STATE OF MINNESOTA
IN COURT OF APPEALS
A21-1046

In the Matter of the Welfare of: A. J. S., Child.

Filed May 31, 2022
Affirmed
Smith, Tracy M., Judge

Anoka County District Court
File No. 02-JV-21-158

Cathryn Middlebrook, Chief Appellate Public Defender, Sara L. Martin, Assistant Public Defender, Mitchell S. Zillman (certified student attorney), St. Paul, Minnesota (for appellant A.J.S.)

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

Anthony C. Palumbo, Anoka County Attorney, Robert I. Yount, Assistant County Attorney, Anoka, Minnesota (for respondent State of Minnesota)

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

SYLLABUS

For purposes of Minn. Stat. § 260B.007, subd. 16(c)(3) (2020), a juvenile was "found to have committed a misdemeanor, gross misdemeanor, or felony offense" when the district court accepted the juvenile's guilty plea and found that the allegations supporting the delinquency petition were proved beyond a reasonable doubt, regardless of whether the district court later continued the case without adjudication.

OPINION

SMITH, TRACY M., Judge

Appellant A.J.S. challenges the district court's order adjudicating her delinquent and ordering a disposition for misdemeanor disorderly conduct. Disorderly conduct, when committed by a juvenile, is treated as a juvenile petty offense rather than a misdemeanor unless an exception applies. The relevant exception in this case is if the juvenile was "found to have committed a misdemeanor" in a prior matter. Minn. Stat. § 260B.007, subd. 16(c)(3). Appellant argues that the district court erred by applying this exception because, although she pleaded guilty to a prior misdemeanor offense and the district court accepted her plea, the prior case was continued without adjudication and she was never adjudicated delinquent.

We conclude that, under the proper interpretation of the statute, appellant was "found to have committed" the misdemeanor of fifth-degree assault when the district court in the prior matter found the allegations proved beyond a reasonable doubt following appellant's guilty plea. The exception in subdivision 16(c)(3) therefore applies, and the district court did not err by treating appellant's current offense as a misdemeanor and adjudicating her delinquent. We affirm.

FACTS

The relevant facts in this case are not in dispute. In January 2017, in a prior juvenile matter, appellant pleaded guilty to fifth-degree assault in violation of Minn. Stat. § 609.224, subd. 1(2) (2016). The district court accepted her plea and continued the case without adjudication for six months so long as appellant followed the terms of her

probation. Appellant successfully completed probation, and the delinquency petition was dismissed.

The second and current matter began in March 2021, when the state filed a delinquency petition alleging that appellant, by pulling down her facemask and spitting on the head of another student on their school bus,[1] committed disorderly conduct in violation of Minn. Stat. § 609.72, subd. 1(3) (2020). Appellant pleaded guilty to the charge, and the district court accepted her plea. The district court adjudicated appellant delinquent and placed her on probation for 90 days. As part of her probation, appellant was required to participate in a weekend program at the Anoka County Juvenile Center, write an apology to the other child, and seek counseling if directed.

After the district court announced its disposition, appellant's attorney argued that, because appellant had successfully completed probation for her prior fifth-degree-assault offense and the petition was dismissed without adjudication, the current offense should be adjudicated as a juvenile petty offense and not a misdemeanor. The district court disagreed and concluded that the delinquency adjudication was proper.

This appeal follows.

ISSUES

Was appellant "found to have committed a misdemeanor, gross misdemeanor, or felony offense" in a previous matter under Minnesota Statutes section 260B.007,

[1] This conduct took place during the COVID-19 pandemic.

subdivision 16(c)(3), when the district court accepted appellant's guilty plea but continued the case without adjudication?

ANALYSIS

This case presents a single issue of statutory interpretation, which we review de novo. *See State v. Thonesavanh*, 904 N.W.2d 432, 435 (Minn. 2017).

The object of statutory interpretation is to "ascertain and effectuate the intention of the legislature." Minn. Stat. § 645.16 (2020); *see also Linn v. BCBSM, Inc.*, 905 N.W.2d 497, 501 (Minn. 2018). "When the language of a statute is plain and unambiguous, it is assumed to manifest legislative intent and must be given effect." *Burkstrand v. Burkstrand*, 632 N.W.2d 206, 210 (Minn. 2010). In determining whether the statute is unambiguous, we construe words and phrases according to their "plain and ordinary meaning." *A.A.A. v. Minn. Dep't of Hum. Servs.*, 832 N.W.2d 816, 819 (Minn. 2013). We also read the statute as a whole and interpret each section in light of the surrounding sections to avoid conflicting interpretations. *See Am. Fam. Ins. Grp. v. Schroedl*, 616 N.W.2d 273, 277 (Minn. 2000). If we determine that a statute is susceptible to more than one reasonable meaning, the statute is ambiguous. *See Staab v. Diocese of St. Cloud*, 813 N.W.2d 68, 72-73 (Minn. 2012). We may then apply canons of construction to discern the intention of the legislature. *See Brayton v. Pawlenty*, 781 N.W.2d 357, 363 (Minn. 2010).

