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**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1338**

Alan Lee Cimbura, Plaintiff,

vs.

City of Minneapolis Special School District No. 1,
Appellant,

vs.

State Farm Mutual Automobile Insurance Company,
Respondent.

**Filed March 9, 2020
Affirmed
Reilly, Judge**

Hennepin County District Court
File No. 27-CV-18-4593

George C. Hottinger, Samantha R. Alsadi, Erstad & Riemer, P.A., Minneapolis, Minnesota
(for appellant)

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Considered and decided by Connolly, Presiding Judge; Hooten, Judge; and Reilly,
Judge.

UNPUBLISHED OPINION

REILLY, Judge

This appeal arises out of a bus driver's claim for uninsured-motorist benefits after the school bus he was driving for appellant school district was rear-ended by an uninsured motorist. Appellant argues that the district court erred in determining that appellant is statutorily obligated to carry uninsured-motorist coverage. Because the district court did not err when it determined that appellant is statutorily obligated to carry uninsured-motorist coverage, we affirm.

FACTS

The facts are undisputed. In April 2013, Alan Lee Cimbura,¹ a school bus driver employed by appellant City of Minneapolis Special School District No. 1 (the school district) was operating a 23-passenger school bus owned by the school district while in the course and scope of his employment. Cimbura stopped the bus to allow a passenger to exit, and an uninsured vehicle rear-ended the bus.

The school bus driven by Cimbura was used by the school district to transport students to and from school and solely for educational purposes. The school district self-insured the school bus pursuant to a certificate of authority issued by the Minnesota Department of Commerce. In structuring the plan, the school district included liability coverage but did not specify that it included uninsured motorist benefits.

¹ Cimbura is not a party to this appeal.

In March 2018, Cimbura filed a summons and complaint against the school district and respondent State Farm Mutual Automobile Insurance Company, the insurer for his personal vehicle, alleging breach of contract for denial of uninsured motorist benefits. In August 2018, the school district moved for summary judgment, arguing in part that the school district is not required to provide uninsured motorist coverage under Minnesota law. Respondent opposed this motion. The district court denied the school district's motion for summary judgment. The district court concluded that because the school bus is required to be registered under chapter 168, it is a motor vehicle for purposes of the Minnesota No-Fault Automobile Insurance Act (the No-Fault Act), Minn. Stat. § 65B.41-.71(2018), and is therefore required to carry uninsured-motorist coverage.

Following the district court's ruling that the school district's school bus is required to carry uninsured-motorist coverage, the parties agreed to arbitrate Cimbura's damage claims. The arbitrator awarded Cimbura damages. The district court confirmed the arbitration award and entered final judgment against the school district. This appeal follows.

D E C I S I O N

The school district argues that the district court erred when it denied the school district's motion for summary judgment.² A district court shall grant summary judgment "if the movant shows that there is no genuine issue as to any material fact and the movant

² A district court's denial of summary judgment based on a question of law is within the scope of review on appeal from final judgment. *Schmitz v. Rinke, Noonan, Smoley, Deter, Colombo, Wiant, Von Korff and Hobbs, Ltd.*, 783 N.W.2d 733, 744 (Minn. App. 2010), review denied (Minn. Sept. 21, 2010).

is entitled to judgment as a matter of law.” Minn. R. Civ. P. 56.01. The parties agree that no issues of material fact exist. The school district argues that the district court erred in its legal conclusion that the school district is required to carry uninsured-motorist coverage on its school bus under the No-Fault Act. Whether the district court erred in its application of law is reviewed de novo. *Schmitz*, 783 N.W.2d at 745.

Under the No-Fault Act, “[e]very owner of a motor vehicle registered or principally garaged in this state shall maintain uninsured and underinsured motorist coverages.” Minn. Stat. § 65B.49, subd. 3a(2). The No-Fault Act defines a “motor vehicle” as

every vehicle, other than a motorcycle or other vehicle with fewer than four wheels, which (a) is required to be registered pursuant to chapter 168, and (b) is designed to be self-propelled by an engine or motor for use primarily upon public roads, highways or streets in the transportation of persons or property.

