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State of Minnesota

County of Kandiyohi

District Court

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| Judicial District: | Eighth |
| Court File Number: | 34-CV-21-132 |
| Case Type: | Harassment |

Jason Plourde,
Petitioner(s)

vs.

Victoria Guillemard,
Respondent(s)

**Order Denying Harassment
Restraining Order After Hearing**

(Minn. Stat. §609.748)

This matter was heard by Hon. Stephanie L. Beckman, Judge of District Court, on April 21, 2021.
Date

Appearances were made by:

- Petitioner Petitioner's Attorney _____
- Respondent Respondent's Attorney Brian E. Wojtalewicz _____

Other(s) The Court reviewed numerous exhibits from both parties. The Court relies upon the testimony and exhibits provided in making this decision.

The Court received the following Exhibits:

Petitioner's Exhibits

1. Jessi Wood – Facebook Posting re: Hawk Creek Animal Shelter
2. Respondent – Facebook message to Anytime Fitness Manager re: Posting by Petitioner
3. Petitioner's Facebook Business Page and Postings- Others Posting re: AFA and Affiliations
4. Business Facebook Page – Jessica Waldron Posting
5. Business Email – Shows Facebook Comments (blocked and volume)
6. Business Facebook- Banned Individuals
7. Twitter- Respondent's Private Account to Willmar Chamber of Commerce and Town Crier
8. Petitioner's Facebook Messenger- No Contact with Respondent
9. Petitioner's Search- Facebook for MAAAH- Blocked
10. Petitioner's Facebook Search for Respondent – Proof Not Friends
11. Respondent's Twitter- Respondent is Co-Founder of MAAAH

Respondent's Exhibits

12. Facebook Page- Runestone and Petitioner as Ordained Priest AFA

13. AFA Flag of Northern Blood
14. 14 Words Statement- YouTube by Petitioner
15. Ne-Volksih Article (SPLC)
16. ADL Article
17. Newspaper Articles
18. Bluestem Article
19. City of Willmar Human Rights Commission- Audio of Respondent's Speech

The Court also received testimony from Petitioner and Respondent.

Now, therefore, based upon the evidence adduced and upon all the files, records and proceedings herein, the court finds:

FINDINGS OF FACT

The court makes the following findings in support of the decision:

1. Petitioner alleged Respondent harassed him because of his church affiliations by stalking and harassing him through his social media accounts and through the organization she started, the Mudock Area Alliance Against Hate (hereinafter "MAAAH"), because she falsely assumes Petitioner is a part of a White Supremacy organization. In that regard, she and, her through her individual members in the group, have accused him of being a bigot and of a hateful ideology.
2. He told her and her organization to stop the harassment and claims against him and his church. Today, he wanted the harassment to stop on social media and the efforts by Respondent and her organization to cease, or for an agreement that they will cease without the need for an HRO.
3. Petitioner is a member of the Astru Folk Assembly (AFA) Church. Petitioner is a member and ordained Priest of AFA. He is a leader in this organization. He has become a community volunteer in many organizations since he moved to Willmar such as Hawk Creek Animal Shelter. He has repaired the AFA building/church, along with other volunteer efforts. Additionally, he recently became a member of the Willmar Chamber of Commerce and has a gym membership at Anytime Fitness.
4. Petitioner is proud to be a member of AFA and testified to many details about the church including that he identifies with his ethnic identity, acknowledges the organization's philosophy, notes AFA qualifies as a "great Aryan religion," and he provided a tutorial on YouTube about the "14 Word Statement" to endorse securing a future for white children. He

testified that if the color of the child was substituted from white to a child of color, there would be no outrage by Respondent or others like her and her organization, which is the context of the YouTube video. (Resp. Ex. 12).

5. Petitioner is engaged in outreach efforts for AFA, is proud of his church and ethnic identity, and has been promoted in leadership positions within AFA wherein he recently became a Priest. Petitioner did not deny the goal for recruitment efforts by he or AFA but, he testified his efforts are to be a good person, do good things for his community, and continue the efforts for his church and business as any other citizen would. (Exs. 12 and 13).
6. Respondent submitted newspaper articles to corroborate that Respondent is not harassing Petitioner; rather, she is expressing her concerns and those of the public for the community upon AFA's move to Murdock and Petitioner's to Willmar. Respondent is adamantly opposed to AFA's fundamental beliefs, and seeks to engage in education for the community and the cessation of racial discrimination for people of color. She is engaged in educating the local businesses that Petitioner is the leader of a "hate" group and active in recruitment efforts in her communities. She is the leader of MAAAH, which is engaged in education in the community to highlight and make aware Petitioner's role in AFA and how AFA was defined as a hate group that discriminates against others due to race. (Resp. Ex. 17).
7. Petitioner alleged Respondent harassed him in the following ways:
 - a. Through the MAAAH, Respondent supports, teaches, and encourages individual members of this group to act out and harass him individually so he will lose business and be removed from organizations/volunteer efforts. He provided the attempts of individuals to call him out on the Willmar Chamber of Commerce, Hawk Creek Animal Shelter, and Anytime Fitness. He claims these MAAAH supporters have attacked him on his business Facebook page, contacted the manager of the gym AnytimeFitness) he belongs, and contacted other organizations to which he belongs to in order to get him removed (Willmar Chamber of Commerce and Hawk Creek Animal Shelter) by making false accusations about him being a White Supremacist, to which they have no proof or fact to substantiate.

