

STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1157



Peter Richard Rickmyer,

Appellant,

vs.

Xenos Letoi Brooks,

Respondent.

ORDER OPINION

Hennepin County District Court
File No. 27-CV-22-13073

Considered and decided by Smith, Tracy M., Presiding Judge; Frisch, Chief Judge; and Kirk, Judge.*

BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND BECAUSE:

1. Appellant Peter Richard Rickmyer and respondent Xenos Letoi Brooks are neighbors. In July 2022, the parties had an altercation that resulted in Brooks pleading guilty to using tear gas to immobilize/not protect self or property. Upon Rickmyer's petition, the district court filed an ex parte harassment restraining order (HRO) against Brooks in September 2022, followed by an HRO in January 2023 after an evidentiary hearing. Among other things, the HRO restricted Brooks from "taking pictures of [Rickmyer]" without his permission. The HRO was effective until September 8, 2024.

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

2. After receiving the HRO, Rickmyer continued to seek various forms of relief from the district court related to the HRO, and litigation continued. Rickmyer was required to obtain permission from the district court before making filings.

3. On May 29, 2024, the district court denied Rickmyer permission to file an affidavit seeking an order to show cause why Brooks should not be found in contempt of court for violating the HRO. In correspondence to Rickmyer, the district court stated that Rickmyer's request for an order to show cause was "not the proper method" to enforce the HRO and that it was "frivolous" for Rickmyer to file for an order to show cause. By letter dated June 10, 2024, however, the district court reversed its decision, informing Rickmyer that, upon further review of the statute, it was permitting him to file his request for an order to show cause.

4. On June 10, 2024, Rickmyer filed with the district court his affidavit in support of an order to show cause for contempt, alleging that, in violation of the terms of the HRO, Brooks had pointed a security camera attached to his home toward the second level of Rickmyer's home and was recording Rickmyer.

5. On June 25, 2024, the district court filed a countersigned referee's order denying Rickmyer's request for an order to show cause for contempt. It wrote:

1. [Rickmyer] alleges that [Brooks] has contacted them in violation of the Harassment Restraining Order. The violation of a Harassment Restraining Order is a criminal offense for which [Brooks] can be arrested and charged. [Rickmyer] should report any violations of the Harassment Restraining Order directly to law enforcement.

2. The Court has determined that constructive civil contempt is not an appropriate remedy.

The order does not recite the date of the request to show cause that it is denying and does not specifically address the surveillance-camera allegation, but we presume that the order relates to Rickmyer's June 10, 2024 request for an order to show cause. Rickmyer sought review of the referee's June 25, 2024 order.

6. On July 18, 2024, the district court filed an order confirming the referee's June 25, 2024 order and denying Rickmyer's request for review. It wrote:

6. [Rickmyer] also seeks review of the June 25, 2024, order denying his Order to Show Cause for Contempt, and demands an immediate hearing on the matter. Having reviewed the record, the Court finds that [Rickmyer's] request was properly denied. The Court has broad discretion to determine whether to hold a party in civil contempt for failure to abide by previous orders. *Crockarell v. Crockarell*, 631 N.W.2d 829, 833 (Minn. Ct. App. 2001). Furthermore, caselaw has held that contempt is an extraordinary remedy that must be exercised with caution. *Burgardt v. Burgardt*, 474 N.W.2d 235, 236 (Minn. Ct. App. 1991).

7. The Court appropriately determined that an Order to Show Cause was not an appropriate use of the Court's discretion and that reporting any violations directly to law enforcement was the proper remedy. [Rickmyer] has brought repeated requests for an Order to Show Cause and to hold [Brooks] in contempt of Court, all of which have been denied. This request is duplicative and without merit, and the Court declines to grant a hearing on the matter.

7. Rickmyer appeals. Brooks has not filed a responsive brief, and we decide this appeal on the merits. *See* Minn. R. Civ. App. P. 142.03.

8. In reviewing a district court's decision whether to hold a party in contempt, we review the district court's factual findings for clear error and review the district court's decision to invoke its contempt power for an abuse of discretion. *Mower Cnty. Hum. Servs. ex rel. Swancutt v. Swancutt*, 551 N.W.2d 219, 222 (Minn. 1996).

9. Rickmyer advances two arguments.

10. First, he argues that the district court erred by denying his request for a show-cause order without first determining that the district court had erred in its earlier decision that a request for an order to show cause was a permissible avenue for him to pursue. The argument is unavailing. In allowing Rickmyer to file his request for a show-cause order, the district court correctly recognized that the HRO statute permits protected parties to pursue orders to show cause why a respondent should not be held in contempt of court for violating an HRO. *See* Minn. Stat. § 609.748, subd. 6(h) (2022), (i) (2024). But the fact that the district court allowed Rickmyer to *file* the request does not mean that the district lacked discretion to decide whether to *grant* the request.

11. Second, Rickmyer argues that the district court erred in denying his request for a show-cause order because it did not explain why the alleged continuing violation of the HRO did not warrant the relief that he sought and because it failed to make factual findings related to the alleged HRO violation. When a district court exercises its discretion, it must identify both its decision and the underlying reasons for its decision. *Hagen v. Schirmers*, 783 N.W.2d 212, 217 (Minn. App. 2010). A district court must provide sufficient factual findings to facilitate meaningful appellate review. *See In re Civ. Commitment of Spicer*, 853 N.W.2d 803, 807, 809, 813 (Minn. App. 2014) (reversing a district court’s grant of a petition for civil commitment because the district court failed to make “findings of fact that are sufficiently particular to permit meaningful appellate review”).

12. Here, the district court found that Rickmyer’s request was “duplicative” of other, failed requests for an order to show cause and was “without merit.” But, without more detail in the findings and despite our own review of the record, we are unable to determine whether the district court clearly erred by finding that Rickmyer’s allegation that Brooks was videotaping him in violation of the HRO was duplicative of past requests. Nor are we able to meaningfully review the finding that Rickmyer’s request is without merit, especially since neither the referee’s order nor the district court’s order reviewing the referee’s order discusses the actual alleged violation.

13. Accordingly, we remand to the district court for further findings. The district court may, in its discretion, reopen the record. We note that the HRO expired approximately two months after the district court filed the July 18, 2024 order. We leave to the discretion of the district court whether to take that fact into consideration on remand. This remand is not an expression of this court’s opinion as to how to resolve the remand.

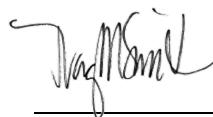
IT IS HEREBY ORDERED:

1. The district court’s order is remanded for further findings consistent with this order opinion.

2. Pursuant to Minn. R. Civ. App. P. 136.01, subd. 1(c), this order opinion is nonprecedential, except as law of the case, res judicata, or collateral estoppel.

Dated: 2/11/2025

BY THE COURT



Judge Tracy M. Smith