Minn. Stat. § 65B.43, subd. 2. The parties agree that the school bus has four wheels and was designed to be propelled by an engine or motor for use on public roads. The only dispute is whether the school bus was “required to be registered pursuant to chapter 168.” *Id.* If the school bus is required to be registered pursuant to chapter 168, then the school bus is a “motor vehicle” for purposes of the No-Fault Act and is required to carry uninsured motorist coverage.

Minnesota chapter 168 governs vehicle registration. At issue here are subdivisions 1(a) and 1(b) of Minn. Stat. § 168.012 (2018). Subdivision 1(a) provides a list of vehicles that are “exempt from the provisions of this chapter requiring payment of tax and registration fees,” including but not limited to “(1) vehicles owned and used solely in the transaction of official business by the federal government, the state, or any political

subdivision,” and “(2) vehicles owned and used exclusively by educational institutions and used solely in the transportation of pupils to and from those institutions.” Minn. Stat.

§ 168.012, subd. 1(a)(1)-(2). Subdivision 1(b) states that:

[p]rovided the general appearance of the vehicle is unmistakable, the following vehicles are not required to register or display number plates: (1) vehicles owned by the federal government; (2) fire apparatuses, including fire-suppression support vehicles, owned or leased by the state or a political subdivision; (3) police patrols owned or leased by the state or a political subdivision; and (4) ambulances owned or leased by the state or a political subdivision.

Id., subd. 1(b).

The school district advances four arguments to support its contention that its school bus is not required to register under Minn. Stat. § 168.012, subd. 1(a), and therefore is not a “motor vehicle” under the No-Fault Act. First, the school district contends that its reading of subdivision 1(b) and the heading of Minn. Stat. § 168.012, subd. 1, support its interpretation of subdivision 1(a) of the statute. Second, the school district argues that the district court erred when it relied on this court’s decision in *State Farm Mut. Auto. Ins. Co. v. Metro. Council*, 854 N.W.2d 249 (Minn. App. 2014), *review denied* (Minn. Dec. 16, 2014) (*State Farm*). Third, the school district asserts that this court’s *State Farm* decision is contrary to the supreme court’s decision in *Mut. Serv. Cas. Ins. Co. v. League of Minn. Cities Ins. Tr.*, 659 N.W.2d 755 (Minn. 2003) (*MSI*). Finally, the school district contends that *State Farm* is contrary to this court’s decision in *Johnson v. Cummiskey*, 765 N.W.2d 652 (Minn. App. 2009).

The school district's interpretation of Minn. Stat. § 168.012

The school district argues that its school bus is not required to register under Minn. Stat. § 168.012, subd. 1(a). Despite conceding at oral argument that its school bus is not exempt from registration under subdivision 1(b), the school district appears to contend that its school bus is exempt from registration under subdivision 1(a) based on the phrasing of subdivision 1(b). The school district argues that this is a case about grammar, that the use of “or” in subdivision 1(b)³ must inform our reading of subdivision 1(a), and that such a reading renders the vehicles listed in subdivision 1(a) exempt from registration, not just payment of tax and registration fees. We reject appellant’s interpretation of Minn. Stat. § 168.012.⁴ We agree with the parties that the statute is unambiguous. A plain reading of the statute indicates that subdivisions 1(a) and 1(b) serve separate purposes. Subdivision 1(a) of the statute unambiguously states that vehicles in that subdivision are exempt only from paying tax and registration fees, while vehicles listed in subdivision 1(b) are not required to register or display number plates.⁵ Minn. Stat. § 168.012, subd. 1(a)-(b).

³ “Provided the general appearance of the vehicle is unmistakable, the following vehicles are not required to register *or* display number plates.” Minn. Stat. § 168.012, subd. 1(b) (emphasis added).

