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**STATE OF MINNESOTA
IN COURT OF APPEALS
A13-0725**

In the Matter of the Application of
Jeremy Grant Rickert for a Change of Name to Robert Johnson.

**Filed January 13, 2014
Affirmed
Stoneburner, Judge**

Rice County District Court
File No. 66CV123055

Jeremy Grant Rickert, Faribault, Minnesota (pro se appellant)

Patrick J. Ciliberto, Scott County Attorney, Todd P. Zettler, Assistant County Attorney,
Shakopee, Minnesota (for respondent Scott County)

Kathleen Heaney, Sherburne County Attorney, Jennifer S. Pim, Assistant County
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Considered and decided by Hooten, Presiding Judge; Stoneburner, Judge; and
Hudson, Judge.

UNPUBLISHED OPINION

STONEBURNER, Judge

Appellant, a convicted felon, challenges the district court's denial of his application for a name-change under Minn. Stat. § 259.13 (2010). Because the district court did not abuse its discretion by concluding that appellant failed to prove by clear and convincing evidence that the requested name change will not compromise public safety, we affirm.

FACTS

Appellant Jeremy Grant Rickert is a convicted felon required to register as a predatory offender and was incarcerated at the time he filed an application in district court seeking to change his name to Robert Johnson, stating the reason for the request as “separation from family.” Rickert served the statutorily required notice of the application on the prosecuting authorities in Sherburne and Scott Counties, each of which had obtained convictions against him. Both counties objected to Rickert’s name-change application, expressing concern that the name change would compromise public safety by misleading the public and shielding information from interested enforcement agencies. Scott County also objected on the ground that Rickert’s name change was to defraud and mislead the court, employers, and his victim.

Rickert moved the district court for an order permitting his requested name change. In a supporting affidavit, Rickert stated that he was seeking the name change to dissociate his family from his crimes and that he had no spouse, children, or property. Rickert attested that he had no intent to defraud, mislead, or cause injury or harm to any person by changing his name; that his application was made in good faith; and that he did not believe that his name change would compromise public safety. In a memorandum supporting his motion, Rickert argued that granting the name change before he is released from prison would allow agencies time to update their records and that confusion was not a concern because most relevant agencies have procedures in place for name changes. He also argued that he has a constitutional right to change his name, citing free speech and the right to redress injuries or wrongs under the Minnesota Constitution.

At the motion hearing, the counties argued that Rickert's affidavit was not sufficient to meet his statutory burden of proving, by clear and convincing evidence, that his request was not based upon an intent to defraud or mislead, was made in good faith, would not cause injury to a person, and would not compromise public safety. The counties enumerated Rickert's convictions and asserted that the requested name, Robert Johnson, is such a common Minnesota name that granting the name change would obscure Rickert's criminal conduct and pose a risk to public safety. They also argued that the constitutional-infringement issue was irrelevant in this case and that Rickert's reason of wanting to avoid embarrassment to his family was without merit.

The district court denied Rickert's name change, finding that Rickert did not prove, by clear and convincing evidence, that his name change would not compromise public safety. The court stated that changing Rickert's name from a unique and recognizable name to Robert Johnson would mislead and confuse the public and public-safety agencies and that his desire to prevent embarrassment to his family "is not a compelling enough reason to overcome the burden of proving" that the name change will not impact public safety. This appeal followed.

D E C I S I O N

This court reviews the district court's decision to grant or deny a name change for an abuse of discretion. *In re Welfare of C.M.G.*, 516 N.W.2d 555, 561 (Minn. App. 1994). Minnesota Statute section 259.13 (2010) (felon-name-change statute) controls the process by which a convicted felon can seek a name change. A felon applying for a name change must give notice to the relevant prosecuting authority. Minn. Stat. § 259.13,

subd. 1(a). A prosecuting authority may object to the application on the basis that the request aims to defraud or mislead, is not made in good faith, will cause injury to a person, or will compromise public safety. *Id.*, subd. 2. Once a timely objection is filed, the district court may not grant the name change. *Id.* The applicant may contest the objection by filing a motion for an order permitting the name change, but unless denial of the name change would infringe on a constitutional right, “no name change shall be granted unless the person requesting it proves by clear and convincing evidence that the request is not based upon an intent to defraud or mislead, is made in good faith, will not cause injury to a person, and will not compromise public safety.” *Id.*, subs. 3 & 4.

Rickert argues that to arrive at its decision that he had not met his burden of proof under the felon-name-change statute, the district court (1) erroneously considered his prior convictions as propensity evidence; (2) failed to make specific findings regarding the impact of his name change on others; (3) erroneously considered arguments about the generic nature of the requested name made for the first time at the motion hearing; and (4) failed to address his constitutional rights. Rickert also makes a policy argument that, because he may change his name “via common law or in other jurisdictions, the interests of public safety are better served when inmates are allowed to change their names before release . . . and by assisting thorough notification of the name change.” We find no merit in any of these arguments.

