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**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-0638**

Terence Lakin, petitioner,
Respondent,

vs.

Kevin Michael Halverson,
Appellant.

**Filed March 18, 2019
Affirmed
Connolly, Judge**

Pine County District Court
File No. 58-CV-18-40

Katie M. Elliott, Ledin, Hofstad, Troth & Fleming, Ltd., North Branch, Minnesota (for respondent)

Jennifer M. Macaulay, Macaulay Law Offices, Ltd., St. Paul, Minnesota (for appellant)

Considered and decided by Connolly, Presiding Judge; Bjorkman, Judge; and Florey, Judge.

UNPUBLISHED OPINION

CONNOLLY, Judge

Appellant challenges a harassment restraining order (HRO), arguing that the record does not show he harassed respondent and that the HRO is an unconstitutional prior

restraint on his ability to petition the government for redress of grievances. Because we see no abuse of discretion in the granting of the HRO, we affirm.

FACTS

Respondent Terence Lakin is the mayor and building official of the City of Brook Park in Pine County; he is also employed full-time as the building official for Isanti County. Appellant Kevin Halverson is a manager of buildings in Brook Park.

In January 2017, respondent applied for an HRO against appellant, stating in an affidavit that appellant had (1) made repeated phone calls to respondent's workplaces in Brook Park and in Isanti County, (2) driven past respondent's residence, (3) followed respondent in a vehicle for 13.5 miles, (4) tried to get respondent terminated from his Isanti County job by talking to the sheriff and the administrator of Isanti County, and (5) threatened to sue respondent. Respondent also said appellant had informed the Isanti County administrator that appellant uses his brother as his "hit man" for people appellant has trouble with. Respondent sought an HRO that would prohibit appellant from having contact with respondent and would require appellant to stay away from respondent's residence and workplaces.

The district court granted a temporary HRO, and a hearing was scheduled. At the hearing, respondent testified that appellant had contacted Isanti County concerning respondent three times.

Respondent testified that appellant's first conversation with the Isanti County administrator occurred because respondent and other Brook Park officials "wouldn't allow [appellant] to have a[n] automobile dealership move into his [building in Brook Park]" and

appellant “wanted [Isanti County] to reprimand” respondent for “discriminating against [appellant] as a business owner in the City of Brook Park.” A police report related to this incident corroborates respondent’s testimony.

Respondent testified that appellant’s second contact with Isanti County occurred because appellant wanted to inform Isanti County that appellant was filing a complaint against respondent with the Minnesota Department of Human Rights (DHR) for discrimination, namely “not allowing a person of color, specifically a person that was from Somalia to come in and operate a used car business in Brook Park.” The district court pointed out that, while appellant had the right to file a DHR complaint against respondent, he did not have the right to inform respondent’s employer of that fact.

Respondent testified that the third contact occurred after appellant had been asked to leave a Brook Park City Council meeting one night. The next morning, appellant went to respondent’s workplace in Isanti County and talked for an hour and a half to respondent’s boss, the Isanti County administrator. The administrator then told respondent that appellant had said he “has a brother who is also [appellant’s] hit man.” Respondent also testified that appellant phoned respondent when respondent was on duty in Isanti County to have a conversation about appellant’s building in Brook Park.

When appellant was asked to testify at the HRO hearing, he ignored the district court’s instructions as to what he should discuss and talked at length (his testimony covers about 18 pages of the 50-page transcript) about his problems with building permits in Brook Park and his view that he had never harassed respondent. The district court finally told appellant that the judge in an HRO proceeding could not order respondent to issue a

building permit and “tried to explain to [appellant] what the issues are,” but appellant “seem[ed] not to want to respond to them.”

The district court, recognizing that appellant needs to have some official contact with respondent, crafted an HRO that restricts appellant’s right to communicate with respondent to (1) talking to respondent about official business at city council meetings and (2) either bringing written communication for respondent to such a meeting or leaving written communication in a drop box at the City Council office. The HRO precludes appellant from contacting respondent at his job in Isanti County or from contacting Isanti County officials concerning respondent or his employment. The HRO expires in January 2020.

Appellant argues that the district court abused its discretion in granting the HRO.

D E C I S I O N

“Ultimately, the issuance of an HRO is reviewed for abuse of discretion.” *Peterson v. Johnson*, 755 N.W.2d 758, 761 (Minn. App. 2008). “A district court’s findings of fact will not be set aside unless clearly erroneous, and due regard is given to the district court’s opportunity to judge the credibility of witnesses.” *Kush v. Mathison*, 683 N.W.2d 841, 843-44 (Minn. App. 2004), *review denied* (Minn. Sept. 29, 2004). This court will reverse the issuance of an HRO only if the issuance is not supported by the evidence or if the district court improperly applied the law. *Id.* The issuance must be supported by a district court’s finding that there are “reasonable grounds to believe that the respondent has engaged in harassment.” Minn. Stat. § 609.748, subd. 5(b)(3) (2018).

Appellant argues first that he did not harass respondent: respondent, as an elected official of Brook Park, should have accepted appellant's contact with him during work hours at Isanti County "as just part of the [Brook County] job, not harassment." Appellant does not address Isanti County's right to assume that respondent's work hours are devoted to the job he is hired to do there, without interruption or harassment from constituents who have nothing to do with Isanti County.

Appellant also argues that, because he is restrained from "annoying [respondent] and his colleagues," he is being denied access to his right as a citizen to petition the government to redress grievances. But appellant cites no support for his view that any citizen may access any government official, anywhere, at any time, to obtain redress for a grievance regardless of whether that official has jurisdiction over where the grievance occurred.

Finally, appellant argues that the HRO should be vacated on First Amendment grounds because he has a first-amendment right to contact any elected official at any time to complain about any employee, "even if the connection to that elected official's jurisdiction seems somewhat attenuated." But no elected official in Isanti County has any jurisdiction whatever over respondent's activity as mayor of Brook Park in Pine County nor any duty to listen to appellant's complaints about respondent's performance of that activity.

In carefully crafting an HRO to meet the needs of both parties, the district court did not abuse its discretion.

Affirmed.