STATE OF MINNESOTA
IN COURT OF APPEALS
A21-1315

Teamsters Local 320,
Appellant,

vs.

Minnesota Judicial Branch,
Respondent.

Filed May 2, 2022
Affirmed
Cochran, Judge

Ramsey County District Court
File No. 62-CV-21-5146

Kevin M. Beck, Joseph A. Kelly, Patrick J. Kelly, Kelly & Lemmons, P.A., St. Paul, Minnesota (for appellant)

Keith Ellison, Attorney General, Jason Marisam, Assistant Attorney General, St. Paul, Minnesota (for respondent)

Josie Hegarty, Staff Attorney, South St. Paul, Minnesota (for amicus curiae American Federation of State, County, and Municipal Employees, Council 5)

Considered and decided by Cochran, Presiding Judge; Gaïtas, Judge; and Rodenberg, Judge.*

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

NONPRECEDENTIAL OPINION

COCHRAN, Judge

In this interlocutory appeal, appellant-union challenges the district court's decision to deny its motion for a temporary restraining order (TRO) or temporary injunction. Appellant argues that the district court abused its discretion by denying the motion. Appellant also argues that the district court order should be vacated because the presiding district court judge was biased. Because we conclude that the district court acted within its discretion by denying the motion and that appellant's judicial-bias argument is not properly before us on appeal, we affirm.

FACTS

This case arises from a labor dispute between appellant Teamsters Local 320 (Teamsters) and respondent Minnesota Judicial Branch (MJB). Teamsters is a labor union that represents all official court reporters employed by MJB. The parties' employment relationship is governed by the Public Employment Labor Relations Act (PELRA), Minn. Stat. §§ 179A.01-.60 (2020), and by the terms of a collective-bargaining agreement (CBA).

The dispute underlying this action concerns how MJB compensates court reporters for the preparation of certain transcripts. Under state law, court reporters are authorized to charge a fee to prepare a transcript "ordered by any person other than the judge." Minn. Stat. § 486.06 (2020). When a person other than the judge requests a transcript, the court reporter performs that work as an independent contractor, doing the work outside of their regular workday for a per-page fee. The per-page fee rate is "set by the chief justice." *Id.* The chief justice, in turn, has delegated the authority to set transcript rates to the Minnesota

Judicial Council. *Authority to Set Transcript Rates*, No. C1-84-2137 (Minn. Mar. 30, 2006) (order).

In contrast to transcripts ordered by any person other than a judge, state law does not provide for separate compensation for a transcript ordered by a judge. When a transcript is ordered by a judge, a court reporter performs that work "without charge" during their regular business hours. Minn. Stat. § 486.02 (2020). A court reporter's regular hourly wage covers the production of transcripts ordered by a judge.

At issue in this case is a change to an MJB policy regarding the preparation of in forma pauperis (IFP) transcripts. IFP transcripts are prepared at the state's expense for litigants who are "financially unable to pay the fees, costs and security for costs" of participating in civil court proceedings. Minn. Stat. § 563.01, subds. 2-3(a), 7 (2020). Court reporters have traditionally prepared IFP transcripts as independent contractors: they performed that work outside of the regular workday and charged the state a per-page fee. The judicial council set that per-page fee in its Policy 221.

On June 17, 2021, the judicial council amended Policy 221. Effective October 1, 2021, the amendments eliminated the fee rate for most IFP transcripts and established a one-year pilot project to have those transcripts produced by court reporters during the regular workday without charge. The amendments applied to all IFP transcripts except those in cases involving sexual psychopathic personality/sexually dangerous persons (SPP/SDP). On September 15, 2021, the chief justice of the Minnesota Supreme Court issued an order consistent with the amendments to Policy 221. Specifically, the order directed that "[a]ll official court reporters shall prepare [IFP] transcripts ordered by a

district court judge on behalf of a party during normal business hours, excluding transcripts in [SPP/SDP] cases." The order clarified that, under the pilot project, IFP transcripts constitute transcripts ordered by a judge on behalf of a party. The order provided that MJB would implement the pilot project between October 1, 2021, and September 30, 2022.

