

Milliman v. Commissioner of Public Safety, Not Reported in N.W. Rptr. (2022)

2022 WL 200334

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by Minn. R. Civ. App. P. 136.01, subd. 1(c).*

Court of Appeals of Minnesota.

Lance Gerald MILLIMAN, petitioner, Appellant,
v.

COMMISSIONER OF PUBLIC SAFETY, Respondent.

A21-0563

|
Filed January 24, 2022

Meeker County District Court, File No. 47-CV-20-877

Attorneys and Law Firms

Lance Milliman, Eden Valley, Minnesota (pro se appellant)

Keith Ellison, Attorney General, Leah Hedman, Assistant
Attorney General, St. Paul, Minnesota (for respondent)

Considered and decided by Slieter, Presiding Judge; Gaïtas,
Judge; and Kirk, Judge.*

NONPRECEDENTIAL OPINION

SLIETER, Judge

*1 Appellant challenges the district court's determination that he failed to meet the requirements to have his driver's license reinstated. Because appellant has failed to provide proof of full payment of the reinstatement fee or completion of a required written examination to qualify for a reinstated driver's license, we affirm.

FACTS

Following appellant Lance Gerald Milliman's out-of-state conviction for refusing to submit to an alcohol test in violation of Missouri law in 2011, respondent Minnesota Commissioner of Public Safety (the commissioner) revoked Milliman's Minnesota driver's license, including his commercial driver's license (CDL). The commissioner notified Milliman on March 16, 2011 that, to qualify for reinstatement of his driver's license, he must (1) "pass the DWI/drug written test," (2) "pay [the] \$680 reinstatement fee," and (3) "make [an] application for new license." Two days later the commissioner notified him that, for reinstatement of his CDL, Milliman was required to pay a \$20 reinstatement fee.

Milliman petitioned the district court for reinstatement in 2011. The district court denied reinstatement, concluding the commissioner's decision to revoke his driver's license was not fraudulent, arbitrary, unreasonable, or outside the commissioner's jurisdiction. Milliman also unsuccessfully petitioned the district court for reinstatement in 2014 and 2018.

In February 2020, Milliman submitted a Minnesota driver's license application to the commissioner with a \$20 money order. The commissioner returned the application and money order, indicating it could not process his application because the reinstatement fee is \$680. Milliman petitioned the district court for reinstatement of his license in October 2020, and the district court denied his petition. Milliman appeals.

DECISION

Minnesota and Missouri are parties to the Driver License Compact. Minn. Stat. § 171.50 (2020); Mo. Rev. Stat. § 302.600 (2016). The compact requires party states to "report each conviction of a person from another party state occurring within its jurisdiction to the licensing authority of the home state of the licensee." Minn. Stat. § 171.50, art. III. "[T]he home state shall give such effect to the conduct as provided by the laws of the home state." *Id.*, art. IV(b).

Minnesota law requires the commissioner to "revoke the license of a driver upon receiving a record of the driver's conviction of ... an offense in another state that, if committed in this state, would be grounds for revoking the license."

Milliman v. Commissioner of Public Safety, Not Reported in N.W. Rptr. (2022)

Minn. Stat. § 171.17 (2020). Refusing to submit to an alcohol test in Minnesota is grounds for license revocation. Minn. Stat. § 169A.52 (2020). Before reinstatement, a person whose driver's license has been revoked must, as conditions for reinstatement, pass an examination required by the commissioner and pay reinstatement fees. Minn. Stat. § 171.29 (2020).

A person whose license has been revoked or disqualified may file a petition for the district court “to take testimony and examine into the facts of the case to determine whether the petitioner is entitled to a license or is subject to revocation, suspension, cancellation, disqualification, or refusal of license, and shall render judgment accordingly.” Minn. Stat. § 171.19 (2020).

*2 “We review de novo the district court's application of the law in proceedings held pursuant to [section 171.19](#).” *Pallas v. Comm'r of Pub. Safety*, 781 N.W.2d 163, 167 (Minn. App. 2010). “[L]ike the district court, we may reverse the commissioner's licensure determination if it was fraudulent, arbitrary, unreasonable, or not within its jurisdiction and powers.” *Id.* The petitioner bears the burden of proving he or she is entitled to reinstatement. *Constans v. Comm'r of Pub. Safety*, 835 N.W.2d 518, 523 (Minn. App. 2013). We will “defer to the district court's credibility determinations and ability to weigh the evidence. The district court's fact findings will not be reversed on appeal unless clearly erroneous.” *Id.* (quotation and citations omitted).

The district court found that Milliman had paid “only a portion of the reinstatement fees required, and ha[d] not provided evidence of completion of the required DWI/Drug test.” The record supports the district court's factual finding because Milliman provided proof of a \$20 payment with his license application. Milliman presented no evidence that he paid the full reinstatement fee or “pass[ed] the DWI/drug written test,” as required by the commissioner. Therefore, the

district court properly found that Milliman did not meet his burden to prove he is entitled to reinstatement.

Milliman argues that the commissioner acted arbitrarily by not undertaking a safety investigation to determine whether it is safe to issue him a driver's license as provided for in the compact and discussed by our court in *Pallas*. Milliman also argues that the district court erred by concluding a safety investigation was premature and therefore the commissioner did not act arbitrarily by failing to do so. The district court properly concluded that Milliman failed to prove that the commissioner acted arbitrarily.

The compact allows the commissioner to refuse to issue a Minnesota license to an individual whose *out-of-state license* has been revoked for more than one year by “any other party state.” Minn. Stat. § 171.50, art. V(2); *Pallas*, 781 N.W.2d at 168. The compact states that the commissioner “may refuse to issue a license to any such applicant if, after investigation, the licensing authority determines that it will not be safe to grant to such person the privilege of driving a motor vehicle on the public highways.” Minn. Stat. § 171.50, art. V(2).

First, this provision of the compact does not apply to Milliman's driver's license application because his license originated in Minnesota. Second, even if it applied, the district court properly concluded a safety investigation was “premature” because Milliman has not paid the full reinstatement fee or passed the required examination, both of which are required for reinstatement. Therefore, the commissioner was “not required to make a safety investigation prior to proper application and satisfaction of the other reinstatement terms.”

Affirmed.

All Citations

Not Reported in N.W. Rptr., 2022 WL 200334

Footnotes

Milliman v. Commissioner of Public Safety, Not Reported in N.W. Rptr. (2022)

- * Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to [Minn. Const. art. VI, § 10](#).

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