

*This opinion is nonprecedential except as provided by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
A24-0382**

Stacy Lee Osmundson, petitioner,
Appellant,

vs.

Commissioner of Public Safety,
Respondent.

**Filed October 21, 2024
Affirmed
Frisch, Judge**

Faribault County District Court
File No. 22-CV-23-572

Jacob M. Birkholz, Michelle K. Olsen, Birkholz & Associates, LLC, Mankato, Minnesota
(for appellant)

Keith Ellison, Attorney General, Matthew McGuire, Assistant Attorney General, St. Paul,
Minnesota (for respondent)

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

NONPRECEDENTIAL OPINION

FRISCH, Judge

Appellant challenges the district court's denial of his motion to reinstate his commercial driver's license (CDL), arguing that the district court abused its discretion by (1) declining to either expunge records of a vacated conviction held by the respondent Commissioner of Public Safety or order the commissioner to remove its record of that

conviction and (2) relying on that vacated conviction to sustain the revocation of his CDL. Because the district court lacked authority to expunge or direct expungement of records held by a separate branch of government and appellant pleaded guilty to and was convicted of another offense that is sufficient to sustain the revocation of his CDL, we affirm.

FACTS

Early in the morning on April 16, 2023, appellant Stacy Lee Osmundson drove his car into a neighbor's unattended car and left the scene of the collision. The neighbor reported the incident to police several hours later. No eyewitnesses saw the collision, but Osmundson's vehicle remained at the scene of the incident. At approximately 9:38 a.m., a police officer arrived at Osmundson's home and asked him about the collision. Osmundson initially denied his involvement in the collision, but he later admitted to the officer that he was driving his car, collided with his neighbor's car, and left the scene without notifying the neighbor of the collision.

The officer issued a citation charging Osmundson with leaving the scene of a collision with an unattended vehicle pursuant to Minn. Stat. § 169.09, subd. 4 (2022), which provides:

The driver of any motor vehicle involved in a collision shall immediately stop the vehicle at the scene of the collision . . . and reasonably investigate what was struck. If the driver knows or has reason to know the collision resulted in damage to any unattended vehicle, the driver must either locate and notify the driver or owner of the vehicle . . . , report this same information to a peace officer, or leave in a conspicuous place in or secured to the vehicle struck, a written notice giving the name and address of the driver and of the registered owner of the vehicle doing the striking.

Osmundson did not take any of the remedial measures set forth in the statute after the collision. On May 9, 2023, Osmundson pleaded guilty to colliding with an unattended vehicle in violation of Minn. Stat. § 169.09, subd. 4.

On May 9, 2023, the Minnesota Department of Public Safety, Driver and Vehicle Services Division (DVS), received notice of Osmundson's conviction and disqualified his commercial driving privileges. DVS issued a notice the next day informing Osmundson of the disqualification. This conviction was Osmundson's second "major offense" under 49 C.F.R. § 383.51 (2023), requiring the lifetime revocation of his CDL.

In June 2023, Osmundson moved to vacate his guilty plea and agreed to plead guilty instead to a violation of Minn. Stat. § 609.74(2) (2022), public nuisance. Osmundson acknowledged that he desired to vacate his initial plea to avoid collateral consequences affecting his CDL. The district court granted Osmundson's motion and accepted his guilty plea to misdemeanor public nuisance. In his plea colloquy, Osmundson attested to the same facts as in his initial plea colloquy for colliding with an unattended vehicle. The district court administrator thereafter petitioned DVS for reinstatement of Osmundson's CDL because the district court vacated the original conviction. DVS responded that it could not reinstate Osmundson's CDL because removing the collision-with-an-unattended-vehicle conviction from his record would constitute "masking," which is prohibited by federal regulations.¹

¹ 49 C.F.R. § 384.226 (2023) prohibits states from "masking convictions," providing:

The State must not mask, defer imposition of judgment, or allow an individual to enter into a diversion program that

In October 2023, Osmundson petitioned the district court to reinstate his CDL. After a hearing, the district court sustained the permanent revocation of Osmundson's CDL.

