COURT OF APPEALS
DECISION
DATED AND RELEASED

June 13, 1995

No. 94-3156-CR

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT I

STATE OF WISCONSIN,

Plaintiff-Respondent,

v.

BRYAN LONGWORTH,

Defendant-Appellant.

APPEAL from a judgment of the circuit court for Milwaukee County: DANIEL L. KONKOL, Judge. *Affirmed.*

WEDEMEYER, P.J.[1] Bryan Longworth appeals from a judgment of conviction, after a jury trial, for two counts of contempt, contrary to §§ 785.031(b) and 939.62, STATS. Longworth claims that the contempt conviction should be dismissed because he was not subject to the underlying injunction, which formed the basis of the contempt charges. He also claims the trial court erred in excluding evidence relevant to whether he was subject to the underlying injunction. Because Longworth is precluded from collaterally

[1] This appeal is decided by one judge pursuant to § 752.31(2), STATS.

attacking the underlying injunction and because the evidence was properly excluded, this court affirms.

I. BACKGROUND

During the summer of 1992, the State of Wisconsin and the City of Milwaukee filed a civil action against various persons and organizations, including an organization known as "Youth for America," seeking an injunction limiting the conduct at anti-abortion demonstrations. In this civil injunction suit, Youth for America was served with a summons and complaint via one of its officers/directors, Matthew Trewhella. Trewhella moved to dismiss the complaint based on lack of jurisdiction. Specifically, with respect to jurisdiction over Youth for America, Trewhella argued that he was not an officer/director and, therefore, Youth for America was never properly served. The trial court in that case, however, denied the motion, finding that Trewhella was in fact an officer/director of the organization. On December 10, 1992, a permanent injunction was issued restricting the named defendants in the lawsuit, and anyone acting in concert with a named defendant, from demonstrating within certain distances from clinic entrances. Youth for America was a named defendant and, therefore, subject to the injunction. There was no further challenge to the court's jurisdiction over Youth for America.

Longworth, although not a specifically named defendant in that lawsuit, is an officer/director of Youth for America. On July 15, 1993, Longworth was charged with two counts of contempt for violating the underlying injunction while acting on behalf of Youth for America. During the trial, Longworth attempted to introduce evidence challenging the jurisdiction over Youth for America in the injunction action. The trial court excluded this evidence. The jury convicted Longworth. He now appeals.

II. DISCUSSION

A. Collateral Attack.

Longworth claims that his conviction should be dismissed because Youth for America was never properly served in the underlying injunction action. He explains that he is the organization's only officer/director and, therefore, serving Trewhella was ineffective to confer jurisdiction. As a result, Longworth contends that the underlying injunction does not apply to Youth for America or to him. The State responds that Longworth cannot collaterally attack the jurisdiction determination of the injunction court. The trial court in the instant case agreed.

This court is not persuaded by Longworth's argument. The issue of jurisdiction over Youth for America was raised and decided by the injunction court. The injunction court specifically found that "[a]ll the evidence of record establishes that Matthew Trewhella does constitute the director, manager or officer of ... Youth for America." As a result, the injunction court determined that service upon Trewhella as an officer/director of Youth for America was sufficient to confer jurisdiction over the organization. That determination was not challenged further, and therefore, the validity of the decision is assumed. *See generally,* ***Wisconsin Employment Relations Bd. v. Mews***, 29 Wis.2d 44, 138 N.W.2d 147 (1965).

Accordingly, Longworth is precluded from collaterally attacking that determination in the instant action. ***State v. Madison***, 120 Wis.2d 150, 154, 353 N.W.2d 835, 838 (Ct. App. 1984); ***State v. Bouzek***, 168 Wis.2d 642, 644-45, 484 N.W.2d 362, 363 (Ct. App. 1992); ***R.B. General Trucking, Inc. v. Auto Parts & Service, Inc.***, 3 Wis.2d 91, 97, 87 N.W.2d 863, 866 (1958) (court's findings of jurisdictional facts after objection to jurisdiction are conclusive against collateral attack). Therefore, this court rejects his argument that the underlying injunction does not apply to him because Youth for America was never properly served.

B. Exclusion of Evidence.

The evidence that Longworth asserts was erroneously excluded was testimony from an attorney who represented certain named defendants in the underlying injunction action. Longworth intended to have the attorney testify that he in fact did not represent Youth for America in the underlying injunction action.

An appellate court reviews a trial court's evidentiary rulings according to the erroneous exercise of discretion standard. *See* ***State v. Pharr***, 115 Wis.2d 334, 342, 340 N.W.2d 498, 501 (1983); ***State v. Alsteen***, 108 Wis.2d 723, 727, 324 N.W.2d 426, 428 (1982). If a trial court applies the proper law to the established facts, we will not find a misuse of discretion if there is any reasonable basis for the trial court's ruling. ***Alsteen***, 108 Wis.2d at 727, 324 N.W.2d at 428; ***Village of Shorewood v. Steinberg***, 174 Wis.2d 191, 204, 496 N.W.2d 57, 62 (1993); ***Steinbach v. Gustafson***, 177 Wis.2d 178, 185-86, 502 N.W.2d 156, 159 (Ct. App. 1993). Appellate courts generally look for reasons to sustain discretionary determinations. ***Steinbach***, 177 Wis.2d at 185-86, 502 N.W.2d at 159.

In the instant case, the trial court properly determined that Longworth could not collaterally attack the determination by the injunction court that Youth for America was properly served. The testimony excluded was pertinent solely to an attack on whether the underlying injunction applied to Youth for America. As noted above, this jurisdictional issue was previously determined by the injunction court and not subject to attack. Further, testimony on jurisdictional issues are for the court and not the jury. ***State ex rel. V.J.H. v. C.A.B.***, 163 Wis.2d 833, 840, 472 N.W.2d 839, 841 (Ct. App. 1991); *see also* 21 C.J.S. *Courts* § 87 (1990). Accordingly, it was not an erroneous exercise of discretion to exclude this testimony.

By the Court. – Judgment affirmed.

This opinion will not be published. *See* RULE 809.23(1)(b)4, STATS.