⁴ And, we need not resort to the canons of statutory construction. *See Linn v. BCBSM, Inc.*, 905 N.W.2d 497, 501 (Minn. 2018) (“If the Legislature’s intent is clear from the statute’s plain and unambiguous language, then we interpret the statute according to its plain meaning without resorting to the canons of statutory construction.”) (citations omitted).

⁵ Though not at issue here, we note that subdivision 1(k) provides that “[a]ll other motor vehicles must be registered and display tax-exempt number plates . . . except as provided in subdivision 1c.” Minn. Stat. § 168.012, subd. 1(k). Accordingly, the vehicles addressed in the intervening subdivisions “must be registered.”

Because the school district's interpretation of subdivision 1(a), in view of the phrasing of subdivision 1(b), is contrary to the plain language of the statute, we decline to adopt it.

The school district also appears to argue that the heading of Minn. Stat. § 168.012, subdivision 1, which precedes subdivisions 1(a) through 1(k), and reads: "Vehicles exempt from tax, fees, or plate display," must inform our reading of subdivision 1(a). Generally though, "a statute's heading is not a part of the statute, and it does not establish its scope or meaning." *Kangas v. Indus. Welders & Machinists, Inc.*, 814 N.W.2d 97, 101 (Minn. App. 2012) (citing Minn. Stat. § 645.49 (2010)). The school district provides no authority to persuade us that we must treat this heading any differently or that it impacts our plain reading of the statutory provisions at issue here.⁶ As such, we reject this argument.

Because the school district's interpretation is contrary to the plain language of the statute and generally we do not look to a statute's heading to determine its scope or meaning, we decline to adopt the school district's interpretation of Minn. Stat. § 168.012.

This Court's State Farm Decision

In interpreting Minn. Stat. § 168.012, the district court relied on this court's decision in *State Farm*. The school district argues that this court's decision in *State Farm* was incorrect and we should either ignore it or overrule it. In *State Farm*, the issue was whether

⁶ We understand that headings may be "relevant to legislative intent where they were present in the bill during the legislative process." *Minn. Express, Inc. v. Travelers Ins. Co.*, 333 N.W.2d 871, 873 (Minn. 1983); see *S.M. Hentges & Sons, Inc. v. Mensing*, 777 N.W.2d 228, 231 n.1 (Minn. 2010) ("A headnote is only relevant, then, if present in the original legislative process."). However, the school district does not argue that the heading is relevant here because it was present during the legislative process, so we decline to consider it.

buses operated by the Metropolitan Council (Met Council) are “motor vehicles” for purposes of the No-Fault Act. 854 N.W.2d at 253. The answer, like here, hinged on whether Met Council buses are required to be registered under chapter 168. *Id.* at 255. In *State Farm*, the Met Council argued that chapter 168 does not require registration of its buses. *Id.* at 252. More precisely, the Met Council argued that Minn. Stat. § 168.012, subd. 1(a) describes vehicles that are exempt “not only from taxes and registration fees *but also from registration.*” *Id.* at 258 (emphasis added).

In construing the plain meaning of the statute, this court explained that under Minn. Stat. § 168.012 there are “different classes of vehicles [that] are subject to different requirements depending on the type of vehicle and who owns, leases, and operates it, and for what purpose.” *Id.* We concluded that the statute creates three classes relevant to that appeal, *id.*, two of which are relevant to this appeal. The first class is created under subdivision 1(a)(1), which exempts “vehicles owned and used solely in the transaction of official business by the federal government, the state, or any political subdivision” from “payment of tax and registration fees.” *Id.* The second class is created by subdivision 1(b), “under which four types of vehicles are ‘not required to register,’ provided that their ‘general appearance is unmistakable,’” including: (1) vehicles owned by the federal government, (2) fire apparatuses owned or leased by the state or political subdivision, (3) police patrols owned or leased by the state or a political subdivision, and (4) ambulances owned or leased by the state or a political subdivision. *Id.*

