

**IN THE COURT OF APPEALS OF IOWA**

No. 22-1890  
Filed March 27, 2024

**CHRISTOPHER JOHN BUCK,**  
Plaintiff-Appellant,

**vs.**

**IOWA DISTRICT COURT FOR GRUNDY COUNTY,**  
Defendant-Appellee.

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Certiorari to the Iowa District Court for Grundy County, Linda M. Fangman,  
Judge.

Christopher Buck challenges the denial of his application to modify sexual  
offender registration requirements. **WRIT SUSTAINED AND CASE REMANDED.**

Philip B. Mears of Mears Law Office, Iowa City, for appellant.

Brenna Bird, Attorney General, and Thomas J. Ogden, Assistant Attorney  
General, for appellee.

Considered by Greer, P.J., Badding, J., and Doyle, S.J.\*

\*Senior judge assigned by order pursuant to Iowa Code section 602.9206  
(2024).

**DOYLE, Senior Judge.**

The question presented in this certiorari action is whether the district court abused its discretion in denying Christopher Buck's application to modify a sex offender registration requirement. Because Buck is at low risk to reoffend and there is no substantial benefit to public safety in continuing his registration requirements, the district court abused its discretion in denying modification. We remand to the district court for entry of an order granting Buck's application.

**I. Background Facts and Proceedings.**

Buck must register as a sex offender based on offenses committed between 2001 and 2005. He was convicted and sentenced for those offenses in 2007, pleading guilty to three counts of assault with intent to commit sexual abuse, one count of lascivious acts with a child, and one count of indecent contact with a child. The court suspended Buck's sentences and imposed a special sentence of parole. It ordered Buck to complete the sex offender treatment program and lifetime registration as a sex offender.

In 2018, after discharging his sentences, Buck applied to modify his sex offender registration requirement under Iowa Code section 692A.128 (2018). The district court denied modification after a hearing, finding that Buck did not meet the threshold for modification. Buck appealed, and we treated his notice of appeal and brief as a petition for writ of certiorari. *State v. Buck*, No. 21-0129, 2022 WL 951067, at \*1 (Iowa Ct. App. Mar. 30, 2022). After granting the writ, we noted that the preparer of Buck's risk assessment report conceded his oversight in failing to state that Buck appeared to meet the threshold requirements for modification. *Id.* at \*1–2. We then considered whether the district court abused its discretion by

denying modification and noted that the focus of the modification hearing was on Buck's past crimes. *Id.* at \*2. Because that focus conflicts with a recently decided supreme court decision,<sup>1</sup> we remanded to allow the district court to consider Buck's application under that new guidance. *Id.* at \*2–3.

On remand, the district court denied Buck's application without a hearing. Buck moved the court to enlarge, amend, or vacate its ruling and testified at the hearing on the motion. In an expanded ruling, the district court found that Buck is a public safety risk to children because he is in a band that plays music at local coffee shops, festivals, and private parties where children are present:

Parents who allow their children to attend or work at local festivals, coffee shops or private parties have an interest in knowing that a person hired to perform has an offense against children in their background. The parents of the children attending these events benefit by getting notice of Mr. Buck's status so they can either choose to not allow their child to attend or work there or by watching them more closely. In small town Iowa there is a perceived sense of safety at the local coffee shop, summer festivals or private parties which might otherwise cause a parent to not be vigilant. Parents also may assume that a person providing music at these public events are "safe" or "trustworthy" and let down their guard. Notice to these parents provides the benefit of safety to those children.

The court determined that although Buck is a low risk to reoffend, there is still substantial benefit to public safety in continuing his registration requirements and again denied Buck's application.

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<sup>1</sup> After the district court denied modification, the Iowa Supreme Court issued its decision in *Fortune v. State*, 957 N.W.2d 696, 708 (Iowa 2021), which held that "consideration of the nature of the crime comes perilously close to punishment, an impermissible goal of the sex offender registration."

