

*This opinion will be unpublished and
may not be cited except as provided by
Minn. Stat. § 480A.08, subd. 3 (2016).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-1445**

Leon Tijuán Jackson, petitioner,
Appellant,

vs.

State of Minnesota,
Commissioner of Public Safety,
Respondent.

**Filed June 4, 2018
Affirmed
Florey, Judge**

Hennepin County District Court
File No. 27-CV-17-2014

Gregory R. Merz, Amanda M. Sicoli, Gray Plant Mooty, Minneapolis, Minnesota (for appellant)

Michael O. Freeman, Hennepin County Attorney, James W. Keeler, Jr., Assistant County Attorney, Jordan W. Rude, Certified Student Attorney, Minneapolis, Minnesota (for respondent)

Considered and decided by Rodenberg, Presiding Judge; Schellhas, Judge; and Florey, Judge.

UNPUBLISHED OPINION

FLOREY, Judge

Appellant Leon Tijuán Jackson appeals a district court's denial of a petition to restore his firearm rights. Jackson's firearm rights were revoked following a juvenile

adjudication for a crime of violence, but he argues that he has since improved his life and behavior. We affirm.

FACTS

Appellant Leon Tijuan Jackson was adjudicated delinquent of theft of a motor vehicle in 2000, when he was a juvenile. Theft of a motor vehicle was considered a crime of violence at the time, and, as a result, Jackson lost his firearm rights. *See* Minn. Stat. § 624.712, subd. 5 (2000). Since 2000, Jackson has been convicted of minor offenses, including driving without a valid license and disorderly conduct. He has been arrested and charged with, but not convicted of, a variety of other offenses including disorderly conduct and obstructing the legal process. Since 2009, he has attempted to expunge all charges and convictions from his record, and he has been largely successful at doing so.

Jackson asserts that since his most serious adjudication, the theft of a motor vehicle, he has attempted to change his life for the better. He is attending community college and is close to completing an associate's degree in business and criminal justice. In addition to attending school, he works as a personal-care attendant and is licensed with the Minnesota Department of Human Services. He is the father of three children and has participated in parenting classes.

Jackson's ultimate career goals are to own his own business and to be a probation or parole officer.¹ Jackson asserts that to be a probation officer, he will need the ability to

¹ Probation and parole are used interchangeably throughout this record.

obtain a license to carry a firearm, but he lost his firearm rights with his juvenile theft-of-a-motor-vehicle offense.

After the expungements, including that of his juvenile theft-of-a-motor-vehicle offense, Jackson applied to the Hennepin County Sheriff's Department for a conceal-and-carry-permit but was rejected in 2015 because of his theft adjudication, as well as his subsequent arrests and convictions. Jackson filed a petition in district court to restore his firearm rights.

The district court held a hearing on Jackson's petition on May 18, 2017. The state waived its appearance but submitted a letter stating "it is appropriate that the Court take into account the long list of relatively minor, but troubling crimes (many uncharged) reflected in [p]etitioner's record," and that "society's safety is better served by [p]etitioner not being permitted to possess a firearm." In addition to this letter, the district court received documentation including Jackson's criminal record and his expungements, as well as the conceal-and-carry-permit rejection letter from the Hennepin County Sheriff detailing its review of Jackson's convictions and arrests. Jackson explained to the district court his achievements such as parenting, school, employment, and his future career goal of being a probation officer. The court questioned Jackson regarding his many arrests, focusing specifically on his behavior in non-traffic-related incidents that took place when Jackson was an adult.

Some of the behavior in the most recent incidents included: being aggressive toward police who had to threaten the use of a taser in September 2008; police officers having to pull Jackson off a security guard and tase him in October 2008; and a girlfriend wanting

Jackson removed from the premises in August 2009. Only the October 2008 incident ended in a conviction, for disorderly conduct. The remaining incidents ended with charges being dismissed.

The district court issued an order in July 2017 denying Jackson's petition. The district court's findings of fact highlighted his interactions with law enforcement between 2008 and 2010. The district court, in its conclusions of law, took issue with Jackson's assertion that he has been rehabilitating himself for the last 17 years, when he had multiple problematic interactions with law enforcement within that time. While the district court credited Jackson for the recent improvements he has made in his life, it determined that "[u]nfortunately, the charges in 2008-2010 have occurred too recently to show good cause for the [c]ourt to be assured that [Jackson] will continue on this more responsible and law-abiding path, making it questionable whether [Jackson] is ready to responsibly possess a firearm."

This appeal follows.

D E C I S I O N

I. The district court did not abuse its discretion by denying Jackson's petition to reinstate his firearm rights.

Jackson argues that the district court erred by determining that he did not demonstrate good cause to reinstate his firearm rights and abused its discretion by denying his petition to reinstate those rights.

