I can understand that. But it sounds like would it be fair to say that, that, that you are willing to choose to go against sort of religious beliefs if you decide it's necessary in your view for, for whatever reason.

Tina Goede: If it's necessary in my view, if it's, if it's, if it holds the fact that if I don't do anything and I can have another clot and die tomorrow, then yes. Because I know there's nothing natural that I can take to prevent this from happening. I always go the natural route first, and if there isn' t anything that I have a conversation, and I make sure that what the conversation that I have is, is worth doing what I either need to do or have to do, then that's the only time that I would ever go against my religion.

The Court: One moment here. Are there any other medications that you have taken 20 years other than Eliquis ?

Tina Goede: No.

The Court: When you had your pulmonary embolism, did, did they give you treatments at that time? - -

Tina Goede: No.

The Court: In other words, did you go to the hospital or the doctor?

Tina Goede: No.

The Court: So they just gave you just one (1) medication and that's it?

Tina Goede: Mm-hmm.

The Court: You'll have to say yes or no just for

the record.

Tina Goede: Yes.

The Court: Okay. It sounds like you, you haven't even looked into whether or not this was developed or utilized in fetal cell lines because it, that wouldn't matter in your view because you, you decided this is necessary, correct?

Tina Goede: It is necessary, yes. I have no other options.

The Court: One moment here. And you said you, you are a Christian. Do you belong to a specific denomination of Christianity, for example, Lutheran or Catholic or anything like that?

Tina Goede: Catholic.

The Court: Catholic. And are you a member of a Catholic church or a congregation?

Tina Goede: Yes, I am.

The Court: And what's the, the, the, the congregation you normally attend?

Tina Goede: St. Michael's Catholic Church.

The Court: Do you regularly attend this church?

Tina Goede: I do.

The Court: How often would you say you attend?

Tina Goede: At least once a week.

The Court: How do you - -

Tina Goede: If not more (inaudible, two speaking at once...) - -

The Court: - - oh I'm sorry, I didn't mean to cut you off. Go ahead.

Tina Goede: I was just saying if not more.

The Court: Okay, so it sounds like very regular attendance.

Tina Goede: Correct.

The Court: And do you have you discussed with any clergy member whether or not you should be vaccinated?

Tina Goede: Always. That's where I go first.

The Court: And what did they advise regarding your vaccination?

Tina Goede: Well they (inaudible) it, and then they said it's, you know, it's they, they chose, they know that that's not what we're supposed to do, so they advised me not to.

The Court: But I though the Catholic Church

had, had come out saying that they, they, they, they allowed their members to get the COVID-19 vaccines.

Tina Goede: You must have heard that from the pope. He's not a true Catholic.

The Court: Oh yeah. Oh, I see. So it sounds like the, the pope doesn't speak for the Catholic Church.

Tina Goede: Absolutely not.

The Court: Is he connected to the Catholic Church?

Tina Goede: He says he is but he's truly not. Because if he was truly a Catholic, he would never say that.

The Court: Okay, so it sounds like the pope is not related to Catholicism at all? I guess I, I'm just trying to understand. I, I, I've not heard that the pope is not connected to Catholicism before. I'm just trying to understand.

Tina Goede: (Inaudible, audio cutting out ...) what I'm saying is he the pope is a Catholic pope but he doesn't practice Catholicism like he should. Like a true pope would.

The Court: I assume you disagree with, you disagree with how he conducts himself as a Catholic and as the pope, correct ?

Tina Goede: He's not a true Catholic.

The Court: Okay, sure.

Tina Goede: Ask my priest that.

The Court: But it sounds like your priest has told you not to get the vaccine?

Tina Goede: Correct.

The Court: But it sounds like if you looked up on the sort of the, the Catholic website just sort of the public websites for Catholics or the pope and Vatican and whatnot, would those websites and, and would that material say that Catholics are allowed to get vaccines?

Tina Goede: I don't know. I don't look at, at that stuff. I go to my priest and that's who I pay attention to.

The Court: I see. Would you object to me just Googling that just to see what would be said?

Tina Goede: Yes, I would actually.

The Court: What's your legal objection?

Tina Goede: What's the purpose?

The Court: I, I just, I would like to know what the Catholic Church says formally, even if your priest says something different. So I, I hear your objection, I will overrule but of course, you can dispute it and we can talk more about it. I understand that you still have

your own personal position as well.

Tina Goede: I do, yes, correct.

