STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0154

Quality Companies, LLC,
Respondent,

vs.

Corey Lee Albertson, individually and d/b/a/ American Towing,
Appellant.

Filed August 19, 2019
Affirmed
Klaphake, Judge[*]

Hennepin County District Court
File No. 27-CV-17-17084

Erik F. Hansen, Kirk A. Tisher, Burns Hansen, P.A., Minneapolis, Minnesota (for respondent)

Matthew J. Bialick, Johnson Bialick Law Firm, Minnetonka, Minnesota (for appellant)

Considered and decided by Johnson, Presiding Judge; Hooten, Judge; and Klaphake, Judge.

[*] Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

U N P U B L I S H E D O P I N I O N

KLAPHAKE, Judge

In this appeal following a bench trial, appellant, an impound-lot operator, challenges a district court decision requiring appellant to return a vehicle to respondent, a commercial-vehicle-leasing company. Because the district court did not err by determining that appellant failed to comply with the notice requirements of Minnesota Statutes section 168B.06 (2018), we affirm.

D E C I S I O N

I. Standard of Review

This case arises on appeal following a bench trial in which the district court found in favor of respondent Quality Companies, LLC, which holds power of attorney to engage in various activities related to the truck at issue in this case, and against impound-lot operator, appellant Corey Lee Albertson. In an appeal from a bench trial, we review the district court's factual findings for clear error. Minn. R. Civ. P. 52.01. Findings of fact are clearly erroneous if they are not reasonably supported by the evidence and the reviewing court is "left with the definite and firm conviction that a mistake has been made." *Gjovik v. Strope*, 401 N.W.2d 664, 667 (Minn. 1987). On appeal, we review the evidence in the light most favorable to the district court's factual findings and defer to the district court's opportunity to assess witness credibility. *Prahl v. Prahl*, 627 N.W.2d 698, 702 (Minn. App. 2001). But we review de novo a district court's conclusions of law, including the

interpretation of statutes. *Valspar Refinish, Inc. v. Gaylord's, Inc.*, 764 N.W.2d 359, 364 (Minn. 2009); *Modrow v. JP Foodservice, Inc*., 656 N.W.2d 389, 393 (Minn. 2003).

II. Legal and Statutory Framework

The issue presented on appeal is whether appellant provided adequate statutory notice to respondent under Minnesota Statutes chapter 168B. This chapter regulates the treatment of abandoned motor vehicles and articulates the rights and responsibilities afforded to impound-lot operators who engage in impounding or storing abandoned vehicles. *See* Minn. Stat. §§ 168B.01 to .16 (2018). An "impound-lot operator" is "a person who engages in impounding or storing, usually temporarily, unauthorized or abandoned vehicles." Minn. Stat. § 168B.011, subd. 8.

After impoundment, the operator "must inform the registered owner within five days that the vehicle has been taken and may be reclaimed by paying all towing and storage fees." *Everything Etched, Inc. v. Shakopee Towing, Inc*., 634 N.W.2d 450, 453-54 (Minn. App. 2001) (citing Minn. Stat. §§ 168B.06, subd. 1, .07, subd. 1). The notice must set forth the date and place of the taking, provide identifying information for the vehicle, inform the vehicle owner of the right to reclaim the vehicle upon paying the associated fees, advise the owner that failure to reclaim the vehicle may constitute waiver, and state that the owner has the right to retrieve personal property from the vehicle without charge. Minn. Stat. § 168B.06, subd. 1(b). The notice "shall be sent by mail to the registered owner . . . of an impounded vehicle." *Id*., subd. 2. "If it is impossible to determine with reasonable certainty the identity and address of the registered owner . . . the notice shall be published once in a newspaper of general circulation in the area where the motor vehicle was towed

from or abandoned." *Id*. If the owner fails to respond to the notice within 45 days, an impound-lot operator may dispose of the vehicle and its contents. Minn. Stat. §§ 168B.051, subd. 2 (providing that a vehicle impounded at a private impound lot is eligible for disposal or sale under section 168B.08, 45 days after notice to the owner), 168B.08, subd. 1(a) ("If an abandoned or unauthorized vehicle taken into custody by . . . any impound lot is not reclaimed under section 168B.07, subdivision 1, it may be disposed of or sold at auction or sale when eligible pursuant to sections 168B.06 and 168B.07.").

III. Appellant's Failure to Comply with Minn. Stat. § 168B.06

In May 2017, appellant towed an abandoned truck to an impound lot. The truck carried Indiana license plates and featured respondent's name, address, phone number, and business description on its mud flaps. Respondent held power of attorney to service the truck and was responsible for handling all matters related to the truck. Appellant searched the State of Minnesota Department of Public Safety database (the DPS) in an effort to identify the truck's owner. When the DPS search revealed that the truck was not titled in Minnesota, appellant published notice of impoundment in June 2017, in a paper of general circulation in the area. Appellant did not attempt to locate the owner through the Indiana Bureau of Motor Vehicles or provide notice to respondent. In August 2017, appellant purported to transfer ownership of the truck to himself, and submitted a title application for the truck to the DPS. Respondent filed a declaratory judgment action alleging that appellant failed to comply with the notice requirements of chapter 168B. Following a bench trial, the district court determined that respondent was entitled to possession of the truck and that appellant had no interest in, or right to possession of, the truck.