The juvenile-delinquency chapter of the Minnesota Statutes broadly identifies two categories of juveniles subject to delinquency proceedings: juvenile petty offenders and delinquent children. A juvenile petty offender is a juvenile who committed a "juvenile petty offense." Minn. Stat. § 260B.007, subd. 16(d) (2020). A "juvenile petty offense" includes

a number of less serious offenses such as certain alcohol-, drug- and traffic-related offenses. *Id.*, subds. 16, 17, 18 (2020). A "juvenile petty offense" also includes, as a general rule, offenses that would be misdemeanors if committed by an adult. *Id.*, subd. 16(b). Certain misdemeanor-level offenses, however, including fifth-degree assault, are categorically excepted from that general rule and are not treated as juvenile petty offenses. *See id.*, subd. 16(c)(1) (listing violations of Minn. Stat. § 609.224 among those not treated as juvenile petty offenses).

Relevant here, the general rule that misdemeanor-level offenses are treated as juvenile petty offenses also has an exception for "misdemeanor-level offense[s] committed by a child whom the juvenile court previously has found to have committed a misdemeanor, gross misdemeanor, or felony offense." *Id.*, subd. 16(c)(3). Under this exception, if a juvenile commits a misdemeanor-level offense that would ordinarily be treated as a juvenile petty offense, but the juvenile was found to have committed a prior misdemeanor, gross misdemeanor, or felony, then the current offense is treated not as a juvenile petty offense but rather as a misdemeanor.[2]

With that background, we turn to the parties' arguments. Appellant contends that the language in subdivision 16(c)(3) of section 260B.007, "found to have committed a

[2] There is another exception—not at issue here—for juveniles who committed two or more prior "misdemeanor-level juvenile petty offense[s]." Minn. Stat. § 260B.007, subd. 16(c)(4). In that situation, a juvenile with multiple prior juvenile petty offenses who commits an offense that would be a misdemeanor if committed by an adult also will not be treated as a juvenile petty offender. *Id.* As noted above, appellant's previous misdemeanor fifth-degree assault was categorically excluded from being a juvenile petty offense. *See id.*, subd. 16(c)(1). The only exception at issue in this case is the exception for prior misdemeanors, gross misdemeanors, or felonies. *See id.*, subd. 16(c)(3).

misdemeanor, gross misdemeanor, or felony offense," means that the child was actually adjudicated delinquent by the juvenile court. The state, on the other hand, contends that the language means that the child was previously found by the juvenile court to have committed the offense, whether or not the child was later adjudicated delinquent.

The word "found" is not defined in the juvenile-delinquency chapter, and variations of the verb "find" appear throughout the chapter. In some places, such as here, the word is used with reference to the juvenile being found to have committed offenses or acts that are in violation of law. *See, e.g.*, Minn. Stat. § 260B.198, subd. 1(a)(11) (2020) (authorizing a sex-offender assessment as a disposition for a delinquent child "if the child is found by the court to have committed . . . an act in violation" of certain statutes). And, in other places, the word refers to a particular factual finding by a court apart from a finding of a violation of law. *See, e.g.*, Minn. Stat. § 260B.008(b) (Supp. 2021) (allowing restraints to be used on a child in court only if the "court finds" that restraints are necessary to prevent harm to the child or others or flight and there are no less restrictive alternatives). Given the use of the term "find" to relate to conduct and facts found, the state's argument that the language in subdivision 16(c)(3) of section 260B.007 means that the juvenile was found to have committed the charged act is reasonable.

But, elsewhere, the juvenile-delinquency chapter uses "find" in reference to the determination of the child as delinquent or a juvenile petty offender. *See, e.g.*, Minn. Stat. § 260B.198, subd. 1(a) (2020) ("If the court *finds* that the child is delinquent, it shall enter an order making any of the following dispositions . . . ." (emphasis added)); Minn. Stat. § 260B.235, subd. 4 (2020) (authorizing dispositions "[i]f the juvenile court finds that a

child is a petty offender"). Given this use of the term, we conclude that appellant's interpretation is also reasonable. Subdivision 16(c)(3) is therefore susceptible to more than one reasonable interpretation, meaning it is ambiguous. We thus look further for the meaning of the phrase "found to have committed a misdemeanor, gross misdemeanor, or felony offense."