Osmundson appeals.

DECISION

Osmundson argues that he is entitled to reinstatement of his CDL because the revocation of his license by the commissioner is based on a since-vacated conviction for collision with an unattended vehicle and there is no other basis to sustain the revocation of his CDL.

“We review de novo the district court's application of the law, and defer to the district court's credibility determinations and ability to weigh the evidence.” *Constans v. Comm'r of Pub. Safety*, 835 N.W.2d 518, 523 (Minn. App. 2013) (citation omitted). “[W]e may reverse the commissioner's licensure determination if it was fraudulent, arbitrary, unreasonable, or not within its jurisdiction and powers.” *Pallas v. Comm'r of Pub. Safety*, 781 N.W.2d 163, 167 (Minn. App. 2010). The petitioner bears the burden of proving that they are entitled to reinstatement. *Constans*, 835 N.W.2d at 523. We will not reverse the district court's findings of fact “unless clearly erroneous.” *Thompson v. Comm'r of Pub.*

would prevent a . . . CDL holder's conviction for any violation, in any type of motor vehicle, of a State or local traffic control law (other than parking, vehicle weight, or vehicle defect violations) from appearing on the [Commercial Driver's License Information System] driver record, whether the driver was convicted for an offense committed in the State where the driver is licensed or another State.

Safety, 567 N.W.2d 280, 281 (Minn. App. 1997), *rev. denied* (Minn. Sept. 25, 1997). A finding is clearly erroneous if it is “manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole.” *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021).

Osmundson argues that the district court should have ordered the reinstatement of his CDL because the revocation of his CDL was based on a record of conviction held by the commissioner that should have been expunged when the district court vacated his conviction for colliding with an unattended vehicle. In other words, Osmundson argues that the commissioner’s licensure determination was improper to the extent it relied on the now vacated conviction. *Constans*, 835 N.W.2d at 523. But the district court correctly determined that because the record was held by a separate branch of government, the district court lacked authority either to expunge records held by the commissioner or order the expungement of records held by the commissioner.² *See Bergman v. Caulk*, 938 N.W.2d 248, 252 (Minn. 2020) (“[I]t is well-settled law that the sealing of judicial records under inherent authority simply does not reach those records that are held in the

² We note that Osmundson had the ability to directly request that the commissioner review its record when Osmundson received notice of his license disqualification. Minn. Stat. § 171.166, subd. 3 (2022). An individual subject to possible license disqualification can request reconsideration of the disqualification in writing to the commissioner within 30 days of receiving notice of the disqualification. *Id.*, subd. 3(a). The statute requires that the individual present evidence to demonstrate that the information upon which the commissioner relied is “incorrect or not applicable” to the individual’s disqualification. *Id.* The commissioner may set aside a disqualification if it determines that it erroneously relied on such information. *Id.*, subd. 3(b). But Osmundson did not avail himself of this remedy.

executive branch.”). We therefore discern no abuse of discretion by the district court in declining to order the requested relief.

Notwithstanding the existence of the commissioner’s records of conviction related to colliding with an unattended vehicle, we note that revocation of Osmundson’s CDL would also be justified following his plea of guilty to, and conviction of, public nuisance. Osmundson admitted during both plea colloquies that he collided with an unattended vehicle and then fled the scene of the accident without notifying the owner of the unattended vehicle. These facts constitute a disqualifying “major offense” of “leaving the scene of the accident” under 49 C.F.R. § 383.51 tbl.1(5). We note that the regulations do not specify any particular state law as a “major offense,” but instead set forth the nature of offenses that may result in disqualification. 49 C.F.R. § 383.51. Because Osmundson pleaded guilty to an offense where the underlying facts establish that he left the scene of an accident, and those facts amount to a major offense that may result in disqualification of a CDL, the commissioner properly revoked his CDL and the district court did not abuse its discretion in declining to order reinstatement.

Affirmed.