STATE OF MINNESOTA
IN COURT OF APPEALS
A13-0907

Charles A. Laliberte,
Appellant,

vs.

State of Minnesota, et al.,
Respondents,

City of Minneapolis, et al.,
Respondents.

Filed April 14, 2014
Affirmed
Hudson, Judge

Hennepin County District Court
File No. 27-CV-12-14764

Charles A. Laliberte, Duluth, Minnesota (pro se appellant)

Lori Swanson, Attorney General, Alethea M. Huyser, Assistant Attorney General, St. Paul, Minnesota (for respondents state, et al.)

Susan L. Segal, Minneapolis City Attorney, C. Lynne Fundingsland, Sarah C.S. McLaren, Assistant City Attorneys, Minneapolis, Minnesota (for respondents city, et al.)

Considered and decided by Hudson, Presiding Judge; Peterson, Judge; and Stauber, Judge.

U N P U B L I S H E D O P I N I O N

HUDSON, Judge

Appellant challenges the district court's dismissal with prejudice of his claims asserted under Minn. Stat. § 626.21 (2012), demanding return of his property seized in connection with a search warrant and "exemplary" damages. The district court concluded that appellant could not obtain relief under that statute because he had previously challenged the search in connection with his federal-court conviction of a drug-related crime and because no private right of action exists for violations of the Minnesota Constitution. We affirm.

FACTS

In January 2007, during a traffic stop, Kansas police officers discovered illegal drugs after searching a vehicle with the driver's consent. The driver informed them that she was carrying the drugs for appellant Charles A. Laliberte's son, Robert Charles Laliberte, who was driving behind her, and that she had made prior trips and delivered drugs to a designated address in north Minneapolis. The police also stopped and searched Robert Laliberte's vehicle, which contained large quantities of marijuana, cocaine, and methamphetamine.

A Minneapolis police officer applied for a warrant to search the Minneapolis residence, alleging that he had run a property search and determined that the residence was owned by Robert Charles Laliberte. In fact, the property search showed that appellant, not his son, owned the residence. A judge in Hennepin County District Court granted the warrant.

When police searched the residence, they discovered a calendar showing records of drug-transportation activities, marijuana and cocaine residue, packing material, and a scale. Appellant and his son were both indicted in United States District Court for the District of Kansas for conspiracy to distribute controlled substances. That court rejected appellant's argument that the warrant was unsupported by probable cause because its supporting affidavit contained a false statement relating to ownership of the property. *United States v. Laliberte*, No. 07-10022-03, 2007 WL 4208820 (D. Kan. Nov. 26, 2007), *aff'd*, 308 Fed. Appx. 295, 2009 WL 159599 (10th Cir. 2009). The federal district court held that because the misstatement resulted from simple negligence or inadvertence, rather than reckless disregard for the truth, it did not invalidate the warrant. *Id.* at *4. In December 2007, appellant entered a conditional plea of guilty to the federal drug charge. *See* Fed. R. Crim. P. 11(a)(2) (allowing conditional guilty plea, reserving right to appeal adverse determination of a specified pretrial motion). In the factual basis for the plea, appellant admitted that he and his son lived at the Minneapolis address. Appellant was sentenced to 87 months in prison.

In July 2012, appellant filed a civil petition against the state, the judge who issued the warrant, the City of Minneapolis, and the police officer who applied for the warrant, seeking relief under Minn. Stat. § 626.21, demanding the return of property seized in the search. He sought "exemplary damages" of $300,000, arguing, inter alia, that the search warrant was unsupported by probable cause; that he was deprived of his property without due process in violation of the United States and Minnesota Constitutions because he was not served with proper notice of the search under Minn. Stat. § 626.16 (2012); and that

the issuing judge displayed bias by authorizing the search. The state and the judge moved to dismiss the action, arguing that judicial immunity barred the damages claim and that Minnesota had not enacted a statutory remedy providing damages under the Minnesota Constitution. The city and the officer moved for summary judgment, arguing that appellant's criminal conviction barred his federal constitutional claim for civil damages; his arguments failed on the merits; and that they were shielded from liability under the doctrines of qualified immunity, official immunity, and vicarious official immunity.

After a hearing, with appellant appearing pro se, the district court dismissed the action with prejudice. The district court concluded that Minn. Stat. § 626.21 does not provide a cause of action for damages and that the Minnesota Rules of Criminal Procedure have largely preempted the use of this statute to challenge a search and seizure. The district court noted that federal courts had already denied appellant's claim; that Minnesota law does not permit actions for damages based on alleged Minnesota constitutional violations; and that, even if such a private right of action existed, judges are absolutely immune from suit based on their judicial acts. The district court concluded that it lacked subject-matter jurisdiction to reverse the federal court decision because subsequent civil actions are not appropriate means to challenge criminal judgments under *Heck v. Humphrey*, 512 U.S. 477, 114 S. Ct. 2364 (1974). But the district court held that appellant could seek the return of some personal items seized by making an administrative request with the City of Minneapolis. This appeal follows.

