STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0325

Michael Hosting,
Respondent,

vs.

Eagleview Logistics, Corp., et al.,
Appellants.

Filed November 23, 2020
Affirmed
Smith, Tracy M., Judge

Fillmore County District Court
File No. 23-CV-19-768

Ryan Murphy, Samuel Andre, Fredrikson & Byron, P.A., Minneapolis, Minnesota (for respondent)

Daniel P. Doda, Doda & McGeeney, P.A., Rochester, Minnesota (for appellants)

Considered and decided by Smith, Tracy M., Presiding Judge; Worke, Judge; and Connolly, Judge.

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

SMITH, TRACY M., Judge

Respondent Michael Hosting, a Minnesota resident, brought suit in Minnesota against appellants Eagleview Logistics Corp. and its president and sole shareholder Billy Joe Robinson Jr. for nonpayment of a promissory note. Eagleview is an Ohio corporation, and Robinson is an Ohio resident. Appellants moved to dismiss the complaint for lack of

personal jurisdiction, and the district court denied their motion. Because Hosting sufficiently alleged that an employee or agent acting on behalf of appellants solicited an economic relationship with Hosting while in Minnesota, and because the terms of the resulting promissory note likewise connect appellants to Minnesota, we conclude that the requisite minimum contacts exist between appellants and Minnesota to support personal jurisdiction. We affirm.

FACTS

Because this case is before us on appeal from denial of a motion to dismiss for lack of personal jurisdiction, we take the facts alleged in the complaint and supporting evidence as true and draw all reasonable inferences in favor of the plaintiff, here Hosting. *See Hardrives, Inc. v. City of LaCrosse*, 240 N.W.2d 814, 816 (Minn. 1976) (citation omitted).

Eagleview serves as an independent contractor for FedEx Ground in Ohio, delivering packages. Hosting is a retired tradesman, living in Minnesota. Hosting first came into contact with appellants in 2016 based on an encounter in Minnesota with J.M. J.M. had attended college with Hosting's nephew in Winona, and J.M. was in Minnesota for a visit. Hosting met J.M. through his nephew, and J.M. told Hosting that appellants were looking for financing to purchase additional FedEx ground routes. Hosting believed J.M. was a "managing employee" of appellants. Hosting expressed interest in investing in Eagleview, and J.M. provided appellants' contact information and told Hosting to contact Robinson—which Hosting did. From Minnesota, Hosting called Robinson and relayed his

interest in investing in Eagleview. Hosting and Robinson spoke several times on the phone.[1]

Appellants were aware that Hosting was a Minnesota resident because appellants prepared the promissory note in Ohio and sent it to Hosting's Minnesota address. Further, the terms of the note stated that all payments would be made to Hosting at his Canton, Minnesota, address. The note was signed on June 8, 2017. Under the terms of the note, Hosting loaned appellants $550,000 with a 12% interest rate and appellants were to repay Hosting over five years.

One year later, appellants stopped paying Hosting. After unsuccessful efforts to contact appellants, Hosting filed this action to recover the balance of the loan.

Appellants moved to dismiss the complaint for lack of personal jurisdiction under Minn. R. Civ. P. 12.02(b).[2] Both parties submitted affidavits in connection with the motion. Appellants sought to establish that J.M. was unaffiliated with appellants and therefore not soliciting business on their behalf. Hosting's affidavit asserted his understanding that J.M. was an employee of appellants and was soliciting business on their behalf. The district court took as true the allegations in Hosting's complaint and supporting evidence and denied appellants' motion to dismiss.

This appeal follows.

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[1] Appellants assert that, during the negotiations, Hosting traveled to Ohio to meet with Robinson and observe Eagleview's facilities.

[2] Appellants also sought dismissal for failure to state a claim under Minn. R. Civ. P. 12.02(e), which the district court denied. That ruling is not before us.

D E C I S I O N

The only issue in this appeal is whether the district court erred by determining that there are sufficient minimum contacts between appellants and Minnesota to exercise personal jurisdiction over appellants in this case.

