

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0073**

State of Minnesota,
Respondent,

vs.

Michael Anthony Ramirez, Sr.,
Appellant.

**Filed August 23, 2021
Affirmed
Bryan, Judge**

Brown County District Court
File No. 08-CR-13-991

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

Charles W. Hanson, Brown County Attorney, Andrea J. Lieser, Assistant County Attorney,
New Ulm, Minnesota (for respondent)

Steven P. Groschen, Madeline K. Baskfield, Kohlmeyer Hagen Law Office, Mankato,
Minnesota (for appellant)

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

NONPRECEDENTIAL OPINION

BRYAN, Judge

In this appeal from the district court's order denying appellant's petition to restore his right to possess firearms, appellant argues that the district court erred in concluding that

he failed to show good cause to restore this right. Because the district court did not abuse its discretion when it denied appellant's petition, we affirm.

FACTS

On October 23, 2006, appellant Michael Anthony Ramirez, Sr., pleaded guilty to and was convicted of first-degree drug sale, in violation of Minnesota Statutes section 152.021, subdivision 1(1) (2006), resulting in an 80-month prison sentence. This felony conviction is considered a "crime of violence," *see* Minn. Stat. § 624.712, subd. 5 (2006), and therefore made Ramirez ineligible to possess firearms or ammunition under Minnesota Statutes section 609.165, subdivision 1a (2006). Ramirez was discharged from supervised release on May 9, 2013. Approximately six months later, on November 6, 2013, Ramirez was charged with fifth-degree drug possession in violation of Minnesota Statutes section 152.025, subdivision 2(b)(1) (2012). In November 2014, Ramirez was convicted of that offense. This felony conviction is also considered a "crime of violence." *See* Minn. Stat. § 624.712, subd. 5 (2014). Ramirez was placed on probation for this offense for a term of ten years.

In December 2019, Ramirez was discharged early from probation. Six months later, Ramirez petitioned the district court to restore his right to possess firearms. The district court held a hearing in August 2020. At the hearing, Ramirez testified that he was seeking firearm restoration to "bond with [his] kids. Show 'em hunting" and to "learn firearm safety." Ramirez explained that he had ten children at home with his fiancée, including four biological children, ages 7, 14, 28, and 29. When asked why he wanted to hunt with

his children, Ramirez responded that his children have asked to go hunting and that he felt a responsibility because other relatives were not willing to take the children hunting:

Sir, because I believe that it's—it's something that they have been asking me for, for quite some time, that they want to go hunting. They've asked their uncles, they've asked their friends, and, you know, nobody wants to take that responsibility, you know, when they're going to go out and do something on their own. Until then, it's my responsibility to show 'em, and to teach them, Sir.

The district court questioned Ramirez about his hunting history. Ramirez testified that he began hunting in Texas when he was 13, and that he last hunted wild hog 25 years ago, in 1996. He explained that he moved to Minnesota in 1998 and that he had never hunted in Minnesota. The district court asked Ramirez if he had possessed firearms prior to his offense in 2006 and he replied, "No." Ramirez stated that he "never owned" a firearm himself and that he used his "friend's" or "brother-in-law's" firearms in the past. Ramirez was also asked about his criminal history. Ramirez testified that he was convicted of first-degree controlled substance crime in 2006, served 80 months in prison, and was under supervised release until May 9, 2013. Ramirez confirmed that his second offense occurred six months later in November 2013. Ramirez also confirmed that although he was placed on probation for ten years, he was discharged from probation in December 2019.

The district court ultimately denied Ramirez's petition. The district concluded that it was "not convinced that a weighing of the public safety interest against the private interest in possessing firearms comes out in Ramirez's favor." The district court also had "some doubt" regarding whether Ramirez was "genuine in his explanation, or whether that explanation is instead a subterfuge." The district court noted that Ramirez acknowledged

that he had not hunted since 1996, and that his involvement in hunting was “sparse,” so that his “‘commitment’ to the sport may reasonably be questioned.” The district court also reasoned that it had public-safety concerns based on Ramirez’s past convictions of selling controlled substances. The district court explained that the “danger to the public from engaging in such activities can hardly be ignored.” The district court also concluded that the nature of Ramirez’s convictions, the fact that Ramirez reoffended only six months after completing his supervised release term, and the fact that Ramirez was recently discharged from probation all weighed against the petition. The district court reasoned that a “longer period of time after discharge [was] necessary” for the court to be convinced that Ramirez is not a danger to the public. Ramirez appeals.

DECISION

Ramirez challenges the district court’s determination that Ramirez failed to show that his private interests outweighed the public safety concerns. Because the district court’s determination that public safety concerns outweighed Ramirez’s stated interest was not against logic or the facts, we conclude that the district court did not abuse its discretion when it denied the petition.

District courts have discretion to grant petitions to restore a person’s right to possess firearms if the petitioner “shows good cause to do so.” Minn. Stat. § 609.165, subd. 1d (2020).¹ To determine whether the petitioner satisfies the good cause standard, district courts balance public safety concerns against the petitioner’s stated private interests.

¹ Minnesota Statutes section 609.165, subd. 1d, also requires that the petitioner be released from confinement. There is no dispute that Ramirez meets this requirement.

Averbeck v. State, 791 N.W.2d 559, 561 (Minn. App. 2010). We defer to the district court’s factual findings unless they are clearly erroneous, but where, as here, the factual findings are not challenged, we review the decision to grant or deny the petition for an abuse of discretion. *Id.* A district court abuses its discretion if its decision is against logic and the uncontested factual findings in the record. *See State v. Jaros*, 932 N.W.2d 466, 472 (Minn. 2019); *Rutten v. Rutten*, 347 N.W.2d 47, 50 (Minn. 1984). We also defer to the district court’s credibility determinations. *Cf. In re Civil Commitment of Ince*, 847 N.W.2d 13, 23-24 (Minn. 2014).

We conclude that the district court did not abuse its discretion when it determined that the public-safety concerns outweighed Ramirez’s private interests. Initially, we find no error in the district court’s credibility determination regarding the veracity of Ramirez’s stated private interest. Ramirez did not hunt often prior to 1996, had not hunted since 1996, and had never owned a firearm. Based on these facts, we cannot find error in the district court’s decision to question Ramirez’s “‘commitment’ to the sport” and to question whether the stated interest “is instead a subterfuge.” We also find no abuse of discretion in the weight given to the public safety concerns identified by the district court. The district court duly emphasized the brief six-month period of time that had lapsed since Ramirez was discharged from probation, as well as the six-month period of time between Ramirez’s completion of supervised release in May 2013 and his conviction for a new offense in November 2013. The district court also correctly considered the severity of the two controlled substance crimes when describing the public safety concerns in this case. While the district court did not address the lack of violence associated with each offense, the

district court determined that the selling of controlled substances creates a “danger to the public” that can “hardly be ignored.” Given the uncontested factual findings, we conclude that the district court did not act against logic when it denied the petition.

Affirmed.