We reasoned that subdivision 1(b) “explicitly exempts all the vehicles it describes from registration” and that “all of the vehicles that fall within subdivision 1(b) also fall

within subdivision 1(a) because they are all owned by the federal government, the state, or a political subdivision.” *Id.* at 258-59. We concluded that if “subdivision 1(a) exempts the vehicles it describes from registration, then subdivision 1(b)’s explicit registration exemption is superfluous.” *Id.* at 259. As such, we rejected the Met Council’s interpretation of chapter 168 and concluded that because the Met Council’s buses, which fall under subdivision 1(a), but not subdivision 1(b), are required to be registered under chapter 168, they qualify as “motor vehicles” for purposes of the No-Fault Act and therefore must carry uninsured motorist coverage. *Id.* at 259, 262. Accordingly, under *State Farm*, any vehicle that falls under subdivision 1(a) is required to be registered, while any vehicle under subdivision 1(b) is not.

Despite our holding in *State Farm*, the school district contends that its school bus is not required to be registered because it is exempt from paying taxes and registration fees under Minn. Stat. § 168.012, subd. 1(a)(1). Because the district court, like this court, is bound by our decision in *State Farm*, we conclude that the district court did not err in finding that the school bus is required to register, is a “motor vehicle” for purposes of the No-Fault Act, and is therefore required to carry uninsured motorist benefits. *See State v. M.L.A.*, 785 N.W.2d 763, 767 (Minn. App. 2010) (“The district court, like this court, is bound by supreme court precedent and the published opinions of the court of appeals.”), *review denied* (Minn. Sept. 21, 2010).

The Minnesota Supreme Court’s MSI Decision

The school district also argues that this court’s decision in *State Farm* is contrary to the Minnesota Supreme Court’s holding in *MSI*.

The issue before the supreme court in *MSI* was whether a marked patrol car is a “motor vehicle” for purposes of the No-Fault Act. *League of Minn. Cities*, 659 N.W.2d at 760. The supreme court held that a marked patrol car is not a “motor vehicle” as defined by the No-Fault Act, and therefore an injured pedestrian does not have the right to recover basic economic loss benefits from the city under the No-Fault Act. *Id.* at 760-61. The supreme court “refused to look beyond the plain statutory language and held that the [No-Fault] Act did not apply to a marked patrol car” because Minn. Stat. § 168.012, subd. 1(b) “unambiguously excluded marked ‘police patrols’” from the requirement of registration. *Hyatt v. Anoka Police Dept.*, 691 N.W.2d 824, 827 n.4 (Minn. 2005) (discussing *MSI*). The supreme court in *MSI*, overruling this court’s decision to override the plain meaning of the statute because it “produces an absurd and unreasonable result,” noted that the legislative purpose behind the No-Fault Act is “a very general one” that “does not express an intent that no-fault benefits be universally provided, with no exceptions.” *League of Minn. Cities*, 659 N.W.2d at 760, 762.

The supreme court then stated that:

[T]he Act does not provide universal no-fault benefits but recognizes that there will be several classes of uncompensated victims of accidents with vehicles that might otherwise have been considered to be “automobiles,” such as motorcycles, *school buses*, farm tractors and all-terrain vehicles. See Minn. Stat. § 65B.43, subd. 2 (2002) (limiting the definition of “motor vehicle” to exclude motorcycles and vehicles “not required to be registered pursuant to chapter 168”).

Id. at 762 (emphasis added). The school district points to the inclusion of “school bus” in this language to argue that “[a]lthough the Minnesota Supreme Court clearly acknowledges

that [school] buses are exempt from registration, *State Farm* ignores this pertinent section of the Court’s opinion.”

