

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A21-1511**

State of Minnesota,
Respondent,

vs.

Daniel Mark Weets,
Appellant.

**Filed August 15, 2022
Affirmed
Kirk, Judge***

Lyon County District Court
File No. 42-CR-19-1308

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Rick Maes, Lyon County Attorney, Abby Wikelius, Assistant County Attorney, Marshall, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Roy G. Spurbeck, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Slieter, Presiding Judge; Ross, Judge; and Kirk, Judge.

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

NONPRECEDENTIAL OPINION

KIRK, Judge

In this appeal following a conviction for unlawful possession of a firearm in Minnesota, appellant argues that the evidence is legally insufficient to support the conviction because the crime of violence preventing him from possessing firearms occurred in South Dakota and his civil right to possess firearms has been restored in South Dakota. We affirm appellant's conviction for unlawful possession of a firearm because appellant's right to possess a firearm in Minnesota has not been restored.

FACTS

In 1992, appellant Daniel Mark Weets pleaded guilty and was convicted of attempted robbery in South Dakota. Under South Dakota law and Minnesota law, attempted robbery constitutes a "crime of violence," a conviction which prohibits the offender from possessing firearms. After serving three years in a South Dakota prison, Weets was discharged and had his civil rights restored under South Dakota law, apart from the right to possess firearms. By 2009, 15 years had passed since his release from prison, and Weets was considered eligible to possess a firearm under South Dakota law.

In 2019, the Lyon County Minnesota Sheriff's Department executed a search of Weets's residence in Russell, Minnesota, and seized multiple firearms, rounds of ammunition, drugs, and drug paraphernalia. The state charged Weets with one count of being an ineligible person in possession of a firearm and one count of being an ineligible person in possession of ammunition under Minn. Stat. § 624.713 (2020) ("the firearm charges"), among other charges.

The district court at first dismissed the firearm charges based on lack of probable cause, finding there was no information presented “that would indicate on November 24, 2019, [Weets] was ineligible to possess firearms and ammunition.” The state requested reconsideration of the district court’s order dismissing the firearm charges and Weets opposed the motion. The district court allowed the renewal motion, citing the dismissal of the charges for lack of probable cause as a “misunderstanding.” Both parties submitted briefs to the district court. In July 2020, the district court reinstated the firearm charges, concluding that “his right to possess or control a firearm in the State of South Dakota . . . does not impact his right to possess a firearm or ammunition in the State of Minnesota.” Weets requested reconsideration of the order, and the district court denied the request.

The parties agreed to proceed to trial on stipulated facts pursuant to Minn. R. Crim. P. 26.01, subd. 4 to obtain review of a pretrial ruling. Following a district court trial on the stipulated facts, the district court convicted Weets of being a person ineligible for possession of a firearm and sentenced Weets to 60 months in prison, stayed pending this appeal.

DECISION

Weets argues that the district court erred by finding him guilty of being a person ineligible for possession of a firearm in Minnesota because his conviction barring him from possessing firearms occurred in South Dakota and his firearm rights were restored in South Dakota. This issue here is one of statutory interpretation. The goal of statutory interpretation is to “ascertain and effectuate the intention of the legislature.” Minn. Stat. § 645.16 (2020). The first question in any statutory interpretation analysis “is whether the

statute's language is ambiguous.” *State v. Peck*, 773 N.W.2d 768, 772 (Minn. 2009). A statute is ambiguous only when it is reasonably susceptible to more than one interpretation. *Id.* But “[i]f the language of a statute is clear and free from ambiguity, the court’s role is to apply the language of the statute and not explore the spirit or purpose of the law.” *Toyota-Lift of Minn., Inc. v. Am. Warehouse Sys., LLC*, 886 N.W.2d 208, 211 (Minn. 2016). We review questions of statutory interpretation de novo. *Cocchiarella v. Driggs*, 884 N.W.2d 621, 624 (Minn. 2016).