First, we observe that subdivision 16(c)(3) uses the phrase "found to have committed" but does not use the word "adjudicated." The term "adjudicate" is used in other provisions of the juvenile-delinquency chapter. For example, under Minn. Stat. § 260B.235, subd. 5 (2020), a juvenile court may order an enhanced disposition for an "adjudicated petty offender" when the juvenile court "finds that [the] child has committed" a second or subsequent alcohol or controlled-substance offense. Minn. Stat. § 260B.235, subd. 5(a), (c). "[D]istinctions in language in the same context are presumed to be intentional." *Seagate Tech., LLC v. W. Digital Corp.*, 854 N.W.2d 750, 759 (Minn. 2014) (quotation omitted). It is reasonable to conclude that the legislature did not intend to require an "adjudication" under subdivision 16(c)(3) when it did not use that term there.

Second, the legislature's use of the term "adjudicate delinquent" in other statutes outside of the juvenile-delinquency chapter bolsters the conclusion that "found to have committed" does not mean "adjudicated." In a number of criminal statutes, the legislature has provided for enhancements or other consequences based on adjudications of juvenile delinquency. *See, e.g.*, Minn. Stat. §§ 243.166, subd. 1b(a)(1) (providing for predatory-offender registration if a person "was convicted of or adjudicated delinquent" of certain offenses), 609.224, subd. 2(a) (providing an enhancement for fifth-degree assault when the

offense occurs within ten years of "a previous qualified domestic violence-related offense or adjudication of delinquency"), 624.713, subd. 1(2) (restricting possession of firearms for a person "who has been convicted of, or adjudicated delinquent or convicted as an extended jurisdiction juvenile for committing" a crime of violence) (2020). The explicit requirement of a delinquency adjudication in those statutes supports the state's interpretation here.

In addition, although the Minnesota Rules of Juvenile Delinquency Procedure were not promulgated by the legislature, we observe that the state's argument is consistent with those rules. Rule 8 outlines the procedure required for a juvenile to enter a guilty plea in a delinquency proceeding. *See* Minn. R. Juv. Delinq. P. 8.04; *cf.* Minn. R. Juv. Delinq. P. 17.06 (addressing guilty pleas in juvenile petty or juvenile traffic proceedings). Rule 8.04 requires a district court to "make a finding" within 15 days of a guilty plea either "that the plea has been accepted and allegations in the charging document have been proved" or "that the plea has not been accepted." Minn. R. Juv. Delinq. 8.04, subd. 4. If the plea is accepted and the court "makes a finding that the allegations in the charging document are proved," the court must schedule "further proceedings" under the rules, including under rule 15. Minn. R. Juv. Delinq. 8.04, subd. 5.

Rule 15 outlines the process for determining a delinquency disposition after the district court accepts the juvenile's plea or the factfinder finds the juvenile guilty. Minn. R. Juv. Delinq. P. 15.01. Rule 15 requires the district court to "make[] a general finding that the allegations in the charging document have been proved beyond a reasonable doubt" *before* conducting the disposition hearing. Minn. R. Juv. Delinq. P. 15.02, subd. 1. A

disposition hearing must be "separate from the hearing at which the charges are proved." Minn. R. Juv. Delinq. P. 15.04; *see also In re Welfare of M.D.S.*, 514 N.W.2d 308, 308 (Minn. App. 1994) (explaining that a judicial finding that the petition allegations are proved is distinct from the ultimate adjudication for a committed offense). Rule 15.05 sets forth two possible outcomes for each charge that is "found by the court to be proved": the court can either adjudicate the child delinquent or continue the case without adjudication. Minn, R. Delinq. P. 15.05, subd. 1. Thus, rule 15 requires the district court to make a finding that the juvenile committed the offense charged before adjudicating the child delinquent or continuing the case without adjudication. Rules 8 and 15 support the state's argument that the exception in section 260B.007, subdivision 16(c)(3), is met when the district court accepts the juvenile's guilty plea and finds that the charges have been proved beyond a reasonable doubt.

