

*This opinion is nonprecedential except as provided by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
A24-0315**

Frank Joseph Peach, petitioner,
Appellant,

vs.

Commissioner of Public Safety,
Respondent.

**Filed September 23, 2024
Affirmed
Reilly, Judge***

Chisago County District Court
File No. 13-CV-23-516

Charles A. Ramsay, Daniel J. Koewler, Ramsay Law Firm, P.L.L.C., Roseville, Minnesota
(for appellant)

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Considered and decided by Cochran, Presiding Judge; Frisch, Judge; and Reilly,
Judge.

NONPRECEDENTIAL OPINION

REILLY, Judge

Appellant challenges the denial of his enrollment in the Minnesota Ignition Interlock
Device (IID) Program, arguing that the district court abused its discretion in concluding

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

that he is ineligible for the program because his driving privileges in Minnesota are cancelled due to the revocation of his driving privileges in Wisconsin. We affirm.

FACTS

Appellant Frank Peach has three Minnesota driving-while-impaired (DWI) convictions, obtained in 2001, 2008, and 2010. He also has a 2021 Wisconsin DWI conviction, which resulted in a “lifetime revocation” of his Wisconsin driving privileges because it was his fourth offense. He will have the right to apply for reinstatement of his Wisconsin driving privileges on October 19, 2031.

Respondent Minnesota Commissioner of Public Safety learned of appellant’s Wisconsin conviction and the loss of his Wisconsin driving privileges and subsequently revoked and cancelled his Minnesota driver’s license as “inimical to public safety” for three years, beginning on November 6, 2021. But appellant was not notified of the revocation and cancellation until March 8, 2023.¹

In 2023, appellant applied for a Minnesota driver’s license and began an application to enroll in the Minnesota IID program. His applications were denied because his driving privileges had been revoked in Wisconsin. He petitioned for judicial review, challenging only the denial of his application for enrollment in the IID program.

¹ The statutes and rules use the terms “cancellation,” “denial,” “revocation,” and “withdrawal” synonymously. *See, e.g.*, Minn. Stat. § 171.306, subd. 1(d)(1) (2022) (referring to a license having been “revoked, canceled, or denied”); Minn. R. 7410.5500 (2023) (referring to driving privileges having been “withdrawn”); Minn. R. 7503.1300 (2023) (headed “License Cancellation and Denial”). Similarly, the notice sent to appellant by the Department of Public Safety was headed “Notice of Revocation,” gave a “Reason for Withdrawal,” and referred to “other withdrawals on your record”). Except in direct quotations, this opinion will use the noun “revocation” and the verb “revoke.”

Following an implied-consent hearing and the submission of post-hearing memoranda of law, the district court issued an order sustaining the revocation of appellant's driving privileges and concluding that he is not eligible for enrollment in the IID program.²

DECISION

In an appeal from a district court's decision on license reinstatement under Minn. Stat. § 171.19 (2022), this court reviews the district court's application of the law de novo but defers to the district court's ability to weigh the evidence. *See Constans v. Comm'r of Pub. Safety*, 835 N.W.2d 518, 523 (Minn. App. 2013). In reviewing the commissioner's application of the law to given facts under Minn. Stat. § 171.19, the district court does not substitute its own judgment for that of the commissioner. *See Mechtel v. Comm'r of Pub. Safety*, 373 N.W.2d 832, 834-36 (Minn. App. 1985) (reversing a district court's decision because it substituted its own judgment for that of the commissioner).

Appellant's license was revoked under Minn. Stat. § 171.17, subd. 1(a)(9) (2020), which provides that "The department shall immediately revoke the license of a driver upon receiving a record of the driver's conviction of . . . an offense in another state that, if committed in this state, would be grounds for revoking the driver's license." It is

² In his memorandum to the district court, appellant for the first time raised due-process claims. The district court properly did not address these claims. *See State v. Brunes*, 383 N.W.2d 381, 386 (Minn. App. 1985) (stating that issues raised for first time in post-hearing memorandum will not be considered by the court of appeals), *rev. denied* (Minn. Oct. 11, 1985). We therefore do not address them on appeal because there is nothing for us to review. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (stating that appellate courts do not decide issues that have not been considered by the district court).