In Minnesota, a person convicted of a crime of violence is ineligible to possess a firearm. Minn. Stat. § 624.713, subd. 1(2). A “crime of violence” includes a felony conviction for attempted robbery. Minn. Stat. § 624.712, subd. 5 (2020). 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). Both parties agree that Weets’s 1992 conviction for attempted robbery constitutes a crime of violence in Minnesota. And both parties agree that Weets’s right to possess firearms is restored in South Dakota. But the parties disagree on whether the restoration of a firearm under South Dakota law precluded Minnesota from convicting him as a person ineligible to possess a firearm.

Weets primarily relies on the firearm restoration provision, Minn. Stat. § 609.165 (2020). He argues that this statutory provision allows for the restoration of firearm rights in Minnesota when a person’s civil rights were fully restored in another state. The relevant subdivision states:

When a person has been deprived of civil rights by reason of conviction of a crime and is thereafter discharged, such discharge shall restore the person to all civil rights and to full citizenship, with full right to vote and hold office, the same as if such conviction had not taken place, and the order of discharge shall so provide.

Minn. Stat. § 609.165, subd. 1. But subdivision 1d of the same statute states that a person convicted of a crime of violence and thus prohibited from possessing a firearm “may petition a court to restore the person’s ability to possess, receive, ship, or transport firearms and otherwise deal with firearms and ammunition.” *Id.*, subd. 1d. We must not read a statutory provision in isolation, but “rather, all provisions in the statute must be read and interpreted as a whole.” *State v. Pakhnyuk*, 926 N.W.2d 914, 920 (Minn. 2019). Here, Weets has never petitioned the district court to restore his ability to possess firearms or otherwise deal with firearms. Therefore, based on the statute’s unambiguous meaning, Weets remains subject to the lifetime prohibition under Minnesota law. Thus, Weets’s civil right to possess firearms and ammunition has not been restored in Minnesota and subdivision 1 does not apply in this case.

Weets also cites Minn. Stat. § 624.712, subd. 10 (2020) (the expungement exception), which states:

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.

In a recent nonprecedential opinion, this court addressed a similar issue. *See Davis v. Emptying*, No. A21-1495, 2022 WL 1751340 (Minn. App. May 31, 2022). In *Davis*,

appellant was convicted of a crime of violence in North Dakota but had his firearm rights restored under North Dakota law. *Id.* at *2. Appellant applied for a permit to carry a handgun in Minnesota and Minnesota denied his permit request based on his North Dakota conviction. *Id.* at *1. Appellant argued that the expungement exception prevents Minnesota from denying his permit application. *Id.* at *2. This court determined the expungement exception did not apply to a crime of violence and that the “Minnesota legislature, not the North Dakota judiciary and not a federal statute, determined which crimes are indicative of future dangerousness in Minnesota.” *Id.* Thus, this court affirmed the denial of appellant’s application for a permit to carry a firearm in Minnesota. *Id.*

This court expressly concluded in *Davis* that, “[b]ecause 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.” *Id.* We agree. If the legislature intended to apply this exception to other subdivisions in the statute, it would have done so expressly. *See Rohmiller v. Hart*, 811 N.W.2d 585, 590 (Minn. 2012) (stating that this court will not “add words or meaning to a statute that were intentionally or inadvertently omitted”). We conclude that the *Davis* opinion correctly determined that the expungement exception does not apply to the crime of violence subdivision. Though nonprecedential, the *Davis* opinion’s reasoning is persuasive, and we will follow it in this case.

In sum, Weets’s right to possess firearms was restored in South Dakota, but Weets never petitioned to have his firearm rights restored in Minnesota. South Dakota’s prohibition on firearm possession following a crime of violence expires after 15 years

following a person's discharge from prison. But Minnesota's prohibition on firearm possession following a crime of violence is a lifetime prohibition, and Minnesota law controls who is eligible to possess firearms in the state. Therefore, because Weets never petitioned for his firearm rights to be restored in Minnesota, the lifetime prohibition applies to him, and he is a person ineligible to possess a firearm under Minnesota law. Thus, we conclude that the district court did not err by holding that Weets was ineligible to possess a firearm and convicting Weets for unlawfully possessing a firearm.

Affirmed.