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Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-2043**

In the Matter of the Application of Russell Vincent Winbush for a Change of Name.

**Filed November 25, 2019
Affirmed
Florey, Judge**

Crow Wing County District Court
File No. 18-CV-17-5371

Russell Vincent Winbush, Rochester, Minnesota (pro se appellant)

Reese Frederickson, Pine County Attorney, Pine City, Minnesota (for respondent Pine County)

Considered and decided by Johnson, Presiding Judge; Florey, Judge; and Kirk, Judge.*

UNPUBLISHED OPINION

FLOREY, Judge

Self-represented appellant challenges a district court order denying his petition to change his name to Rule All-Matter Born-Omnipotent, arguing that the district court erred by determining that denying his request did not violate his constitutional rights. We affirm.

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

FACTS

In December 2017, appellant Russell Vincent Winbush filed an application to legally change his name to Rule All-Matter Born-Omnipotent. Winbush asserted that the reason for the name change was religious. Because Winbush has several prior felony convictions, he served notice of the name-change petition on Pine County, the prosecuting authority, as required by Minn. Stat. § 259.13, subd. 1 (2018). Pine County objected to Winbush's name-change application on the basis that it aimed to "defraud or mislead, was not made in good faith. . . or [would] compromise public safety." Minn. Stat. § 259.13, subd. 2 (2016). Pursuant to Minn. Stat. § 259.13, subd. 3, Winbush contested the objection.

The district court heard Winbush's name-change request in November 2018 and issued an order later that month denying it. The district court determined that Winbush "ha[d] not met his burden of clear and convincing evidence on showing the Application for Name Change was made without the intent to defraud or mislead," and that public safety would be compromised if the court granted the application. The district court employed the compelling-state-interest balancing test to conclude that denying Winbush's application would not infringe his constitutional right to religious freedom. This appeal follows.

DECISION

This court reviews an order denying a name-change application for abuse of discretion. *In re Welfare of C.M.G.*, 516 N.W.2d 555, 561 (Minn. App. 1994). A district court abuses its discretion if its findings of fact are unsupported by the record, if it improperly applies the law, or if it resolves the matter in a way that is "against logic and

the facts on record.” *Foster v. Foster*, 802 N.W.2d 755, 757 (Minn. App. 2011) (quotation omitted). But as the county points out, our review in this case is “limited to determining whether the trial court’s findings of fact support its conclusions of law” because Winbush did not provide a transcript of the hearing. *Am. Family Life Ins. v. Noruk*, 528 N.W.2d 921, 925 (Minn. App. 1995), *review denied* (Minn. Apr. 27, 1995). Winbush bears the burden of providing an adequate record for review. *Mesenbourg v. Mesenbourg*, 538 N.W.2d 489, 494 (Minn. App. 1995).

Minn. Stat. § 259.13 (2016) outlines the process by which a person with a felony conviction can apply to change his or her name. When an individual convicted of a felony applies for a name change, the statute affords the prosecuting authority the right to file an objection. *Id.*, subd. 2. If the prosecuting authority does so, the district court cannot grant the applicant’s request unless the applicant files a motion for an order permitting the requested name change. *Id.*, subd. 3. The applicant bears the burden of proving by clear and convincing evidence that the name-change request “is not based upon an intent to defraud or mislead, is made in good faith, will not cause injury to a person, and will not compromise public safety.” *Id.* The statute separately requires the district court to grant the name change if failure to allow it would infringe on the applicant’s constitutional rights. *Id.*, subd. 4.

Here, Pine County filed an objection to Winbush’s name-change application, citing his nine felony convictions dating back to 2002, including a conviction for criminal vehicular homicide. Pine County also noted that Winbush had filed several documents, including some that claim the “sovereign citizen” theory to frustrate the court system, and

argued that allowing the name change would allow Winbush to further attempt to mislead or defraud the court system.

Because the prosecuting authority filed an objection, Winbush is may not change his name unless he proves, by clear and convincing evidence that his application was not made with the intent to defraud or mislead. Minn. Stat. § 259.13, subd. 3. Here, the district court found that Winbush did not meet his burden. The district court also found that granting the name-change application would compromise public safety. The district court noted that Winbush agreed “that the Court could take judicial notice of his criminal history,” and that, after reviewing Winbush’s convictions, “the public has an interest in [him] keeping the same name in the public record as [that] which he was convicted under.” Based on our review of the record, we agree with the district court’s finding that Winbush did not meet his burden.

Winbush argues that denial of his name-change application would infringe on his constitutional right to religious freedom. We review the denial of a name-change application for abuse of discretion, but we review de novo the distinct question of whether denying a name-change application infringes on a constitutional right. *See State v. Pedersen*, 679 N.W.2d 368, 372-73 (Minn. App. 2004), *review denied* (Minn. Aug. 17, 2004) (stating that we review de novo whether a statute is unconstitutional as applied).

The Minnesota Supreme Court employs a heightened “compelling state interest balancing test” when determining whether a challenged law infringes on or interferes with religious practices. *Hill-Murray Fed’n of Teachers v. Hill-Murray High Sch.*, 487 N.W.2d 857, 865 (Minn. 1992). The test has four prongs: (1) whether the objector’s beliefs are

sincerely held; (2) whether the state regulation burdens the exercise of religious beliefs; (3) whether the state interest in the regulation is overriding or compelling; and (4) whether the state regulation uses the least restrictive means. *Id.*

When applying the four-prong test, the district court stated that it had “no information as to whether [Winbush’s] beliefs are sincerely held” but even “assuming they are sincerely held, [Winbush] has failed to pass the balancing test.” The district court noted that Winbush had “stated only in a [conclusory manner] that the reason for requesting this name change is for religious purposes,” that Winbush “has not made an assertion that the name change is required to practice his religion,” and that Winbush “failed to give the court any reasoning as to how denial would infringe upon his rights.” The district court noted that the state “has an interest in public safety and protecting the court system from fraud.” The district court also stated that the fourth prong of the test “weighs in [favor of] denial of the Application for a Name Change.” Finally, the district court stated that it asked Winbush “to expand on the balancing test and gave him an opportunity to make an argument on why it should be viewed in his favor” and that he failed to provide any such reasoning.

Without the hearing transcript, our review is limited to the record, which includes Winbush’s application for a name change. Winbush’s application asserts that the name change is “for religious purpose[s]” and “a form [and] mode of worship of God according to the dictates of my own conscious.” Winbush also asserts that his religious beliefs are part of the “5% Nation of Gods & Earths” and “are protected as Religious under [R.I.U.I.P.A.].”

Based on our review of the record, the district court's findings are supported by the district court's findings of fact. Accordingly, the district court was well within its discretion in denying Winbush's application.

Affirmed.