STATE OF MINNESOTA
IN COURT OF APPEALS
A08-0276
A08-0461

Nancy C. Lazaryan,
Appellant,

William M. Kayser,
Plaintiff,

vs.

Karen Guilfoile, City Clerk for the City of Maplewood,
in her personal and professional capacity, et al.,
Defendants (A08-276),
Respondents (A08-461),

H. Allan Kantrud, interim attorney
for the City of Maplewood,
in his personal and professional capacity,
Respondent.

Filed December 16, 2008
Affirmed
Huspeni, Judge[*]

Ramsey County District Court
File No. 62-C6-06-009458

Nancy C. Lazaryan, 10734 West Lake Road, Rice, MN 56367 (pro se appellant)

Patricia Y. Beety, Ryan M. Zipf, League of Minnesota Cities, 145 University Avenue West, St. Paul, MN 55103-2044 (for respondents Karen Guilfoile, et al.)

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

Frederic W. Knaak, Greg T. Kryzer, Knaak & Kantrud, P.A., 3500 Willow Lake Boulevard, Suite 800, Vadnais Heights, MN 55110 (for respondent H. Allan Kantrud)

Considered and decided by Klaphake, Presiding Judge; Larkin, Judge; and Huspeni, Judge.

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

HUSPENI, Judge

Appellant argues that the district court did not have jurisdiction in this case. Because the district court had both personal and subject-matter jurisdiction, we affirm.

FACTS

During the summer of 2006, appellant Nancy Lazaryan made several written requests to respondent Karen Guilfoile, city clerk for the City of Maplewood, for the release of government documents under the Minnesota Government Data Practices Act (MGDPA). On August 7, 2006, less than a month after her first request for data, appellant filed suit against Guilfoile, the City of Maplewood, and Maplewood's city attorney Alan Kantrud, for allegedly violating the MGDPA. Appellant brought a motion for summary judgment and default judgment and a motion to add additional defendants, all of which the district court denied. Subsequently, respondents Guilfoile and the City of Maplewood moved for rule 11 sanctions, which were awarded against appellant in the amount of $1,940.

On August 9, 2007, the district court granted summary judgment in favor of Guilfoile and the City of Maplewood. Judgment was entered on August 22. On November 30, 2007, the district court granted summary judgment in favor of Kantrud.

Judgment was entered on December 13. Appellant filed a notice of appeal on February 11, 2008. On February 27, 2008, the district court entered a judgment against appellant for $2,494 in costs, disbursements, and sanctions.

A special term panel of this court determined on March 4, 2008, that the portion of the appeal relating to the December 13, 2007 award of summary judgment in favor of Kantrud was properly appealed. The panel also determined that the portion of the appeal relating to the August 22, 2007 granting of summary judgment in favor of Guilfoile and the City of Maplewood was untimely and was, therefore, dismissed. Lastly, the panel found that the portion of the appeal relating to the February 2, 2007 order for sanctions was taken from a nonappealable order. Thus, the only portion of the February 11, 2008 appeal that survived was that relating to the award of summary judgment in favor of Kantrud.

Appellant filed another appeal on March 10, 2008. A special term panel of this court determined on March 13, 2008, that the portion of this appeal relating to the August 22, 2007 granting of summary judgment in favor of Guilfoile and the City of Maplewood was still untimely and was, therefore, dismissed. The panel further determined that the portion of the appeal relating to the February 27, 2008 judgment for sanctions was now properly before this court. The panel consolidated the two appeals—the summary judgment awarded to Kantrud and the sanctions award.

D E C I S I O N

In her sole argument on appeal appellant insists that the district court did not have jurisdiction in this case. Appellant does not contend that summary judgment was

improper as a matter of law, and therefore this issue is waived. *See Melina v. Chaplin*, 327 N.W.2d 19, 20 (Minn. 1982) ("This issue was not argued in the briefs and accordingly must be deemed waived."). Notwithstanding respondent Kantrud's request that we decline to address the sole issue raised by appellant because she did not raise the issue before the district court, we shall address the issue on the merits. Subject-matter jurisdiction may be raised at any time. *Cochrane v. Tudor Oaks Condominium Project*, 529 N.W.2d 429, 432 (Minn. App. 1995) (citing Minn. R. Civ. P. 12.08(c)), *review denied* (Minn. May 31, 1995). And for the sake of full analysis, we shall also address the merits of appellant's attack on personal jurisdiction.

