STATE OF MINNESOTA
IN COURT OF APPEALS
A20-1553

Emmett Albert Ted Knouse,
Appellant,

vs.

Cory Aukes, Hubbard County Sheriff,
Respondent.

Filed July 26, 2021
Affirmed
Slieter, Judge

Hubbard County District Court
File No. 29-CV-20-68

B. Joseph Majors, II, Park Rapids, Minnesota (for appellant)

Jonathan Frieden, Hubbard County Attorney, Park Rapids, Minnesota (for respondent)

Considered and decided by Reilly, Presiding Judge; Slieter, Judge; and Bryan, Judge.

NONPRECEDENTIAL OPINION

SLIETER, Judge

Following the district court's order suppressing evidence obtained from the unlawful search of appellant Emmett Albert Ted Knouse's residence and its curtilage, which had resulted in the seizure of appellant's truck, appellant brought an action for declaratory judgment in district court to recover possession of the truck. The district court granted respondent summary-judgment dismissal of appellant's complaint, concluding that

it lacked jurisdiction over the proceeding because appellant had not timely sought judicial review of the seizure and forfeiture pursuant to Minn. Stat. § 169A.63, subd. 8(e) (2020). Because Minn. Stat. § 169A.63, subd. 8(f) (2020), precludes any other "action for the return of a vehicle seized under this section . . . unless the person complies with [subdivision 8]" and appellant did not timely seek judicial review of the forfeiture pursuant to subdivision 8, the district court's dismissal of appellant's declaratory-judgment action was proper, and we therefore affirm.

FACTS

Pursuant to an investigation of a suspected hit-and-run involving appellant's truck, a Hubbard County sheriff's deputy arrived at appellant's residence. Upon observing the involved truck, the sheriff's deputy arrested appellant for second-degree driving under the influence of alcohol. Law enforcement served appellant with a "Notice of Seizure and Intent to Forfeit Vehicle," indicating appellant's Ford F-150 truck "was seized" and that appellant "will automatically lose the [vehicle] and the right to be heard in court if [he did] not file a lawsuit and serve the prosecuting authority within 60 days." This notice was served on January 8, 2019, and law enforcement seized the vehicle the same day.

In June 2019, the district court in the criminal proceeding ruled that the search of appellant's home and curtilage was unlawful and granted appellant's motion to suppress evidence, including appellant's truck, obtained in the search. Following the dismissal of two counts of driving under the influence, appellant pleaded guilty to one count of driving after cancellation as inimical to public safety in December 2019.

In January 2020—approximately one year after receiving notice of the county's intent to seize and forfeit the vehicle—appellant filed a civil complaint in district court seeking a declaratory judgment declaring that, due to its illegal seizure, he was the owner of the truck. The district court granted respondent's motion for summary judgment. This appeal follows.

DECISION

"[Appellate courts] review a district court's summary judgment decision de novo. In doing so, [appellate courts] determine whether the district court properly applied the law and whether there are genuine issues of material fact that preclude summary judgment." *See Riverview Muir Doran, LLC v. JADT Dev. Grp., LLC*, 790 N.W.2d 167, 170 (Minn. 2010) (citation omitted).

The district court concluded that "no genuine issue of material fact exists" because appellant did not "strictly comply" with Minn. Stat. § 169A.63, subd. 8(e), which requires that "a demand for a judicial determination of the forfeiture" be filed in district court "[w]ithin 60 days following service of a notice of seizure and forfeiture." The district court, citing *Garde v. One 1992 Ford Explorer XLT*, 662 N.W.2d 165 (Minn. App. 2003), determined that appellant's "action [was] time barred" and therefore it "lack[ed] jurisdiction to hear [appellant's] claim." *Id.* at 167. For reasons described below, we conclude that the district court properly dismissed the complaint.

The Minnesota Supreme Court has recognized that Minn. Stat. § 169A.63, subd. 8(e), "unambiguously requires the timely filing of a petition for judicial determination to challenge the forfeiture of a vehicle." *Briles v. 2013 GMC Terrain*,

907 N.W.2d 628, 632 (Minn. 2018). Failure to file a complaint challenging the forfeiture within the 60-day period set forth in the statute renders a complaint untimely. *Id.*

Appellant argues that, because he brought a declaratory-judgment action seeking the return of his vehicle and not a judicial determination of forfeiture pursuant to Minn. Stat. § 169A.63 (2020), the district court erred in dismissing his complaint. Appellant argues that decisions of the supreme court and this court requiring a timely petition for judicial determination of forfeiture do not foreclose his declaratory-judgment action because, unlike the facts in those cases, his truck was determined to have been illegally seized pursuant to Minn. Stat. § 169A.63, subd. 2(b)(1). *See Briles*, 907 N.W.2d at 632; *Garde*, 662 N.W.2d at 167. We are not persuaded.

It is true that the "appropriate agency" may only seize a vehicle if "incident to a lawful arrest or a lawful search." Minn. Stat. § 169A.63, subd. 2(b)(1); *Mycka v. 2003 GMC Envoy*, 783 N.W.2d 234, 239 (Minn. App. 2010) (reversing district court's order of forfeiture when seizure of vehicle was not incident to lawful arrest). And the district court in appellant's criminal case determined that the seizure was not incident to a lawful search.

These facts, however, do not change the unambiguous language of the vehicle-forfeiture statute, which states, *"[n]otwithstanding any law to the contrary*, an action for the return of a vehicle seized under this section may not be maintained by or on behalf of any person who has been served with a notice of seizure and forfeiture *unless the person has complied with this subdivision*." Minn. Stat. § 169A.63, subd. 8(f) (emphasis added). Appellant's exclusive remedy for the review of the seizure and forfeiture of his truck was Minn. Stat. § 169A.63. There is no dispute that appellant had been served with a notice of

seizure and forfeiture, and that appellant did not seek judicial review of the forfeiture within the period specified by Minn. Stat. § 169A.63, subd. 8(e). Appellant therefore did not comply with the statute and the court properly granted summary judgment.

Affirmed.