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**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-0478**

Troy Kenneth Scheffler,
Appellant,

vs.

2008 Chevrolet Motor Vehicle,
VIN KL1TD66688B011495,
Respondent.

**Filed January 16, 2018
Affirmed
Bratvold, Judge**

Anoka County District Court
File No. 02-CV-10-9218

Peter J. Nickitas, Peter J. Nickitas Law Office, L.L.C., Minneapolis, Minnesota (for appellant)

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Considered and decided by Ross, Presiding Judge; Johnson, Judge; and Bratvold, Judge.

U N P U B L I S H E D O P I N I O N

BRATVOLD, Judge

Appellant seeks review of the district court’s dismissal of his petition demanding the return of his 2008 Chevrolet vehicle (the vehicle). Appellant argues first that the district court lacked subject-matter jurisdiction “to do anything other than order the immediate

return” of the vehicle. Second, appellant contends that the district court erred by considering evidence that was not a part of his fourth-degree driving while impaired conviction. We affirm.

FACTS

In February 2011, the state charged appellant Troy Kenneth Scheffler with three offenses that occurred on December 13, 2010: gross misdemeanor violation of a restricted driver’s license, fourth-degree driving under the influence, and fourth-degree driving with an alcohol concentration of 0.08 or more. The City of Blaine (the city) seized Scheffler’s vehicle and provided him with the required forfeiture notice. Scheffler timely filed and served a demand for a judicial determination of forfeiture. *See* Minn. Stat. § 169A.63, subd. 8(e) (2016).

Three years later, following a stipulated-facts trial, the district court convicted Scheffler of driving with an alcohol concentration of 0.08 or more in violation of Minn. Stat. § 169A.20, subd. 1(5) (2010), a crime that falls under the general category of driving while impaired. *See* Minn. Stat. § 169A.20, subd. 1. The state dismissed the other two charges against him.¹ Scheffler appealed his conviction. This court affirmed in *State v. Scheffler*, No. A14-0496, 2015 WL 3634528, at *5 (Minn. App. Mar. 30, 2015). The Minnesota Supreme Court denied his petition for review. *State v. Scheffler*, No. A14-0496

¹ Scheffler submitted what the district court referred to as a “*Lothenbach*” plea. *See generally State v. Lothenbach*, 296 N.W.2d 854, 857-58 (Minn. 1980). *Lothenbach* pleas were replaced in 2007 by Minn. R. Crim. P. 26.01, subd. 4. *State v. Myhre*, 875 N.W.2d 799, 802 (Minn. 2016). Under Minn. R. Crim. P. 26.01, the defendant pleads not guilty, stipulates to facts with the prosecutor, and waives his right to a jury so that he can preserve and appeal a dispositive pretrial issue.

(Minn. June 16, 2015). And the United States Supreme Court denied his petition for writ of certiorari on November 16, 2015. *Scheffler v. Minnesota*, 136 S. Ct. 510 (2015).

Over nine months later, in September 2016, Scheffler called the Anoka County Court Administrator. He inquired about the status of his forfeiture complaint, learned that no hearing had been scheduled, and obtained a hearing date for October 27, 2016. At the October hearing, Scheffler argued that the court administrator failed to schedule a timely hearing under the relevant statute. The district court directed the parties to file briefs.

In its brief, the city asserted that the state was entitled to forfeiture because Scheffler had a restricted driver's license and used the vehicle to commit a designated offense, i.e., driving while impaired. The state contended that it would prove its claim, in part, by relying on Scheffler's "stipulation," made during the October hearing, that he had a restricted driver's license. By letter, the district court questioned whether Scheffler actually made such a stipulation. Ultimately, the state requested an evidentiary hearing.² We note that all parties appear to have agreed that, during Scheffler's stipulated-facts trial in the underlying proceeding, he did not admit to a license restriction that prevented him from consuming alcohol. *See* Minn. Stat. § 171.09 (2010).

Scheffler objected to the evidentiary hearing and petitioned this court for writ of prohibition, which we denied. *Scheffler v. 2008 Chevrolet Motor Vehicle, VIN KL1TD66688B011495*, No. A17-0112 (Minn. App. Feb. 14, 2017) (order). At the evidentiary hearing on January 24, 2017, Scheffler reiterated his objection, arguing that the

² In the record, the parties refer to the alleged license restriction as an "A restriction" or "B Card."

district court lacked subject-matter jurisdiction. Scheffler also argued that the state could not offer evidence that was not submitted during Scheffler's stipulated-facts trial. The district court noted Scheffler's objection and continued the hearing. The state offered evidence to prove that Scheffler had agreed to a restricted driver's license and that the restriction was in effect at the time of Scheffler's 2010 offense. The district court took the matter under advisement.