As an initial matter, we note some disagreement between the parties over our standard of review. Appellants argue it is de novo; Hosting agrees that the standard is de novo but also asserts that the district court made findings of fact that must be reviewed under a clearly-erroneous standard. We disagree that a clearly-erroneous standard applies. In its ruling, the district court described the assertions that Hosting made in his complaint and affidavit and properly took those assertions as true for purposes of deciding the motion. *See Hardrives, Inc.*, 240 N.W.2d at 816 (explaining that a party asserting that personal jurisdiction is proper "need only make a prima facie showing of sufficient Minnesota-related activities through the complaint and supporting evidence, which will be taken as true"). It did not make factual findings subject to review for clear error. The standard of review is therefore the de novo standard that applies to district court rulings on personal jurisdiction. *See Rilley v. MoneyMutual, LLC*, 884 N.W.2d 321, 326 (Minn. 2016). And, in the event that the case is close, we must resolve any doubt in favor of retaining jurisdiction. *Hardrives, Inc*., 240 N.W.2d at 818.

For a Minnesota court to exercise personal jurisdiction over an out-of-state defendant, two conditions must be met: (1) jurisdiction must fall within the provisions of the Minnesota long-arm statute, found at Minn. Stat. § 543.19, subd. 1 (2018); and (2) jurisdiction must not violate the Due Process Clause of the Fourteenth Amendment to

the federal Constitution. *Domtar, Inc. v. Niagara Fire Ins. Co.*, 533 N.W.2d 25, 29 (Minn. 1995) (citing *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 291, 100 S. Ct. 559, 564 (1980); *Int'l Shoe Co. v. Washington*, 326 U.S. 310, 316, 66 S. Ct. 154, 158 (1945)). "Because Minnesota's long-arm statute is coextensive with the constitutional limits of due process, the inquiry necessarily focuses on the personal-jurisdiction requirements of the federal constitution." *Lorix v. Crompton Corp*., 680 N.W.2d 574, 577 (Minn. App. 2004), *review denied* (Minn. Sept. 21, 2004). And, because the inquiry involves the federal Due Process Clause, federal caselaw may be useful in resolving the question. *Valspar Corp. v. Lukken Color Corp*., 495 N.W.2d 408, 411 (Minn. 1993).

There are two kinds of personal jurisdiction: general and specific. *Daimler AG v. Bauman*, 571 U.S. 117, 127, 134 S. Ct. 746, 754 (2014) (citations omitted). The type of jurisdiction informs the analysis of any minimum contacts with the forum state. *Id.* at 132-33, 134 S. Ct. at 757-58. General personal jurisdiction allows a court to exercise personal jurisdiction for all claims and cases that arise against a defendant that is "at home" within the state. *Id.* at 127, 134 S. Ct. at 754 (citations omitted). Specific personal jurisdiction, on the other hand, allows the court to exercise jurisdiction over a defendant for the specific case "when a plaintiff's suit arises from or relates to the defendant's forum contacts." *Young v. Maciora*, 940 N.W.2d 509, 514 (Minn. App. 2020) (quotation and citation omitted). Both parties agree that specific personal jurisdiction is at issue here. Therefore, we will only assess appellants' contacts with Minnesota that gave rise to this case.

Under long-standing federal precedent, an out-of-state defendant must have "minimum contacts" with Minnesota so that exercising personal jurisdiction will not offend

"traditional notions of fair play and substantial justice." *Int'l Shoe*, 326 U.S. at 316, 66 S. Ct. at 158 (quotation omitted). These contacts must be such that the out-of-state defendant can "reasonably anticipate being haled into court" in Minnesota. *World-Wide Volkswagen*, 444 U.S. at 297, 100 S. Ct. at 567. The minimum-contacts analysis is fact-dependent and looks at any contacts alleged by the plaintiff "in the aggregate and not individually, by looking at the totality of the circumstances." *Rilley*, 884 N.W.2d at 337 (citing *Northrup King Co. v. Compania Productora Semillas Algodoneras Selectas, S.A.*, 51 F.3d 1383, 1388 (8th Cir. 1995)).

Minnesota courts use a five-factor test to determine whether the exercise of personal jurisdiction comports with the long-arm statute and due-process considerations. *Juelich v. Yamazaki Mazak Optonics Corp*., 682 N.W.2d 565, 570 (Minn. 2004). The court evaluates: (1) the quantity of the appellants' contacts with Minnesota, (2) the nature and quality of those contacts, (3) the connection between the cause of action and those contacts, (4) Minnesota's interest in providing a forum in the case, and (5) the convenience of the parties. *Id.* (citing *Hardrives, Inc*., 240 N.W.2d at 817). The first three factors are used to evaluate the establishment of "minimum contacts" with Minnesota, and the final two factors determine whether exercising jurisdiction is reasonable when considering "fair play and substantial justice." *Id.*

Here, only two of the five factors—the quantity of any minimum contacts and the nature and quality of those contacts—are substantially disputed. Regardless, we address each factor in turn.

