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DISTRICT III

November 4, 2025

To:

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Circuit Court Judge
Electronic Notice

Hon. Jennifer A. Moeller
Circuit Court Judge
Electronic Notice

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Clerk of Circuit Court
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Electronic Notice

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

2024AP1581
2024AP1582

Caroline Smith v. Melissa May Metzler (L. C. No. 2024CV66)
Ruby R. Smith v. Melissa May Metzler (L. C. No. 2024CV67)

Before Stark, P.J., Hruz, and Gill, 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).

In these consolidated cases, Melissa May Metzler appeals orders granting harassment injunctions against her in favor of the petitioners, Caroline Smith and Ruby R. Smith. Based upon our review of the briefs and appellate records, we conclude at conference that these cases

are appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2023-24).¹ For the reasons that follow, we summarily reverse the injunction orders.

On May 21, 2024, Caroline and Ruby Smith, pro se, each filed a petition in the Door County Circuit Court for a temporary restraining order and harassment injunction against Metzler, pursuant to WIS. STAT. § 813.125. Each petition listed an address for Metzler on Northern Door Road in Door County. Temporary restraining orders in each case were granted the same day, and a single hearing on both injunction petitions was scheduled for June 4, 2024.

In each case, two certificates of nonservice were filed with the circuit court on June 3, 2024. First, a certificate of nonservice was filed in each case showing that the Door County Sheriff's Office unsuccessfully attempted to serve the injunction petitions on Metzler at the Northern Door Road address on May 21, May 22, May 23, and May 25, 2024. Each certificate includes the following notation underneath the May 25 service attempt: "Resides at 6227 Sturgeon Bay Rd, Luxemburg." (Formatting altered.) Second, a certificate of nonservice was filed in each case showing that the Brown County Sheriff's Office unsuccessfully attempted to

¹ All references to the Wisconsin Statutes are to the 2023-24 version.

serve each injunction petition on Metzler at the Sturgeon Bay Road address four times: twice on May 28, 2024, once on May 29, 2024, and once on May 30, 2024.²

Metzler did not appear at the June 4, 2024 hearing. During the hearing, the circuit court found that the Smiths had made “reasonable efforts” to personally serve Metzler. The court therefore advised the Smiths of the option to serve Metzler by publication and extended the time for holding the injunction hearing until June 18, 2024. *See* WIS. STAT. § 813.125(3)(c).

Metzler did not appear at the June 18, 2024 hearing. During the hearing, the Smiths submitted affidavits of publication from the Peninsula Pulse, which is a Door County newspaper, stating that it had published notices regarding the injunction petitions and hearing on June 7 and June 14, 2024. After receiving those affidavits, the circuit court stated that the Smiths “have provided me with verification that notice of today’s hearing was published in the Peninsula Pulse.” The court then inquired whether the Smiths had also published the notices in the Green Bay Press Gazette. At that point, a “Help Advocate” stated, “Okay. So Luxemburg was in Kewaunee County, so I contacted the Star News for that county. They never sent me proof of it, but I did reach out to them and they said that they would publish it for the two times along with

² The certificates of nonservice from the Brown County Sheriff’s Office list the Sturgeon Bay Road address as being in Green Bay. However, the certificates include the zip code 54217 for the Sturgeon Bay Road address, which is the zip code for Luxemburg, Wisconsin. Moreover, a search of Google Maps shows that while 6227 Sturgeon Bay Road is an address in Luxemburg, there is no address with that street name and number in Green Bay. *See State v. Smith*, No. 2016AP2453, unpublished slip op., ¶3 n.1 (Feb. 13, 2018) (taking judicial notice of “several general distances relevant to this appeal, as provided by the online public mapping resource Google Maps”); *People v. Clark*, 940 N.E.2d 755, 766 (Ill. App. Ct. 2010) (“[C]ase law supports the proposition that information acquired from mainstream Internet sites such as Map Quest and Google Maps is reliable enough to support a request for judicial notice.”); *see also* WIS. STAT. RULE 809.23(3)(b) (permitting authored, unpublished opinions issued on or after July 1, 2009, to be cited for their persuasive value). For purposes of these appeals, it appears to be undisputed that 6227 Sturgeon Bay Road is located in Luxemburg, which is located in Kewaunee County.

the Door County Pulse.” The court then stated, “All right. Thank you. Well, I’m going to find that—You know, if you end up getting something from them, please go ahead and just have that filed ... with the Court, but I will accept that representation that it has actually been also published in Kewaunee County.”

