STATE OF MINNESOTA
IN COURT OF APPEALS
A21-1495

Christopher Anthony Davis,
Appellant,

vs.

Mark Empting, Clay County Sheriff,
Respondent.

Filed May 31, 2022
Affirmed
Klaphake, Judge[*]

Clay County District Court
File No. 14-CV-21-2882

Christopher Anthony Davis, Grand Forks, North Dakota (pro se appellant)

Bryan Joseph Melton, Clay County Attorney, Moorhead, Minnesota (for respondent)

Considered and decided by Bjorkman, Presiding Judge; Bratvold, Judge; and Klaphake, Judge.

NONPRECEDENTIAL OPINION

KLAPHAKE, Judge

Appellant Christopher Anthony Davis challenges an order denying his petition for reconsideration of respondent Clay County sheriff's denial of Davis's application for a

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

permit to carry a handgun. In 2017, Davis pleaded guilty to felony controlled-substance distribution in North Dakota. The Clay County sheriff denied his application for a permit to carry because of this felony conviction. Davis argues that the North Dakota district court that convicted him has restored his right to bear firearms, so he no longer has a conviction of a crime of violence. We affirm because Minnesota law, rather than North Dakota law, dictates what constitutes a crime of violence.

DECISION

This appeal requires us to interpret the statutory scheme for obtaining a permit to carry firearms in Minnesota. "The interpretation of a statute is a question of law that we review de novo." *Cocchiarella v. Driggs*, 884 N.W.2d 621, 624 (Minn. 2016). The goal of statutory interpretation is to "ascertain and effectuate the intention of the legislature." Minn. Stat. § 645.16 (2020). To do so, "courts must first look to see whether the statute's language, on its face, is clear or ambiguous. A statute is only ambiguous when it is subject to more than one reasonable interpretation." *State v. Wiltgen*, 737 N.W.2d 561, 570 (Minn. 2007) (quoting *In re PERA Police & Fire Plan Line of Duty Disability Benefits of Brittain*, 724 N.W.2d 512, 516 (Minn. 2006)). "The statutory language in dispute is not examined in isolation; rather, all provisions in the statute must be read and interpreted as whole." *State v. Pakhnyuk*, 926 N.W.2d 914, 920 (Minn. 2019).

In Minnesota, nonresidents may apply to any county sheriff for a permit to carry firearms. Minn. Stat. § 624.714, subd. 2(a) (2020). Subject to exceptions not at issue in this appeal, the sheriff must issue the applicant a permit if they meet certain requirements.

Id., subd. 2(b) (2020). One such requirement is that the applicant must not be prohibited from possessing a firearm under section 624.713 (2020). *Id*., subd. 2(b)(4)(v).

Under Minn. Stat. § 624.713, subd. 1(2), a person convicted of a crime of violence is ineligible to possess a firearm. A "crime of violence" means a felony conviction for one of the offenses enumerated in Minn. Stat. § 624.712, subd. 5 (2020). All controlled-substance felony convictions constitute crimes of violence. *Id.* Additionally, "crimes in other states or jurisdictions which would have been crimes of violence as herein defined if they had been committed in this state" constitute crimes of violence. Minn. Stat. § 624.713, subd. 1(2). Because this statute is unambiguous, it should be applied literally. *See Arlandson v. Humphrey*, 27 N.W.2d 819, 823 (Minn. 1947) (stating that a court should enforce a statute literally if its language embodies a definite meaning which involves no absurdity or contradiction).

So, Minnesota law prevents a county sheriff from issuing a permit to carry a firearm to anyone convicted of a crime of violence, which includes a felony conviction for distribution of a controlled substance. Here, in 2017, Davis pleaded guilty to felony delivery of a controlled substance in North Dakota. Because Davis was convicted of a crime of violence, he is prohibited from possessing a firearm and is thus ineligible for the permit.

Davis argues that because his civil rights have been restored in North Dakota, his felony controlled-substance conviction is not considered a conviction for purposes of his firearm eligibility. He relies on Minn. Stat. § 624.712, subdivision 10 (the expungement exception), which states:

> What constitutes a conviction of a crime shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any conviction which has been expunged, or set aside, or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this definition, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

Minn. Stat. § 624.712, subd. 10 (2020).[1] Davis argues that the expungement exception applies to the entire statute and demonstrates that Minnesota considers the authority of other jurisdictions to sever and restore firearm rights for convictions that occurred in those jurisdictions.

Davis argues that the expungement exception applies to the entire statute. While it is true that we examine statutory language as a whole, here, the statute is divided into subdivisions with separate titles. The expungement exception appears only in the subdivision titled "crime punishable by imprisonment term exceeding one year" and does not appear in the "crime of violence" subdivision. Minn. Stat. § 624.712 subds. 5, 10. Because the expungement exception is self-contained in a separate subdivision and does not indicate or suggest in any way that it applies to the crime-of-violence subdivision, we cannot conclude that the expungement exception applies to convictions for crimes of violence. If the legislature had intended to apply this exception to other subdivisions in the statute, it could have done so. *See Rohmiller v. Hart*, 811 N.W.2d 585, 590 (Minn. 2012) (stating that this court "cannot add words or meaning to a statute that were intentionally or

[1] Davis also cites an equivalent federal provision to support this point. *See* 18 U.S.C. § 921 (2018).

inadvertently omitted"). Thus, the expungement exception does not apply to Davis's conviction of a crime of violence.

Davis also argues that, because he has permits to carry from Florida and North Dakota, his firearm rights have been restored in a manner consistent with federal law. This argument fails on public-policy grounds. As the supreme court observed, Minnesota firearm-prohibition statutes are "designed to protect the public safety by keeping firearms out of the hands of convicted criminals who have committed crimes which, in the legislature's judgment, are indications of future dangerousness." *State v. Moon*, 463 N.W.2d 517, 520 (Minn. 1990). The Minnesota legislature, not the North Dakota judiciary and not a federal statute, determined which crimes are indicative of future dangerousness in Minnesota. Because the legislature, by the plain language of the statute, intended that Minnesota law controls what qualifies as a crime of violence, we affirm the district court's denial of reconsideration of Davis's application for a permit to carry a firearm in Minnesota.

Affirmed.