On appeal, appellant argues that he is the lawful owner of the truck because he published notice of impoundment under Minn. Stat. § 168B.06, and respondent failed to reclaim the truck. This argument presents a question of statutory interpretation, which we review de novo. *Staab v. Diocese of St. Cloud*, 853 N.W.2d 713, 716 (Minn. 2014). The object of statutory interpretation is to "ascertain and effectuate the intention of the legislature." Minn. Stat. § 645.16 (2018); *see also Linn v. BCBSM, Inc.*, 905 N.W.2d 497, 501 (Minn. 2018). We apply the plain meaning of a statutory provision if the legislative intent "is clear from the unambiguous language of the statute." *Staab*, 853 N.W.2d at 716-17. We also "give effect to all of the statute's provisions," and "no word, phrase, or sentence should be deemed superfluous, void, or insignificant." *Allan v. R.D. Offutt Co.*, 869 N.W.2d 31, 33 (Minn. 2015) (quotation omitted). "We construe nontechnical words and phrases according to their plain and ordinary meanings" and "look to dictionary definitions to determine the plain meanings of words." *Larson v. Nw. Mut. Life Ins. Co.*, 855 N.W.2d 293, 301 (Minn. 2014).

Here, the relevant statute provides that:

> When an impounded vehicle is taken into custody, the . . . impound lot operator taking it into custody shall give written notice of the taking within five days . . . to the registered vehicle owner and any lienholders.
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> . . .
>
> The notice shall be sent by mail to the registered owner, if any, of an impounded vehicle and to all readily identifiable lienholders of record. The department shall make this information available to impound lot operators for notification purposes. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and

> all lienholders, the notice shall be published once in a newspaper of general circulation in the area where the motor vehicle was towed from or abandoned.

Minn. Stat. § 168B.06, subds. 1(a), 2.

Appellant urges this court to adopt a bright-line rule that it is statutorily "impossible" to determine the identity of a vehicle owner with reasonable certainty where the owner cannot be identified through the DPS database. The plain language of the statute does not support appellant's interpretation. The statute allows for notice by publication only "[i]f it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lienholders." *Id*., subd. 2. The statute does not state that it is impossible to identify an owner when the owner is not listed in the DPS, and we reject appellant's attempt to modify the plain language of the statute by reading in a reference to the DPS where it does not exist. Such an interpretation would add language to the statute that the legislature either intentionally or inadvertently omitted. *See Rohmiller v. Hart*, 811 N.W.2d 585, 590 (Minn. 2012) ("We cannot add words or meaning to a statute that were intentionally or inadvertently omitted."). The plain language of the statute does not compel a conclusion that the legislature intended the DPS to be the only avenue to identify an owner with reasonable certainty. Had they so intended, the legislature could have drafted subdivision 2 to reflect that understanding. As this court does not add language to a statute that the legislature omitted, we determine, under our de novo review, that an impound-lot operator's inability to find a vehicle owner through the DPS does not render the task per se impossible.

Instead, the statute creates a factual inquiry into whether it was possible for appellant to determine the vehicle owner with reasonable certainty. The Minnesota Supreme Court recognizes that:

> the sufficiency of the notification remains for resolution by the factfinder—usually the jury. Evidence of actions relative to that determination include the nature and extent of the efforts of the possessor to locate and provide personal notification to the owner; and, failing in such efforts to provide personal notification, the nature, extent, and reasonableness of the possessor's efforts to provide the owner notification of his rights by publication.

Kampsen v. County of Kandiyohi, 441 N.W.2d 103, 106 (Minn. 1989).

Under *Kampsen*, it is within the province of the fact-finder to determine whether appellant could have identified the truck owner with reasonable certainty. *Id.* "In an appeal from a bench trial, we do not reconcile conflicting evidence." *Porch v. Gen. Motors Acceptance Corp.*, 642 N.W.2d 473, 477 (Minn. App. 2002), *review denied* (Minn. June 26, 2002). We review the evidence in the light most favorable to the district court's factual findings and defer to the district court's opportunity to assess the credibility of the witnesses. *Prahl*, 627 N.W.2d at 702.

Here, the district court found that it was not impossible for appellant to identify the truck owner. The district court found that appellant did not attempt to contact respondent directly, even though the company's name, phone number, and address were "prominently displayed on the mud flaps." Instead, appellant ran a search through the DPS database, which only searches for vehicles registered in Minnesota. The DPS search revealed that the truck was not titled or plated in Minnesota. Appellant was not surprised by this result,

given that the truck carried Indiana plates and was unlikely to be identified through the DPS. Appellant did not attempt to contact the Indiana Bureau of Motor Vehicles to identify the truck's owner. Based on these facts, the district court determined that appellant did not satisfy his statutory obligation to identify the vehicle owner and provide notice of impoundment. The district court's factual findings are reasonably supported by the record evidence and are not clearly erroneous. We therefore affirm.

Affirmed.