In July 2021, after the amendment of Policy 221 and prior to issuance of the order, Teamsters and MJB attended a meet-and-confer regarding the amendment of Policy 221. At that meeting, Teamsters asserted that the IFP pilot project constituted a change to a term and condition of the court reporters' employment that required mandatory collective bargaining. Thereafter MJB refused Teamsters' repeated requests to bargain regarding the pilot project, maintaining that the change to Policy 221 is not subject to collective bargaining because it involves a matter of inherent managerial policy and does not affect a term or condition of employment.

In late September 2021, Teamsters filed a civil complaint against MJB alleging a violation of Minn. Stat. § 486.06 relating to court reporters' compensation for IFP transcripts and an unfair-labor-practice claim under section 179A.13, subdivision 2(5), of PELRA for failing to meet and negotiate concerning the IFP pilot project. The same day it filed its complaint, Teamsters moved for a TRO or a temporary injunction, seeking to prevent MJB from implementing the IFP pilot project prior to a judgment on the merits of its claims. Teamsters' motion centered on its unfair-labor-practice claim, arguing that a TRO or temporary injunction was necessary to preserve the status quo. Teamsters also argued that the union and its members would suffer irreparable harm if temporary relief was not granted. MJB opposed the motion.

On September 30, 2021, the district court held a hearing on Teamsters' TRO/temporary-injunction motion. It issued an order later that day denying the motion.

Following the district court's order, Teamsters filed a notice of appeal on October 12, 2021. In its statement of the case to this court, Teamsters stated that it was appealing from the "[o]rder denying injunction filed September 30, 2021." On October 12, Teamsters also moved the district court to disqualify the presiding district court judge on the ground of bias and vacate the September 30, 2021 order. The district court thereafter issued notice that the district court action had been reassigned to a different judge, but it did not rule on Teamsters' motion to disqualify the originally assigned judge or vacate the September 30, 2021 order.

Teamsters appeals.

DECISION

Teamsters raises two arguments on appeal. First, it contends that the district court abused its discretion by denying its motion for a TRO or temporary injunction. Second, it asserts that we must vacate the district court's September 30, 2021 order denying its TRO/temporary-injunction motion based on its contention that the district court judge was biased. We address each argument in turn.

I. The district court did not abuse its discretion by denying Teamsters' motion for a TRO or temporary injunction.

TROs and temporary injunctions are extraordinary remedies. *In re Commitment of Hand*, 878 N.W.2d 503, 509 (Minn. App. 2016), *rev. denied* (Minn. June 21, 2016). "Whether to grant a TRO or temporary injunction is left to the discretion of the district

court and will not be reversed absent a clear abuse of that discretion." *Id.* In reviewing the district court's decision whether to grant an injunction, we consider the facts in the light most favorable to the prevailing party. *See In re Peer Rev. Action*, 749 N.W.2d 822, 827 (Minn. App. 2008), *rev. dismissed* (Minn. Aug. 21, 2008). We will not set aside a district court's findings unless they are clearly erroneous. *Haley v. Forcelle*, 669 N.W.2d 48, 55 (Minn. App. 2003), *rev. denied* (Minn. Nov. 25, 2003).

In denying Teamsters' motion for a TRO or temporary injunction, the district court determined that Teamsters failed to meet its burden under either Minn. Stat. § 185.13 (2020) or rules 65.01 and 65.02 of the Minnesota Rules of Civil Procedure. The district court explained that section 185.13 applies to requests for an injunction in cases involving a labor dispute and sets forth certain factors that must be met for an injunction to issue. And it noted that the court's considerations are "similar" when deciding whether to issue a temporary injunction under rule 65.02.

The district court determined that Teamsters was not entitled to a TRO or temporary injunction under either section 185.13 or the court rules because the union and its members "will not suffer irreparable harm" without such relief. In addition, the court specifically considered the factors set forth in *Dahlberg Bros. v. Ford Motor Co.*, 137 N.W.2d 314 (Minn. 1965), which are applicable to TRO/temporary-injunction motions brought under rules 65.01 and 65.02. Those factors include:

> (1) The nature and background of the relationship between the parties preexisting the dispute giving rise to the request for relief.