Quantity of contacts

No threshold number of contacts is necessary to exercise personal jurisdiction over an out-of-state party; indeed, even a "single, isolated transaction between a nonresident defendant and a resident plaintiff can be a sufficient contact to justify exercising personal jurisdiction." *Marquette Nat'l Bank of Minneapolis v. Norris*, 270 N.W.2d 290, 295 (Minn. 1978).[3]

Appellants assert that the quantity of their contacts with Minnesota is "virtually nonexistent." They contend that, under *Walden v. Fiore*, 571 U.S. 277, 285-86, 134 S. Ct. 1115, 1122-23 (2014), it is the defendant's contact with the forum state that matters, not the contacts with the state's residents, and that appellants did not have contacts with Minnesota. But, as *Walden* recognizes, courts must focus on "the defendant's conduct," and a defendant's conduct of soliciting and entering into a continuing business relationship within a state may be considered as relevant contacts with the forum state. *Id.* at 285, 134 S. Ct. at 1122. "[P]hysical entry into the State—either by the defendant in person or through an agent, goods, mail, or some other means—is certainly a relevant contact." *Id.* (citing *Keeton v. Hustler Magazine, Inc.*, 465 U.S. 770, 773-74, 104 S. Ct. 1473, 1478 (1984)).

[3] Appellants argue that there were more contacts between Hosting and Ohio than between appellants and Minnesota and that this factor therefore weighs against exercising personal jurisdiction in this case. In particular, they allege that Hosting traveled to Ohio to inspect appellants' facilities and meet Robinson, and that all payments were in fact made to a Morgan Stanley office in Ohio, despite the promissory note's provision that they be made in Minnesota. While each of these facts may be true, the issue is not whether jurisdiction would be proper in Ohio but rather whether a Minnesota court may exercise personal jurisdiction. Hosting need only prove a prima facie case of personal jurisdiction, which can be based on even one contact between appellants and Minnesota. *Norris*, 270 N.W.2d at 295.

And the Minnesota Supreme Court similarly stated in *Rilley* that "long-established precedents allow[] courts to exercise personal jurisdiction over [out-of-state] defendants based in part on commercial contacts with businesses or residents that are located inside the forum." 884 N.W.2d at 329 (citations omitted).

Here, appellants' contacts in Minnesota included J.M.'s solicitation of business from Hosting during J.M.'s visit to Minnesota; appellants' sending of the promissory note to Hosting in Minnesota; and appellants' entry into a promissory note that created a multi-year relationship with a Minnesota resident and provided for payment to be made in Minnesota. Consistent with *Walden* and *Rilley*, these are all relevant contacts with the forum state.

Hosting argues that phone calls and other communications between the parties while they were in their respective states should also be considered as contacts. Hosting and Robinson engaged in several phone calls and other communication in the note's drafting. Appellants argue against considering these contacts because "Minnesota courts have routinely held that phone and mail contacts are insufficient to exercise personal jurisdiction over a foreign defendant." *See Dent-Air, Inc. v. Beech Mountain Air Serv., Inc*., 332 N.W.2d 904, 908 (Minn. 1983); *Leoni v. Wells*, 264 N.W.2d 646, 647 (Minn. 1978); *S.B. Schmidt Paper, Co. v. A to Z Paper, Co*., 452 N.W.2d 485, 488-89 (Minn. App. 1990). But this case does not involve phone and mail contacts alone; we must look at all of appellants' contacts with Minnesota in the aggregate. *Rilley*, 884 N.W.2d at 337. Those contacts include the phone and mail communications between appellants and Hosting in pursuing the loan from Hosting.

Hosting argues that we also should take into account the phone calls between the parties attempting to resolve this dispute before he brought suit. In a previous decision, we concluded that it would be inappropriate to treat a party's contacts subsequent to its business in the state as a basis for personal jurisdiction "when those contacts occurred solely as part of an effort to settle a dispute." *KSTP-FM, LLC v. Specialized Commc'ns, Inc*., 602 N.W.2d 919, 925 (Minn. App. 1999). To place such a weight on this type of subsequent contacts would "amount to a form of civil entrapment not contemplated in law." *Id.* (quoting *In re Shipowners Litigation*, 361 N.W.2d 112, 115 (Minn. App. 1985)). We therefore do not consider the subsequent phone calls between the parties.

