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

**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-1933**

Adam James Hockenson, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed June 25, 2018
Affirmed
Smith, John, Judge***

Beltrami County District Court
File No. 04-CV-17-783

Coley J. Grostyan, Law Office of Coley J. Grostyan, PLLC, Minneapolis, Minnesota (for appellant)

David L. Hanson, Beltrami County Attorney, Bemidji, Minnesota (for respondent)

Considered and decided by Connolly, Presiding Judge; Worke, Judge; and Smith, John, Judge.

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

UNPUBLISHED OPINION

SMITH, JOHN, Judge

We affirm the denial of appellant Adam James Hockenson's motion to restore his right to possess firearms and ammunition because the district court did not abuse its discretion.

FACTS

In July 2001, Hockenson, along with three other people, attacked a person with a golf club. He was charged with second-degree assault in violation of Minn. Stat. § 609.222, subd. 1 (2000). In May 2002, Hockenson pleaded guilty to third-degree assault in violation of Minn. Stat. § 609.223, subd. 1 (2000). Hockenson was sentenced to a stay of imposition for five years, and was discharged from probation in August 2006, having met the conditions of his sentencing order. As a result of his conviction, Hockenson is prohibited from possessing firearms or ammunition for the remainder of his life. *State v. Anderson*, 733 N.W.2d 128, 134-36 (Minn. 2007) (holding that Minnesota's firearms prohibition statute applies to offenders who commit a crime of violence but receive a stay of imposition as well as prohibiting people convicted of "a crime of violence" from possessing firearms); see Minn. Stat. § 624.712, subd. 5 (2016) (including third-degree assault within the definition of "crime of violence").

In March 2017, Hockenson petitioned the court to restore his ability to possess firearms and ammunition under Minn. Stat. § 609.165, subd. 1d (2016). He argued that good cause existed to restore his rights because: he accepted responsibility for his actions and cooperated with law enforcement; he was 19 at the time of the offense and it did not

involve a firearm; he successfully completed the terms of his probation and has not committed any offenses since; his other civil rights have been restored; he has maintained full-time employment almost continuously since the offense; he has been married for six years and now has a child; he served in the Army National Guard and is currently on inactive reserve; he has a need to possess firearms and ammunition to protect himself and his family, to hunt and recreate, to accept a family heirloom, and to teach his child how to use a firearm; and he is not a risk to public safety.

The state opposed Hockenson's petition, arguing that the facts of his underlying offense were "egregious" and that a desire to hunt and recreate were not good cause to restore rights to possess firearms.

In July 2017, the district court held a hearing on Hockenson's petition. Both sides primarily rested on the arguments articulated in their written submissions. The district court took the matter under advisement.

In a written order, the district court denied Hockenson's petition. It stated that "a desire to hunt [is] not a good cause for restoration of rights" and determined that Hockenson had not shown good cause based on any of his other proffered reasons. It also found that the "violent facts surrounding [Hockenson's] conviction do not demonstrate the maturity of judgment necessary for the Court to find a significant level of comfort" with restoring Hockenson's firearm rights. Hockenson appeals.¹

¹ The state did not file a responding brief and so the case proceeds under Minn. R. Civ. App. P. 142.03.

DECISION

When a petitioner asks the district court to restore the right to possess firearms, the court may do so if the petitioner shows “good cause.” Minn. Stat. § 609.165, subd. 1d. Determining if the petitioner has shown good cause is a mixed question of law and fact. *Averbeck v. State*, 791 N.W.2d 559, 560-61 (Minn. App. 2010). Determining what facts the petitioner has shown is a question of fact and determining if those facts amount to good cause is a question of law. *Id.* Under this standard, this court will defer to the district court’s factual findings, unless clearly erroneous, but will not defer to the district court’s legal decisions. *Id.* at 561. “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.* “[T]he most significant surrounding circumstance in the context of restoring the right to possess firearms is the interest in public safety” when weighed against the private interest of the petitioner. *Id.*

But, even if the petitioner shows good cause, “the district court has discretion to grant or deny the petition,” and so this court reviews the district court’s decision for abuse of discretion. *Id.* The district court may use its discretionary authority to deny a petition if it determines that the petitioner has not overcome the “clear legislative presumptions against the possession of firearms by persons convicted of serious crimes” and the district court does not have “a significant level of comfort with respect to the maturity of judgment in those seeking a restoration of firearm rights.” *Id.* at 562.

In *Averbeck*, the petitioner was convicted of third-degree assault, and petitioned for restoration of his firearm rights 19 years later. *Id.* at 560. The district court in that case

found that the petitioner did not show good cause to restore his firearm rights. *Id.* at 560-62. In doing so, the district court rejected three arguments the petitioner argued showed good cause, and this court affirmed on appeal. First, the petitioner argued that a lifetime ban for one incident was unjust. *Id.* at 561. The district court rejected that argument because the petitioner lacked “remorse” for his crime and still felt as though he was innocent. *Id.* Second, he argued that he needed a firearm to “handle situations arising in his part-time job as a process server.” *Id.* at 562. The district court rejected this reason because the presence of firearms could escalate the risks in these already “emotionally charged situations.” *Id.* Third, he argued that “his inability to possess a firearm interferes not only with his ability to go hunting with family and friends but also with his employment prospects as a private investigator.” *Id.* The district court rejected this argument because the petitioner had not yet applied to be a private detective and did not offer any authority supporting his view that he could not become one without a firearm. *Id.* Neither the district court nor this court explicitly addressed whether hunting was good cause for restoration of firearm rights. *Id.* The district court in *Averbeck* also determined that, even if the petitioner had shown good cause, the court did not have the “significant level of comfort with respect to the maturity of [the petitioner’s] judgment” necessary to restore his rights. *Id.* This court held that the district court did not abuse its discretion in coming to that conclusion. *Id.*

Good Cause

Hockenson argues that the district court abused its discretion in determining that he did not show good cause for restoring his rights. He first argues that the district court “failed to take into consideration all of the reasons” Hockenson offered to establish good cause.

