STATE OF MINNESOTA

IN SUPREME COURT

A19-0627

Court of Appeals — Gildea, C.J.

Benjamin L. Tapia,

Appellant,

vs.

Dakota County Sheriff, Tim Leslie,

Respondent.

Filed: October 21, 2020
Office of Appellate Courts

Steven K. Budke, Leverson Budke, P.A., Eagan, Minnesota, for appellant.

James C. Backstrom, Dakota County Attorney, Helen R. Brosnahan, Assistant Dakota County Attorney, Hastings, Minnesota, for respondent.

S Y L L A B U S

1. A 2014 amendment that removed the offense of motor vehicle theft from the definition of "crime of violence" in Minn. Stat. § 624.712, subd. 5 (2018), applies to appellant's 2017 application for a permit to carry.

2. Appellant has established that he is entitled to a writ of mandamus ordering respondent to issue appellant a permit to carry.

Reversed; writ of mandamus issued.

O P I N I O N

GILDEA, Chief Justice.

The question in this case is whether appellant Benjamin Tapia, who was adjudicated delinquent for theft of a motor vehicle in 1998, is eligible to possess a firearm because the Legislature in 2014 removed that offense from the definition of "crime of violence" in Minn. Stat. § 624.712, subd. 5 (2018). Respondent Dakota County Sheriff voided Tapia's permit to carry a firearm upon learning of his 1998 adjudication. Tapia petitioned the Dakota County District Court for a writ of mandamus to order the Sheriff to issue a permit. The district court denied Tapia's petition and a divided court of appeals affirmed. Because the 2014 amendment applies to Tapia, we conclude that he is entitled to a permit. We further conclude that Tapia has satisfied all the requirements for a writ of mandamus. We therefore reverse the court of appeals and grant the petition for a writ of mandamus.

FACTS

This case arises out of the denial of a permit to carry a pistol. A brief discussion of Minnesota law regarding permits to carry is helpful to understanding the facts of this case. Minnesota residents may apply for a permit to carry with the sheriff of the county in which the applicant resides. Minn. Stat. § 624.714, subd. 2(a) (2018). Subject to exceptions not at issue here, the sheriff must issue a permit if the applicant meets certain requirements. *Id.*, subd. 2(b) (2018). One of these requirements is that the applicant must not be "prohibited from possessing a firearm under . . . section[] . . . 624.713." *Id.*, subd. 2(b)(4)(v). Section 624.713 makes certain people ineligible to possess a firearm ("an ineligible person"), including those who have been convicted or adjudicated delinquent of

a "crime of violence." Minn. Stat. § 624.713, subd. 1(2) (2018). "Crime of violence," in turn, is defined as a "felony conviction" of an offense listed "and an attempt to commit any of these offenses." Minn. Stat. § 624.712, subd. 5.

In 1998, Tapia was adjudicated delinquent of theft of a motor vehicle. At the time, this offense was included as a "crime of violence." Minn. Stat. § 624.712, subd. 5 (1996). In 2014, the Legislature removed theft of a motor vehicle from the definition of "crime of violence" ("the 2014 Amendment"). *See* Act of May 16, 2014, ch. 260, § 1, 2014 Minn. Laws 937, 937 (codified as amended at Minn. Stat. § 624.712, subd. 5 (2018)). In total, the 2014 Amendment added three crimes and removed three crimes from the definition of crime of violence. *Id.* The 2014 Amendment concludes by stating: "This section is effective August 1, 2014, and applies to crimes committed on or after that date." *Id.*

On March 21, 2017, Tapia applied to the Dakota County Sheriff's Office for a permit to carry a firearm. At this time, the Sheriff did not have access to juvenile records. On April 19, 2017, the Sheriff issued Tapia a permit. The following year, the Bureau of Criminal Apprehension granted the Sheriff access to juvenile records through its Gun Permit Background Check database. On July 17, 2018, the Sheriff sent Tapia a letter voiding his permit based on his 1998 juvenile adjudication.