The Court: Okay. I, I do understand that. So according to Catholic.org, or seeacatholic.org is the California division of Catholic Church, says that on December 21st, 2020, the Vatican's doctrinal office, the congregation for the doctrine on, of the faith, the CDF, issued a statement noting that it is morally acceptable for Catholics to take vaccines against COVID-19. Do you think that sort of the Vatican and the offices in the Vatican gave that instruction?

Tina Goede: I don't know. You're asking questions that I don't know.

The Court: Sure, okay.

Tina Goede: You can (inaudible, two speaking at once ...)

The Court: Do, do you dispute the basis or do you - - okay - -

Tina Goede: I'm not, no because I'm not going to give you a false answer because I don't know.

The Court: Sure, okay.

Tina Goede: You can (inaudible, two speaking at once ...) - -

The Court: Sure.

Tina Goede: (Inaudible, audio cutting out.)

The Court: Would you ever be willing to, to take a COVID-19 vaccine?

Tina Goede: No.

The Court: Even if one was developed without the use of fetal cells in any way?

Tina Goede: Correct.

The Court: Why wouldn't you ever take a COVID-19 vaccine regardless of how it was developed?

Tina Goede: I don't take vaccinations.

The Court: But you just said you take the tetanus vaccine, correct?

Tina Goede: I have, yes.

The Court: Sure. So well, that one you said was okay to take, why, why would a COVID-19 vaccine never be okay to take regardless of its development?

Tina Goede: Because the vaccine doesn't work.

The Court: Oh, explain that a little more. I want to understand.

Tina Goede: You don't understand? Or have you been, you know.

The Court: So it's just COVID vaccines just don't work period?

Tina Goede: The vaccine has killed more people than it's saving and I haven't had the vaccination and I had COVID once. More people that have been vaccinated have gotten COVID multiple times. It doesn't work. What's the point?

The Court: Sure, but it sounds like no matter what the vaccine was developed for - -

Tina Goede: If I was on my deathbed I wouldn't take it because it doesn't work.

The Court: Sure. But it sounds like regardless of what vaccines are developed for COVID in the future, regardless of how they're made and how effective they are, would you ever take a COVID-19 vaccine?

Tina Goede: Why would I have to? Tell me that.

The Court: Okay. Well explain that more. I don't understand.

Tina Goede: How do you not understand? Why would I have to take a vaccine if I don't need it?

The Court: Sure. So it sounds like you would never take the COVID-19 vaccine regardless of the development because you don't feel it's necessary, is that correct?

Tina Goede: I won't take any vaccine if I don't

need it. It's called natural immunity.

The Court: Sure. But am I understanding your testimony correctly that you would never take any COVID-19 vaccine regardless of the development of it?

Tina Goede: If I have a reason to, but no, there is no reason.

The Court: If COVID-19 would, would likely kill you, would you take one of the COVID-19 vaccines if it was effective?

Tina Goede: No, no, because it hasn't killed me.

The Court: Sure, but that's, I think the thing I'm trying to understand better and maybe my logic is off, Ms. Goede, is it sounds like your pulmonary embolism hasn't killed you yet either, correct?

Tina Goede: That's completely different. Completely different.

The Court: Well it's something but I, that's what I want to understand better. If you, you won't take something because it hasn't killed you yet, you are taking something even though something hasn't killed you yet. So explain the difference so I can understand.

Tina Goede: So my pulmonary embolism is completely different. You're taking the COVID vaccine is, is supposed to help and prevent from you getting the COVID sickness, and this, my pulmonary embolism is something that I will have because I have

a factor V deficiency and it was unprovoked, they are two (2) separate things altogether, completely, so I need to be on Eliquis unless I want to have another pulmonary embolism and 4 perhaps die. I'm not going to die - -

The Court: Sure.

Tina Goede: - - because of COVID and the vaccine.

The Court: Do people die from COVID?

Tina Goede: (Inaudible ...) to prevent me from dying either because it doesn't work.

The Court: Sure. But if the vaccine worked, would you take it?

Tina Goede: No.

The Court: And why not?

Tina Goede: Because COVID is the flu, it's just like the flu, I never, I, I haven't had a flu shot since way before the days before I knew what was involved in that.

The Court: When did you have your last flu shot?

Tina Goede: I don't even remember.

The Court: Have you had one since you were an

adult?

Tina Goede: No.

The Court: All right. Anything else you'd like to add?