In its February 2017 written decision, the district court rejected Scheffler's argument on subject-matter jurisdiction, as well as his contention that the city could not introduce evidence of Scheffler's driver's license restriction. The district court found that, at the time of the 2010 offense, Scheffler had a restricted driver's license. Based on this factual determination, the district court denied Scheffler's forfeiture petition because (a) he had committed a "designated offense" under Minn. Stat. § 169A.63, subd. 1(e)(2)(ii), when he was convicted of driving while impaired in violation of his restricted license on December 13, 2010; (b) the state had satisfied its burden to prove that the vehicle was used in the commission of a designated offense, giving rise to a presumption that the vehicle was subject to forfeiture; and (c) Scheffler did not rebut the presumption or raise any affirmative defense. The district court then dismissed Scheffler's demand for a judicial determination. This appeal follows.

DECISION

- I. The district court did not err by dismissing Scheffler’s request for judicial determination, even though the hearing on his petition was untimely under the applicable statute.**

After a governmental authority has seized a vehicle, the vehicle owner may file a motion for judicial determination to have the vehicle returned. Minn. Stat. § 169A.63, subd. 9 (2016). Section 169A.63 contains deadlines for a hearing on the judicial determination, as follows:

[a] judicial determination under this subdivision must be held at the earliest practicable date, and in any event no later than 180 days following the filing of the demand by the claimant. If a related criminal proceeding is pending, the hearing shall not be held until the conclusion of the criminal proceedings. The district court administrator shall schedule the hearing as soon as practicable after the conclusion of the criminal prosecution. The district court administrator shall establish procedures to ensure efficient compliance with this subdivision.

Minn. Stat. § 169A.63, subd. 9(d).

Scheffler argues that the district court lacked subject-matter jurisdiction because the October 2016 hearing occurred 346 days after the conclusion of Scheffler’s criminal case, which is well beyond 180 days after he filed his motion. According to Scheffler, the district court should have ordered the city to return the vehicle to him as a result of the untimely hearing. While agreeing with Scheffler that his hearing was untimely, the district court concluded that Minn. Stat. § 169A.63 does not provide a remedy. The district court also reasoned that a hearing on the merits of Scheffler’s claims served the “remedial purpose” of the forfeiture statute. The city echoes the district court’s ruling on appeal.

Scheffler’s argument requires this court to interpret Minn. Stat. § 169A.63, subd. 9(d), which we will refer to as “subdivision 9(d).” Issues of statutory interpretation receive de novo review. *Patino v. One 2007 Chevrolet*, 821 N.W.2d 810, 813 (Minn. 2012). The goal of statutory interpretation is to “ascertain and effectuate the intention of the legislature.” *Id.* (quoting Minn. Stat. § 645.16 (2010)). If it is possible, courts “must interpret the statute to give effect to all its provisions, so that no word, phrase, or sentence is superfluous, void, or insignificant.” *Id.* (citation and quotation omitted).

This court will not engage in statutory construction “if the legislature’s intent is clearly manifested by [the] plain and unambiguous language of the statute.” *State by Beaulieu v. RSJ, Inc.*, 552 N.W.2d 695, 701 (Minn. 1996) (alteration in original) (quotation omitted). “A statute is ambiguous if it is reasonably susceptible to more than one interpretation.” *Id.* If statutory construction is required, we are mindful that forfeiture laws in Minnesota are “remedial in nature and are to be liberally construed.” *Riley v. 1987 Station Wagon*, 650 N.W.2d 441, 443 (Minn. 2002). But forfeiture is a punishment and, therefore, is generally disfavored. *Id.* Accordingly, this court “resolve[s] any doubt [in the law] in favor of the party challenging it.” *Id.*

A. Subdivision 9(d) does not require that a hearing be held within 180 days of the conclusion of Scheffler’s criminal case.

As an initial matter, Scheffler claims that subdivision 9(d) requires that a hearing be held within 180 days of the conclusion of related criminal proceedings. While subdivision 9(d) states that a judicial determination must occur “no later than” 180 days after the claimant’s demand is filed, that is not a full reading of the statute. In the same paragraph,

subdivision 9(d) also states that a hearing “shall not be held until the conclusion of the criminal proceedings” and that the district court administrator “shall schedule” a hearing “as soon as practicable after the conclusion of the criminal prosecution.” Minn. Stat. § 169A.63, subd. 9(d). In other words, the 180-day deadline does not apply if there are pending criminal proceedings.