D E C I S I O N

On appeal from a district court's dismissal of a case for failure to state a claim under rule 12.02(e), we review de novo whether the complaint sets forth a legally sufficient claim for relief. *Bodah v. Lakeville Motor Express, Inc.*, 663 N.W.2d 550, 553 (Minn. 2003). The Minnesota Supreme Court has directed dismissal of claims with prejudice pursuant to a rule-12 motion when the claims fell "far short of the established [pleading] requirements." *Martens v. Minn. Mining & Mfg. Co.*, 616 N.W.2d 732, 748 (Minn. 2000). This court reviews a district court's summary-judgment decision under Minn. R. Civ. P. 56.03 to "determine whether genuine issues of material fact exist and whether the district court correctly applied the law. . . . We apply a de novo standard of review to the district court's application of the law." *White v. City of Elk River*, 840 N.W.2d 43, 48 (Minn. 2013) (citations omitted).

Appellant argues that the district court erred by dismissing this action with prejudice. He maintains that the search, which was based on incorrect information in the warrant, violated his federal and state constitutional rights, entitling him to damages. But Minnesota law does not recognize a private cause of action for violations of the Minnesota Constitution. *Guite v. Wright*, 976 F. Supp. 866, 871 (D. Minn. 1997), *aff'd in part, dismissed in part*, 147 F.3d 747 (8th Cir. 1998). There is no state-law equivalent to 42 U.S.C. § 1983 (2012), which allows a private cause of action for damages based on federal constitutional violations. And the district court did not err in holding that appellant's federal constitutional claims were also barred because he did not successfully challenge his criminal conviction. *See Heck*, 512 U.S. at 486–87, 114 S. Ct. at 2372

(concluding that to bring a damages claim under section 1983 for an allegedly unconstitutional conviction, a plaintiff must prove a successful challenge to the conviction); *see also Noske v. Friedberg*, 670 N.W.2d 740, 744 (Minn. 2003) (citing *Heck*, stating that "civil proceedings are an inappropriate forum to relitigate an issue that was previously decided in a criminal proceeding . . . that has not been reversed").

Appellant argues that the federal court should have refrained from addressing the issue of the validity of the warrant under the doctrine of abstention in *Younger v. Harris*, 401 U.S. 37, 91 S. Ct. 746 (1971). But the application of the *Younger* abstention doctrine requires an ongoing state-court proceeding. *Night Clubs, Inc. v. City of Fort Smith, Ark.*, 163 F.3d 475, 480 (8th Cir. 1998). Appellant has not shown the existence of a state-court proceeding relating to his drug charges; he was charged with, and convicted of, conspiracy to distribute drugs in federal court.

Appellant seeks damages under Minn. Stat. § 626.21, which provides that "[a] person aggrieved by an unlawful search and seizure may move the district court . . . for the return of the property and to suppress [its] use, as evidence." That statute, however, does not authorize an independent action for damages, but only a motion for suppression or return of property that is auxiliary to a pending or ongoing proceeding. *See id.* (stating that "[t]he motion shall be made before trial or hearing unless opportunity therefor did not exist or the defendant was not aware of the grounds for the motion, but the court in its discretion may entertain the motion at the trial or hearing"). Further, we have noted that "since the promulgation of the Rules of Criminal Procedure, the statute is

superfluous for purposes of criminal prosecutions." *Bonynge v. City of Minneapolis*, 430 N.W.2d 265, 266 (Minn. App. 1988).

Appellant also argues that he failed to receive notice of the warrant under Minn. Stat. § 626.16, which provides that an officer conducting a search must deliver a copy of the warrant to the person at the location where property was found, or leave a copy of the warrant on the premises. Minnesota appellate courts, however, have concluded that failure to leave a copy of a search warrant at the premises is a "minor irregularit[y]," which does not require suppression of evidence obtained in the search. *State v. Mollberg*, 310 Minn. 376, 385, 246 N.W.2d 463, 470 (1976); *State v. Raines*, 709 N.W.2d 273, 279–80 (Minn. App. 2006), *review denied* (Minn. Apr. 18, 2006). Appellant maintains that he should have been allowed to inspect the warrant, citing *In re Up North Plastics, Inc.*, 940 F. Supp. 229, 233 (D. Minn. 1996) (concluding that, generally, a person whose property is seized pursuant to a search warrant has the right to know the basis on which the warrant was issued). But *Up North Plastics* deals with a sealed warrant application. *Id*. Appellant has not alleged that the application for the warrant was sealed or that he did not know the basis on which it issued.

Finally, appellant argues that the issuing judge did not properly perform her judicial duties because she did not independently verify the information on the warrant. The district court concluded that the judge was immune from liability for her judicial acts. "If a claim is barred on immunity grounds, the governmental entity is entitled to judgment as a matter of law and dismissal is proper." *S.J.S. v. Faribault Cnty.*, 556 N.W.2d 563, 565 (Minn. App. 1996), *review denied* (Minn. Jan. 21, 1997). Under the

doctrine of judicial immunity, a judge cannot be held liable to anyone in a civil action for "acts done in the exercise of judicial authority . . . however erroneous or by whatever motives prompted." *Linder v. Foster*, 209 Minn. 43, 45, 46, 295 N.W. 299, 300 (1940) (quotation omitted). This broad application of immunity preserves judicial independence by allowing judges to act in their official capacity without fear of retaliatory civil lawsuits. *Id.* at 47, 295 N.W. at 301. Because appellant seeks to hold the judge liable based on her judicial act of issuing the warrant, his claim is barred by judicial immunity. *See id*.

We note that respondents assert additional immunity-based arguments. But because those arguments are unnecessary to our analysis and were not considered by the district court, we need not address them. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (stating that an appellate court generally does not consider issues not raised before, and considered by, the district court).

Affirmed.