Tapia petitioned for a writ of mandamus directing the Sheriff to issue a permit. The district court denied Tapia's petition and a divided court of appeals affirmed. *Tapia v. Leslie*, 939 N.W.2d 320 (Minn. App. 2020). The court of appeals interpreted the 2014 Amendment to mean "a crime that was removed from the list but occurred before August 1,

2014[] is still considered a crime of violence under the statutory scheme." *Id.* at 323. We granted Tapia's petition for review.

ANALYSIS

We must decide whether Tapia is entitled to a permit to carry a firearm. And if so, we must then determine whether Tapia is entitled to a writ of mandamus. We address each issue in turn.

I.

In order to determine whether Tapia is entitled to a carry permit, we need to interpret the 2014 Amendment. We review questions of statutory interpretation de novo. *State v. Haywood*, 886 N.W.2d 485, 488 (Minn. 2016). We "interpret statutory language to ascertain and effectuate the Legislature's intent." *State v. Bowen*, 921 N.W.2d 763, 765 (Minn. 2019) (internal quotation marks omitted); Minn. Stat. § 645.16 (2018). Our review begins by determining whether the statute, on its face, is ambiguous. *State v. Townsend*, 941 N.W.2d 108, 110 (Minn. 2020). A statute is ambiguous if it is subject to more than one reasonable interpretation. *Id.* If the Legislature's intent is apparent from the plain and unambiguous language of the statute, we do not engage in any further statutory construction. *Id.*

As we previously explained, whether Tapia meets the requirements to receive a permit to carry depends on whether Minn. Stat. § 624.713, subd. 1(2), prohibits him from possessing a firearm because he was adjudicated delinquent of a crime of violence. While theft of a motor vehicle was included in the definition of crime of violence in 1998 when Tapia was adjudicated delinquent for that offense, *see* Minn. Stat. § 624.712, subd. 5

(1996), the Legislature removed it from the definition in the 2014 Amendment. *See* Act of May 16, 2014, Ch. 260, § 1, 2014 Minn. Laws 937, 937 (codified at Minn. Stat. § 624.712, subd. 5 (2018)). Determining whether the 2014 Amendment applies to Tapia's 2017 application for a permit to carry requires us to interpret the effective date language of the 2014 Amendment, which reads as follows:

> This section is effective August 1, 2014, and applies to crimes committed on or after that date.

Id.

This language is unambiguous as it applies to Tapia. It states that the 2014 Amendment "is effective August 1, 2014." *Id*. Tapia applied for a permit in 2017. Thus, Tapia's application must be reviewed under the definition of "crime of violence" in effect at the time he applied. Because the definition does not include theft of a motor vehicle, Tapia is entitled to a permit.

In urging us to rule otherwise, the Sheriff asks us to focus only on the second part of the effective-date language: "and applies to crimes committed on or after [August 1, 2014]." *Id.* According to the Sheriff, Tapia cannot benefit from the 2014 Amendment because his "crime"—the 1998 juvenile adjudication—occurred before August 1, 2014. Essentially, the Sheriff interprets the word "crimes" in the effective-date provision to mean "crime of violence."[1] In other words, the Sheriff argues that to take advantage of the 2014

[1] Though not cited by the parties, some support for this reading may be found in a footnote in *State v. Martin*, 941 N.W.2d 119, 123 n.4 (Minn. 2020) (interpreting identical effective date language as applying to a predicate sexual assault offense and not the

Amendment, one has to commit a crime of violence on or *after* August 1, 2014.[2] We disagree.

In interpreting statutes, we "do not examine different provisions in isolation." *State v. Gaiovnik*, 794 N.W.2d 643, 647 (Minn. 2011). Rather, we read "words and sentences . . . in light of their context." *Id.* Context is especially important when interpreting a statutory amendment because an "amendment shall be construed as merging into the original law . . . and the remainder of the original enactment and the amendment shall be read together." Minn. Stat. § 645.31, subd. 1 (2018).