Appellant advances several arguments in favor of her interpretation, but none are persuasive. She contends that we already held that subdivision 16(c)(3) requires an adjudication of delinquency in our decision in *In re Welfare of D.T.P*, 685 N.W.2d 709 (Minn. App. 2004). We disagree. In *D.T.P.*, we affirmed the district court's adjudication of a juvenile as delinquent, rather than as a juvenile petty offender, based on the juvenile's prior adjudication as delinquent. 685 N.W.2d at 712. The district court determined that subdivision 16(c)(3) applied because the juvenile was previously adjudicated delinquent based on misdemeanor criminal contempt of court. *Id.* On appeal, the juvenile challenged that previous adjudication, arguing that the juvenile-delinquency statutes did not permit

him to be adjudicated delinquent based on contempt of court while he was on probation. *Id.*

We agreed that the juvenile "should not have been adjudged delinquent" in that previous matter. *Id.* We held, though, that because appellant did not appeal his previous delinquency adjudication, it became "the law of the case" that the juvenile had a prior misdemeanor under subdivision 16(c)(3). *Id.* But *D.T.P.* does not address the circumstances here, in which a district court accepted a juvenile's guilty plea to a misdemeanor and continued the case without adjudication. While *D.T.P.* concludes that the law of the case may establish the exception in subdivision 16(c)(3) when a juvenile fails to appeal an adjudication of delinquency, it does not hold that an adjudication of delinquency is the *only* way for a district court to find that the juvenile committed a prior qualifying misdemeanor offense for purposes of that exception.

Appellant also contends that the state's interpretation undermines the rehabilitative purpose of the juvenile laws and the purpose of a stay of adjudication. *See* Minn. Stat. § 260B.001, subds. 2, 3 (2020) (identifying purpose of juvenile-delinquency law and providing that the law be "liberally construed" to carry out that purpose); *State v. Krotzer*, 531 N.W.2d 862, 865-66 (Minn. App. 1995) (stating that dismissing charges after a defendant completes a continuance without adjudication has the same legal effect as dismissing the charge for any other reason), *aff'd in part, rev'd in part on other grounds*, 548 N.W.2d 252 (Minn. 1996). But we cannot conclude that those purposes are subverted when a juvenile, despite having succeeded on a previous continuance without adjudication

for a misdemeanor offense, again violates the law and is held accountable for a misdemeanor rather than for a juvenile petty offense.

Finally, appellant argues that the district court's application of subdivision 16(c)(3) violates the principle of fair warning. The "fair warning requirement" demands that a criminal statute be "in language that the common world will understand" to ensure that defendants are given notice of what is and is not criminal activity. *United States v. Lanier*, 520 U.S. 259, 265 (1997) (quotation omitted). Due-process protections, such as the fair-warning requirement, apply in juvenile delinquency proceedings. *In re Welfare of J.C.P., Jr.*, 716 N.W.2d 664, 668 (Minn. App. 2006). The state contends that appellant's fair-warning argument was forfeited because it was not raised in the district court. Appellant disagrees, characterizing her fair-warning argument as an invocation of the rule of lenity, "a canon that requires a court to construe an ambiguous criminal statute in favor of the defendant." *Thonesavanh*, 904 N.W.2d at 440. But even when the fair-warning argument is viewed through the lens of a canon of construction, appellant's argument is unpersuasive. The rule of lenity "is a canon of last resort" and is applicable "only when, after consulting traditional canons of statutory construction, we are left with an ambiguous statute." *Id.* (quotation omitted). Because we are able to determine the meaning of section 260B.007, subdivision 16(c)(3), with traditional canons of statutory construction, we need not apply the rule of lenity here.

In sum, the district court properly interpreted the exception in subdivision 16(c)(3) to apply when a district court accepts a juvenile's guilty plea and finds the offense proved beyond a reasonable doubt. The district court correctly applied this interpretation to the

facts here. In the previous juvenile matter, appellant pleaded guilty to misdemeanor fifth-degree assault—an offense that is categorically excepted from treatment as a juvenile petty offense—and the district court accepted her plea, finding that the offense was proved beyond a reasonable doubt. In light of the previous finding that appellant committed misdemeanor fifth-degree assault, the district court here properly adjudicated appellant delinquent of misdemeanor disorderly conduct.

DECISION

The district court correctly concluded that, in a previous matter, appellant was "found to have committed a misdemeanor" for purposes of Minn. Stat. § 260B.007, subd. 16(c)(3), when she pleaded guilty to committing fifth-degree assault and the district court found the charge to be proved beyond a reasonable doubt, even though the case was continued without adjudication. Because appellant was previously found to have committed a misdemeanor, the district court did not err by adjudicating her delinquent for the misdemeanor in this case.

Affirmed.