This opinion is nonprecedential except as provided by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
A21-1189

Irv's Boomin' Fireworks, LLC, et al.,
Appellants,

vs.

John J. Muhar, et al.,
Respondents.

Filed April 18, 2022
Affirmed
Reilly, Judge

Itasca County District Court
File No. 31-CV-17-1538

Erick G. Kaardal, Vincent J. Fahnlander, Mohrman, Kaardal & Erickson, P.A., Minneapolis, Minnesota (for appellants)

Matti R. Adam, Itasca County Attorney, Michael J. Haig, Chief Assistant County Attorney, Grand Rapids, Minnesota (for respondents)

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

NONPRECEDENTIAL OPINION

REILLY, Judge

Appellants challenge the dismissal of this action for failure to state a claim upon which relief may be granted, arguing that their proposed sales of fireworks fall within an exception to the statutory ban of firework sales. Because the district court did not err in dismissing the action, we affirm.

FACTS

Appellant Irving Seelye (Seelye) is an enrolled member of the Leech Lake Band of Ojibwe (the Band). Seelye is the managing member of appellant Irv's Boomin' Fireworks, LLC, located within the Band's reservation. This dispute stems from respondent county's[1] attempts to enforce a statutory ban on firework sales after the Band granted appellants a tribal permit to sell explosive fireworks on the Band's reservation. The facts are largely undisputed and have been detailed in prior cases before this court and the district court. *See Irv's Boomin' Fireworks, LLC v. Muhar*, No. A17-1416, 2018 WL 1702862 (Minn. App. Apr. 9, 2018) (*Irv's I*); *Irv's Boomin' Fireworks, LLC v. Muhar*, No. A18-1930 (Minn. App. May 20, 2019) (*Irv's II*); *Irv's Boomin' Fireworks, LLC v. Muhar*, No. A20-0029, 2020 WL 4932787 (Minn. App. Aug. 24, 2020) *rev. denied* (Minn. Nov. 25, 2020) (*Irv's III*). Thus, we merely summarize the procedural posture of this matter.

In June 2017, appellants sued the county, seeking declaratory and injunctive relief to prevent the county from criminally prosecuting appellants for selling explosive fireworks on tribal land. After the district court found that it did not have subject matter jurisdiction, appellants appealed to this court, and we reversed because appellants' action did not offend separation-of-powers principles. *Irv's III*, 2020 WL 4932787, at *4.

On remand from this court, the district court conducted a hearing in May 2021 to consider appellants' motion for summary judgment and respondents' motion to dismiss for failure to state a claim upon which relief may be granted. Appellants argued that they were

[1] Respondent John J. Muhar was the Itasca County Attorney when appellants filed this case.

entitled to summary judgment because the Minnesota fireworks statutes, which generally ban the sale of explosive fireworks, allowed an exception for sales of explosive fireworks "out of the state." Appellants argued that selling fireworks within the Band's reservation to people who took the explosive fireworks off the reservation constitutes selling "out of the state" under the statute. The district court disagreed and found that appellants were not entitled to summary judgment because their reading of the fireworks statute "would result in an absurd and unreasonable interpretation." Concluding that appellants' sole claim was meritless, the district court granted respondents' motion to dismiss.

This appeal follows.

DECISION

Appellants challenge the district court's dismissal of their complaint for failure to state a claim. We review de novo a district court's decision to dismiss a complaint for failure to state a claim upon which relief may be granted and limit our review to whether the complaint sets forth legally sufficient claims for relief. *Hebert v. City of Fifty Lakes*, 744 N.W.2d 226, 229 (Minn. 2008). Appellants' claims involve an issue of statutory interpretation, which we also review de novo. *State v. Peck*, 773 N.W.2d 768, 771 (Minn. 2009).

A. Statutory interpretation of "out of the state" under Minnesota Statutes Section 624.23

Appellants argue that the district court erred in its interpretation of the term "out of the state" under Minn. Stat. § 624.23. The goal of statutory interpretation is to "ascertain and effectuate the intention of the legislature." Minn. Stat. § 645.16 (2020). "The threshold

issue in any statutory interpretation analysis is whether the statute's language is ambiguous." *Peck*, 773 N.W.2d at 772. A statute is ambiguous only when it is reasonably susceptible to more than one interpretation. *Id.* But "[i]f a statute is unambiguous, we apply the statute's plain meaning." *In re Welfare of Child. of J.L.G.*, 924 N.W.2d 9, 14 (Minn. App. 2018).

Minnesota Statutes sections 624.20 to 624.25 (2020) (the fireworks statutes) set forth Minnesota's firework laws. Minnesota law criminalizes the sale of explosive fireworks: "it shall be unlawful for any person to offer for sale, expose for sale, sell at retail or wholesale, possess, advertise, use, or explode any fireworks." Minn. Stat. § 624.21.[2] But there is an exception to fireworks sales:

> Nothing in sections 624.20 to 624.25 shall be construed to prohibit any resident wholesaler, dealer, or jobber, from possessing or selling at wholesale fireworks which are not prohibited; or the possession or sale of any kind of fireworks for shipment directly *out of the state* . . . .

Minn. Stat. § 624.23 (emphasis added).

