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Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A11-1916**

State of Minnesota,
Respondent,

vs.

Keith Allen Kiefer,
Appellant.

**Filed October 1, 2012
Affirmed
Halbrooks, Judge**

Sherburne County District Court
File No. 71-VB-10-4650

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Derek Archambault, Hawkins & Baumgartner, P.A., Anoka, Minnesota (for respondent)

Keith A. Kiefer, Anoka, Minnesota (pro se appellant)

Considered and decided by Halbrooks, Presiding Judge; Kalitowski, Judge; and
Hudson, Judge.

UNPUBLISHED OPINION

HALBROOKS, Judge

Appellant pro se challenges his conviction of misdemeanor driving after suspension, arguing that the district court denied him the opportunity to present a defense and that the evidence was insufficient to support the conviction. We affirm.

FACTS

On August 19, 2010, Sherburne County Deputies Nicole Stottlemyre and Josh Leet responded to a call about a parked van that appeared to be overloaded, with its bumper touching the ground. After Deputy Leet observed a prescription medication bottle through the window of the unoccupied van with appellant Keith Kiefer's name on it, the deputies checked the validity of Kiefer's driver's license and discovered that it was suspended. Deputies Stottlemyre and Leet waited for Kiefer to return to the van, observed him drive the van out of the parking lot, and initiated a traffic stop. They issued him a ticket for driving after suspension of his driver's license. Following a bench trial, the district court found Kiefer guilty as charged under Minn. Stat. § 171.24, subd. 1 (2010), and imposed the standard fine. This appeal follows.

DECISION

I.

Kiefer contends, without identifying what evidence was excluded, that the district court improperly excluded evidence that would have established his defense. Based on our review of the record, we agree with the state that this is a mischaracterization of what occurred at trial. Kiefer's argument is more accurately framed as a disagreement with the district court's findings of fact and conclusions of law.

The district court has broad discretion in determining the relevancy of evidence, and we review its evidentiary rulings for a clear abuse of that discretion. *State v. Schulz*, 691 N.W.2d 474, 477 (Minn. 2005). Evidence is relevant when it has "any tendency to make the existence of any fact that is of consequence to the determination of the action

more probable or less probable than it would be without the evidence.” Minn. R. Evid. 401.

Minn. Stat. § 171.24, subd. 1, provides:

[A] person is guilty of a misdemeanor if:

(1) the person’s driver’s license or driving privilege has been suspended;

(2) the person has been given notice of or reasonably should know of the suspension; and

(3) the person disobeys the order by operating in this state any motor vehicle, the operation of which requires a driver’s license, while the person’s license or privilege is suspended.

Minn. Stat. § 171.24, subd. 7(a) (2010), provides: “Notice of revocation, suspension, cancellation, or disqualification is sufficient if personally served, or if mailed by first class mail to the person’s last known address or to the address listed on the person’s driver’s license.”

Kiefer argued at trial that the “license department or another agency” made a mistake in suspending his license and that if he could prove that his license was wrongly suspended, then the criminal charge would fall as well. The district court explained to Kiefer the difference between the administrative process and the criminal process, stating that even if his license had been wrongly suspended, it was still a crime to drive with a suspended license. The district court further explained that any evidence of Kiefer’s driver’s license being mistakenly suspended, even if true, was not relevant because a mistake in suspension is not a defense to driving with a suspended driver’s license. Kiefer reasserts the same argument on appeal. Because wrongful suspension of a driver’s

license is not a defense to Minn. Stat. § 171.24, subd. 1, the district court did not abuse its discretion by excluding such evidence.

II.

Kiefer contends that “[d]ue [p]rocess requires all elements of law to be satisfied to support the conclusion, requires a fair and unbiased hearing, an impartial decision maker and a reasonable conclusion (without using beliefs / knowledge to support the decision).” The essence of this argument is that there was insufficient evidence to support the conviction.

The scope of our review is “limited to a painstaking analysis of the record,” as we view the evidence in the light most favorable to the conviction to determine whether there was sufficient evidence to permit the trier of fact to reach the verdict that it did. *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989). This court must assume that the trier of fact “believed the state’s witnesses and disbelieved any evidence to the contrary.” *State v. Moore*, 438 N.W.2d 101, 108 (Minn. 1989). This court will not disturb the verdict if the trier of fact could reasonably conclude that the defendant was guilty of the charged offense and acted with due regard for the presumption of innocence and the requirement of proof beyond a reasonable doubt. *Bernhardt v. State*, 684 N.W.2d 465, 476-77 (Minn. 2004).

The notification of the suspension of his license that was sent to Kiefer was admitted as a trial exhibit. The notification had Kiefer’s name on it, his correct mailing address, and his correct date of birth. The license number identified in the notification was K-160-465-051-080. After the notification was sent to Kiefer, his driver’s license

number was administratively changed to G697032872522. Therefore, Kiefer argues that he was not driving with a suspended license when he was stopped in 2010.

Kiefer's argument is without merit. The suspension notice sent to Kiefer stated: "Under the authority of and as directed by the laws of the state of Minnesota your Minnesota driver's license or privilege to operate a motor vehicle is hereby suspended effective 04-02-07." The basis for his suspension was unpaid fines. The withdrawal of Kiefer's privileges would continue until he received notice of their reinstatement from the Minnesota Department of Public Safety, which would occur after all of his fines were paid. In addition, the notice stated:

Once your driving privileges are under withdrawal, you may not drive again in Minnesota under any condition, including using a driver's license from another jurisdiction or a limited license from Minnesota issued for a previous withdrawal. When we have received verification that you have completed all reinstatement requirements, and you have received a notice of reinstatement from this department, you may drive in Minnesota.

The district court explained to Kiefer that even though the department changed its numbering system, his driving privileges were still suspended because he failed to satisfy the requirements for reinstatement. In addition, the district court observed that there was no evidence to indicate that Kiefer did not receive the notice. Although Kiefer disagrees with the district court's assessment of the evidence, there was sufficient evidence to support the conviction of driving after suspension.

Kiefer makes the additional argument that the maximum length of the suspension is one year, citing Minn. Stat. § 171.18, subd. 3(d) (2010), in support of his argument.

Because Kiefer did not raise this argument in the district court, it is waived. *Roby v. State*, 547 N.W.2d 354, 357 (Minn. 1996). But we will address the argument in the interest of justice. *See* Minn. R. Civ. App. P. 103.04 (providing that court may review issues in the interest of justice).

Kiefer correctly states that subdivision 3(d) of section 171.18 provides for a one-year limit on a suspension of a license, but the offenses governed by that section are not included in section 171.24, which governs this matter. Minn. Stat. § 171.18, subd. 1(a) (2010). Minn. Stat. § 171.16 (2010) governs the length of a suspension of a driver's license for failure to pay a fine. The length of the suspension for failure to pay the fine is either 30 days or until the commissioner is "notified by the court that the fine or surcharge . . . has been paid." Minn. Stat. § 171.16, subd. 3. The statute does not limit the length of the suspension if a person does not pay the fine. Because Kiefer had not paid the fine when he was cited, the suspension was still valid.

Affirmed.