This opinion is nonprecedential except as provided by Minn.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
A21-1620

Troy K. Scheffler,
Appellant,

vs.

Crow Wing County,
Respondent.

Filed June 6, 2022
Affirmed
Reyes, Judge

Crow Wing County District Court
File No. 18-CV-21-212

Troy Scheffler, Merrifield, Minnesota (pro se appellant)

Donald F. Ryan, Crow Wing County Attorney, Rockwell J. Wells, Assistant County Attorney, Brainerd, Minnesota (for respondent)

Considered and decided by Reyes, Presiding Judge; Cochran, Judge; and Rodenberg, Judge.*

NONPRECEDENTIAL OPINION

REYES, Judge

Self-represented appellant Troy K. Scheffler appeals the district court's dismissal of his claims against respondent Crow Wing County (the county) for lack of jurisdiction

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

due to Scheffler's failure to exhaust administrative remedies under Minn. Stat. § 375.192, subd. 2 (2020). Scheffler also argues that the district court erred by denying his motion to amend his complaint to add a Fourteenth Amendment claim. We affirm.

FACTS

The facts in this case are undisputed. In response to statewide orders declaring a peacetime emergency due to the COVID-19 pandemic, the county closed its buildings to the public from March 16, 2020, to May 18, 2020. Although residents could pay their property taxes online, by mail, or in person using a drop box located outside the county's Land Services building, Scheffler preferred to pay his property taxes in person, in cash, and receive a paper receipt. Because the county closed the Land Services building, he could not do so until after the May 15 property-tax-payment deadline had passed. The building reopened on May 18, 2020, and Scheffler paid his property taxes in person and in cash on May 26, 2020.

Scheffler also had to pay a statutory late-payment penalty totaling $19.60. Scheffler did not apply to the county board to have the penalty abated. Instead, Scheffler filed a claim against the county in conciliation court, arguing that the county owed him the $19.60 penalty amount because the county's building closure prevented him from paying his property taxes on time. The conciliation court dismissed Scheffler's claims for lack of subject-matter jurisdiction.

Scheffler removed the case to the district court. The county again moved to dismiss Scheffler's claims for lack of subject-matter jurisdiction, arguing that Scheffler failed to exhaust administrative remedies because he had not sought an abatement of the penalty

from the county board. The county also moved in the alternative for summary judgment, arguing that Scheffler failed to show that the penalty was unjust and unreasonable. Scheffler opposed the motion and moved to amend his pleadings to add a "Section 1983" claim that the county violated his Fourteenth Amendment rights.

The district court determined that Scheffler failed to exhaust the administrative remedies available to him and dismissed Scheffler's claim for lack of subject-matter jurisdiction. It also denied "[a]ll other requests for relief." This appeal follows.

DECISION

I. The district court did not err by dismissing Scheffler's claims because he failed to exhaust administrative remedies by seeking an abatement.

Scheffler argues that the district court erred by dismissing his claims because (1) abatement by the county board under Minn. Stat. § 279.01, subd. 2 (2020), and Minn. Stat. § 375.192, subd. 2, is not a remedy requiring exhaustion and (2) seeking an abatement would have been futile. We disagree.

"Subject-matter jurisdiction is a question of law that we review de novo." *Daniel v. City of Minneapolis*, 923 N.W.2d 637, 644 (Minn. 2019). Courts generally require a party to exhaust available administrative remedies before seeking judicial relief. *See Centra Homes, LLC v. City of Norwood Young America*, 834 N.W.2d 581, 585 (Minn. App. 2013). A party's failure to do so deprives the district court of subject-matter jurisdiction until the remedies are exhausted. *Id.* But a party will not be required to exhaust administrative remedies if it would be futile to do so. *Nw. Airlines, Inc. v. Metro. Airports Comm'n*, 672 N.W.2d 379, 382 (Minn. App. 2003), *rev. denied* (Minn. Feb. 25, 2004).

Section 375.192, subdivision 2, allows a property owner to submit a written application to the county board to abate some or all property taxes and any costs, penalties, or interest on them, which the county board "may grant" as it deems "just and equitable." Section 279.01, subdivision 2(a), gives the county board the authority to "delegate to the county treasurer the power to abate the penalty provided for late payment of taxes in the current year," and "the county treasurer may abate the penalty on finding that the imposition of the penalty would be unjust and unreasonable."

Scheffler could have submitted a written application to the county board for abatement of the $19.60 penalty, which he argues was unlawfully imposed, under section 375.192, subdivision 2. Scheffler did not do so before filing his claims in conciliation court, nor did he seek an abatement before appealing the conciliation-court dismissal to the district court. He therefore failed to exhaust the administrative remedy available to him.

