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Minn. Stat. § 480A.08, subd. 3 (2006).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-1619**

State of Minnesota,
Respondent,

vs.

Randall Keith Carson,
Appellant.

**Filed August 19, 2008
Affirmed
Kalitowski, Judge**

Freeborn County District Court
File No. T2-05-4278

Lori Swanson, Attorney General, 1800 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101-2134; and

Steven R. Schwab, Albert Lea City Attorney, 221 East Clark Street, Albert Lea, MN 56007 (for respondent)

Randall D.B. Tigue, 801 Lilac Drive, Suite 205, Golden Valley, MN 55422 (for appellant)

Considered and decided by Toussaint, Chief Judge; Kalitowski, Judge; and Muehlberg, Judge.*

* Retired judge of the district court, serving as judge of the Minnesota Court of Appeals by appointment pursuant to Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

KALITOWSKI, Judge

Appellant Randall Keith Carson challenges his conviction of operating a vehicle containing prohibited lights, arguing that a white light is not a prohibited “red light or any colored light” within the meaning of Minn. Stat. § 169.64, subd. 2. We affirm.

DECISION

Appellant argues that the district court erred as a matter of law in finding him guilty of operating a vehicle containing prohibited lights in violation of Minn. Stat. § 169.64, subd. 2 (2004). Minn. Stat. § 169.64, subd. 2, provides that “no vehicle shall be equipped, nor shall any person drive or move any vehicle or equipment upon any highway with any lamp or device displaying a red light or any colored light other than those required or permitted in this chapter.” Appellant argues that the statute does not prohibit him from displaying a white light. We disagree.

Here, the parties agreed to proceed upon stipulated facts indicating that appellant operated a vehicle containing a large sign that displayed a white light. The applicability of a statute to undisputed facts presents a question of law, which we review *de novo*. *O’Malley v. Ulland Bros.*, 549 N.W.2d 889, 892 (Minn. 1996).

Statutory construction rules “require that a statute’s words and phrases are . . . given their plain and ordinary meaning.” *State v. Koenig*, 666 N.W.2d 366, 372 (Minn. 2003). But when the words of a statute are ambiguous, “the intent of the legislature controls.” *Id.*; Minn. Stat. §§ 645.08, .16 (2006). “Penal statutes are to be construed strictly so that all reasonable doubt concerning legislative intent is resolved in favor of

the defendant.” *Koenig*, 666 N.W.2d at 372-73. Nonetheless, applying strict construction does not require that we assign the narrowest possible interpretation to the statute. *State v. Zacher*, 504 N.W.2d 468, 473 (Minn. 1993).

Appellant argues that the phrase “red light or any colored light” in Minn. Stat. § 169.64, subd. 2, is ambiguous because the definitions of “white” cited by the district court are “subject to more than one reasonable interpretation.” The district court decided that because the dictionary definitions referred to “white” as a color, the statute was unambiguous. Appellant points out that two of the definitions cited by the district court describe white as an “achromatic color.” Because “achromatic” is defined as “relating to color having zero saturation or hue, such as white,” the definitions cited by the district court do not show that the question of whether white is a color is unclear. *The American Heritage College Dictionary* 11 (4th ed. 2007). Therefore, the phrase “red light or any colored light” is not subject to more than one reasonable interpretation and Minn. Stat. § 169.64, subd. 2, is not ambiguous.

But even if we accept appellant’s argument that one definition of “achromatic” – “free from color” – renders the phrase “red light or any colored light” ambiguous, the legislative intent behind the statute establishes that Minn. Stat. § 169.64, subd. 2, includes a white light. Appellant argues that construing the phrase “red light or any colored light” to include a white light violates the Minnesota Supreme Court’s directive to, “*if possible*,” avoid a statutory interpretation “which renders a complete sentence of the statute surplusage.” *See Cohen v. Gould*, 177 Minn. 398, 405, 225 N.W. 435, 438 (1929) (emphasis added). Appellant contends that “the entire purpose for including the

[relevant] phrase . . . is to distinguish colored lights from white lights.” But appellant ignores the fact that the phrase also includes another surplusage that cannot be interpreted another way – “*red light or any colored light*.” Since red is a color, “red light and any” could also be omitted from the statute. Thus, Minn. Stat. § 169.64, subd. 2, cannot be read to avoid surplusage.

If the language of a statute is ambiguous, legislative intent controls. *Koenig*, 666 N.W.2d at 372; Minn. Stat. §§ 645.08, .16. Here, because Minn. Stat. § 169.64, subd. 2, was enacted in 1937, legislative history is unavailable. But legislative intent may be ascertained not only from recorded legislative history, but also “the occasion and necessity for the law” and “the object to be attained.” Minn. Stat. § 645.16.

Appellant suggests that the legislature may have intended by Minn. Stat. § 169.64, subd. 2, to prohibit colored, but not white, lights because colored lights are used on emergency vehicles. But emergency vehicles also use white lights. *See, e.g.*, Minn. R. 7425.2600, subp. 3 (2007) (“An emergency vehicle flashing white lamp, that may be used by an authorized emergency vehicle to display a flashing white light in addition to a flashing red light . . .”). The district court’s proposition that “[t]he purpose [of the statute] is to prevent distracting or unsafe lighting arrangements” and that “[w]hite lights can be just as distracting as red lights,” is more persuasive than appellant’s suggested purpose. Thus, we conclude that the legislative intent weighs in favor of the conclusion that white lights are prohibited.

Moreover, when the language of the statute was enacted, the legislature, elsewhere in the same chapter of the session laws, required that a vehicle’s rear lights “illuminate

with a white light the rear registration plate.” 1937 Minn. Laws ch. 464, § 86, at 760. The legislature’s use of the term “a white light,” rather than “a colorless light” or other similar phrase, indicates that it considered white to be a color in this chapter. *See* Minn. Stat. § 645.16 (explaining “other laws upon the same or similar subjects” can aid a legislative-intent determination). Accordingly, we conclude that the phrase “red light or any colored light” as used in Minn. Stat. § 169.64, subd. 2, includes a white light.

Affirmed.