> (2) The harm to be suffered by plaintiff if the temporary restraint is denied as compared to that inflicted on defendant if the injunction issues pending trial.
>
> (3) The likelihood that one party or the other will prevail on the merits when the fact situation is viewed in light of established precedents fixing the limits of equitable relief.
>
> (4) The aspects of the fact situation, if any, which permit or require consideration of public policy expressed in the statutes, State and Federal.
>
> (5) The administrative burdens involved in judicial supervision and enforcement of the temporary decree.

Dahlberg Bros., 137 N.W.2d at 321-22. The district court determined that all five *Dahlberg* factors weighed against granting a TRO or temporary injunction and denied Teamsters' motion on that basis as well.

A. The district court properly evaluated Teamsters' request for an injunction under section 185.13.

As an initial matter, we consider Teamsters' argument that section 185.13 does not apply to its unfair-labor-practice claim under Minn. Stat. § 179A.13, subdivision 2(5), and its contention that the district court should have limited its consideration of Teamsters' motion to the *Dahlberg* factors. Section 185.13(a) governs the issuance of an injunction "in any case involving or growing out of a labor dispute." Minn. Stat. § 185.13(a). Under that statute, a court may *not* issue a temporary or permanent injunction in any such case except after making each of the following findings of fact:

> (1) that unlawful acts have been threatened and will be committed unless restrained, or have been committed and will be continued unless restrained . . . ;
>
> (2) that substantial and irreparable injury to complainant's property will follow;
>
> (3) that as to each item of relief granted greater injury will be inflicted upon complainant by the denial of relief than will be inflicted upon defendants by the granting of relief;

> (4) that complainant has no adequate remedy at law; and
>
> (5) that the public officers charged with the duty to protect complainant's property have failed to furnish adequate protection.

Id.

Teamsters argues that the legislature did not intend chapter 185 to apply to unfair-labor-practice claims brought under section 179A.13 of PELRA. To support this argument, Teamsters relies on language in another section of PELRA, section 179A.24, which provides that "[s]ections 185.07 to 185.19, apply to all public employees . . . except as sections 185.07 to 185.19 are *inconsistent* with section 179A.13." Minn. Stat. § 179A.24 (emphasis added). Teamsters contends that section 185.13(a) is inconsistent with section 179A.13, subdivision 1(o), and therefore inapplicable to its claim. MJB disagrees, arguing that section 185.13(a) "applies to labor disputes generally and those arising under PELRA specifically."

We conclude that Teamsters' argument misses the mark. When it is read in context, it is clear that section 179A.13, subdivision 1(o), is not inconsistent with section 185.13(a). Section 179A.13, subdivision 1, governs unfair-labor-practice "charge[s]" filed with the Public Employment Relations Board (PERB). Minn. Stat. § 179A.13, subd. 1. Subdivision 1(o) of section 179A.13 addresses whether a party who has filed a charge with PERB may also seek injunctive relief in district court. It states: "Nothing in this paragraph precludes a charging party from seeking injunctive relief in district court after filing the unfair labor practice charge." Section 185.13(a), on the other hand, addresses a district court's jurisdiction to issue a temporary injunction in a case involving a labor dispute.

Minn. Stat. § 183.13(a)(1)-(5). In other words, section 179A.13, subdivision 1(o), makes clear that an employee can both file a charge with PERB and seek injunctive relief in district court, and section 185.13(a) addresses the court's jurisdiction to issue injunctions in cases involving labor disputes. There is no inconsistency between section 179A.13, subdivision 1(o), and section 185.13(a). Moreover, Teamsters did not file a charge with PERB under section 179A.13, subdivision 1. Teamsters filed a complaint in district court alleging, in part, a violation of section 179A.13, subdivision 2(5). Accordingly, section 179A.13, subdivision 1(o), does not apply in this case. We therefore conclude that the district court properly considered the factors set forth in section 185.13(a) in deciding whether to grant a temporary injunction in this case.