Even so, subdivision 9(d) requires that a hearing be scheduled “as soon as practicable after the conclusion of the criminal prosecution.” *Id.* Here, the district court determined that the district court administrator did not schedule the hearing “as soon as practicable.” With this in mind, we proceed to Scheffler’s next contention.

B. The district court administrator’s failure to schedule a hearing “as soon as practicable” after the conclusion of Scheffler’s criminal prosecution did not divest the district court of subject-matter jurisdiction.

Subdivision 9(d) states that the district court administrator “shall” schedule a hearing “as soon as practicable” after the conclusion of any relevant criminal proceedings. Minn. Stat. § 169A.63, subd. 9(d). Scheffler contends that the legislature’s use of “shall” in subdivision 9(d) is mandatory, and, because the district court administrator failed to comply with the mandatory deadline, the district court lacked subject-matter jurisdiction.

We conclude that the meaning of “shall” in subdivision 9(d) is ambiguous. “Shall” is mandatory. Minn. Stat. § 645.44, subd. 16 (2016). But Minnesota courts also have held that “shall” is directory, not mandatory, when the statute directs administrative functions and does not provide consequences for failing to comply with statutory deadlines.³ See

³ The legislature defined “shall” as mandatory in 1947. Minn. Laws 1947, ch. 201, § 4, at 362. Even though *Wenger* was issued in 1937, no Minnesota court since then has held that

Wenger v. Wenger, 200 Minn. 437-40, 274 N.W. 517, 518-20 (1937). Courts “presume that the legislature acts with full knowledge of previous statutes and existing caselaw.” *Pecinovsky v. AMCO Ins. Co.*, 613 N.W.2d 804, 809 (Minn. App. 2000), *review denied* (Minn. Sept. 26, 2000). Because subdivision 9(d) does not provide consequences for non-compliance, “shall” may be interpreted as either mandatory or directory. Subdivision 9(d), therefore, is subject to more than one reasonable interpretation, and statutory construction is appropriate to give effect to the legislature’s intent.⁴

We start with precedent determining whether statutory deadlines are mandatory or directory. In *Wenger*, the supreme court held that the term “shall” was directory in a statute providing that “all motions and matters submitted to a judge for his decision, shall be disposed of and his decision filed with the clerk within five months”; in other words, *Wenger* held that the court had authority to dispose of the motions and matters submitted, even if the court failed to act within the five-month statutory deadline. 200 Minn. at 437-40, 274 N.W. at 518-19. *Wenger* reasoned that “statutory provisions defining the time and

the legislature abrogated *Wenger* when it adopted the definition of “shall” in 1947. Indeed, Minnesota appellate courts continue to cite *Wenger* for the proposition that “shall” may be directory rather than mandatory. *See, e.g., Heller v. Wolner*, 269 N.W.2d 31, 33 (Minn. 1978) (citing *Wenger* and determining that “shall” in “[t]he hearing shall be heard as early as practicable but not to exceed 30 days” was directory, not mandatory, under Minn. Stat. § 169.127, subd. 3 (1976), *repealed by* 1978 Minn. Laws ch. 727, § 11, at 726); *In re M.O.*, 838 N.W.2d 577, 583 (Minn. App. 2013) (citing *Wenger* and determining that “‘shall’ in the last clause of adoption rule 10.04 is directory, not mandatory”), *review denied* (Minn. Oct. 23, 2013).

⁴ Scheffler appears to argue that Minn. Stat. § 169A.63, subdivision 9(d), is unambiguous based on the supreme court’s decision in *Patino*, 821 N.W.2d at 815-16. *Patino* did not, however, interpret subdivision 9(d). *Id.* Accordingly, *Patino* does not inform our interpretation of subdivision 9(d).

mode in which public officers shall discharge their duties, and which are obviously designed merely to secure order, uniformity, system, and dispatch in public business, are generally deemed directory.” *Id.* at 438, 274 N.W. at 518. *Wenger* went on to hold that where the act “provided for is merely incidental or subsidiary to some chief purpose of the law and is not designed for the protection of third persons and the statute does not declare the consequences of a failure of compliance, the statute will ordinarily be construed as directory and not as mandatory.” *Id.* at 440, 274 N.W. at 519.