Specifically, he points out that the district court did not explicitly consider and dismiss all of the reasons that Hockenson offered to establish good cause. It is true that the district court did not explicitly mention all of Hockenson's reasons, but he does not point to any authority stating that the district court must explicitly consider and reject every reason the petitioner offers. Proper district court findings may be implicit. See *Pechovnik v. Pechovnik*, 765 N.W.2d 94, 99-100 (Minn. App. 2009) (holding the district court's credibility determination and fact finding could be implicit). By determining that Hockenson "ha[d] not shown good cause to grant the relief," the district court implicitly rejected Hockenson's proffered reasons.

Hockenson also argues that in determining that the desire to hunt was "not a good cause for restoration of rights," the district court misconstrued this court's ruling in *Averbeck*. Hockenson points out that *Averbeck* noted that the district court had several justifying reasons to deny the petitioner the restoration of rights, and did not explicitly say that hunting can never be good cause for restoration of rights. 791 N.W.2d at 562. He also notes an unpublished decision from this court supporting this reasoning. See *Anderson v. State*, No. A15-1254, 2016 WL 1619367 at *2 (Minn. App. Apr. 25, 2016).²

But while Hockenson is correct that *Averbeck* did not hold that hunting can never be good cause to restore firearm rights, that case also did not hold that hunting is good cause for restoration of rights, nor did it hold that a desire to hunt overrules reasons for not restoring firearm rights. In fact, *Averbeck*'s clearest holding is that a district court does not

² Unpublished decisions are not precedential. See Minn. Stat. § 480A.08, subd. 3(c) (2016); *Vlahos v. R&I Constr. of Bloomington, Inc.*, 676 N.W.2d 672, 676 n.3 (Minn. 2004).

abuse its discretion in denying a petition to restore rights, even if hunting is cited as good cause, when other circumstances justify denying the petition. 791 N.W.2d at 561-62.

Ultimately, the district court did not err in its overall conclusion that Hockenson did not present good cause to restore his firearm rights. There is no binding authority stating that any of Hockenson's reasons are good cause for restoring his firearm rights, and *Averbeck* suggests that good cause is particular to each case. *Id.* at 561.

Here, all but one of Hockenson's stated purposes for owning firearms are recreational or sentimental. Hockenson points out that the Minnesota Constitution describes hunting as "a valued part of our heritage." Minn. Const. art. XIII, § 12. While recreation and hunting are important, they do not necessarily outweigh the public's safety interest. *See State v. McTague*, 173 Minn. 153, 154, 216 N.W. 787, 788 (1927) (stating that good cause in the context of a speedy trial "means a substantial reason"). Further, Hockenson has not stated why he could not hunt or recreate with different means, such as a bow. *See* Minn. Stat. § 609.165, subd. 1a (prohibiting possession of *firearms*). His remaining reason is protection from "wolves, bears, and the occasional cougar" on his rural property. But Hockenson has provided no evidence that firearms would provide protection that other cautionary measures would not. *See Averbeck*, 791 N.W.2d at 562 (holding that the district court did not abuse its discretion by stating that a reason for possessing firearms was not good cause when it "was not corroborated by a neutral source and lacked sufficient specificity to be probative"). Further, he has lived on his property for five years and does not mention a specific incident where a firearm was necessary for his protection.

Significant Comfort

But even if Hockenson successfully showed good cause to restore his firearms, such a showing would be irrelevant. *Averbeck* held that even if a petitioner has shown good cause, the district court must have “a significant level of comfort with respect to the [petitioner’s] maturity of judgment” for the petitioner “to overcome the clear legislative presumptions against the possession of firearms by persons convicted” of crimes of violence. *Id.*

Here, the district court specifically found that it did not have that level of comfort. It stated that “[t]he violent facts surrounding [Hockenson’s] conviction do not demonstrate the maturity of judgment necessary” for the court to restore his rights. The district court’s determination finds support in the record in that Hockenson attacked a person with a golf club. Accordingly, the district court did not abuse its discretion in denying Hockenson’s petition.

Hockenson argues that the district court misconstrued *Averbeck*’s use of the term “maturity of judgment.” He argues that in *Averbeck*, “maturity of judgment” was used to evaluate the petitioner’s maturity since the crime, not the facts of the underlying crime. As a result, he argues that the district court abused its discretion in evaluating Hockenson’s maturity of judgment based on the facts surrounding his assault conviction.

But Hockenson’s argument fails for two reasons. First, the district court in *Averbeck* interpreted the petitioner’s behavior since the underlying crime in the context of whether the petitioner had shown good cause, not whether the district court had abused its discretion in denying the petition because it was not significantly “comfort[able]” with granting the

petition. *Id.* Second, the district court in *Averbeck* did analyze the facts regarding the underlying crime as a part of its good cause analysis and noted that it was a felony offense in which the victim suffered “substantial bodily harm.” *Id.* at 561. Ultimately, nowhere in *Averbeck* did we state that a district court could not evaluate the facts of the underlying crime to determine if it was comfortable with restoring firearm rights.

Hockenson also cites reasons why he has shown he has the required “maturity of judgment,” including his stable family and work life, his military service, and his clean criminal record since his conviction. But, under the applicable standard of review, these reasons do not undermine the district court’s determination that, based on the facts of the underlying crime, it was not comfortable restoring Hockenson’s firearm rights.

Affirmed.