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Minn. Stat. § 480A.08, subd. 3 (2016).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A16-1701**

Meeker County, petitioner,  
Respondent,  
Victoria Lynn Moreno, n/k/a Victoria Lynn Baalson, petitioner,  
Respondent,

vs.

Kyle Richard Greene,  
Appellant.

**Filed July 17, 2017  
Affirmed  
Randall, Judge\***

Meeker County District Court  
File No. 47-FA-06-1600

Brandi L. Schiefelbein, Meeker County Attorney, Lee R. Martie, Assistant County Attorney, Litchfield, Minnesota (for respondent Meeker County)

Victoria L. Baalson, Waite Park, Minnesota (pro se respondent)

Kyle Richard Greene, Grove City, Minnesota (pro se appellant)

Considered and decided by Schellhas, Presiding Judge; Halbrooks, Judge; and  
Randall, Judge.

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

## **UNPUBLISHED OPINION**

**RANDALL**, Judge

In this child-support dispute in which the child-support magistrate (CSM) revoked appellant-father's recreational and driver's licenses because of the amount of father's unpaid support, pro se appellant argues that (a) the district court lacked subject matter jurisdiction to address his support obligation; (b) respondent-county's child-support officer (CSO) improperly concealed a prior conviction; (c) the CSM's order violated appellant's right to Free Exercise of Religion; (d) the CSM's order violated appellant's right to earn a living; and (e) the district court failed to make adequate findings of fact and conclusions of law. We affirm.

### **FACTS**

Appellant Kyle Richard Greene was adjudicated the father of I.E.M. and ordered to pay \$285 per month in child support. In December 2008, appellant's recreational licenses were suspended under Minn. Stat. § 518A.68 (2008), because he was "in arrears in an amount equal to or greater than six times [his] total monthly support payments and [he failed] to enter into or remain in compliance with an approved payment agreement." Several years later, in October 2014, appellant entered into a payment agreement (agreement) wherein he agreed to pay \$65 per month until his arrears were paid in full. The agreement initiated the reinstatement of his recreational licenses, but stated that if appellant failed to make any payment on the date due, respondent Meeker County (county) "has the legal authority to proceed with suspension of [appellant's] recreational license."

The agreement also did not change appellant's current child-support obligation. Based on the agreement, appellant's recreational privileges were reinstated on January 15, 2015.

In June 2016, the county moved for an order directing the Commissioner of Department of Natural Resources to suspend or bar receipt of appellant's recreational license or licenses because appellant "has defaulted on [his] payment agreement," and "has not made a payment on [his] case since November 17, 2015." The county alleged that appellant "currently owes arrears in the amount of \$18,802.58," which "are greater than six times [his] total monthly obligation." The county also provided appellant with notice of intent to suspend appellant's driver's license due to his failure to pay child support.

Following a hearing, the CSM granted the county's motion, and under Minn. Stat. § 518A.68, ordered the Commissioner of Natural Resources to "bar receipt or suspend" appellant's recreational license. The CSM also ordered the Commissioner of Public Safety to "suspend the driver's license or operating privileges" of appellant under Minn. Stat. § 518A.65(d) (2016). This appeal followed.

After the appeal was filed, the county filed a letter stating that it will not file a brief. As a result, this court directed the appeal to proceed under Minn. R. Civ. App. P. 142.03.

## **D E C I S I O N**

### **I.**

Appellant claims that the orders suspending his recreational and driver's licenses "do not meet the requirements of the jurisdictional statute . . . which the court relies on." Whether the district court had subject matter jurisdiction is a question of law subject to de

novo review. *Odenthal v. Minn. Conf. of Seventh-Day Adventists*, 649 N.W.2d 426, 434 (Minn. 2002).

The CSM's orders provide that it had jurisdiction over the matter under Minn. Stat. § 484.702, subds. 1, 3 (2016). Subdivision 1(b) provides that "[a]ll proceedings establishing, modifying, or enforcing support orders . . . must be conducted in the expedited process if the case is a IV-D case."<sup>1</sup> Minn. Stat. § 484.702, subd. 1(b). Subdivision 3 provides for the appointment of child-support magistrates to preside over expedited IV-D cases. *Id.*, subd. 3. The expedited process should "comply with applicable federal law." *Id.*, subd. 1(e)(4).