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[2] In the district court's 2017 order denying appellants' motion for a temporary restraining order and injunction, the district court determined that the Minnesota fireworks statutes are criminal and that the state may enforce them if a violation occurs within the Band's reservation under Public Law 280. *See California v. Cabazon Band of Mission Indians*, 480 U.S. 202, 208 (1987) (recognizing that "when a [s]tate seeks to enforce a law within an Indian reservation under the authority of Pub. L. 280, it must be determined whether the law is criminal in nature, and thus fully applicable to the reservation under § 2"). Public Law 280 is a federal statute granting Minnesota, among other states, "broad criminal and limited civil jurisdiction over all Indian country within the state, with the exception of Red Lake Reservation." *State v. Stone*, 572 N.W.2d 725, 728 (Minn. 1997). On appeal, appellants do not dispute that the Minnesota fireworks statute is criminal and that the state has jurisdiction over criminal violations occurring on the reservation of the Leech Lake Band of Ojibwe under Public Law 280.

Because the fireworks statutes do not define "the state," appellants urge us to apply the definition of "state" found in Minnesota Chapter 645 which governs statutory interpretation. Minn. Stat. § 645.44, subd. 11, provides that "[w]hen applied to a part of the United States, 'state' extends to and includes the District of Columbia and the several territories. 'United States' embraces the District of Columbia and territories." Appellants contend that the Band's reservation exists within the United States as an independent, sovereign entity—or "state"—within, but apart from, the state of Minnesota. Thus, appellants argue that the "out of the state" exception allows the sale of fireworks to persons not living within the Band's territorial boundaries. Appellants also argue that if the legislature intended to modify the terms "the state" with "Minnesota," it would have defined the term explicitly in the statute.

We agree with the district court that the only logical meaning of the term "the state" in the statute is "the State of Minnesota." The definition of "state" that appellants urge us to use, found in Minnesota Statutes section 645.44, defines "state," not "*the* state." Section 645.44 defines "state" to include the District of Columbia and the several territories. The statute specifically notes that this definition of "state" should be used "when applied to a part of the United States." Minn. Stat. § 645.44, subd. 11. Thus, if we were to adopt appellants' interpretation of "out of the state," the statutory exception would allow the "sale of any kind of fireworks for shipment directly out of [the District of Columbia and the several territories]." In other words, reading criminal statute section 624.21 this way would unlawfully expand Minnesota's criminal jurisdiction to territories outside the state. Such a broad reading of the statute leads to absurd and unreasonable results, as the district court

correctly found. And it contradicts Supreme Court caselaw that "an Indian reservation is considered part of the territory of the State." *Nevada v. Hicks*, 533 U.S. 353, 361-62 (2001). Thus, because there is only one reasonable interpretation of the statute, the statute is not ambiguous.

This analysis also aligns with existing caselaw. For example, in *In re M.D.*, appellants argued that "state correctional facility" within Minn. Stat. § 244.052 was not limited to state of Minnesota correctional facilities because it contained no limiting language. 766 N.W.2d 325, 327 (Minn. App. 2009). The statute in that case provided that "[t]he commissioner of corrections shall establish and administer [End-of-Confinement Review Committees] at each *state correctional facility*." *Id.* (emphasis added). This court determined that interpreting "state correctional facility" to mean any state correctional facility, regardless of the state in which it was located, would lead to "absurd and impossible results." *Id.* And this court determined that the term "state" unless modified by the terms "other" or "another" refers *only* to Minnesota. *Id.* at 328. Like the statutory language at issue in *M.D.*, "out of the state" within Minn. Stat. § 624.23 refers only to the state of Minnesota.

Finally, appellants cite the Uniform Interstate Family Support Act, Minnesota Statutes chapter 518C, which reads: "'State' means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession under the jurisdiction of the United States. 'State' includes an Indian nation or tribe." Minn. Stat. § 518C.101(z) (2020). Appellants argue that, if the legislature meant "state" to include Indian country in the fireworks statute, it would have defined the term

and expressly included "Indian nation or tribe" within the definition. The argument is unpersuasive. The exception to the fireworks statute permits a seller inside the state of Minnesota to sell to persons outside the state of Minnesota. The legislature could have also explained that "outside of the state" means outside the borders of the state of Minnesota, which includes Indian country. But it did not need to do so to make its meaning clear. As explained above, interpreting "out of the state" to mean out of the state of Minnesota is the only reasonable interpretation of the fireworks statute.

B. We decline to address appellants' remaining arguments.

Appellants raise two more arguments. First, appellants urge us to look to Uniform Commercial Code section 2.504 to define "shipment" under the Minnesota fireworks sales exception for "shipment out of the state." Minn. Stat. § 336.2-504. They contend that "shipment" does not require appellants to send the fireworks "out of the state" but merely requires the customer to pick up and transport the fireworks off the reservation. But appellants failed to develop this argument before the district court, and the district court did not address it in its order granting the county's motion to dismiss. Thus, because of the limited record, we too decline to address appellants' arguments about the definition of "shipment." *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) ("A reviewing court must generally consider only those issues that the record shows were presented and considered by the trial court in deciding the matter before it."). Further, even if appellants had properly developed this argument, this court need not reach a conclusion on this argument based on the analysis in section A.

Second, appellants urge this court to hold that the tribal permit is a constitutionally protected property interest and determine that they are entitled to procedural due process. But again, appellants did not adequately develop this argument before the district court, and the district court did not analyze it. Thus, for the same reasons as above, we decline to address it based on the limited facts in the record and the inadequate analysis in their brief to this court. *Id.*; *see also Melina v. Chaplin*, 327 N.W.2d 19, 20 (Minn. 1982) (stating that inadequately briefed issues are not properly before an appellate court).

In conclusion, we determine that the Minnesota fireworks statute is not ambiguous, and the district court correctly interpreted and applied the statute. Thus, the district court did not err in dismissing appellants' action.

Affirmed.