STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0193

State of Minnesota,
Respondent,

vs.

William Edward Hunt,
Appellant.

Filed January 13, 2020
Affirmed
Hooten, Judge

Scott County District Court
File No. 70-CR-17-6339

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Ronald Hocevar, Scott County Attorney, Todd P. Zettler, Assistant County Attorney, Shakopee, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Charles F. Clippert, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Hooten, Presiding Judge; Smith, Tracy M., Judge; and

Smith, John, 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

HOOTEN, Judge

In this direct appeal from final judgment, appellant argues that his conviction for driving after cancelation as inimical to public safety violates his constitutional right to interstate travel. We affirm.

FACTS

In February 2015, appellant William Hunt's driving privileges were canceled as inimical to public safety by the state. And yet, early in the morning on April 4, 2017, an officer of the Shakopee police department pulled Hunt over as he was driving on County Road 16. The officer recognized Hunt's car as one he previously saw parked in a Walmart parking lot. The license plate of the parked car had generated an alert on the officer's license plate reader that informed the officer that the driver's license of the owner of the car was canceled. After pulling Hunt over, the officer approached Hunt's car on the passenger's side and asked to see his license and registration. Hunt lowered his window only a few inches and informed the officer that he was not engaged in commerce, but was only traveling, and therefore he was not required to hold a driver's license. Hunt was arrested and charged with one count of driving after cancelation as inimical to public safety under Minn. Stat. § 171.24, subd. 5 (2016).

An omnibus hearing was held on July 27, 2017. Hunt, who discharged his appointed public defender and proceeded pro se, was given until August 18, 2017, to file any motions in the matter. Subsequently, Hunt filed a motion to dismiss for lack of jurisdiction, lack of probable cause, and the unconstitutionality of license plate readers on September 8, 2017.

A hearing was held on October 10, 2017, after which the district court denied Hunt's motion to dismiss on the merits.

The jury found Hunt guilty of driving after cancelation. Hunt petitioned the district court for a new trial notwithstanding the verdict because, among other reasons, Hunt "was denied his Constitutional Right to travel upon the public highways by automobile." The district court denied Hunt's motion for a new trial. Hunt was sentenced to four days. The district court stayed execution of Hunt's sentence and imposed probation for two years.

This appeal followed.

D E C I S I O N

Hunt asserts that his conviction under Minn. Stat. § 171.24, subd. 5, for driving after cancelation as inimical to public safety violates his constitutional right to engage in interstate travel. For the reasons as set forth below, we hold that Hunt has failed to demonstrate that Minn. Stat. § 171.24, subd. 5, or indeed any provision of the driver's licensing statutes, places an unconstitutional burden on the right of a citizen to travel between, or within, the states.

In a constitutional challenge, the interpretation of a statute is a question of law reviewed de novo. *In re Blilie*, 494 N.W.2d 877, 881 (Minn. 1993). Reviewing courts presume that duly enacted Minnesota statutes are "constitutional and will only strike down statutes as unconstitutional when absolutely necessary." *Schatz v. Interfaith Care Ctr.*, 811 N.W.2d 643, 653–54 (Minn. 2012). The party challenging the constitutionality of a statute has the burden of demonstrating beyond a reasonable doubt that the statute is unconstitutional. *In re Haggerty*, 448 N.W.2d 363, 364 (Minn. 1989).

A fundamental right to interstate travel exists under the federal constitution. *United States v. Guest*, 383 U.S. 745, 759, 86 S. Ct. 1170, 1179 (1966). Minnesota also recognizes the right to intrastate travel. *State v. Stallman*, 519 N.W.2d 903, 906–07 (Minn. App. 1994). For a statute to impermissibly burden the right to travel, it must affect one of the three components of the right to travel:

> (1) The right of a citizen of one state to enter and to leave another State, (2) the right to be treated as a welcome visitor rather than an unfriendly alien when temporarily present in the second State, and, (3) for those travelers who elect to become permanent residents, the right to be treated like other citizens of that State.

Schatz, 811 N.W.2d at 654 (emphasis omitted) (citing *Saenz v. Roe*, 526 U.S. 489, 500, 119 S. Ct. 1518, 1525 (1999)).