Appellant argues that the district court "issued its order in conflict with federal law," thereby acting "outside its jurisdiction." Appellant failed to articulate any federal law that conflicts with the CSM's order. Appellant waived his argument. *See State v. Ture*, 632 N.W.2d 621, 632 (Minn. 2001); *Louden v. Louden*, 221 Minn. 338, 339, 22 N.W.2d 164, 166 (1946) ("An assignment of error based on mere assertion and not supported by any argument or authorities in appellant's brief is waived and will not be considered on appeal unless prejudicial error is obvious on mere inspection."). The record reflects that I.E.M.'s mother, respondent Victoria Baalson, applied for child-support enforcement services under Title IV-D of the Social Security Act. The county determined that the matter was a IV-D case as defined by Minn. Stat. § 518A.26, subd. 10, and appellant does not dispute that a

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<sup>1</sup> A IV-D case is one in which a party has applied for child-support services under Title IV-D of the Social Security Act, 42 U.S.C. § 654(4) (2012). Minn. Stat. § 518A.26, subd. 10 (2016).

IV-D file was open in the matter at the time of the hearing and the CSM's order. The CSM properly exercised jurisdiction over this matter.

## II.

Appellant argues that by failing to disclose that she has a prior conviction of theft, the CSO breached a fiduciary duty she owed to appellant. We generally do not consider issues not argued to and considered by the district court. *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988). The record here reflects that although the issue was raised in his petition for writ of prohibition filed in this court, the issue pertaining to the CSO's alleged prior conviction was not argued to, nor decided by, the district court. Even if we were to consider the issue on the merits, we conclude that appellant's argument lacks merit. There is no record evidence that the CSO failed to disclose a prior conviction.

## III.

Next, appellant appears to challenge the constitutionality of Minn. Stat. § 518A.68, claiming that it infringes upon his right to Free Exercise of Religion. We review "as-applied challenges to the constitutionality of statutes de novo." *Newstrand v. Arend*, 869 N.W.2d 681, 687 (Minn. App. 2015), *review denied* (Minn. Dec. 15, 2015).

Article I, section 16, of the Minnesota Constitutions provides that:

The right of every man to worship God according to the dictates of his own conscience shall never be infringed; . . . nor shall any control of or interference with the rights of conscience be permitted . . . ; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness or justify practices inconsistent with the peace or safety of the state . . . .

“In evaluating the constitutionality of statutes that are challenged based on violations of freedom of conscience, the supreme court has retained the compelling state interest balancing test.” *Newstrand*, 869 N.W.2d at 687 (quotation omitted). “This test has four prongs: whether the objector’s belief is sincerely held; whether the state regulation burdens the exercise of religious beliefs; whether the state interest in the regulation is overriding or compelling; and whether the state regulation uses the least restrictive means.” *Hill-Murray Fed’n of Teachers v. Hill-Murray High Sch.*, 487 N.W.2d 857, 865 (Minn. 1992).

Here, we have considered appellant’s argument that section 518A.68 violates his right to religious freedom and conclude that it is without merit. Even assuming that appellant’s beliefs are sincerely held, an application of the remaining three prongs articulated in *Hill-Murray* indicate no impermissible constitutional intrusion. Section 518A.68 does not violate article I, section 16 of the Minnesota Constitution.

#### IV.

Appellant claims that because he earns a living by hunting and trapping, the district court’s order suspending his recreational licenses violates his right to earn a living.

