

*This opinion is nonprecedential except as provided by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
A22-0102**

State of Minnesota,
Respondent,

vs.

M. C. Y.,
Appellant.

**Filed September 6, 2022
Reversed and remanded
Ross, Judge**

Hennepin County District Court
File No. 27-CR-06-010536

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

Michael O. Freeman, Hennepin County Attorney, Minneapolis, Minnesota (for
respondent)

Andrew C. Wilson, Wilson & Clas, Minneapolis, Minnesota (for appellant)

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

NONPRECEDENTIAL OPINION

ROSS, Judge

M.C.Y. appeals from the district court's order rejecting his petition to expunge his
17-year-old conviction for offering a forged check, determining that M.C.Y.'s offense is
ineligible for expungement. Because the district court made no factual findings supporting

its ineligibility determination, we reverse and remand for the district court to make the necessary findings and to make its expungement determination based on them.

FACTS

Seventeen years ago, the state charged M.C.Y., whom we will call Max to avoid highlighting the records he seeks to expunge, with a felony for offering a forged check at an Office Depot. The criminal complaint alleged that the forged check was drafted in the amount of \$2,794.99. Max pleaded guilty to that offense along with a theft-by-swindle charge for a similar theft. The district court stayed imposing a sentence for three years and ordered Max to serve 150 days in the workhouse.

Max unsuccessfully petitioned the district court in 2019 to order that the records of his offenses be expunged. He petitioned again a year later, and the district court ordered expungement of records related to the theft-by-swindle conviction but not the forgery conviction. The district court reasoned that, because Max's forgery exceeded \$2,500, records of that conviction are not eligible for expungement under Minnesota Statutes section 609A.02, subdivision 3(b)(32) (2020).

Max petitioned to expunge the forgery conviction a third time. He supported his petition with his own testimony that, although he was charged with offering a forged check of \$2,500 or more, he pleaded guilty to offering a forged check of less than \$2,500. But neither the plea petition nor the sentencing transcript from the forgery prosecution were retained in the district court records, leaving for the district court's review only the criminal complaint, the warrant of commitment, and the sentencing order. The warrant of commitment supports the conclusion that Max pleaded guilty to "Count 1," but it fails to

refer to the statute under which he was sentenced. The record does not indicate that the state ever amended its complaint to alter its allegation that the forgery exceeded \$2,500.

The state objected to Max’s expungement petition, arguing that he had pleaded guilty to the offense as charged—meaning an amount exceeding \$2,500—making the records of that offense ineligible for statutory expungement. A referee recommended findings of fact, conclusions of law, and judgment denying Max’s request, and the district judge accepted the recommended findings and conclusions.

Max appeals.

DECISION

Max challenges the district court’s order denying his expungement petition. A district court may expunge criminal records on one of two bases: under statutory-expungement authority outlined in Minnesota Statutes sections 609A.01–.04 (2020) or under the court’s inherent authority. *State v. M.D.T.*, 831 N.W.2d 276, 279 (Minn. 2013). We review a district court’s decision for an abuse of discretion. *State v. C.W.N.*, 906 N.W.2d 549, 551 (Minn. App. 2018); *see also* Minn. R. Civ. P. 52.01 (“The findings of a referee, to the extent adopted by the court, shall be considered as the findings of the court.”). A district court abuses its discretion if it misapplies the law or its factual findings are clearly erroneous. *See State v. H.A.*, 716 N.W.2d 360, 363 (Minn. App. 2006). Because the district court’s bare legal conclusion is not supported by any factual findings, we reverse and remand for additional proceedings.

The district court’s conclusion that Max’s offense “does not qualify for statutory expungement per Ch. 609A” lacks supporting factual findings and legal analysis. But we

are unable to review whether the district court abused its discretion without specific findings of fact. *In re Welfare of J.T.L.*, 875 N.W.2d 334, 337 (Minn. App. 2015). Max asserts that his offense is eligible for expungement under Minnesota Statutes section 609A.02, subdivision 3(b)(32), which allows records of a forgery conviction to be expunged if the offender was sentenced for a forgery of \$2,500 or less. Although the state charged Max for offering a forged check that exceeded \$2,500, he testified at his expungement hearing that his plea and sentence had been based on a stipulated loss amount of \$2,500 or less. No witnesses contradicted this testimony, but the referee neither expressly credited nor expressly discredited it. The district judge reviewing the legal conclusion added, “[T]he amount charged in excess of \$2,500 is confirmed by the record,” referring to “the charging document, the sentencing order, warrant of commitment, and case disposition.” The lack of factual findings and legal analysis frustrates our review. We would affirm the district court’s decision absent specific findings only if the record is reasonably clear and reveals no serious dispute about the facts. *Roberson v. Roberson*, 206 N.W.2d 347, 348 (Minn. 1973); Minn. R. Civ. P. 52.01. But the record exposes the factual dispute over the amount of the forgery offense to which Max pleaded guilty. And the district court did not explain how it reached its decision denying the petition.

The murky record on appeal sheds little light on the district court’s rationale. It includes the complaint showing that Max was charged with offering a forged check under section 609.631, subdivision 3, with reference to subdivision 4(2) (the sentencing statute that applies to forgeries exceeding \$2,500); the warrant of commitment that references “Count 1” without referencing the sentencing statute; and the sentencing order, which

identifies the charge only as “offering a forged check” with no reference to the forgery amount. The state insists that part of the record unavailable on appeal adds a notation that Max was sentenced for a forgery exceeding \$2,500, referring to a version of the register of actions that it says is available to the state and to the district court. This, argues the state, is what the district court characterized as the “case disposition.” We consider the register of actions as part of the record on appeal. *State ex rel. Craig v. Tahash*, 116 N.W.2d 657, 660 (Minn. 1962). But despite the state’s insistence that the register of actions shows Max’s plea to a forgery exceeding \$2,500, the version available to us lacks the level of specificity that the state believes was available to and relied on by the district court. The district court does not mention the register of actions or provide any other basis for the decision. Resolving the appeal based on the limited record available would therefore require us to speculate whether the district court discredited Max’s testimony about what occurred during his guilty plea proceeding, or whether it drew inferences about the amount involved based on the conduct as charged and the guilty plea, or whether it adopted the state’s assertion that Max is collaterally estopped from maintaining that he was sentenced for a forgery less than \$2,500 based on the alleged notation in the register of actions available to the district court (as the state suggests on appeal). We will not speculate. Because we cannot determine the factual or legal basis for the district court’s ineligibility decision, we cannot effectively review the decision, and a remand is necessary.

Max urges us to reverse but not remand for more findings, maintaining that the state failed to meet its burden of producing evidence disproving expungement eligibility. Identifying the applicable burden of proof is a question of law that we review de novo.

C.O. v. Doe, 757 N.W.2d 343, 352 (Minn. 2008). The expungement statute requires a petitioner to plead “the statutory or other legal authority under which [expungement] is sought, and why it should be granted” and “the details of the offense or arrest for which expungement is sought.” Minn. Stat. § 609A.03, subd. 2(a)(4)–(5). A party required to plead facts is also required to prove those facts. *O’Hara v. Crawhall*, 277 N.W. 232, 233 (Minn. 1938). Although the legislature may alter this general rule by statute, the expungement statute does not demonstrate that the legislature did so. Max bears the burden of proving that his offense is eligible for expungement.

The district court must assess the evidence and find facts establishing the amount involved in the forgery conviction. The district court must separately determine whether Max has met his burden establishing that he is entitled to relief under statutory-expungement authority or, if not, under the district court’s inherent authority.

Reversed and remanded.