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**STATE OF MINNESOTA
IN COURT OF APPEALS
A11-264**

Jesse Jacque Kaplan,
a/k/a Jessie Jacques Kaplin, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed August 22, 2011
Affirmed
Schellhas, Judge**

Ramsey County District Court
File No. 62-K4-06-1777

David W. Merchant, Chief Appellate Public Defender, Sean M. McGuire, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Lori Swanson, Attorney General, St. Paul, Minnesota; and

John J. Choi, Ramsey County Attorney, Mark N. Lystig, Assistant County Attorney, St. Paul, Minnesota (for respondent)

Considered and decided by Schellhas, Presiding Judge; Peterson, Judge; and Minge, Judge.

UNPUBLISHED OPINION

SCHELLHAS, Judge

Appellant challenges the district court's denial of postconviction relief regarding his sentence for possession of a firearm by an ineligible person. Appellant argues that because the juvenile court failed to inform him that his constitutional right to bear arms was not restored when it discharged him from juvenile court probation, he was not a person ineligible to possess a firearm and, therefore, his guilty plea was invalid and due process precludes prosecution and conviction. We affirm.

FACTS

Between March 1999 and November 2001, appellant Jesse Kaplan was adjudicated delinquent on three separate occasions for three separate crimes of violence, as defined by Minnesota Statutes section 624.712, subdivision 5: second-degree burglary, fifth-degree controlled-substance crime, and terroristic threats. In May 2002, the juvenile court discharged Kaplan from juvenile probation. At the time of his discharge, Kaplan was 18 years old. The discharge order and hearing transcript show that the juvenile court did not advise Kaplan that he was ineligible to possess a firearm.

After a state patrol officer stopped Kaplan on March 19, 2006, the state charged him, by amended complaint, with one count of possession of a firearm by an ineligible person, two counts of fifth-degree controlled-substance crime, and one count of possession of stolen property. Kaplan pleaded guilty to possession of a firearm by an ineligible person in violation of Minn. Stat. § 624.713, subd. 1(b) (2004), and the district court sentenced him to the presumptive sentence of 60 months' imprisonment.

Kaplan petitioned for postconviction relief, arguing that his guilty plea was invalid and that the conviction violated due process. The district court denied Kaplan's petition, and this appeal follows.

D E C I S I O N

Kaplan argues that the postconviction court erred by denying his petition for postconviction relief. "We afford great deference to a district court's findings of fact and will not reverse the findings unless they are clearly erroneous." *Dukes v. State*, 621 N.W.2d 246, 251 (Minn. 2001). "The decisions of a postconviction court will not be disturbed unless the court abused its discretion." *Id.* But issues of law are reviewed de novo. *Chambers v. State*, 769 N.W.2d 762, 764 (Minn. 2009).

Validity of Guilty Plea

To be constitutionally valid, a guilty plea must be accurate, voluntary, and intelligent. *Alanis v. State*, 583 N.W.2d 573, 577 (Minn. 1998). "An accurate plea protects the defendant from pleading guilty to a charge more serious than he or she could be convicted of were the defendant to go to trial. A proper factual basis must be established for a guilty plea to be accurate." *State v. Ecker*, 524 N.W.2d 712, 716 (Minn. 1994) (citation omitted).

Kaplan challenges the accuracy of his guilty plea, arguing that the firearm prohibition did not apply to him because at the time of his discharge from probation, the district court failed to notify him of the prohibition. The district court rejected Kaplan's argument, concluding that the court's failure to notify him that he was ineligible to possess firearms did not affect the applicability of the prohibition. We agree.

“Whether a statute has been properly construed is a question of law to be reviewed de novo” *State v. Murphy*, 545 N.W.2d 909, 914 (Minn. 1996). The primary objective of statutory interpretation is to ascertain and give effect to the intention of the legislature. Minn. Stat. § 645.16 (2010); *State v. Zeimet*, 696 N.W.2d 791, 793 (Minn. 2005). “Where the legislature’s intent is clearly discernable from plain and unambiguous language, statutory construction is neither necessary nor permitted and we apply the statute’s plain meaning.” *State v. Williams*, 762 N.W.2d 583, 585 (Minn. App. 2009) (quotation omitted), *review denied* (Minn. May 27, 2009).