Thereafter, following brief testimony by the Smiths, the circuit court found that there were reasonable grounds to believe that Metzler had engaged in harassing behavior toward the Smiths. The court further stated that it had personal jurisdiction over Metzler, as she “was served by publication and had an opportunity to be heard.” The court therefore granted both of the Smiths harassment injunctions against Metzler for a period of four years. The injunction orders were successfully served on Metzler at the Sturgeon Bay Road address, and Metzler now appeals.

On appeal, Metzler argues that the injunction orders must be reversed because she was not properly served with the injunction petitions and, as a result, the circuit court lacked personal jurisdiction over her. *See Bendimez v. Neidermire*, 222 Wis. 2d 356, 364, 588 N.W.2d 55 (Ct. App. 1998) (explaining that service “in a manner prescribed by statute is a condition precedent to a valid exercise of personal jurisdiction”). More specifically, Metzler argues that the court erred by: (1) finding that the Smiths exercised reasonable diligence in attempting personal service of the injunction petitions; (2) failing to require that copies of the injunction petitions be left at Metzler’s home address; (3) ordering service by publication in a county without first eliciting evidence that Metzler resided in that county; (4) finding that service by publication had been accomplished without any showing that the publication was properly worded and published three times; and (5) finding that Metzler was properly served by

publication without any showing that the injunction petitions were mailed to her at her “known place of abode.”

As a general rule, this court decides cases on the narrowest possible grounds. *See Patrick Fur Farm, Inc. v. United Vaccines, Inc.*, 2005 WI App 190, ¶8 n.1, 286 Wis. 2d 774, 703 N.W.2d 707. Accordingly, we “need not address every issue raised by the parties when one issue is dispositive.” *Barrows v. American Fam. Ins.*, 2014 WI App 11, ¶9, 352 Wis. 2d 436, 842 N.W.2d 508 (2013). Here, we conclude that Metzler was not properly served by publication because there is no evidence that the Smiths mailed the injunction petitions to her at her known address, as required by WIS. STAT. § 813.125(2)(a). Because we reverse the injunction orders on this basis, we need not address Metzler’s remaining arguments.

An action seeking a harassment injunction is commenced by the filing of a petition and the service of the petition upon the respondent. WIS. STAT. § 813.125(2)(a). When the petitioner provides proof that service of the petition cannot be accomplished under WIS. STAT. § 801.11(1)(a) or (b), which pertain to personal service and service by leaving the petition at the respondent’s usual place of abode,

the judge or circuit court commissioner shall inform the petitioner that he or she may serve the respondent by publication of a summary of the petition as a class 1 notice, under [WIS. STAT.] ch. 985, and by mailing or sending a facsimile if the respondent’s post-office address or facsimile number is known or can with due diligence be ascertained. The mailing or sending of a facsimile may be omitted if the post-office address or facsimile number cannot be ascertained with due diligence.

Sec. 813.125(2)(a).

Here, the circuit court found that the Smiths had published notice of the injunction petitions and hearing in both the Peninsula Pulse and the Star News. No evidence was presented, however, that the Smiths had also mailed the injunction petitions to Metzler. The statute requires such mailing when the respondent's post-office address "is known or can with due diligence be ascertained." *Id.* In this case, the certificates of nonservice filed by the Door County Sheriff's Office on June 3, 2024, stated that Metzler "Resides at 6227 Sturgeon Bay Rd, Luxemburg." (Formatting altered.) The certificates of nonservice filed by the Brown County Sheriff's Office on the same date stated that when service was attempted at the Sturgeon Bay Road address on May 28, 2024, "there was a package for [Metzler] at the door." (Formatting altered.) Thus, by the time of the June 4, 2024 hearing, at which the circuit court directed the Smiths to proceed with service by publication, the Smiths were aware of the Sturgeon Bay Road address and knew that Metzler was receiving mail at that address. Nevertheless, the appellate records contain no evidence that the Smiths attempted to mail the injunction petitions to Metzler.

Under these circumstances, we conclude that Metzler was not properly served by publication under WIS. STAT. § 813.125(2)(a). We further note that in their appellate briefs, the Smiths do not dispute Metzler's assertion that § 813.125(2)(a) required them to mail the injunction petitions to her, in addition to publishing notice in a newspaper. *See Charolais Breeding Ranches, Ltd. v. FPC Sec. Corp.*, 90 Wis. 2d 97, 109, 279 N.W.2d 493 (Ct. App. 1979) (explaining that unrefuted arguments may be deemed conceded). Because Metzler was not properly served under § 813.125(2)(a), the circuit court lacked personal jurisdiction over her, and the injunction orders must be reversed.

Therefore,

IT IS ORDERED that the orders are summarily reversed. WIS. STAT. RULE 809.21.

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

Samuel A. Christensen
Clerk of Court of Appeals