“Dicta, or more properly, obiter dicta, generally is considered to be expressions in a court’s opinion which go beyond the facts before the court and therefore are the individual views of the author of the opinion and not binding in subsequent cases.” *State ex rel. Foster v. Naftalin*, 74 N.W.2d 249, 266 (Minn. 1956) (quotations omitted). The reason for the rule of obiter dicta is that “[t]he questions actually before the court and argued by counsel are thoroughly investigated, deliberately considered with care, and, when so investigated and considered, a decision on those issues is entitled to respect in future cases.” *Id.* Conversely, obiter dictum, “is a statement of the judge on an issue not so deliberately investigated and, for that reason, is not entitled to the same respect.” *Id.*

The supreme court’s statement in *MSI* seems to suggest that school buses are among those vehicles not “required to be registered pursuant to chapter 168.” *League of Minn. Cities*, 659 N.W.2d at 762. However, the statement “go[es] beyond the facts before the court” and was not “thoroughly investigated,” *Naftalin*, 74 N.W.2d at 266, as the question of whether a school bus is required to be registered under chapter 168 was not before the supreme court. The issue was whether a marked patrol car is required to register under subdivision 1(b). The supreme court did not consider the more general question of whether vehicles listed in subdivision 1(a) are required to be registered. Because the supreme court’s statement was dicta, this court was not required to treat it as precedent in rendering the *State Farm* decision. See *State v. Atwood*, 914 N.W.2d 422, 425 (Minn. App. 2018) (stating that obiter dictum is not precedential), *aff’d*, 925 N.W.2d 626 (Minn. 2019).

Furthermore, this court did consider and discuss *MSI* in the *State Farm* opinion. We first concluded that *MSI* was distinguishable because *MSI* involved a marked squad car, not a transit bus. *State Farm*, 854 N.W.2d at 260. We acknowledged the supreme court’s conclusion in *MSI* that the No-Fault Act will leave “several classes of uncompensated victims of accidents with vehicles not subject to the no-fault act.” *Id.* We further observed that “*MSI* reinforces the rule that unambiguous statutory language must be interpreted according to its plain meaning . . . [and] [t]he supreme court warned against needless interpretation of statutes that use plain and unambiguous language.” *Id.* at 260-61. Thus, contrary to the school district’s assertion that we decided *State Farm* in direct opposition to *MSI*, we followed the supreme court’s directive and interpreted the statute according to its plain meaning.

This Court’s Johnson v. Cummiskey Decision

Finally, the school district argues that *State Farm* is contrary to this court’s earlier decision in *Johnson v. Cummiskey*. In the *Cummiskey* case we addressed whether the No-Fault Act requires a motorcycle insurance policy to be reformed to provide full underinsured motorist coverage. 765 N.W.2d at 654. We acknowledged that motorcycles do not fall within the No-Fault Act’s definition of “motor vehicle,” and therefore are not required to carry underinsured motorist coverage. *Id.* In doing so, we cited the supreme court’s *MSI* opinion, which stated that: “Motorcycles, like school buses . . . are exempt from the No-Fault Act’s generally applicable coverage requirements.” *Id.* at 657. Our *Cummiskey* opinion did not specifically address whether a school bus is required to be registered pursuant to chapter 168 nor did we consider, as we did in *State Farm*, whether

vehicles falling under subdivision 1(a) are required to register. We conclude that our recitation of the *MSI* dicta in *Cummiskey* lacks precedential value for the additional reason that it was also dicta in *Cummiskey*. See *Naftalin*, 74 N.W.2d at 266 (noting that dicta is not binding on subsequent cases). Accordingly, the school district's argument that this court's decision in *State Farm* was decided contrary to this court's decision in *Cummiskey* fails.

In conclusion, the district court did not err when it determined that the school district's school bus is required to register under Minn. Stat. § 168.012, subd. 1(a) and is therefore required to carry uninsured-motorist coverage. And, the district court did not err when it denied the school district's motion for summary judgment based on this determination.

Affirmed.