A juvenile adjudicated delinquent for committing a crime of violence is ineligible to possess a firearm. Minn. Stat. § 624.713, subd. 1(b). Section 624.713 contains a notice requirement that applies to persons “convicted of, or adjudicated delinquent or convicted as an extended jurisdiction juvenile for committing, a crime of violence,” and to “a person under the jurisdiction of the juvenile court . . . charged with committing a crime of violence and . . . placed in a pretrial diversion program . . . before disposition.” *Id.*, subd. 3 (2004). The statute states that “the court shall inform” the identified persons of the firearm prohibition, and that “the failure . . . to provide this information to a defendant does not affect the applicability of the . . . possession prohibition.” *Id.*

Kaplan was adjudicated delinquent on three separate crimes of violence. He argues that he was not subject to the firearm prohibition because the juvenile court failed to give him notice of the prohibition at the time of his discharge. To support his argument, he points to Minnesota Statutes section 242.31, which applies only to juveniles who were convicted of a crime following certification as an adult. Section 242.31

contains a notice requirement similar to section 624.713, subdivision 3, but does not state that the prohibition is not affected by the court's failure to give notice. Kaplan asserts that because section 242.31 does not contain a statement that absence of notice does not affect applicability, the legislature intended that "when juveniles are at issue," the absence of a court's notice of the prohibition makes the prohibition inapplicable, whereas for adults, notice has no bearing on applicability. Kaplan's argument is unpersuasive.

Minnesota Statutes section 242.31 applies only to juveniles who were convicted of a crime following certification as an adult. Because Kaplan was not certified as an adult, section 242.31 is inapplicable to him. Section 624.173 applies to juveniles "adjudicated delinquent . . . for committing, a crime of violence." Kaplan fits squarely within section 624.713 because he was adjudicated delinquent for committing crimes of violence.

The plain meaning of section 624.713, subdivision 3, shows that it applies to adults and juveniles and does not indicate legislative intent to create a distinction between adults and juveniles with respect to notice of the firearm prohibition and the prohibition's applicability. And it contains no language from which we could determine that the legislature intended to treat juveniles differently from adults with respect to the rule that a lack of notice does not affect applicability.

Additionally, to read a notice requirement into section 242.31 that affects applicability of the firearm prohibition applicable to *all* juveniles, as Kaplan suggests, would lead to an absurd result: under section 624.713, subdivision 3, if, at the time a juvenile is adjudicated delinquent, the court fails to notify him of the lifelong firearm prohibition, the prohibition is applicable, but under section 242.31, if, at the time a

juvenile is *discharged from probation*, and will have significantly more freedom and less supervision than when on probation, the court fails to notify him of the prohibition, the prohibition is not applicable. We presume that the legislature would not have intended this absurd result. *See* Minn. Stat. § 645.17(1) (2010) (stating that courts may presume that legislature does not intend absurd results).

Because the court's failure to give Kaplan notice of the prohibition did not affect the prohibition's applicability, Kaplan was an ineligible person. Kaplan's guilty plea, therefore, was accurate.

Due Process

Kaplan argues that due process precludes prosecution and conviction because of the court's failure to provide notice that he was ineligible to possess a firearm. In *State v. Grillo*, 661 N.W.2d 641, 645 (Minn. App. 2003), *review denied* (Minn. Aug. 5, 2003), we held that due process was not violated when the district court did not notify a defendant, who was convicted of the same crime as Kaplan, of the firearm prohibition at the time he was discharged from juvenile probation. Kaplan argues that *Grillo* is distinguishable because in *Grillo* there was no failure to comply with the notice requirement in Minn. Stat. § 242.31; at the time of the defendant's discharge, it "was impossible" to give notice because the prohibition did not apply to the defendant. 661 N.W.2d at 645. But in *Grillo*, compliance with section 242.31 was not controlling in our decision to deny the defendant's due-process claim. *Id.* The *Grillo* court relied on section 624.713, subdivision 3(a)'s statement that the court's failure to provide notice of ineligibility to a defendant does not affect the applicability of the prohibition and the "long-held principle

in Minnesota that ignorance of the law is not a defense when it would have been possible, had appellant made the effort to do so, to learn of the existence of the prohibition.” *Id.* Because the firearm prohibition applied to Kaplan, we determine that Kaplan’s prosecution and conviction did not violate due process.

In his postconviction petition, Kaplan acknowledges that he was not “affirmatively misled” by the court and has not made any claim that the state affirmatively misled him. *See Whitten v. State*, 690 N.W.2d 561, 566 (Minn. App. 2005) (holding that defendant’s due-process rights were violated because district court affirmatively misled defendant by notifying him that all of his civil rights were restored but neglecting to check the firearms prohibition box on the discharge order). In this case, the district court found that the court did not mislead Kaplan by telling him that his civil rights were restored or by leaving a box unchecked that would have notified him that he could not possess a firearm. The record supports this finding.

Kaplan argues, however, that the court’s failure to give him notice of the firearm prohibition was “effectively more like an affirmative misrepresentation because juveniles need such protections” because of “a diminished capacity to understand and comprehend their responsibilities.” Kaplan cites to caselaw in which courts have tailored legal rules for juveniles differently than those applicable to adults based on a juvenile’s developmental differences. We reject Kaplan’s argument because when he was discharged from probation, which is when Kaplan says the lack of notice led to a violation of his due process rights, Kaplan was 18 years old.

Kaplan failed to show that his guilty plea is invalid or that prosecution or conviction violated due process. We therefore conclude that the district court did not abuse its discretion by denying Kaplan postconviction relief to withdraw his guilty plea.

Affirmed.