Questions of subject-matter and personal jurisdiction are reviewed de novo. *Johnson v. Murray*, 648 N.W.2d 664, 670 (Minn. 2002); *Burkstrand v. Burkstrand*, 632 N.W.2d 206, 209 (Minn. 2001); *Wick v. Wick*, 670 N.W.2d 599, 603 (Minn. App. 2003).

We conclude that there is no merit to appellant's claim that the district court lacked personal jurisdiction. The district court had and properly exercised personal jurisdiction over appellant.

> Personal jurisdiction has two elements: First, there must be an adequate connection between the defendant and the state, known as a "basis" for the exercise of personal jurisdiction by the district court. Second, the plaintiff must invoke the jurisdiction of the district court using a "process" that is consistent with the requirements of due process and that satisfies those portions of the Minnesota Rules of Civil Procedure that govern the commencement of civil actions and the personal service of process.

Wick, 670 N.W.2d at 603 (quotations omitted). Clearly determinative of the issue of personal jurisdiction here is the fact that appellant herself initiated this suit against the

City of Maplewood and two city employees in the district court. By doing so she submitted herself to and invoked the jurisdiction of the court. She provides no support for her assertion that being "in propria persona, in summon jure" somehow purges the district court of personal jurisdiction over her. In fact, this court has previously held that the term "propria persona" is interchangeable with the term pro se. *See Ledden v. State*, 686 N.W.2d 873, 878 (Minn. App. 2004) ("Appellant may be 'in propria persona' to himself, but he is 'pro se' to us.").[1] Personal jurisdiction over appellant was properly established when she filed suit in a Minnesota district court.

The district court also had subject-matter jurisdiction of this dispute. "Subject-matter jurisdiction is defined as not only authority to hear and determine a particular class of actions, but authority to hear and determine the particular questions the court assumes to decide." *Irwin v. Goodno*, 686 N.W.2d 878, 880 (Minn. App. 2004) (quotations omitted). Minnesota "[d]istrict courts are courts of general jurisdiction and have the power to hear all types of civil cases, with a few exceptions." *Id.* Minnesota law provides district courts the authority to consider MGDPA cases. Minn. Stat. § 13.08 (2006). Furthermore, Minnesota Rule of Civil Procedure 11 gives district courts the authority to impose sanctions on parties for conducting frivolous litigation. Therefore,

[1] District courts have jurisdiction over pro se parties. *See generally Fitzgerald v. Fitzgerald*, 629 N.W.2d 115, 119 (Minn. App. 2001) ("Although some accommodations may be made for pro se litigants, this court has repeatedly emphasized that pro se litigants are generally held to the same standards as attorneys and must comply with court rules."). Furthermore, although generally reluctant to sanction pro se parties with costs and disbursements, courts have the discretion to do so when a party's conduct warrants it. *Liedtke v. Fillenworth*, 372 N.W.2d 50, 52 (Minn. App. 1985), *review denied* (Minn. Sept. 13, 1985).

the district court had subject-matter jurisdiction to hear this case, to grant summary judgment, and to impose sanctions on appellant.

Lastly, respondent Kantrud argues in his brief that he is entitled to reasonable attorney fees because he was forced to respond to what he deems a frivolous appeal. He offers to submit a separate motion and attorney affidavit itemizing costs and fees if his request is granted. We note that "[a] party seeking attorneys' fees on appeal shall submit such a request by motion under rule 127." Minn. R. Civ. App. P. 139.06, subd. 1. A request in the brief is not sufficient. *Andrew L. Youngquist, Inc. v. Cincinnati Ins. Co.*, 625 N.W.2d 178, 188 (Minn. App. 2001); *Crockarell v. Crockarell*, 631 N.W.2d 829, 837 (Minn. App. 2001), *review denied* (Minn. Oct. 16, 2001). Nor do we find this to be an appropriate case for the court to "grant on its own motion an award of reasonable attorneys' fees." Minn. R. Civ. P. 139.06, subd. 1. Respondent Kantrud's request is denied at this time.

Affirmed.