In *Szczzech v. Commissioner of Public Safety*, this court held that “shall” was directory in a statute providing that “[a] hearing under this section shall be before a municipal or county judge . . . at the earliest practicable date, and in any event no later than 60 days following the filing of the petition for review.” 343 N.W.2d 305, 308 (Minn. App. 1984) (quoting Minn. Stat. § 169.123, subd. 6 (1982)).⁵ *Szczzech* concluded that the deadline was not mandatory because “no sanction or consequence [was] imposed for failing to meet the 60-day limit.” *Id.* at 308.

We hold that “shall” in Minn. Stat. § 169A.63, subd. 9(d), is directory and not mandatory. Like the statutes considered in *Wenger* and *Szczzech*, subdivision 9(d) provides no remedy or consequences should the district court administrator fail to schedule a hearing as soon as practicable after the conclusion of criminal proceedings. Additionally,

⁵ The legislature repealed Minn. Stat. § 169.123, subd. 6 in 2000, but reenacted it with largely unchanged language under Minn. Stat. § 169A.53, subd. 3 (2016). *See* 2000 Minn. Laws ch. 478, art. 2, § 8, at 1537 (repealing Minn. Stat. § 169.123, subd. 6); 2000 Minn. Laws ch. 478, art. 1, § 33, at 1509 (enacting Minn. Stat. § 169A.53, subd 3).

subdivision 9(d) determines the “time and mode” by which district court administrators discharge their duties, and is “designed merely to secure order, uniformity, system, and dispatch in public business.” *Wenger*, 200 Minn. at 438, 274 N.W. at 518.

Because we conclude that subdivision 9(d)’s deadline is directory and not mandatory, we reject Scheffler’s subject-matter jurisdiction argument and do not further consider whether mandatory statutory deadlines define a court’s subject-matter jurisdiction.⁶

C. Scheffler’s other arguments are unavailing.

Scheffler also claims that he is entitled to prevail on his forfeiture petition as a consequence for the untimely hearing for two additional reasons that appear to be distinct from his statutory interpretation argument. First, he relies on *Beaulieu*, in which the Minnesota Supreme Court held that a state agency’s 31-month delay in issuing a probable-cause determination was “per se prejudicial” and required dismissal of the agency’s complaint. 552 N.W.2d at 701. Second, he urges automatic return of his vehicle based on the late hearing as “tit for tat” because his forfeiture petition would have been dismissed had he filed it late. We consider each argument in turn.

⁶ Whether a mandatory statutory deadline is jurisdictional requires further analysis. The Minnesota Supreme Court clarified that cases “that discuss the mandatory/directory distinction in the context of questions of statutory interpretation do not provide an answer to the question of whether those statutory provisions, even if written in mandatory language, operate to divest the district court of subject matter jurisdiction when such statutory provisions are not satisfied.” *In re Civil Commitment of Giem*, 742 N.W.2d 422, 428 (Minn. 2007); *see also Johnson v. City of Duluth*, 903 N.W.2d 1, 3 (Minn. App. 2017) (stating that timeliness requirements are “procedural tools” that do not divest a district court of jurisdiction and interpreting Minn. R. Civ. P. 60.02), *review denied* (Minn. Dec. 19, 2017).

In *Beaulieu*, the supreme court interpreted the one-year statutory time limit imposed on the Minnesota Department of Human Rights (MDHR) to determine if there is probable cause to believe alleged discriminatory practices took place. *Id.* The statute at issue stated, “[t]he commissioner shall make a determination within 12 months after the charge was filed.” *Id.* (quoting Minn. Stat. § 363.06, subd. 4(1) (1994) recodified at Minn. Stat. § 363A.28, subd. 6 (2016)).

Scheffler’s reliance on *Beaulieu* is misplaced. The supreme court held that “shall” in Minn. Stat. § 363.06, subd. 4(1) was unambiguous and mandatory; thus, the court did not engage in statutory construction. *Beaulieu*, 552 N.W.2d at 701. In concluding that the probable-cause deadline was mandatory, the supreme court distinguished *Wenger* on the ground that the statute considered in *Wenger* included “no consequences” for the agency or judge’s “failure to act”; in contrast, *Beaulieu* held that the legislature provided a remedy for the MDHR’s failure to act. *Id.* at 702 n.6 (citing Minn. Stat. § 363.071, subd. 1a (1994) recodified at Minn. Stat. § 363A.29, subd. 2 (2016)). *Beaulieu* thus provides little guidance because subdivision 9(d) is directory and provides no consequences should the district court administrator fail to comply with the statutory deadline.