B. The district court did not abuse its discretion when it denied the motion for a TRO or an injunction.

Teamsters challenges only two aspects of the district court's decision to deny its TRO/temporary-injunction motion. It contends that the district court abused its discretion by determining that (1) Teamsters will not suffer irreparable harm without a TRO or temporary injunction and (2) Teamsters is not likely to succeed on the merits of its claims. As noted above, in denying Teamsters' motion, the district court analyzed the motion under both section 185.13(a) and applicable court rules.

Irreparable Harm

We begin by addressing Teamsters' argument regarding irreparable harm. Both section 185.13(a) and court rules governing the issuance of a TRO or temporary injunction require consideration of irreparable harm. Minn. Stat. § 185.13(a)(2); Minn. R. Civ.

P. 65.01; *DSCC v. Simon*, 950 N.W.2d 280, 286 (Minn. 2020). Under section 185.13(a), failure to show irreparable harm is, by itself, a sufficient ground on which to deny a temporary injunction.[1] Minn. Stat. § 185.13(a)(2) (requiring a district court, before granting injunctive relief in a labor case, to find "that substantial and irreparable injury to complainant's property will follow"). Similarly, to warrant a temporary injunction or TRO under court rules, the movant must demonstrate that "an injunction is necessary to prevent great and irreparable injury." *Haley*, 669 N.W.2d at 56; *see also DSCC*, 950 N.W.2d at 286 (providing that movant must make "a showing of irreparable harm"). The injury to the moving party typically "must be of such a nature that money damages alone would not provide adequate relief." *Haley*, 669 N.W.2d at 56. "The temporary loss of income, ultimately to be recovered, does not usually constitute irreparable injury." *Id.* (quotation omitted).

Teamsters argued to the district court that it would suffer irreparable harm absent a TRO or temporary injunction because MJB's refusal to negotiate regarding the pilot project would result in a loss of collective bargaining rights and would threaten employee support for the union. It argued that if the pilot project were allowed to go into effect prior to a decision on the merits, union members "may question the union's efficacy" and "may cease paying union dues or petition to decertify" the union. It further argued that the lack of

[1] Similar to the temporary-injunction analysis required by section 185.13, Minn. Stat. § 185.02 (2020) provides that a district court may issue a TRO in a case involving a labor dispute only upon finding that a restraining order is "necessary to prevent irreparable injury." While the district court's order referenced only section 185.13, it did consider the requirement of irreparable harm.

negotiation over the pilot project would "irreparably impede and impair the ability [of] Local 320 to bargain on behalf of its members" by "effectively giv[ing] the MJB a 'green light' to unilaterally change the terms and conditions of employment without meeting and negotiating with the certified exclusive representative."

The district court rejected Teamsters' argument, determining that implementing the pilot project would not irreparably harm the collective-bargaining relationship between the parties. It found that the parties "have been in an ongoing bargaining relationship, achieving a number of collective bargaining agreements and negotiating terms and modifications to those terms." It further found that MJB's refusal to bargain regarding the pilot project is not in bad faith and that, therefore, MJB's "position is not so unreasonable as to indicate a collapse of the bargaining relationship with respect to this issue or others." The district court determined instead that the "primary impact" of the pilot project on the court reporters "is the availability of independent contractor fees and work outside the scope of their workday with the MJB." It concluded that such an impact constitutes a temporary loss of income, which is "calculable" and "clearly can be remedied at law." Accordingly, the district court concluded that Teamsters would not suffer irreparable harm without a temporary injunction.

We discern no clear error in the district court's finding that the principal effect of the pilot project on the court reporters is monetary in nature and can be remedied if Teamsters prevails on the merits of its claims. The pilot project's elimination of the per-page fees for most IFP transcripts constitutes a calculable loss of income. If the district court ultimately rules that MJB's unilateral decision to implement the IFP pilot project was

an unfair labor practice, the court reporters will recover their lost income and the parties will bargain over the pilot project then. Because money damages would provide adequate relief in this case, the district court did not abuse its discretion by denying Teamsters' TRO/temporary-injunction motion on that basis.