"Whether the petitioner shows good cause is a mixed question of fact (what the petitioner shows) and law (whether the showing amounts to good cause)." *Averbeck v.*

State, 791 N.W.2d 559, 560 (Minn. App. 2010). This court defers to the district court’s factual findings unless they are clearly erroneous but does not defer to the district court’s decision on the legal question. *Id.* at 561. Even if the petitioner shows good cause, the district court still has discretion to grant or deny the petition, meaning the court’s findings are reviewed for an abuse of discretion. *Id.*; *see also* Minn. Stat. § 609.165, subd. 1d (2016) (“The court *may* grant” the restoration of firearm rights (emphasis added)).

Jackson lost his right to “ship, transport, possess, or receive a firearm or ammunition for the remainder of [his] lifetime” following a juvenile adjudication for theft of a motor vehicle, which, at the time it was committed, was classified as a crime of violence. Minn. Stat. § 609.165, subd. 1a (2016); Minn. Stat. § 624.712, subd. 5 (2012). The legislature changed what constitutes a crime of violence in 2014, removing theft of a motor vehicle, but made clear that the change only applies to “crimes committed on or after” August 1, 2014. 2014 Minn. Laws ch. 260, § 1, at 937.

A person prohibited from possessing firearms may petition a court to restore that right of possession, and the court may restore that right “if the person shows good cause to do so and the person has been released from physical confinement.” Minn. Stat. § 609.165, subd. 1d. Therefore, the burden is on the petitioner to show good cause. *Averbeck*, 791 N.W.2d at 560-61. Good cause is “a reason for taking an action that, in legal terms, is legally sufficient, and, in ordinary terms, is justified in the context of surrounding circumstances.” *Id.* at 561.

Because the reason for prohibiting those with certain convictions from having a firearm is to protect the public’s safety, this court has determined that the most significant

surrounding circumstance in restoring firearm rights is the interest in public safety. *Id.*; *State v. Moon*, 463 N.W.2d 517, 520 (Minn.1990). In order to determine whether good cause exists to grant the restoration of rights, a court must weigh the interest in public safety against the private interest of the individual seeking the restoration of those rights and determine that the private interest outweighs the public interest. *Averbeck*, 791 N.W.2d at 561.

Looking first at the interest in public safety, Jackson's most recent interactions with law enforcement are relevant and concerning. As the district court pointed out, there were multiple incidents, ending in both convictions and dismissals, that demonstrate "seemingly aggressive and potentially violent circumstances." In one instance, Jackson was aggressive toward law enforcement and in another, he had to be stopped from physically attacking someone. This behavior indicates that he poses some danger to public safety.

Looking next at the private interest, Jackson asserts that his firearm rights should be restored because he needs to be able to carry a firearm in order to fulfill his dream of becoming a probation or parole officer. We are not persuaded. First, Jackson has not yet completed his education to be a probation or parole officer. While Jackson states that he is currently working toward completing a degree in business and criminal justice, he has not yet graduated, therefore his argument is premature since he is not yet eligible for a probation- or parole-officer job. See *Averbeck*, 791 N.W.2d at 562 (determining that because *Averbeck* had not yet applied to be a private investigator, the district court did not abuse its discretion). Second, Jackson did not present evidence of denial of probation- or parole-officer employment on the basis that he does not have the right to carry a firearm.

Jackson argues that he was turned down for a promotion at a security job because he did not have the ability to carry a firearm, but working in security is different from being a probation or parole officer. Third, Jackson did not present evidence that he actually needs firearm rights to work as a probation or parole officer.

In weighing the public and private interests here, we determine that the interest in public safety outweighs Jackson's private interest. We are not persuaded that Jackson has demonstrated a private interest with his future, potential employment. Therefore, the district court did not err by determining that Jackson did not show good cause to reinstate his firearm rights. And, even if the district court had erred in its determination, whether or not Jackson showed good cause is not dispositive, since the district court retains the discretion in granting or denying the petition even if he had shown good cause. When a district court has such discretion, its decision will be affirmed as long as it has "an acceptable basis in fact and principle," even if this court might have taken a different approach. *Antone v. Antone*, 645 N.W.2d 96, 100 (Minn. 2002). The district court's decision has an acceptable basis in fact and principle, thus the district court did not abuse its discretion in denying Jackson's petition.

Jackson argues that the district court abused its discretion by improperly relying on expunged records to determine Jackson did not demonstrate good cause. But Jackson offers no case law to support this assertion, and there are no specific limits on what a court

can consider when deciding whether to reinstate firearm rights stated in the statute.² *See* Minn. Stat. § 609.165, subd. 1d. The statute simply allows the court to “grant the relief sought if the person shows good cause to do so and the person has been released from physical confinement.” *Id.* Because what the court can consider to determine good cause is not limited, the district court did not abuse its discretion here by considering arrests and expunged convictions.

Because Jackson did not show good cause to restore his firearm rights, and because the discretion to reinstate rests with the district court, the district court did not abuse its discretion by denying Jackson’s petition.

Affirmed.

² Jackson points to limitations in Minnesota Statutes section 609A.01 (2016), which states that expunged records are sealed and prohibited from disclosure and opening “except under court order or statutory authority.” But these are the court’s records, and therefore acceptable for the court’s consideration.