Here, the 2014 Amendment modifies a definition, "crime of violence," found in Minn. Stat. § 624.712, subd. 5. And the definition of crime of violence, like all of the definitions in section 624.712, applies to "sections 624.711 to 624.717." Minn. Stat. § 624.712, subd. 1. The "crimes" therefore that are referenced in the effective-date language are the crimes to which the definition applies. For example, in section 624.713,

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substantive failure-to-register offense). *Martin* is not helpful here, however, because the statutory issue we address in this case was not raised in *Martin*.

[2] The Sheriff also argues that the 2014 Amendment does not apply retroactively and thus cannot change the status of Tapia's 1998 adjudication. Tapia, however, does not argue that the 2014 Amendment retroactively applies to anything that occurred before the 2014 Amendment was enacted. Instead, he argues that the 2014 amendment applies to his current eligibility to possess a firearm. *See State v. Schluter*, 653 N.W.2d 787, 790–92 (Minn. App. 2002) (ruling that an amendment adding an offense to the "crime of violence" definition meant that people previously convicted of that offense became "ineligible persons," and that this revision was not an ex post facto violation because it merely changed the current "status" of felons), *rev. denied*, (Minn. Feb. 18, 2003). The Sheriff asks us to distinguish *Schluter* because it involved a criminal conviction for being an ineligible person in possession of a firearm, while Tapia's case is a civil case involving a permit to carry. Because the same statutes govern Schluter and Tapia's eligibility to possess firearms, the Sheriff's argument is unpersuasive.

it is a crime to possess a firearm if one is ineligible to do so. Minn. Stat. § 624.713, subd. 2 (listing penalties for felony and gross misdemeanor offenses). The amended definition of crime of violence applies to these possession crimes if they are committed on or after August 1, 2014.

The Sheriff's interpretation is unreasonable because it ignores the context of the statute. In the specific context of the statutes at issue here, the word "crimes" plainly refers to possession crimes and other crimes within sections 624.711-.717; it does not refer to crimes of violence. Accordingly, the effective-date language of the 2014 Amendment does not prohibit application of the new definition of crime of violence to persons convicted of a crime of violence before the effective date.[3]

The 2014 Amendment "is effective August 1, 2014." *See* Act of May 16, 2014, Ch. 260, § 1, 2014 Minn. Laws 937, 937. Tapia applied for a permit to carry in 2017, and we review his entitlement to a permit under the definition of crime of violence in effect at the time he applied for that permit. That definition does not include theft of a motor vehicle. We therefore hold that Minn. Stat. § 624.713 does not prohibit Tapia from possessing a firearm because subdivision 5 of section 624.712 no longer designates the offense for which he was adjudicated delinquent as a crime of violence.

[3] We recognize that the Legislature routinely uses effective date language similar to that used here in amending Minnesota statutes. The result here is driven by the statutory context of the 2014 Amendment, and we express no opinion on how similar language used in other contexts ought to be interpreted.

II.

We now turn to the issue of whether Tapia is entitled to a writ of mandamus directing the issuance of his permit to carry. We review de novo the decision on a writ of mandamus when the district court based that decision solely on a legal determination. *Madison Equities, Inc. v. Crockarell*, 889 N.W.2d 568, 571 (Minn. 2017).

The parties dispute what standard should govern the issuance of a writ in this case. Tapia points to a statute that allows persons "aggrieved by denial or revocation of a permit" to carry to petition for a writ of mandamus from the district court. Minn. Stat. § 624.714, subd. 12(a)–(b). Under that statute, the district court:

> must issue its writ of mandamus directing that the permit be issued . . . unless the sheriff establishes by clear and convincing evidence . . . that the applicant is disqualified [under subd. 2(b)] . . . or that there exists a substantial likelihood that the applicant is a danger to self or the public if authorized to carry a pistol under a permit.

Id., subd. 12(b) (the "12(b) standard").

The Sheriff points to *Madison Equities, Inc.* and argues that a writ is improper because Tapia has another "adequate legal remedy." 889 N.W.2d at 571. Under the standard discussed in *Madison Equities*,[4] a writ of mandamus is proper only if the petitioner can show that "(1) the [official] failed to perform an official duty clearly imposed by law, (2) which caused a public wrong specifically injurious to [petitioner], and (3) for which there is no other adequate legal remedy." *Id.* (internal quotation marks omitted).