Nor do we discern any abuse of discretion by the district court in its determination that Teamsters failed to demonstrate that its ability to negotiate with MJB will be irreparably harmed by implementation of the pilot project. The record supports the district court's determination that Teamsters and MJB "have been in an ongoing bargaining relationship, achieving a number of collective bargaining agreements and negotiating terms and modifications to those terms." The record further supports the district court's determination that MJB's refusal to negotiate is not in bad faith. Based on the record before it, we discern no abuse of discretion in the district court's determination that Teamsters failed to demonstrate that implementation of the pilot project will impair the union's ability to negotiate on this and future labor issues.

We are not persuaded otherwise by Teamsters' argument to this court that "[d]enying the injunction and changing the status quo weakens [Teamsters'] collective bargaining position, destroys or severely inhibits employee interest in [Teamsters'] union representation and collective bargaining, and undermines PELRA's express purpose of 'requiring public employers to meet and negotiate . . . ' with respect to terms and conditions of employment." Teamsters relies on numerous federal cases to support this argument, all involving alleged violations of the National Labor Relations Act. But, in addition to not having precedential value, these cases are inapposite. Most of the cases

cited by Teamsters involve an employer that entirely refused to recognize and bargain with a certified union. *See, e.g.*, *Small v. Avanti Health Sys., LLC*, 661 F.3d 1180, 1183 (9th Cir. 2011); *Lineback v. Irving Ready-Mix, Inc.*, 653 F.3d 566, 568 (7th Cir. 2011); *Frankl v. HTH Corp.*, 650 F.3d 1334, 1358 (9th Cir. 2011); *Blyer ex rel. N.L.R.B. v. One Stop Kosher Supermarket, Inc.*, 720 F. Supp. 2d 221, 223-24 (E.D.N.Y. 2010). Others involve employers that attempted to undermine employee efforts to unionize, *see Bloedorn v. Francisco Foods, Inc.*, 276 F.3d 270, 275 (7th Cir. 2001); *N.L.R.B. v. Electro-Voice, Inc.*, 83 F.3d 1559, 1563-65 (7th Cir. 1996); *Angle v. Sacks ex rel. N.L.R.B.*, 382 F.2d 655, 658 (10th Cir. 1967), and employers that terminated active union members, *Chester ex rel. N.L.R.B. v. Eichorn Motors, Inc.*, 504 F. Supp. 2d 621, 625 (D. Minn. 2007).

Unlike in those cases, there are no allegations or evidence in this case that MJB has declined to recognize Teamsters, entirely refused to bargain with Teamsters, fired active union members, or otherwise engaged in a concerted effort to undermine employee support for the union. To the contrary, as Teamsters concedes, the record in this case demonstrates that Teamsters and MJB have had an ongoing bargaining relationship that has resulted in the successful negotiation of a number of CBAs over several years. None of the cases that Teamsters cites establishes that an employer's refusal to bargain over a discrete issue constitutes irreparable harm to the collective-bargaining relationship.

Teamsters further relies on the Eighth Circuit's 1967 decision in *Minnesota Mining & Mfg., Co. v. Meter ex rel. N.L.R.B.*, 385 F.2d 265 (8th Cir. 1967). But, to the extent that we look to *Meter* for guidance, the decision refutes, rather than supports, Teamsters' position that a TRO or temporary injunction is warranted in this case. In *Meter*,

while negotiating with a union that represented employees from one of its plants, the employer excluded from bargaining sessions multiple unions that represented employees from other plants. *Meter*, 385 F.2d at 267-69. The district court granted a temporary injunction, but the Eighth Circuit reversed. *Id.* at 273. The Eighth Circuit acknowledged that there was reasonable cause to believe that the employer had engaged in an unfair labor practice. *Id.* But it nonetheless concluded that the alleged injury to the union was not "of such compelling significance as to warrant court intervention" pending a decision on the merits. *Id.* This conclusion was based in part on the court's determination that, "[i]n view of the past history of acceptable contracts negotiated between [the parties]," it was "highly unlikely" that the union would "sustain any injury in its bargaining position" without a temporary injunction. *Id.* As in *Meter*, MJB's refusal to bargain over the IFP pilot project, in the context of an otherwise productive collective-bargaining relationship, does not rise to the level of interference with the union's interests that would warrant a TRO or temporary injunction. We therefore conclude that the district court acted within its discretion when it determined that Teamsters would not suffer irreparable harm in the absence of a TRO or temporary injunction.