## II. Discussion.

Iowa Code section 692A.128(2) sets out the threshold requirements for modifying a sex offender registration requirement. “Once the initial threshold is met, the district court may grant modification.” *Fortune*, 957 N.W.2d at 703. Buck meets those threshold requirements, so we review the district court’s denial for abuse of discretion. *See id.* In ruling on an application to modify, the court looks at whether the applicant is a low risk to reoffend and whether preserving the registration requirement provides a substantial benefit to public safety. *See id.* at 706. In addressing public safety, general concerns are not enough; the court must tie the threat “to the individual applicant and the record established in each case.” *Id.* The question is whether registration will “provide a degree of control on the offender and provide information to the public.” *Id.* at 707. Punishment cannot be a motivation. *Id.* In a modification proceeding, the court abuses its discretion by (1) ignoring a relevant factor or (2) considering an improper or irrelevant factor. *Id.* “Where only proper factors have been considered, we find an abuse of discretion only where there is a clear error of judgment.” *Id.*

In the ruling denying Buck’s application, the district court noted that Buck met the threshold requirements for modification, which includes successful completion of the sex offender treatment program and a risk assessment finding he is a low risk to reoffend. The court mentions the age of Buck’s victims (preteen and teenage), his relationship to them when the abuse occurred (his stepchildren), and the timeframe in which the abuse occurred (a four-year period). It then notes that Buck is in a band that plays various venues during daytime and early evening hours. It also notes children are present at the venues, attending events or working

at the venue, and finds Buck is a public safety risk to them. It concludes by finding that although Buck is a low risk to reoffend, there is still a substantial benefit to public safety in continuing his registration requirements.

Buck contends the court failed to recognize several factors showing he is not a risk to reoffend. Along with completing the sex offender treatment program and the risk assessment that he is a low risk to reoffend, Buck notes that he successfully completed probation and parole and has incurred no criminal charges in the fifteen years since he was sentenced for his crimes. Buck has been employed with the same company for the past sixteen years, working as a field supervisor and foreperson. And he remarried eight years ago.

Buck also contends that his band activities do not present a significant public safety concern that justifies his continued registration as sex offender. The district court found this activity presents a public safety risk to the children attending any events at which Buck is playing music. But these concerns can be applied to any sex offender who is at times in an area where children are present. *Cf. Evan v. State*, No. 21-0904, 2022 WL 3907741, at \*4 (Iowa Ct. App. Aug. 31, 2022) (considering applicant's request to modify registry requirement so that he could spend unencumbered time with his children, ages twelve and fourteen, and their friends at home). They are not specific to Buck, whose probation officer approved the activity while he was on supervised release and ensured he complied with the law. He has continued to play these events without incurring any new criminal charges.

We turn, then, to the factors specific to Buck. The record shows that Buck pleaded guilty to offenses involving his former stepchildren. He divorced from their

mother in 2008. In 2015, Buck married again. Because he and his wife live alone in the home that they own, the scenario in which he offended no longer exists.

The record shows Buck has implemented other changes since he pleaded guilty to his offenses. Although he does not tie his offenses to substance abuse, the record reflects that he was abusing a prescription medication for at least two of the four years during which he committed his offenses. At the time of sentencing, he admitted that he was drinking alcohol every day and past use of marijuana, methamphetamine, and cocaine. A 2007 psychosexual assessment report indicates that Buck “demonstrated significant elevation on the substance Abuse Index, indicating his serious substance overuse issues,” and it recommended that he be regularly monitored for substance overuse “so that appropriate precautions can be quickly and effectively put into place if needed.” While he was on supervised release, Buck engaged in substance-abuse treatment. He testified that he has remained sober aside from a relapse in 2009 that he describes as a “one-time mistake.” His sobriety likely contributes to the increased stability in his life. His presentence investigation report shows that Buck tried a slew of jobs; in addition to serving in the military, Buck was employed as a computer operator, nurse, lumberjack, driver, and salesperson. In contrast, he has now worked for the same employer for sixteen years.

The record before us shows that Buck is at low risk to reoffend. Because there is no substantial benefit to public safety in continuing his registration requirements, the district court abused its discretion in denying Buck’s motion to

modify the sex offender registration requirement. We sustain the writ of certiorari and remand to the district court for entry of an order granting Buck's application.

**WRIT SUSTAINED AND CASE REMANDED.**