

**STATE OF MINNESOTA
IN COURT OF APPEALS
A21-1001**

Taquinia Kokela Douglas, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed April 18, 2022
Affirmed
Ross, Judge**

Hennepin County District Court
File No. 27-CR-17-26795

Cathryn Middlebrook, Chief Appellate Public Defender, John Donovan, Assistant Public Defender, St. Paul, Minnesota (for appellant)

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

Michael O. Freeman, Hennepin County Attorney, Adam Petras, Assistant County Attorney, Annika Beck (certified student attorney), Minneapolis, Minnesota (for respondent)

Considered and decided by Worke, Presiding Judge; Ross, Judge; and Larkin, Judge.

SYLLABUS

Material that was commercially manufactured even for a lawful purpose but has been modified to assist a shoplifter to “defeat[] an electronic article surveillance system” constitutes a “device, gear, or instrument” that was “designed” for an unlawful purpose and therefore supports a conviction under Minnesota Statutes section 609.521(b) (2016).

OPINION

ROSS, Judge

Police encountered appellant Taquinia Douglas leaving a retail store with concealed, unpurchased merchandise that was tagged with antitheft sensors wrapped in aluminum foil. The district court convicted Douglas of possessing a shoplifting device. Douglas unsuccessfully petitioned for postconviction relief, arguing that because the aluminum foil was not “designed” to assist in shoplifting, the statute does not criminalize its possession. We hold that because the aluminum foil was reshaped to wrap the antitheft sensors to avoid detection by the store’s theft-detection system, the reshaped foil constituted a device designed to help shoplift or defeat an electronic article surveillance system. We therefore affirm the postconviction court’s decision denying Douglas’s petition.

FACTS

Taquinia Douglas was “shopping” at The Buckle in downtown Maple Grove in October 2017 when employees suspected that she was shoplifting. They contacted police, who approached Douglas as she exited the store. Police found merchandise from The Buckle and Victoria’s Secret in her bag. The merchandise was tagged with antitheft sensors, but the sensors were wrapped in aluminum foil. Wrapping antitheft sensors with aluminum foil is a method that some technically inclined thieves use attempting to defeat retailers’ electronic antitheft systems. Police learned that Douglas had not paid for the items, and they arrested her. The state charged her with possessing a shoplifting device under Minnesota Statutes section 609.521(b) (2016), and a jury found her guilty. After the

district court convicted and sentenced Douglas, she petitioned for postconviction relief. The district court denied her petition, and she appeals.

ISSUE

Was the aluminum foil that Douglas possessed a “device, gear, or instrument designed to assist in shoplifting or defeating an electronic article surveillance system” under Minnesota Statutes section 609.521(b) (2016)?

ANALYSIS

Douglas challenges the district court’s order denying her petition for postconviction relief. We review the district court’s denial for an abuse of discretion, determining whether the factual findings are supported by the record and whether the legal conclusions are sound. *Fort v. State*, 829 N.W.2d 78, 81–82 (Minn. 2013). We are persuaded that the district court correctly denied Douglas’s petition.

Douglas maintains that the district court erroneously denied her petition because it misconstrued the criminal statute that prohibits possessing a shoplifting device. This presents an issue of statutory interpretation, which is a question of law triggering our de novo review. *State v. Boss*, 959 N.W.2d 198, 203 (Minn. 2021). We interpret statutes to determine the legislative intent, and we determine legislative intent from the statute’s language if it is unambiguous. *State v. Wiltgen*, 737 N.W.2d 561, 570–71 (Minn. 2007); *see also* Minn. Stat. § 645.16 (2020) (directing courts to look only to “the words of a law in their application to an existing situation” when the words are clear and unambiguous). The parties agree that the shoplifting-device prohibition is unambiguous, but they dispute the meaning of one of its terms.

We must decide the statute’s meaning of “designed.” A person commits the offense of possessing a shoplifting device if she possesses “any device, gear, or instrument designed to assist in shoplifting or defeating an electronic article surveillance system with intent to use the same to shoplift and thereby commit theft.” Minn. Stat. § 609.521(b). Douglas argues that, although the state proved that she intended to use the aluminum foil to aid her shoplifting, it did not prove the design element because the original manufacturer designed the foil for food storage and packing, not shoplifting. The argument fails because it presumes that the statute’s passive construction of the verb phrase, “designed to assist,” implies the prepositional noun phrase, *by the original manufacturer*. Nothing in the text supports that presumption. We will not add words to the statute in a manner that constrains its contextually broad meaning. And raw material, like thin sheets of aluminum, can be designed by a manufacturer for one purpose but then molded, shaped, or altered by a user, including a crafty shoplifter, redesigning it for an altogether different purpose.

We took this interpretive approach more than 30 years ago when we construed an earlier version of the shoplifting-device statute in *State v. Skinner*, 403 N.W.2d 912 (Minn. App. 1987). The adroit defendant in *Skinner* had torn open a hidden pocket sewn into his trench coat and in it stashed a car stereo he took from the shelf of a retail store. *Id.* at 914. The district court convicted him of violating the shoplifting-device statute, which at the time required the item to be “specially designed to assist in shoplifting.” *Id.* (quoting Minn. Stat. § 609.521 (1984)). We affirmed the conviction because, although the “‘special design’ was accomplished by a rather crude alteration,” the trench coat “was nonetheless ‘specially designed’ to assist in shoplifting just as [if] the coat [had] been the production

of a chic boutique with the same purpose in mind.” *Id.* at 916. Douglas, like Skinner, designed a shoplifting device.

DECISION

The molded aluminum foil that Douglas possessed was a device designed to assist her to shoplift or to defeat a store’s electronic article surveillance system under Minnesota Statutes section 609.521(b).

Affirmed.