But, even excluding the subsequent contacts between Hosting and appellants, a sufficient quantity of contacts exists between appellants and Minnesota to weigh in favor of the exercise of personal jurisdiction.

Nature and quality of contacts

Next, we consider the nature and quality of the contacts between appellants and Minnesota. Here, we analyze whether appellants "purposefully availed" themselves of the benefits and protections of the forum state. *Dent-Air, Inc*., 332 N.W.2d at 907. Personal jurisdiction applies when an out-of-state defendant "purposefully directs" their activities at the forum state. *Rilley*, 884 N.W.2d at 327-28 (quotation omitted). Out-of-state defendants do that when they "purposefully 'reach[] out beyond' their State and into another by, for example, entering a contractual relationship that 'envisioned continuing and wide-reaching contacts' in the forum State." *Walden*, 571 U.S. at 285, 134 S. Ct. at 1122 (quoting *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 479-80, 105 S. Ct. 2174, 2186 (1985)).

Here, J.M., acting on behalf of appellants, initiated the first contact with Hosting in Minnesota. "A crucial factor in determining whether a single sale suffices to justify personal jurisdiction is whether the nonresident in some way solicited the sale or actively engaged in negotiating its terms." *KSTP-FM, LLC*, 602 N.W.2d at 924.

Appellants argue that J.M.'s solicitation of Hosting in Minnesota does not satisfy this factor because they refuted Hosting's assertion that J.M. was appellants' "managing employee" by introducing affidavit testimony from both Robinson and the third party to that effect. Thus, they argue, J.M. was not acting on their behalf and they did not solicit in Minnesota. It is true that Hosting cannot rely on his pleading alone in making a prima facie case of personal jurisdiction. *See, e.g.*, *Rilley*, 884 N.W.2d at 334-35; *Sasser v. Republic Mortg. Inv'rs*, 269 N.W.2d 758, 761 (Minn. 1978). But Hosting did not do so; he submitted an affidavit describing his interaction with J.M. and supporting his belief that J.M. was a "managing employee" of appellants. While there may be some question as to whether J.M. was truly a "managing employee" of appellants, some other type of agent of appellants, or not affiliated with them at all, the court must accept Hosting's pleadings and supporting documents as true even if appellants dispute those facts. *See S.B. Schmidt Paper, Co.*, 452 N.W.2d at 487 (citing *Dent-Air, Inc*., 332 N.W.2d at 907 n.1).

Appellants also argue that this factor is not met because the nature of the business relationship here was insufficient. They rely primarily on three cases. In *CHS Inc. v. Farmers Propane Inc.*, 397 F. Supp. 3d 1324 (D. Minn. 2019), a Minnesota business, CHS, sued Farmers Propane, an Ohio corporation, in Minnesota to recover the amount due under a promissory note. *Id.* at 1328. The federal district court rejected personal jurisdiction,

stating that any relationship between the two parties "consist[ed] of wire transfers to Minnesota" and "existed only for approximately five years." *Id.* at 1332. *CHS* has similarities to this case, which also involves a five-year promissory note. But a key fact distinguishes the two cases. In *CHS* the federal district court noted that Farmers Propane never traveled to Minnesota and that "CHS concedes that its Ohio-based sales representative 'may have been the primary point of contact for Farmer's Propane when it was purchasing propane.'" *Id.* at 1331. Again, accepting Hosting's allegations as true, appellants solicited Hosting in Minnesota.

Appellants also rely on the Minnesota Supreme Court's decision in *Dent-Air, Inc.* There, Dent-Air, a Minnesota corporation, leased three airplanes to a North Carolina resident and corporation. *Dent-Air, Inc.*, 332 N.W.2d at 906. When the North Carolina resident and corporation breached their leases, Dent-Air brought suit in Minnesota. *Id.* The Minnesota Supreme Court rejected personal jurisdiction because Dent-Air had "sought out" the North Carolina resident and corporation. *Id.* at 908. Because Dent-Air "made all the arrangements for the leases and traveled to North Carolina for their negotiation and execution," the nature and quality of any contacts with Minnesota were insufficient to support personal jurisdiction. *Id.* Here, appellants solicited Hosting in Minnesota and sent the promissory note from Ohio to Minnesota for Hosting's review. Therefore, *Dent-Air* is distinguishable from this case.