Success on the Merits

We next turn to Teamsters' argument that the district court abused its discretion when it determined that Teamsters had not demonstrated a likelihood of success on the merits. For two reasons, we conclude that this argument does not warrant reversal of the district court's denial of the motion for a TRO/temporary injunction. First, under the conjunctive test set forth in section 185.13, we need not reach Teamsters' argument about

the merits because Teamsters' failure to demonstrate irreparable harm was sufficient, by itself, to deny its temporary-injunction motion. *See* Minn. Stat. § 185.13(a) (requiring all statutory factors to be met for a temporary injunction to issue).

Second, and likewise, application of the *Dahlberg* factors does not require us to reverse the district court's decision. In its order, the district court analyzed all five *Dahlberg* factors. With respect to Teamsters' likelihood of success on the merits, the district court determined that the merits of the case presented a "close" question but that it was "persuaded that the MJB has the stronger position with respect to prevailing on the merits of the case." Even if the district court erred by deciding this factor against Teamsters, that error would not require reversal of the court's decision to deny Teamsters' TRO/temporary-injunction motion because Teamsters failed to show that implementing the pilot project would cause it to suffer irreparable harm. As discussed above, irreparable harm is necessary to warrant issuing a TRO or temporary injunction. *DSCC*, 950 N.W.2d at 286; *see Morse v. City of Waterville*, 458 N.W.2d 728, 730 (Minn. App. 1990), *rev. denied* (Minn. Sept. 28, 1990) (reversing decision to grant temporary injunction despite possibility of success on the merits because movant failed to demonstrate irreparable harm); *see also Meter*, 385 F.2d at 273 (reversing decision to grant temporary injunction despite reasonable cause to believe employer engaged in unfair labor practice

because movant failed to demonstrate irreparable harm). As a result, Teamsters' argument regarding the merits of its claim does not require us to reverse the district court's decision.[2]

We therefore conclude that the district court did not clearly abuse its discretion when it denied Teamsters' motion for a TRO or temporary injunction.

II. Teamsters' judicial-bias argument is not properly before us on appeal.

Teamsters next argues that we must vacate the district court's September 30, 2021 order denying its motion for a TRO or temporary injunction because the presiding district court judge was biased. MJB contends that this issue is not properly before us on appeal. We agree with MJB.

Following the district court's September 30, 2021 order, Teamsters filed a notice of appeal with this court on October 12, 2021. Teamsters' statement of the case, filed with this court, states that its appeal was taken from the "[o]rder denying injunction filed September 30, 2021." Also on October 12, 2021, Teamsters moved the district court to disqualify the presiding district court judge for bias and vacate the September 30, 2021 order. The district court later notified the parties that the district court case was being reassigned to a different judge, but it did not rule on Teamsters' motion to disqualify the judge or vacate the order.

Where a party appeals from a district court order, our scope of review is generally limited to the "order appealed from" and "any order affecting the order from which the

[2] We also note that it may not have been necessary for the district court to address the *Dahlberg* factors because chapter 185 of the Minnesota Statutes governs the issuance of TROs and temporary injunctions in labor disputes. *See* Minn. Stat. §§ 185.02, .13.

appeal is taken." Minn. R. Civ. App. P. 103.04. In reviewing a district court's decision, we "must generally consider only those issues that the record shows were presented and considered by the trial court in deciding the matter before it." *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (quotation omitted). Here, as reflected in Teamsters' own statement of the case, the order on appeal is the district court's September 30, 2021 order denying Teamsters' TRO/temporary-injunction motion. That order does not address the judicial-bias issue that Teamsters raised in its October 12, 2021 motion to vacate and that it now seeks to raise on appeal. Moreover, Teamsters' counsel conceded at oral argument that the issue was largely rendered moot when the district court reassigned the case to a different judge. Accordingly, we decline to address Teamsters' argument that the September 30, 2021 order must be vacated on the ground of judicial bias.

Affirmed.