Scheffler argues that, because the statute states that the county board "may" grant an abatement, the statutory remedy is discretionary and thus not a remedy requiring exhaustion. Scheffler cites no legal authority for the proposition that a party need not exhaust administrative remedies when they are discretionary. Moreover, the general rule is that administrative remedies must be exhausted unless the remedies are inadequate or nonexistent. *See Zaluckyj v. Rice Creek Watershed Dist.*, 639 N.W.2d 70, 74 (Minn. App. 2002), *rev. denied* (Minn. Apr. 16, 2002). Here, a remedy in the form of abatement exists and is adequate because, if granted, it would provide all the relief Scheffler seeks.

Scheffler also argues that abatement by the county board is not a remedy requiring exhaustion because a county board's abatement denial is not appealable to the Tax Court.

See Minn. Stat. § 375.192, subd. 2 ("An appeal may not be taken to the Tax Court from any order of the county board made in the exercise of the discretionary authority granted in this section."). But whether Scheffler could appeal an abatement denial to the Tax Court is irrelevant to the question of whether a remedy exists and must be exhausted before Scheffler could seek judicial relief at the district court.

Finally, Scheffler asserts that seeking an abatement would have been futile. Scheffler points to the county's alternative summary-judgment argument to the district court that imposing the penalty was not unjust or unreasonable to show that it would have been futile for Scheffler to apply for an abatement. But the county's argument to the district court, which it made both in the alternative and *after* Scheffler filed his claim in the conciliation and district courts, does not show that the county board would have denied Scheffler's abatement application. Scheffler has therefore failed to establish that seeking an abatement would have been futile. Because Scheffler had an administrative remedy available to him in the form of abatement but failed to seek it, the district court did not err by dismissing Scheffler's claims for lack of subject-matter jurisdiction.

II. The district court did not abuse its discretion by denying Scheffler's motion to amend his complaint to add a Fourteenth Amendment claim.

Scheffler also argues that the district court erred by denying his motion for leave to amend his complaint to add a Fourteenth Amendment claim.[1] We are not persuaded.

[1] Scheffler's action began as a demand for removal from conciliation court, not a formal complaint. But pleadings in conciliation court constitute the pleadings in district court upon removal, and any amendment of those pleadings at the district court is governed by the rules of civil procedure. *See* Minn. R. Gen. Prac. 522.

"Generally, the decision to permit or deny amendments to pleadings is within the discretion of the district court and will not be reversed absent a clear abuse of discretion." *Johns v. Harborage I, Ltd.*, 664 N.W.2d 291, 295 (Minn. 2003). A district court should freely grant motions to amend when justice requires. Minn. R. Civ. P. 15.01. But a district court may deny an amendment "if it will accomplish nothing, such as when the amendment does not state a cognizable legal claim." *Envall v. Indep. Sch. Dist. No. 704*, 399 N.W.2d 593, 597 (Minn. App. 1987), *rev. denied* (Minn. Mar. 25, 1987).

In his memorandum opposing the county's motion to dismiss, Scheffler moved to amend his complaint to include "a Section 1983 claim of violating his rights under the 14th Amendment of the United States Constitution," arising from the county's denial of Scheffler's alleged "right to pay in cash and receive a receipt."

To state a cause of action under 42 U.S.C. § 1983 (2018), a plaintiff must allege that a person acting under color of state law deprived the plaintiff of a federal right. *See Maras v. City of Brainerd*, 502 N.W.2d 69, 75 (Minn. App. 1993), *rev. denied* (Minn. Aug. 16, 1993). Scheffler alleges that the county denied him his right to pay timely his taxes in a manner available by law. But Scheffler's allegation is based on a Minnesota state law, not a federal right.

Scheffler asserts generally that the county violated "his rights under the 14th Amendment," but his motion does not identify what Fourteenth Amendment right he is alleging the county violated, nor do Scheffler's factual allegations appear to sufficiently plead any cognizable Fourteenth Amendment due-process or equal-protection claim. *See Mumm v. Mornson*, 708 N.W.2d 475, 481 (Minn. 2006) (noting that when plaintiff's

constitutional claims lack specificity, courts will still address them if facts alleged sufficiently state a claim); *see also State v. Cox*, 798 N.W.2d 517, 521 (Minn. 2011) (stating that Fourteenth Amendment equal-protection challenge requires showing by plaintiff that "similarly situated persons have been treated differently" (quotation omitted)); *Mumm*, 708 N.W.2d at 487 ("A cognizable claim of a Fourteenth Amendment substantive due process violation must describe governmental conduct so egregious that it shocks the conscience." (quotation omitted)); *Hall v. State*, 908 N.W.2d 345, 357-58 (Minn. 2018) (explaining that to establish Fourteenth Amendment procedural-due-process claim, plaintiff must show government deprived plaintiff of protected interest without adequate notice and hearing). Because Scheffler's requested amendment failed to state a cognizable claim, the district court did not abuse its discretion by denying Scheffler's motion to amend his complaint.

Affirmed.