

**IN THE COURT OF APPEALS OF IOWA**

No. 2-1118 / 12-0248  
Filed January 9, 2013

**STATE OF IOWA,**  
Plaintiff-Appellee,

**vs.**

**MICHAEL DEAN GANGESTAD JR.,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Fayette County, Margaret L. Lingreen (motion and trial) and John Bauercamper (sentencing), Judges.

Michael Gangestad appeals from his judgment, conviction, and sentence for driving while license barred. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Theresa R. Wilson, Assistant Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Bridget A. Chambers, Assistant Attorney General, W. Wayne Saur, County Attorney, and J.D. Villont, Assistant County Attorney, for appellee.

Considered by Potterfield, P.J., and Danilson and Tabor, JJ.

**POTTERFIELD, P.J.**

Michael Gangestad appeals from his judgment, conviction, and sentence for driving while license barred. He contends the district court erred in finding he violated the driving while license barred statute while operating his vehicle on a private road. We affirm, following our supreme court's precedent in *State v. Burns*, 541 N.W.2d 875 (Iowa 1995), which held our driving while license barred statute includes operation of a motor vehicle on private property.

**I. Facts and Proceedings**

A police officer received a phone call that Michael Gangestad was operating his vehicle inside of a trailer park without a driver's license. The officer verified Gangestad's license was barred as a habitual offender. He then proceeded to the trailer park, observed Gangestad operating his vehicle, and arrested him. Gangestad was charged with driving while license barred under Iowa Code sections 321.560 (2009) and 321.561, and driving while license revoked under Iowa Code sections 321J.21.

Gangestad waived his right to a speedy trial and filed a motion to adjudicate law points. In this motion he stipulated he was operating a vehicle and his license was barred at that time under Iowa Code 321.560. He contested that the statute regarding operation of a motor vehicle while license barred applied to private roads. The district court denied this motion, finding the statute applied beyond public highways, citing *State v. Burns*. Gangestad then waived his right to a jury trial. A bench trial was held, and Gangestad made a motion for judgment of acquittal on the same grounds as his motion to adjudicate law

points. He was found guilty of driving while license barred and driving while license revoked.<sup>1</sup> He was sentenced to minimum fines and no jail time.

## II. Analysis

We review challenges regarding statutory interpretation for the correction of errors at law. *State v. Rhiner*, 670 N.W.2d 425, 428 (Iowa 2003). Iowa Code section 321.561 reads as follows:

It shall be unlawful for any person found to be a habitual offender to operate any motor vehicle in this state during the period of time specified in section 321.560 except for a habitual offender who has been granted a temporary restricted license pursuant to section 321.215, subsection 2. A person violating this section commits an aggravated misdemeanor.

Gangestad contends this section cannot apply to his operation of a vehicle within a trailer park. Our supreme court, however, has previously held this language applies to operation of a vehicle on private property. *Burns*, 541 N.W.2d at 876. In *Burns*, the court held the operation of a vehicle in the barnyard of a farm by a person whose license was barred constituted a violation of section 321.561. Gangestad asserts that when read together with Iowa Code section 321.228, the *Burns* interpretation is improper. In *Burns*, our supreme court stated:

When a statute is plain and its meaning clear, courts are not permitted to search for meaning beyond its express terms. . . . Nowhere does the statutory language [of Iowa Code section 321.561] distinguish between operation on a public highway and operation at some other location. Because defendant had been convicted as an habitual offender, any operation of a motor vehicle during the prohibited period was proscribed by this statute.

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<sup>1</sup> Gangestad does not appeal from his conviction for driving while license revoked.

*Id.* (internal citations omitted). We note the legislature has not altered either section 321.561, or section 321.228 in a way that could call into question this interpretation since *Burns* was decided in 1995. We are bound by our precedent.

**AFFIRMED.**