The United States Constitution and the Minnesota Constitution afford identical due process protections. *Boutin v. LaFleur*, 591 N.W.2d 711, 716 (Minn. 1999). Both provide that government cannot act to deprive a person of “life, liberty, or property without due process of law.” U.S. Const. amends. V, XIV; Minn. Const. art. I, § 7. “[S]ubstantive due process protects individuals from ‘certain arbitrary, wrongful government actions regardless of the fairness of the procedures used to implement them.’” *In re Linehan*, 594

N.W.2d 867, 872 (Minn. 1999) (quoting *Zinerman v. Burch*, 494 U.S. 113, 125, 110 S. Ct. 975, 983 (1990)).

The right to work is important. But, importantly, Minnesota law does allow for the suspension of various licenses in certain instances. *See, e.g.*, Minn. Stat. § 245A.07, subd. 1 (2016) (allowing the Commissioner of Human Services to suspend a family childcare license for failure to comply with “applicable law or rule”); Minn. R. Prof. Cond. 15(a)(2) (allowing the Lawyers Board of Professional Responsibility to suspend an individual’s license to practice law for disciplinary reasons); Minn. Stat. § 214.077(a) (2016) (allowing the Board of Chiropractic Examiners to suspend an individual’s chiropractic license for violation of statute or rule that presents an imminent risk of serious harm). The United States Supreme Court has never held that the right to pursue a specialized profession is a fundamental right. *See Conn v. Gabbert*, 526 U.S. 286, 291-92, 119 S. Ct. 1292, 1295-96 (1999) (“[T]he liberty component of the Fourteenth Amendment’s Due Process Clause includes some generalized due process right to choose one’s field of private employment . . . subject to reasonable government regulation”); *Nebbia v. New York*, 291 U.S. 502, 527-28, 54 S. Ct. 505, 512 (1934) (holding that the right to pursue a particular profession or “calling” is a protected right conditioned upon, and subject to, reasonable government regulation). “[I]nstead, the right to employment is a protected interest subject to rational basis review.” *State ex rel. Comm’r of Human Servs. v. Buchmann*, 830 N.W.2d 895, 901 (Minn. App. 2013), *review denied* (Minn. July 16, 2013). The rational basis test requires that (1) the statute promote a public purpose, (2) the statute not be an unreasonable, arbitrary or capricious interference with a private interest,

and (3) the means chosen by the legislature bear a rational relation to the public purpose sought to be served. *Boutin*, 591 N.W.2d at 718. “[I]f the record indicates that the [statute] is rationally related to achievement of a legitimate governmental purpose, [its application] should be upheld.” *Essling v. Markman*, 335 N.W.2d 237, 239 (Minn. 1983).

Section 518A.68 promotes a public purpose by attempting to ensure adequate and timely payment of child support. *See Schaefer v. Weber*, 567 N.W.2d 29, 33 (Minn. 1997) (noting strong state policy of assuring that children have adequate and timely economic support from their parents). The statute does not unreasonably burden or interfere with appellant’s right to employment because he has the option to enter into and make payments on a payment agreement, and compliance with that payment agreement would provide appellant an avenue to have his recreational licenses fully reinstated. *See Buchmann*, 830 N.W.2d at 902 (holding that a statute permitting suspension of an obligor’s commercial driver’s license for failure to pay child support did not unduly burden obligor’s ability to earn a living because as soon as obligor enters into a payment agreement, the state must reinstate the obligor’s license). Appellant has options to change his circumstances and get his recreational licenses reinstated. Thus, the statute provides a rational connection between the prohibition on limited recreational licenses and the public’s interest in having appellant support his children’s well-being through child-support payments. *See id.* at 902-03. Section 518A.68 does not violate appellant’s right to earn a living.

**V.**

Appellant argues that the district court failed to make adequate findings of fact and conclusions of law as required by Minn. R. Civ. P. 52.01. Appellant failed to articulate what is lacking from the district court's orders. The orders suspending appellant's recreational license and driver's license both establish that appellant's monthly child-support obligation is \$285 per month, and that appellant "has an arrearage of court-ordered child support payments in an amount equal to or greater than six times [his] total monthly payments." Both orders then conclude that the relevant facts establish that appellant violated the applicable statutes. The district court's findings of fact and conclusions of law are adequate.

**Affirmed.**