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DISTRICT IV

September 16, 2015

To:

Hon. William Andrew Sharp
Circuit Court Judge
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Christine L. Glasson

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

2014AP2754

Christine L. Glasson v. Eric J. Glasson (L.C. # 2014CV110)

Before Higginbotham, Sherman and Blanchard, JJ.

Eric Glasson appeals a circuit court order granting a harassment injunction against him and in favor of his spouse, Christine Glasson. On appeal, Eric does not challenge the injunction itself, but rather a particular term of the injunction that prohibits him from possessing a firearm until the expiration of the injunction. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2013-14).¹ We summarily affirm.

“The trial court’s decision to grant an injunction is a discretionary one and the scope of the injunction is also within the trial court’s discretion.” *City of Wisconsin Dells v. Dells*

¹ All references to the Wisconsin Statutes are to the 2013-14 version unless otherwise noted.

Fireworks, Inc., 197 Wis. 2d 1, 15, 539 N.W.2d 916 (Ct. App. 1995). “We may not overturn a discretionary determination that is demonstrably made and based upon the facts of record and the appropriate and applicable law.” *Welytok v. Ziolkowski*, 2008 WI App 67, ¶24, 312 Wis. 2d 435, 752 N.W.2d 359.

Here, the applicable law is found at WIS. STAT. § 813.125(4m)(a), which states that a judge may prohibit the respondent to an injunction from possessing a firearm if the judge 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[.]”

The injunction states on its face that the court found that there was “clear and convincing evidence that the respondent may use a firearm to cause physical harm to another or to endanger public safety.” At a hearing to supplement the record of the injunction hearing, the court explained the factual findings that supported its decision and those findings are, in turn, supported by testimony given at the injunction hearing.

The court cited Christine’s testimony that Eric has a lot of firearms and that he uses weapons to frighten and intimidate her. The court also relied upon Christine’s testimony that Eric left a gun on the kitchen counter or table for approximately a week, after she asked him to put it away. Christine testified that she found the action to be threatening. The circuit court credited her testimony and agreed that the action was threatening.

Eric argues on appeal that he maintained throughout the injunction hearing that he never intended to hurt or threaten Christine. He points to testimony where he admitted to leaving a gun out, but denied that the action was meant to intimidate her. The circuit court judge

acknowledged that Eric denied having an intent to threaten Christine. However, in weighing the evidence, the court found Christine's version to be credible and her concerns to be reasonable. It is for the trier of fact, not this court, to fairly resolve conflicts in testimony and to weigh the evidence. *State v. Fetting*, 172 Wis. 2d 428, 448, 493 N.W.2d 254 (Ct. App. 1992). Generally, we will not overturn credibility determinations on appeal, and we see no reason to do so here. *See Global Steel Prods. Corp. v. Ecklund Carriers, Inc.*, 2002 WI App 91, ¶10, 253 Wis. 2d 588, 644 N.W.2d 269.

Based on all of the above, we are satisfied that the circuit court applied the correct legal standard and that the record supports the court's finding that there was clear and convincing evidence that the respondent may use a firearm to cause physical harm to another or to endanger public safety. *See* WIS. STAT. § 813.125(4m). Accordingly, we conclude that the circuit court did not erroneously exercise its discretion in imposing a firearm restriction as a term of the harassment injunction.

IT IS ORDERED that the order is summarily affirmed under WIS. STAT. RULE 809.21(1).

Diane M. Fremgen
Clerk of Court of Appeals