Tina Goede: No. I just think it was really discriminatory because I couldn't get any, I mean, I've never had to do something like this for any job ever until this COVID vaccination came up. Never have I ever had to do this, put an exemption, worry about my job because of a vaccine, never in, in how many years of working, 20 - plus years have I ever had to deal with this and the company says either put a medical or religious exemption in, and they denied me my right to work. I was a very good employee and I did everything that the company wanted me to, and it says the applicant's actions were employment misconduct. I, I totally disagree with that. I didn't have any misconduct at all. I was doing a very good job, I did very well for the company, I was making the company money, and they let me go because they didn't approve my, my exemption, and then they didn't have the guts to tell me why they didn't answer my questions, nothing. They just let me go. - -

The Court: With your job - - I'm sorry.

Tina Goede: And I didn't get a severance, unemployment.

The Court: I'm sorry, Ms. Goede. With, with your job, do you normally go into medical clinics in

person?

Tina Goede: Yes, I go into hospital clinics, dialysis, long-term care facilities.

The Court: So you're regularly in medical facilities, that was your, your whole job it sounds like to go in there yourself, correct? Oh you cut out there. Can you say that again?

Tina Goede: Yes .

The Court: Okay. Did hospitals require sort of third- party vendors and whatnot to, to be vaccinated to enter these hospital buildings?

Tina Goede: Some of them did, not all of them.

The Court: Sure.

Tina Goede: (Inaudible, two speaking at once ...)

The Court: So it sounds like some of these, some of these entities or businesses wouldn't let you in the door unless you were vaccinated, correct?

Tina Goede: Some of them, not all of them, only a few.

The Court: Sure. And which ones were you unable to visit that were your customers because of this?

Tina Goede: Allina.

The Court: Is Allina a smaller or a larger health system?

Tina Goede: Allina Northwestern Hospital and Clinics.

The Court: Sure. Isn't Allina one of the biggest ones in or maybe the biggest one in the Twin Cities?

Tina Goede: Yes, it's one of the bigger ones.

The Court: And were you meeting with people in person in these hospitals or interacting with people in person in these hospitals and clinics?

Tina Goede: Yes.

The Court: Okay. Anything else you'd like to add at this point?

Tina Goede: Well as I was saying, I, I feel that that this, there was, it's like discrimination against who I am and my religion, and I don't know again why I couldn't get any explanation and why they're not allowing me unemployment because I don't, I don't like the verbiage and this information about misconduct. There was absolutely no misconduct, so I just don't like what they've done and I would love to get my unemployment. I'm a very good employee and I deserve that.

The Court: All right, one moment. I'm just going to review my notes to make sure I don't have more questions for you. I'll also give you another chance to

get any more information if you think of anything while I'm reviewing, so just standby and I'll just take a minute, okay?

Tina Goede: Okay.

The Court: Ms. Goede, I can't remember if I asked you. Have you researched the tetanus vaccine to see if it has fetal cell lines used in development or in manufacture?

Tina Goede: I haven't, no.

The Court: I guess I want to understand better, Ms. Goede, why wouldn't you research that if you had that in the last 10 years and you've had that concern for the last 20?

Tina Goede: Honestly, I just, I just haven't.

The Court: Okay. Anything else you'd like to add?

Tina Goede: Yeah. There are companies out there that do require medical or religious exemption, and they are approving them, and again, I don't know why AstraZeneca did not approve mine. But just because the job I do, there are companies that do approve them, they get into the hospitals, the clinics, and surrounding areas but for whatever reason, AstraZeneca did not and I don't know why.

The Court: Okay. Anything else you'd like to add before we go to closing statements?

Tina Goede: No.

The Court: Would you like to give a closing? That might have been a closing, but you're welcome to give a further one if you have one .

Tina Goede: I'm good.

The Court: The record is now closed and the hearing is concluded. I'll be issuing a written decision based on the facts and the law. You'll receive that decision in the mail at the address that we confirmed earlier in the hearing. Thank you for participating and have a good rest of your day. Goodbye.

Tina Goede: Thank you.

STATE OF MINNESOTA

**DEPARTMENT OF EMPLOYMENT AND
ECONOMIC DEVELOPMENT (DEED)**

FILE NUMBER: 48747325 CERTIFICATION

Tina Goede:, Applicant

vs.

Berkley Risk Administrators Company, LLC,
Employer

THIS IS TO CERTIFY that the undersigned, a Contractor of the State of Minnesota, transcribed from an electronic voice recording the proceedings conducted by the unemployment law judge under Minnesota Statute§ 268.105, subd. 1; that this is a true and correct transcription to the best of my ability; and that this transcript constitutes all the proceedings in this matter consisting of 41 pages numbered one through [last page of transcript]. It was completed on October, 15, 2022.

/s/ Patty Mesenbrink
Patty Mesenbrink
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