Even if we were to follow *Beaulieu*, Scheffler is not entitled to the drastic relief he seeks. *Beaulieu* did not say that the MDHR’s failure to comply with the one-year probable-cause determination deadline *automatically* resulted in dismissal of the charges. 552 N.W.2d at 702 (“We find nothing in the HRA which suggests that the MDHR’s failure to make a timely probable cause determination is a jurisdictional bar to further proceedings.”). Instead, the supreme court held that if the MDHR missed the statutory deadline, a

respondent could seek relief “in proportion to the prejudice suffered by the respondent and may include dismissal of the complaint.” ⁷ *Id.* at 702-03. Additionally, the supreme court stated that, in awarding relief for a late probable-cause determination, a court should consider the impact any relief would have on the party that initially filed the charge with the MDHA. *Id.* at 702.

We also note that Scheffler does not claim, much less demonstrate, any prejudice from the failure to schedule a timely hearing; therefore, he would not be entitled to relief under *Beaulieu*. Further, this court has also held that “[i]f a statutory rule is directory, generally prejudice must be shown before the failure to comply with that rule potentially warrants relief.” *Riehm v. Comm’r of Pub. Safety*, 745 N.W.2d 869, 876 (Minn. App. 2008), *review denied* (Minn. May 20, 2008).⁸ Because Scheffler does not claim prejudice, we do not further consider his request for dismissal under *Beaulieu*.

Second, Scheffler argues that he is entitled to automatic return of the vehicle because his petition for judicial determination would have been automatically dismissed had he missed the filing deadline. It is true that a district court lacks subject-matter jurisdiction to

⁷ *Beaulieu* held that the delay in that case—31 months after a discrimination charge was filed—was “per se prejudicial to the respondent” and “require[d] the dismissal of the complaint.” 552 N.W.2d at 703. The 346-day delay experienced by Scheffler is significantly shorter than the 31-month delay noted in *Beaulieu*.

⁸ In *Riehm*, this court held that “must” was directory in a statute providing that “[t]he hearing must be held at the earliest practicable date, and in any event no later than 60 days following the filing of the petition for review” in Minn. Stat. § 169A.53, subd. 3(a) (2004). *Riehm*’s analysis is similar to the court’s analysis in *Szczzech*; *Riehm* notes that the legislature had defined both “shall” and “must” as mandatory. *Riehm*, 745 N.W.2d at 875-76 (citing Minn. Stat. § 645.44, subds. 15a, 16 (2004)).

determine a forfeiture petition if the claimant files the petition after the 60-day deadline. See Minn. Stat. § 169A.63, subd. 8(f) (2016); see, e.g., *Garde v. One 1992 Ford Explorer XLT*, 662 N.W.2d 165, 166-67 (Minn. App. 2003) (determining that district court lost jurisdiction over forfeiture proceeding because demand was not filed within deadline set in Minn. Stat. § 169.63, subd. 8 (2000)). But the language in the statutory provision setting a 60-day deadline for filing and service of a vehicle owner’s petition is starkly different from the language in subdivision 9(d) setting a deadline for scheduling a hearing. Subdivision 8(f)—the provision *Garde* interpreted to conclude that the district court lacked subject-matter jurisdiction over a late-filed petition—states that “an action for the return of a vehicle seized under this section *may not be maintained*” unless the vehicle owner has complied with the 60-day filing and service deadlines. Minn. Stat. § 169A.63, subd. 8(f) (2016) (emphasis added). While subdivision 8(f) states specific consequences for failure to comply with a statutory filing deadline, subdivision 9(d) states no consequences for failure to comply with a statutory hearing deadline. Minn. Stat. § 169A.63, subd. 9(d).⁹

For these reasons, the district court did not err by dismissing Scheffler’s demand for judicial determination even though the district court administrator did not schedule the hearing as soon as practicable following the conclusion of Scheffler’s related criminal case.

⁹ Scheffler also argues that while subdivision 9(d) does not specifically provide a remedy for an untimely hearing, the Minnesota State Constitution still gives this court power to remedy any wrongdoing. See Const. art. I, § 8. We determine that Scheffler is not due any remedy, and so decline to address this argument further.

