

**COURT OF APPEALS
DECISION
DATED AND FILED**

December 8, 2009

David R. Schanker
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2009AP444

Cir. Ct. No. 2006CV5265

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

ANN E. LADD,

RESPONDENT-APPELLANT,

V.

ROBERT G. UECKER,

PETITIONER-RESPONDENT.

APPEAL from an order of the circuit court for Milwaukee County:
DAVID A. HANSHER, Judge. *Affirmed.*

Before Curley, P.J., Fine and Brennan, JJ.

¶1 FINE, J. Ann E. Ladd appeals an order denying her motion to vacate or modify an injunction issued in September of 2006, banning her from attending Major League Baseball games where Robert G. Uecker is working as a

broadcaster. Ladd argues the court commissioner imposing the restrictions unconstitutionally infringed her right to travel. We affirm.

I.

¶2 In June of 2006, Uecker got a temporary restraining order against Ladd, based on her repeated and unwelcome contacts with him, which he asserted was harassment under WIS. STAT. § 813.125. Specifically, Uecker complained that Ladd stalked him by shadowing him, seeking things from him, approaching him after the baseball games he worked, and, one time, hiding until she saw him, then jumping out unexpectedly to talk to him. This stalking intensified in late 2005, when she followed him to Pennsylvania for games the Milwaukee Brewers played with the Pittsburgh Pirates. Although Uecker had used an alias for his hotel reservation, Ladd managed to stay on the same floor in the same hotel and went to the pool to seek him out. At the Pirates' baseball stadium, she sat close to the press box. Ladd ignored Uecker's repeated requests to stop. In seeking court protection, Uecker averred that "her unwelcome contact has been regular and continuous for years and is now escalating into increasingly aggressive attempts to follow and stalk me."

¶3 In September of 2006, after holding a hearing, a commissioner granted Uecker's request for a four-year injunction prohibiting Ladd from "harassing Mr. Uecker and ... be ... specifically enjoined and prohibited from" as pertinent here:

(4) Attending any regular season, spring training or exhibition Major League Baseball game, whether being played in a Major League Baseball or minor league stadium, played by the Milwaukee Brewers Baseball Club and for which Mr. Uecker is broadcasting the game's radio telecast.

¶4 The commissioner told Ladd that she had fifteen days to file for *de novo* review in the circuit court. *See* WIS. STAT. § 757.69(8).¹ Ladd did not seek *de novo* review at any time, but in October of 2008 she filed a motion seeking to vacate or modify the injunction, claiming that the injunction infringed upon her constitutional right to travel. As we have seen, the circuit court denied the motion.

II.

¶5 On appeal, Ladd challenges the prohibition that bans her from any stadium where Uecker is broadcasting. A *nisi prius* tribunal has broad discretion in imposing terms appropriate for a harassment injunction. *W.W.W. v. M.C.S.*, 185 Wis. 2d 468, 485, 518 N.W.2d 285, 291 (Ct. App. 1994). As long as the commissioner did not erroneously exercise her discretion, we will affirm. *See Burkes v. Hales*, 165 Wis. 2d 585, 591, 478 N.W.2d 37, 39 (Ct. App. 1991). We will not overturn a discretionary determination if the commissioner applied pertinent facts to the correct law and reached a reasonable determination. *Ibid.* Whether the prohibition passes constitutional muster is a question of law, however, that we decide *de novo*. *See State v. Wallace*, 2002 WI App 61, ¶8, 251 Wis. 2d 625, 634, 642 N.W.2d 549, 553, *overruled on other grounds by State v. Popenhagen*, 2008 WI 55, 309 Wis. 2d 601, 749 N.W.2d 611.

¹ The Honorable Nancy J. Sturm was the court commissioner who entered the order against Ann E. Ladd, and she is a Family Court Commissioner. The Milwaukee County Circuit Court Rules in effect in 2006 gave persons seeking a *de novo* review of an order entered by a family court commissioner twelve days “of the date the written decision was signed.” RULES FOR THE FIRST JUDICIAL ADMINISTRATIVE DISTRICT OF THE STATE OF WISCONSIN, RULE 524.1. The proposed rules will give persons fifteen days to seek *de novo* review once they become effective. PROPOSED REVISIONS OF FAMILY DIVISION RULES OCTOBER 12, 2009 DRAFT, RULE 5.31.B. http://www.county.milwaukee.gov/ImageLibrary/Groups/cntyCourts/documents/temp10122009lr_fam2.pdf

¶6 Ladd filed the motion that is the subject of this appeal more than two years after the injunction was entered. Uecker does not, however, contest her ability to challenge the harassment injunction at this late stage, relying on *Kohler Co. v. Department of Industry, Labor & Human Relations*, 81 Wis. 2d 11, 25, 259 N.W.2d 695, 701 (1977) (“When a court or other judicial body acts in excess of its jurisdiction, its orders or judgments are void and may be challenged at any time.”). Assuming without deciding that the doctrine recognized by *Kohler Co.* applies here, we turn to the merits of Ladd’s constitutional challenge.

¶7 Ladd argues that preventing her from going to baseball stadiums where Uecker is working as a broadcaster is an overbroad unconstitutional violation of her right to travel. We disagree.

¶8 First, there is little doubt but that the order restricting what Ladd could do in connection with her campaign of harassment was reasonable. See *State v. Sveum*, 2002 WI App 105, ¶27, 254 Wis. 2d 868, 887, 648 N.W.2d 496, 505 (injunction may properly prohibit conduct that gives harasser the opportunity to interact with the victim); *Hayen v. Hayen*, 2000 WI App 29, ¶¶1-2, 232 Wis. 2d 447, 450–451, 606 N.W.2d 606, 608 (approving injunction requiring harasser to “avoid [the victim’s] place of work”). Second, reasonable restrictions may be placed on an harasser’s right to travel, as long as those restrictions are narrowly crafted to protect the person being unlawfully harassed. See *State v. Holbach*, 763 N.W.2d 761, 763–768 (N.D. 2009) (“An individual has a constitutional right to intrastate travel, however, that right is not absolute and may be restricted.”) (collecting cases); see also *Lutz v. City of York*, 899 F.2d 255, 256 (3d Cir. 1990). By stalking and harassing Uecker, as revealed by the Record, Ladd forfeited her right to travel to baseball parks where Uecker is working. The harassment injunction did not deprive Ladd of her constitutional right to travel.

By the Court.—Order affirmed.

Publication in the official reports is not recommended.