Finally, appellants cite *Fourth Nw. Nat'l Bank of Minneapolis v. Hilson Indus., Inc.*, 117 N.W.2d 732 (Minn. 1962). There, Hilson Industries, a Kentucky and then Ohio corporation, purchased coolers from Atland Manufacturing, a Minnesota corporation. *Id.*

at 733. When Hilson discovered defects in the coolers, Atland and Hilson met in Ohio, where they negotiated and signed promissory notes for the remaining price of the contract. *Id.* These notes were to be paid in Minnesota. *Id.* The Minnesota Supreme Court rejected personal jurisdiction over Hilson in a suit alleging a breach of these promissory notes. *Id.* at 732-33. The supreme court noted that the only relevant contact between Hilson and Minnesota was that the promissory notes at issue were to be paid in Minnesota. *Id.* at 736. That is different than in this case, where Hosting alleges more substantial contacts between appellants and Minnesota than just payment of the note in Minnesota.

Here, appellants, through J.M., solicited business from a Minnesota resident in Minnesota. Appellants knew Hosting was a Minnesota resident, negotiated the promissory agreement with Hosting while Hosting was in Minnesota, and drafted and sent the promissory note to Hosting in Minnesota. The promissory note—in the amount of $550,000—provided that Hosting would be paid monthly over the course of five years in Canton, Minnesota, and Hosting accessed those payments there. Together, these facts demonstrate that appellants' contacts with Minnesota were not "random, fortuitous, or attenuated." *See St. Paul Fire & Marine Ins. Co. v. Courtney Enters., Inc.*, 108 F. Supp. 2d 1057, 1061 (D. Minn. 2000) (finding that a contractual relationship anticipating a continuing relationship with a Minnesota company "can in no sense be viewed as random, fortuitous, or attenuated" (quotations omitted)). Rather, they show that appellants "purposefully availed" themselves of the benefits and protection of Minnesota. *See N. Pump & Supply Co. v. Baumann*, 249 N.W.2d 182, 186 (Minn. 1976).

Therefore, this factor favors exercising personal jurisdiction in this case.

Connection between cause of action and contacts with the forum state

The third factor is the connection between the cause of action and the out-of-state defendant's contacts with the forum state. Appellants acknowledge that the promissory note is connected to Hosting's cause of action but argue that the connection does not establish personal jurisdiction because Hosting was the initiating party in the business relationship and the quantity, nature, and quality of the contacts do not favor jurisdiction. However, as explained above, Hosting has sufficiently established appellants' role in initiating the business and relationship and has set forth the requisite quantity and quality of minimum contacts for a Minnesota court to exercise personal jurisdiction. Therefore, the third factor favors the exercise of personal jurisdiction.

Forum state's interest

The fourth factor is the forum state's interest in providing a forum. This factor is a secondary factor, not considered unless the first three factors are met; it goes to the "fair play and substantive justice" analysis required under *Int'l Shoe*. *Juelich*, 682 N.W.2d at 570. Because neither party contests Minnesota's interest in providing a forum in this case, this factor favors exercising personal jurisdiction.

Convenience of parties

The convenience of the parties, like Minnesota's interest in providing a forum, is also a secondary factor. *Dent-Air, Inc.*, 332 N.W.2d at 907. There is a strong presumption in favor of the plaintiff's choice of forum. *Bergquist v. Medtronic, Inc*., 379 N.W.2d 508, 511 (Minn. 1986). In addition, the court recognizes that "[w]hen minimum contacts have been established, often the interests of the plaintiff and the forum in the exercise of

jurisdiction will justify even the serious burdens placed on the alien defendant." *Asahi Metal Indus. Co. v. Superior Court of Cal.*, 480 U.S. 102, 114, 107 S. Ct. 1026, 1033 (1987).

Other than arguing that Ohio is home to more of the witnesses, parties, and evidence, appellants make little mention of any specific inconvenience that they would suffer were the case tried in Minnesota. Considering the presumption in favor of Hosting's choice of forum, this factor favors the exercise of personal jurisdiction.

In sum, applying each of the five factors used to determine whether the exercise of personal jurisdiction comports with the long-arm statute and due process, we conclude that the district court did not err by exercising personal jurisdiction over appellants in this case.

Affirmed.