II. The district court did not err by allowing evidence of Scheffler’s driver’s license restriction.

Under Minn. Stat. § 169A.63, subd. 6(a) (2016), a vehicle is subject to forfeiture if it was used “in the commission of a designated offense or was used in conduct resulting in a designated license revocation.” A designated offense is:

- (1) a violation of section 169A.20 (driving while impaired) under the circumstances described in section 169A.24 (first-degree driving while impaired), or 169A.25 (second-degree driving while impaired); or
- (2) a violation of section 169A.20 or an ordinance in conformity with it:
 - (i) by a person whose driver's license or driving privileges have been canceled as inimical to public safety under section 171.04, subdivision 1, clause (10), and not reinstated; or
 - (ii) by a person who is subject to a restriction on the person’s driver’s license under section 171.09 (commissioner’s license restrictions), which provides that the person may not use or consume any amount of alcohol or a controlled substance.

Minn. Stat. § 169A.63, subd. 1(e) (2016). To prove that a designated offense occurred, a governmental entity may introduce “[c]ertified copies of court records and motor vehicle and driver’s license records concerning qualified prior impaired driving incidents . . . as substantive evidence.” Minn. Stat. § 169A.63, subd. 5 (2016).

In Scheffler’s case, the city contended that Scheffler used the vehicle when he violated section 169A.20 because he drove while impaired and was “a person” subject to license restrictions at the time of his offense. Minn. Stat. § 169A.63, subd. 1(e)(2)(ii). At the evidentiary hearing on Scheffler’s petition, the city introduced evidence showing that Scheffler had a license restriction at the time he committed fourth-degree driving while

impaired, a designated offense under section 169A.20. Based on this evidence, the district court concluded that Scheffler's petition should be denied.

While it is not perfectly clear what Scheffler is arguing here, he may be making one of two points. First, he appears to argue that subdivision 9(d) precludes the city from offering evidence that was not a part of the original conviction underlying the forfeiture. Apparently because the hearing must occur after the conclusion of any related criminal proceedings, Scheffler argues that the district court could only receive evidence "gathered before the completion of criminal proceedings." But Scheffler's argument is inconsistent with other provisions in the forfeiture statute. Minn. Stat. § 169A.63, subd. 5, provides that a court may receive evidence of driver's license records "concerning qualified prior impaired driving incidents." Scheffler also appears to suggest that Minn. R. Crim. Proc. 26.01, subd. 4, which outlines the procedure for stipulated-facts trials, precluded the district court from hearing evidence of his license restriction at the judicial determination hearing. But Scheffler does not state why rule 26.01, subd. 4, bars any evidence at a subsequent evidentiary hearing, and we are unable to determine how this rule has any bearing on his petition.

Finally, Scheffler may be arguing that he must have been *convicted* of violating his license restriction for the district court to have found that Scheffler committed a designated offense. He cites to the supreme court's decision in *Patino*, in which the court held that the state could not seize a vehicle if a defendant was charged with second-degree driving while impaired, a designated offense under Minn. Stat. § 169A.63, but subsequently *convicted* of

fourth-degree driving while impaired, which is not a designated offense. 821 N.W.2d at 813-17.

We conclude that *Patino* is distinguishable from Scheffler's case. In *Patino*, the state alleged that Patino committed the designated offense of first- or second-degree driving while impaired under Minn. Stat. § 169A.63, subd. 1(e)(1) (2010). *Id.* at 812. In contrast, the city alleged that Scheffler committed the designated offense of driving while impaired by a person who is subject to a restricted driver's license under Minn. Stat. § 169A.63, subd. 1(e)(2)(ii). The designated offense that the city alleged required proof that Scheffler was convicted of driving while impaired and a factual determination of whether Scheffler was subject to driver's license restrictions at the time of the offense. *Patino*, therefore, does not control our decision in Scheffler's case.

To support his position, Scheffler cites to this court's decision in *Mycka v. 2003 GMC Envoy*, 783 N.W.2d 234, 239 (Minn. App. 2010). *Mycka*, however, is inapplicable to Scheffler's case because this court determined only that Mycka's vehicle was not seized subject to a lawful arrest. *Id.* at 237 ("[T]he sole issue on appeal, is whether the city seized Mycka's vehicle incident to a lawful arrest.") (quotation omitted). *Mycka* did not determine that a designated offense under the forfeiture statute required proof of conviction for violating driver's license restrictions.

For these reasons, we conclude that the district court did not err by receiving evidence of Scheffler's driver's license restriction and did not err by dismissing Scheffler's demand for judicial determination.

Affirmed.