A statute burdens the right to travel if: (1) the statute actually deters travel; (2) impeding travel is the statute's primary objective; or (3) the statute uses any classification which serves to penalize the exercise of the right to travel. *Mitchell v. Steffen*, 504 N.W.2d 198, 200 (Minn. 1993) (citing *Attorney Gen. of N.Y. v. Soto-Lopez*, 476 U.S. 898, 903, 106 S. Ct. 2317, 2321 (1986)). States are free to license drivers in order to "insure competence and care on the part of its licensees and to protect others using the highway." *Reitz v. Mealey*, 314 U.S. 33, 36, 62 S. Ct. 24, 26–27 (1941), *overruled in part by Perez v. Campbell*, 402 U.S. 637, 650–52, 91 S. Ct. 1704, 1711–12 (1971) (holding that states may regulate automobile travel where the state regulations do not conflict with the supremacy clause). Therefore, a statute does not implicate the right to travel if the state statute limits the mode that a person is entitled to travel without unconstitutionally burdening his or her

right to travel. *State v. Cuypers*, 559 N.W.2d 435, 437 (Minn. App. 1997) (holding Minnesota's mandatory automobile insurance statute does not burden an individual's right to travel as an individual may still travel by bicycle, bus, train, or air).

Minn. Stat. § 171.24, subd. 5, provides that an individual is guilty of a gross misdemeanor if: (1) the individual's driver's license has been canceled by the commissioner based on a determination that there is good cause to believe that the individual's continued operation of a vehicle would be inimical to public safety or welfare; (2) the individual has been given notice of, or reasonably should know of the cancellation; and (3) the individual still operates a motor vehicle without a driver's license in this state. Minn. Stat. § 171.24, subd. 5; Minn. Stat. § 171.04, subd. 1(10) (2018) (listing the circumstances whereby an individual is ineligible to maintain a driver's license). Hunt's license was canceled in 2015 after the commissioner determined his continued operation of a motor vehicle on public highways would be inimical to public safety or welfare, and it had not been reinstated at the time of his arrest.

The ability for an individual to operate a motor vehicle upon a public highway is a privilege granted by the state and is not imbedded within the concept of a constitutional right to travel. *Anderson v. Comm'r of Highways*, 126 N.W.2d 778, 784 (Minn. 1964). Instead, the enjoyment of this privilege depends upon an individual's compliance with conditions prescribed by law—including maintaining a valid driver's license. *See* Minn. Stat. § 171.02, subd. 1(a) (2018) (stating that a person shall not drive a motor vehicle upon a street or highway unless the person has a valid license). Minn. Stat. § 171.24, subd. 5,

merely ascribes a criminal consequence for continuing to drive a motor vehicle when the state has validly stripped an individual of this privilege for failing to abide by the law.

Minn. Stat. § 171.24, subd. 5, does not place an unconstitutional burden on Hunt's right to travel because: (1) the statute does not actually deter travel—instead it merely limits one method of travel; (2) the statute's primary objective likely is not to impede interstate travel but to regulate the ability of an individual to operate a motor vehicle in the interest of public safety and welfare; and (3) the statute does not establish any invidious classification system that impinges on an individual's right to travel but for the establishment of a criminal consequence for driving with a canceled license. *See, e.g.*, *Anderson*, 126 N.W.2d at 784 (stating that "[p]ermission to operate a motor vehicle upon the public highways is not embraced within the term 'civil rights'" and its enjoyment depends upon compliance with conditions prescribed by law); *Cuypers*, 559 N.W.2d at 437 (holding that Minnesota's mandatory automobile insurance statute did not impermissibly burden the right to interstate travel).

Hunt has failed to meet his burden of establishing beyond a reasonable doubt that Minn. Stat. § 171.24, subd. 5, impermissibly burdens his constitutional right to travel.[1]

[1] Hunt makes three other arguments in his pro se brief: (1) the use of an automatic license plate reader by police is an illegal and unconstitutional search; (2) a juror improperly remained on the jury after Hunt asked for the juror to be removed; and (3) Hunt was prevented by the judge from presenting relevant case law in the form of an article from an internet website entitled "The Real Truth, What Are They Hiding??" However, Hunt fails to adequately support his allegations of wrongdoing by the court with any relevant caselaw or legal analysis. Appellate courts decline to reach issues that are inadequately briefed. *State, Dep't of Labor & Indus. v. Wintz Parcel Drivers, Inc.*, 558 N.W.2d 480, 480 (Minn. 1997); *see In re Civil Commitment of Kropp*, 895 N.W.2d 647, 653 (Minn. App. 2017)

Hunt acknowledges that permission to drive a vehicle on a public road is a privilege that the state may regulate and that provisions of Minnesota's motor vehicle code continually have been held constitutional. Nevertheless, Hunt asks this court to recognize a broad right to travel means he does not need a driver's license to drive when he is not "engaged in commerce." And yet, Hunt acknowledges that "only the [United States] Supreme Court may overrule one of its own decisions," *State v. Brist*, 812 N.W.2d 51, 56 (Minn. 2012), and as an error-correcting court, this court is not authorized to change or extend the law. *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988). Accordingly, the district court did not err when it convicted Hunt of one count of violating Minn. Stat. § 171.24, subd. 5.

Affirmed.

(applying this aspect of *Wintz*), *review denied* (Minn. June 20, 2017). Thus, we decline to address these issues.