[4] *Madison Equities* did not establish this standard, but we refer to it as the "*Madison Equities* standard" here for ease of reference.

Which standard to apply—the *Madison Equities* standard or the 12(b) standard—is an issue of first impression for our court, and the parties do not clearly address the question in their briefs. But we need not resolve this issue, because we conclude that Tapia is entitled to mandamus relief under both standards.

The Sheriff has challenged Tapia's qualification under the 12(b) standard only on the basis that Tapia is ineligible to possess a firearm under Minn. Stat. § 724.713. *See* Minn. Stat. § 624.714, subds. 2(b), 12(b). Because we determined that Tapia is not an ineligible person, we conclude that the Sheriff has not established that he is disqualified and that Tapia is entitled to a writ of mandamus under the 12(b) standard.

Tapia is also entitled to a writ of mandamus under the *Madison Equities* standard. Because Tapia is entitled to a permit to carry, the Sheriff failed to perform an official duty clearly imposed by law when he voided Tapia's permit. *See* Minn. Stat. § 624.714 subd. 2(b) (stating that the sheriff "*must* issue a permit to an applicant if the person" meets the statutory requirements (emphasis added)). Tapia was injured when the Sheriff voided his permit because he is prohibited from going certain places with a pistol without a permit. *See* Minn. Stat. § 624.714, subd. 1 (2018). The only element seriously at issue under the *Madison Equities* standard is whether Tapia has an adequate remedy at law.

The Sheriff asserts that Tapia has an adequate alternative remedy because he may petition a district court for restoration of his rights under Minn. Stat. § 609.165 subd. 1d (2018) (the "Restoration Process"). Under the Restoration Process, "person[s] prohibited by state law from" possessing a firearm may petition the court to restore their rights and "[t]he court *may* grant the relief sought if the person shows good cause to do so." *Id.*

(emphasis added). In support, the Sheriff submitted three restoration petitions in which persons similarly situated to Tapia successfully petitioned the district court for restoration. Nonetheless, the Restoration Process is an inadequate remedy for a number of reasons.

As a preliminary matter, the Restoration Process does not even apply to a person in Tapia's position. Tapia is no longer an ineligible person by virtue of the 2014 Amendment; thus, he is not a "person prohibited by state law" from possessing a firearm as required under the Restoration Process. *See* Minn. Stat. § 609.165, subd. 1d. The Restoration Process simply addresses a different situation; one in which the petitioner actually is prohibited from possessing a firearm. Because the Restoration Process does not apply to Tapia, it is not an adequate alternative to a writ of mandamus.

Moreover, the alternative relief must "actually compel the performance of the duty refused." *State ex rel. Minneapolis Threshing-Mach. Co. v. Dist. Ct. of Meeker Cnty.*, 79 N.W. 960, 962 (Minn. 1899). The Restoration Process does not compel the performance of the Sheriff's duty to issue a permit.

Madison Equities supports our conclusion that the Restoration Process is inadequate. In *Madison Equities*, we ruled that a motion to reconsider a district court's stay of judgment was an inadequate alternative to a writ of mandamus because there was "no guarantee that the district court would have granted Madison Equities leave to file the motion." 889 N.W.2d at 574. Similarly, the Restoration Process does not guarantee Tapia a permit because the statute gives the court discretion to deny the petition. *See* Minn. Stat. § 609.165 subd. 1d (stating that "[t]he court may grant the relief sought").

In sum, Tapia is entitled to a writ of mandamus under the 12(b) standard and under the *Madison Equities* standard. We therefore reverse the court of appeals and grant Tapia's petition for a writ of mandamus ordering the Dakota County Sheriff to issue Tapia a permit to carry.

CONCLUSION

For the foregoing reasons, we reverse the decision of the court of appeals and grant Tapia's petition for a writ of mandamus.

Reversed; writ of prohibition issued.