undisputed that appellant's 2021 Wisconsin offense, driving with a blood alcohol concentration (BAC) at or over .08, would be grounds for revoking his Minnesota driver's license under Minnesota law. *See* Minn. Stat. § 169A.20, subd. 1(5) (2020) (stating that it is a crime for anyone to drive with a BAC of or over .08); *see also* Minn. Stat. § 169A.54, subd. 1(5) (2020), (stating that ("the commissioner shall revoke the driver's license of a person convicted of violating section 169A.20 (driving while impaired) or an ordinance in conformity with it . . . [for] not less than three years for an offense occurring . . . after three qualified prior impaired driving incidents and with denial under section 171.04, subdivision 1, clause (10), until rehabilitation is established according to standards established by the commissioner").

Because appellant had three prior DWI offenses, under Wisconsin law he received a "lifetime" revocation of his driving privileges, and because appellant's driving privileges have been revoked in Wisconsin, he may not apply for a driver's license in Minnesota. *See* Minn. R. 7410.5500, subp 2 ("If an applicant's driving privileges are withdrawn in any other state and the applicant applies for a driver's license in Minnesota, then the applicant's driving privileges must be reinstated in all other states before the applicant is eligible for driving privileges in Minnesota . . .").

Furthermore, Minnesota law provides that:

(b) A person whose driver's license has been canceled or denied as a result of three or more qualified impaired driving incidents shall not be eligible for reinstatement of driving privileges without an ignition interlock restriction until the person:

. . . .

(2) has submitted verification of abstinence from alcohol and controlled substances . . . as evidenced by the person’s use of an [IID]

(c) The verification of abstinence must show that the person has abstained from the use of alcohol and controlled substances for a period of not less than:

(1) three years, for a person whose driver’s license was canceled or denied for an offense occurring . . . after three qualified prior impaired driving incidents

Minn. Stat. § 169A.55, subd. 4(b), (c)(1) (2022). But enrollment in the IID program is restricted to those whose license was revoked for violating the Minnesota statutes specified in Minn. Stat. § 171.306, subd. 4(c), (d) (2022). Appellant violated Minn. Stat. § 171.17, subd. 1(a)(9), which is not among the specified statutes. Thus, the district court did not err in concluding that “[u]nder the plain language of the statute [appellant] is not eligible for enrollment in the [IID] Program.”

Appellant argues that this is an “absurd” result because, if he had committed his fourth offense in Minnesota instead of in Wisconsin, he could enroll in IID. That may be true; persons who are convicted of a fourth Minnesota DWI offense are not necessarily convicted of violating Minn Stat. § 171.17, subd. 1(a)(9), and, if the statute they did violate is among those specified in Minn. Stat. § 171.306, subd. 4(c), (d) (listing those eligible for the IID program), they are eligible to enroll.

But it is also true that courts may presume the legislature does not intend an absurd result. Minn. Stat. § 645.17(1) (2022). The legislature’s determination that persons with outstanding license revocations in other states should not be allowed to obtain a Minnesota license through the IID program is not absurd. “[C]onvictions of another state should

generally be recognized in the forum state . . . [unless] strong public policy interests of the forum state provide sufficient reason to override the general rule of recognition.” *State v. Schmidt*, 712 N.W.2d 530, 537, 539 (Minn. 2006) (concluding that “Minnesota’s interest in preserving the . . . right [of drivers to obtain legal advice before deciding whether to submit to chemical testing] is not sufficient to prohibit the use of the South Dakota convictions to enhance . . . DWI offenses in Minnesota even though the South Dakota convictions were based on uncounseled test decisions”).

It is equally true that this court “cannot supply that which the legislature purposely omits or inadvertently overlooks.” *Martinco v. Hastings*, 122 N.W.2d 631, 638 (Minn. 1963). Thus, whether appellant would be entitled to enroll in IID if his fourth offense had been committed in Minnesota is irrelevant; his offense was committed in Wisconsin, is not included in Minn. Stat. § 171.306, subd. 4(c), (d), and this court cannot sua sponte include it.

Affirmed.