I. Consideration of prior convictions

Rickert argues that the law surrounding the use of *Spreigl* evidence “is equally applicable in civil matters [because] the rules of evidence apply to all actions . . .

including change of name hearings.” *Spreigl* evidence is evidence of a defendant’s other crimes or bad acts and generally may not be admitted to prove the defendant’s character or that he acted in conformity with that character. *State v. Spreigl*, 272 Minn. 488, 496-97, 139 N.W.2d 167, 172-73 (1965); Minn. R. Evid. 404(b). But Rickert’s past crimes were not used in this case to prove character or that he acted in conformity with that character. The district court considered Rickert’s past crimes in its evaluation of whether he had satisfied his burden of proof, stating:

The Court finds that [Rickert] has not proven, by clear and convincing evidence, that the change of name will not compromise public safety. [Rickert] is convicted of a crime which requires registration as a predatory offender Changing [his] name to Robert Johnson . . . will cause confusion and mislead the public, and law enforcement agencies which are responsible for maintaining public safety.

Rickert’s objection to the district court’s consideration of his past crimes in this context is without merit.

II. Sufficiency of findings

Rickert asserts that the district court erred by failing to make specific findings as to the “undesirable impact” changing his name would have on others. The felon-name-change statute requires that the applicant prove, by clear and convincing evidence, each of four elements: (1) that the request is not based upon an intent to defraud or mislead; (2) that the request is made in good faith; (3) that the name change will not cause injury to a person; and (4) that the name change will not compromise public safety. Minn. Stat. § 259.13, subd. 3. If the applicant fails to prove any one of these four elements, the name change will not be granted, absent a constitutional basis.

Rickert's argument appears to be based on the misapprehension that his application was denied because he failed to prove that the name change will not cause injury to a person. But the district court found that Rickert failed to prove that the name change will not compromise public safety. There is no merit to Rickert's assertion that the district court's findings are insufficient.

III. Lack of notice of objection to commonness of desired name

Rickert claims that the district court should not have considered the arguments about the commonness of the name he selected because he was not given "fair notice" of the counties' objection to that name and an opportunity to select a different name. But Rickert did not make this argument in the district court, and the argument is waived on appeal. *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988).

IV. Constitutional argument

Rickert argues that denial of his application would infringe on his constitutional rights to free speech and the redress of injuries or wrongs¹ and that the district court erred by failing to address his constitutional arguments. Whether application of a statute infringes on a constitutional right is a question of law reviewed de novo. *Irongate Enters., Inc. v. Cnty. of St. Louis*, 736 N.W.2d 326, 332 (Minn. 2007). We construe the district court's silence as an implicit rejection of Rickert's constitutional arguments, and, because review is de novo, we conclude that remand for elaboration on this rejection is

¹ On appeal, Rickert also asserts an equal-protection right to the requested name change and seems to argue that the felon-name-change statute is unconstitutional, stating that "requiring each felonious applicant to prove they have a [c]onstitutional right is invalid." Because neither of these arguments was raised at the district court, they are waived. *Thiele*, 425 N.W.2d at 582.

not necessary. Rickert has provided no authority for his assertion of a free-speech right to change his name. All of the First Amendment cases he cites involve religious freedom. *See In re Simpkins*, 599 N.W.2d 170, 174 (Minn. App. 1999) (stating that the incarcerated appellant’s “religiously motivated adoption of a new name is . . . an exercise of his First Amendment right of freedom of religion” and directing the district court to accommodate the appellant’s appearance at a name-change-request hearing). Rickert acknowledges that he has no religious purpose for requesting his name change. We find no merit in Rickert’s claim that his free-speech rights are infringed by denying his name change.

Rickert also argues that he has a constitutional right to change his name to redress the harm that has come to his family by their association to his crimes, relying on Minn. Const. art. 1 § 8 and U.S. Const. amend. 1. He argues that denying a felon the right to change his name “also denies a ‘certain remedy’ to his family.” Rickert does not cite any authority to support the claim that these constitutional provisions afford him a right to change his name and, because he does not have standing to assert the right to redress on behalf of his family, we find no merit in this argument. *Kammueler v. Kammueler*, 672 N.W.2d 594, 599 (Minn. App. 2003) (“A person has no standing to make a constitutional challenge until he can show direct, personal harm from the alleged constitutional violation.”), *review denied* (Minn. Mar. 16, 2004).

V. Policy argument

Finally, Rickert asserts that the interests of public safety are better served by granting requested name changes to felons before they are released from prison because

there are other ways of assuming a new name. He argues that his effort to change his name according to the procedure prescribed in the felon-name-change statute demonstrates his good faith and intentions. But his alleged good faith does not meet his burden to prove that the name change will not compromise public safety, and because this court is limited in function to correcting errors, it cannot create public policy.

LaChapelle v. Mitten, 607 N.W.2d 151, 159 (Minn. App. 2000), *review denied* (Minn. May 16, 2000).

Affirmed.