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DISTRICT II/IV

June 5, 2019

To:

Hon. William Domina
Circuit Court Judge
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John H. Krogmann

Melissa M. Krogmann

You are hereby notified that the Court has entered the following opinion and order:

2018AP772	Melissa M. Krogmann v. Charles Entringer (L.C. # 2017CV2101)
2018AP773	John H. Krogmann v. Charles Entringer (L.C. # 2017CV2102)

Before Lundsten, P.J., Blanchard and Kloppenburg, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Charles Entringer appeals two harassment injunctions. The issue is whether the circuit court properly imposed a firearm restriction. Based upon our review of the briefs and records, we conclude at conference that these cases are appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2017-18).¹ We affirm.

¹ All references to the Wisconsin Statutes are to the 2017-18 version unless otherwise noted.

The relevant statute allows the court to prohibit the respondent's possession of a firearm if the court "determines, based on clear and convincing evidence presented at the hearing on the issuance of the injunction, that the respondent may use a firearm to cause physical harm to another or to endanger public safety." WIS. STAT. § 813.125(4m)(a).

Entringer first argues that the circuit court applied the incorrect legal standard in finding that the firearm restriction was appropriate. He focuses on this quotation from the court's decision: "I have no qualms with finding that there is clear and convincing evidence that his use of a firearm may endanger public safety or may cause physical harm to another." Entringer contrasts the court's phrase "his use of a firearm may endanger public safety" with the language in the statute, "the respondent may use a firearm ... to endanger public safety." In essence, Entringer is arguing that the circuit court appeared to believe that it was deciding whether use of a firearm may endanger public safety, rather than whether Entringer may use a firearm to endanger public safety.

This argument fails for two reasons. First, when reciting the legal standard before its decision, the circuit court recited the correct standard. Second, it is clear from the court's discussion that it was discussing the potential for Entringer to use a firearm in a dangerous way. The court was not discussing what effect the use of a firearm could have.

Entringer also argues that the evidence was insufficient to support the firearm restriction. He argues that the court erred by relying on the credibility of witnesses because the facts were stipulated. This argument fails because Entringer's own brief describes disagreements between witnesses, and the disagreements are evident in the transcript. Not all facts were stipulated to.

Entringer argues that, if credibility was an issue, the court erred by finding one of the petitioners to be more credible than Entringer. We may not set aside findings of fact unless those findings are clearly erroneous, and we must give due regard to the opportunity of the circuit court to judge the credibility of witnesses. WIS. STAT. § 805.17(2). Without attempting here to address each of Entringer’s specific credibility arguments separately, we are satisfied that the circuit court’s credibility determinations were well founded.

Entringer further argues that the evidence fails to show that he may use a firearm to endanger public safety or is “unstable,” to use Entringer’s term. We disagree. The circuit court found that Entringer “perpetuates ... a false pattern of belief that he has been in some relationship” with one of the petitioners. The court found, and Entringer does not dispute, that Entringer sent that petitioner a photograph of himself holding a gun to his head. The circuit court also found that Entringer made a comment to that petitioner about having seen her children at school, which the court regarded as “out of bounds” and “disturbing.” This was a sufficient basis for the court to find by clear and convincing evidence that Entringer may use a firearm to cause physical harm to another or to endanger public safety.

IT IS ORDERED that the orders appealed are summarily affirmed under WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Sheila T. Reiff
Clerk of Court of Appeals