

*This opinion is nonprecedential except as provided by  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  
A24-0101**

State of Minnesota,  
Respondent,

vs.

Benjamin Joseph Hill,  
Appellant.

**Filed September 9, 2024  
Affirmed  
Wheelock, Judge**

Ramsey County District Court  
File No. 62-K8-04-000076

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

John J. Choi, Ramsey County Attorney, St. Paul, Minnesota (for respondent)

Benjamin Joseph Hill, St. Paul, Minnesota (pro se appellant)

Considered and decided by Ede, Presiding Judge; Frisch, Judge; and Wheelock,  
Judge.

**NONPRECEDENTIAL OPINION**

**WHEELOCK**, Judge

Appellant challenges the district court's denial of his petition to restore his firearm rights pursuant to Minn. Stat. § 609.165, subd. 1d (2022), arguing that he showed good cause because the 2023 statutory amendments reformed criminal penalties for marijuana possession and sale. We affirm.

## FACTS

This appeal arises from the denial of appellant Benjamin Joseph Hill’s petition to possess firearms.<sup>1</sup> Under Minnesota law, individuals who have been convicted of certain crimes—known as “crimes of violence”—are prohibited from possessing firearms for the remainder of their lives. Minn. Stat. § 609.165, subds. 1a (Supp. 2023), 1d. Notwithstanding this prohibition, individuals may petition the district court for restoration of their firearm rights upon a showing of good cause. *Id.* Hill filed a firearm-restoration petition on September 3, 2023, arguing that there is good cause to restore his rights because (1) a change in the law in 2023 that decriminalized certain marijuana-related offenses constitutes good cause because his two disqualifying marijuana convictions are no longer crimes of violence, (2) he wishes to be able to protect his family, (3) he would like to go hunting with his father and others, and (4) he would like to be in proximity to firearms when his friends have them.

In August 1998, respondent State of Minnesota charged Hill with fifth-degree possession with intent to sell a controlled substance (marijuana) pursuant to Minn. Stat. § 152.025, subd. 1(1) (1998). Hill was convicted in 1999, but the sentence imposed is not reflected in the record. Hill’s petition claims that he was discharged from probation for this offense in 2004 and that it was a felony-level offense that prohibits him from possessing firearms for the remainder of his life.

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<sup>1</sup> The record accompanying Hill’s petition is limited, and the facts recited are derived from that limited record.

In November 2003, the state charged Hill with fifth-degree possession of a controlled substance (marijuana) pursuant to Minn. Stat. § 152.025, subd. 2(1) (2002). The district court convicted Hill in 2005 and sentenced him to 15 months in prison, stayed for five years of probation. Hill was discharged from probation for this offense in 2009. The sentence imposed made this conviction a felony and, independently from his earlier conviction, rendered Hill ineligible to possess firearms for the remainder of his life.

Hill has been convicted of two additional offenses, each of which temporarily deprived him of his right to possess firearms. The first was a 1999 conviction for theft of a motor vehicle pursuant to Minn. Stat. § 609.52, subd. 2(1) (1998), and the second was a 2019 conviction for driving a vehicle without owner consent pursuant to Minn. Stat. § 609.52, subd. 2(a)(17) (2018). Hill was discharged from probation in 2022 for the 2019 offense. The 1999 and 2019 convictions no longer disqualify Hill from possessing firearms.

During the 2023 legislative session, Minnesota legalized adult use of cannabis and altered or removed criminal penalties for various acts of marijuana possession and sale. *See* 2023 Minn. Laws ch. 63, art. 4, §§ 17-20, at 2831-34 (“2023 amendments”) (to be codified at Minn. Stat. §§ 152.025, subds. 1-2, .0263-.0264 (2024)); Minn. Laws ch. 63, at 2685 (identifying the act as “[a]n act relating to cannabis . . . legalizing . . . the possession and use of cannabis . . . by adults”).

In his September 2023 petition for restoration of his firearm rights, Hill asserted that good cause existed for restoration because his marijuana-related offenses would no longer qualify as crimes of violence or prohibit him from possessing a firearm following the 2023

amendments. Hill also asserted that he is fully rehabilitated; has attended counseling and therapy; has maintained long-term employment and gotten a contractor's license; participates in community service, church, and youth mentoring; and is a homeowner. He explained that he "would like to be able to protect [his] family, go hunting again with [his] elderly father, and to be in proximity with firearms possessed by others who hunt and have permits to carry firearms."

The state did not take a position regarding Hill's petition and waived its appearance at the hearing in district court. The state also has not participated in this appeal.

The district court denied Hill's petition and issued an order in which it determined that Hill's desire to possess firearms and ammunition so he could protect his family and go hunting did not constitute good cause and that Hill's "cited reasons lack specificity and are unsupported by other evidence, and therefore fall[] short as sufficient good cause for restoration." The district court did not expressly address Hill's argument that good cause exists as a result of the 2023 amendments and the possibility that his marijuana-related convictions would no longer fall within the definition of "crimes of violence" under the applicable statute. The district court stated, "Typically, [Hill's] crimes are considered serious. However, given the length of time and the record before this Court [sic] cannot ascertain the facts or circumstances underlying this offense." It also observed that Hill's 2019 conviction for driving a vehicle without owner consent is similar to his 1999 conviction for theft of a motor vehicle and that he had remained on probation for his most recent offense until 2022. Thus, the district court found that Hill's "reasons for seeking restoration [we]re insufficient to outweigh the public safety concerns that remain[ed]," and

it ultimately determined that Hill did not show good cause to restore his right to possess firearms under Minn. Stat. § 609.165, subd. 1d.

Hill appeals.

## DECISION

Hill challenges the district court's decision in a self-represented brief in which he asserts that he should not be permanently disqualified from possessing firearms because (1) his crimes are no longer considered crimes of violence, (2) he showed rehabilitation and changed circumstances, and (3) he wishes to hunt with his elderly father before his father passes away.

A petitioner must show good cause before a district court can restore the person's right to possess firearms pursuant to Minn. Stat. § 609.165, subd. 1d. We review a district court's decision to grant or deny a petition for restoration of firearm rights for an abuse of discretion. *Averbeck v. State*, 791 N.W.2d 559, 561 (Minn. App. 2010). "Whether the petitioner shows good cause is a mixed question of fact (what the petitioner shows) and law (whether the showing amounts to good cause)." *Id.* at 560. "In reviewing a mixed question of fact and law, this court defers to the district court's factual findings unless they are clearly erroneous, but does not defer to the district court's decision on a legal issue." *Id.* at 561. "Findings of fact are clearly erroneous if, on the entire evidence, we are left with the definite and firm conviction that a mistake occurred." *State v. Andersen*, 784 N.W.2d 320, 334 (Minn. 2010).

"[G]ood cause is a reason for taking an action that, in legal terms, is legally sufficient, and, in ordinary terms, is justified in the context of surrounding circumstances."

*Averbeck*, 791 N.W.2d at 561. In making a good-cause determination, the district court must weigh public-safety concerns against the petitioner’s private interests. *Id.* In *Averbeck*, the appellant’s reasons for requesting the restoration of his firearm rights included a desire to go “hunting with family and friends” and to become a private investigator, but the district court denied the petition because the appellant’s testimony “was not corroborated by a neutral source and lacked sufficient specificity to be probative.” *Id.* at 562. We affirmed the district court’s denial of the petition because the district court did not abuse its discretion in determining that the appellant’s reasons needed to be specific and corroborated in order to show good cause. *Id.*

Here, the district court did not abuse its discretion when it determined that Hill did not show good cause because the evidence supports its conclusion that public-safety concerns outweighed Hill’s private interests in possessing a firearm. The district court expressed concern about Hill’s most recent conviction for the same offense he had committed two decades prior, observing that Hill “was recently discharged from probation in June 2022 for an offense of misdemeanor Tampering with a Motor Vehicle[] and felony Theft of a Motor Vehicle. [Hill] committed the same crime almost 20 years ago in 1999.” The district court also found that Hill’s proffered reasons for seeking restoration were uncorroborated and nonspecific. *See id.* Thus, the district court determined that Hill’s “stated reasons for seeking restoration [we]re insufficient to outweigh the public safety concerns that remain[ed].”

On appeal, Hill appears to argue that he should no longer be disqualified from possessing firearms because, after the 2023 amendments removed his offenses from the

definition of “crimes of violence,” he no longer has disqualifying convictions on his record.<sup>2</sup> But this is a different argument than the argument he made to the district court, and appellate courts do not consider arguments not made to and considered by the district court.<sup>3</sup> *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988). We decline to address Hill’s argument for the first time on appeal that the change in the law means that he is not disqualified from possessing firearms.

Hill argued to the district court that the 2023 change in the law showed good cause to support his request under subdivision 1d to reinstate his firearm rights. We read the district court’s order as implicitly rejecting Hill’s argument that a change in the law equates to good cause.

Because the district court properly weighed the public-safety concerns against Hill’s personal interests and considered the evidence presented, we conclude that the district court did not abuse its discretion in denying Hill’s petition to restore his firearm rights under Minn. Stat. § 609.165, subd. 1d.

**Affirmed.**

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<sup>2</sup> As relevant here, the 2023 amendments mean that a person can no longer be convicted of fifth-degree sale of marijuana, as Hill was in 1999, or fifth-degree possession of marijuana, as Hill was in 2003, *unless they possessed one of the marijuana products not excepted from the offense statutes*. Compare Minn. Stat. § 152.025, subds. 1-2 (Supp. 2023) (fifth-degree sale and possession), *with id.*, subd. 1(1) (1998) (fifth-degree sale), *and id.*, subd. 2(1) (2002) (fifth-degree possession). We observe that the record available in this appeal does not contain information about the type of marijuana Hill possessed. It is therefore not possible on this record to determine whether Hill’s assertion—that the specific offenses of which he was convicted are “no longer crimes of violence”—is correct.

<sup>3</sup> It is clear that the district court did not consider this argument, and the state did not present a brief to address this question.