8. This Court finds whether Petitioner and the AFA are rooted in racial discrimination and considered a “hate” group/ affiliated with White Supremacy engaged in recruitment efforts in the local communities would be considered matters of public concern for Respondent.
9. The Southern Poverty Law Center (“SPLC”) and American Defamation League (“ADL”) both recognize AFA as a White Supremacist organization. (Resp. Exs. 15 and 16). Although Petitioner disputes it, there was evidence contrary to his testimony that Respondent’s concerns about AFA and Petitioner recruiting to promote the agenda of a “hate” group and to discriminate against people of color have merit.
10. Petitioner testified as follows:
 - a. Petitioner testified he and AFA are proud of their ethnicity born of northern European descent or Aryan peoples. Further, AFA and Petitioner promote all individuals sharing pride in their own ethnicity as he does in his own.
 - b. However, later Petitioner testified that AFA allows only those of European ethnic descent into the church. He clarified that “northern European” descent is defined as “white” and the goal of AFA was to promote and secure the future of “white children” in the YouTube video he completed. (Resp. Ex. 14).
 - c. Respondent testified what Petitioner sees as pride, she defines as discrimination and the goal of MAAAH is tasked with educating the community about AFA and Petitioner then to eliminate racial discrimination in their communities of color. She testified that AFA is considered a “hate” group and is not a religion.
11. Petitioner claims Respondent also individually harassed him by contacting his gym, took a video of AFA one night and sent it to the Mayor Murdock, and contacted Willmar Chamber of Commerce to inform them he was a White Supremacist. She also promoted and supported all of the MAAAH members with Facebook accounts to harass him. He alleges this is confirmed in her speech to the Human Rights Commission and boasted of her successful efforts in harassing him wherein he was removed from the organization she targeted. (Resp. Ex. 19).
 - a. Petitioner believes he is targeted by Respondent and MAAAH because of their subjective opinions on him and the AFA rather than any facts they have that the group or he is garnered in racist ideology.

12. Petitioner claims Respondent is expressing opinions only about his church and AFA that are not rooted in fact. He claims her opinions, along with the members of her group MAAAH, have created and caused harassment resulting in harm to his safety, security and privacy.
 - a. Petitioner claims that while he has not lost any business as a result of the work of Respondent and her group members, his supervisor will eventually want to know why he is receiving repeated/multiple personal and hateful communications on his business Facebook page. He claimed Respondent and her group were the cause of getting him removed from volunteering at the Hawk Creek Animal Shelter.

Freedom of Speech vs. Harassing Speech

13. As explained to the parties at the hearing, even if AFA stands for White Supremacy and Petitioner is a White Supremacist, this Court is deaf to the political or moral ideology of AFA; rather, the issue before this Court is whether or not Petitioner has met the burden for harassment by law such that it requires this Court to issue a restraining order.
 - a. This Court finds the primary issue here involves the constitutional right to free speech for Respondent or whether she has engaged in harassment.
 - b. Respondent claims Petitioner threatens litigation against any person who publicly speaks out against him. The fear associated with being sued has silenced many.
14. Respondent testified she is speaking out publicly against Petitioner's efforts. He joined the communities of Murdock and Willmar in order to recruit on behalf of the AFA and discriminate against persons of color. Respondent started MAAAH to combat blatant racism in the community when AFA purchased a church in Murdock. MAAAH educates on racism and engages the community in anti-racism work. She denies stalking or harassing Petitioner. She did exercise her free speech but did not engage with Respondent individually nor did she encourage anyone from MAAAH to do so, and, in fact, she discouraged it but, she has no control over the members of the group.
15. This Court finds Respondent credible on this account that she never intentionally sought out Petitioner or intended to harass him individually and her focus was the matter of racial discrimination in her community. It was even Petitioner who provided the Court with an exhibits during the hearing that corroborated that she did not use MAAAH to engage in harassing conduct towards Petitioner and he and she had no social media connections. And, it

was on her private Facebook account (whether her personal page or MAAAH) that she instructed individuals not to engage with Petitioner personally. She also testified she knew about his threats of litigation if he was publicly confronted about his discriminatory beliefs and he made them often used as a fear tactic to stop others from speaking out against him and his group.

16. This Court finds that Respondent's concerns about the efforts by Petitioner of infiltrating the community for recruitment efforts for White Supremacy for Petitioner and his group are of public concern.
17. Respondent found AFA and Petitioner's efforts for recruitment and infiltration in the communities to be extremely considerable and very troubling to Respondent and MAAAH. (Resp. Ex. 19)
 - a. She testified she does not engage individually with Respondent, has not met him, nor has she encouraged anyone to independently address him whether be it though social media, in person, e-mail or any other medium. This is because she has seen a number of communications by him wherein he threatens litigation and she relayed this to MAAAH members. Respondent's testimony and evidence is credible.

CONCLUSIONS OF LAW

Harassment Statute- 609.748

18. In *Welsh v. Johnson*, an abortion clinic and the director received a restraining order against picketer/protestor (Johnson) where Johnson was restricted in communication with the clinic/director and could not picket two blocks from director's home. 508 N.W.2d 212 (Minn. App. 1993). In this case, prior to the issuance of the Harassment Restraining Order (HRO), Johnson confronted the director personally, used her first name, called her on the phone, he was quite a bit larger physically than her, and he protested at her home on more than once occasion even after she asked him to stop. The Court issued an HRO, he appealed and the Court of Appeals reviewed whether Johnson's right to freedom of speech prevailed over the harassment of the individual. *Id.* at 214-215.
19. "The First Amendment does not guarantee the right to communicate one's view at all times and places or in any manner that may be desired." *Heffron v. Int'l Soc'y for Krishna Consciousness, Inc.*, 452 U.S. 640, 647, 101 S. Ct. 2559, 2564, 69 L. Ed. 298 (1981).

20. Thus, if the Court finds Respondent has engaged in harassment, the Court may restrict Respondent's right to speech if the restriction is done without reference to the content (content-neutral), it is narrowly tailored to serve a significant government interests and leaves alternative channels to communicate open. *Goward v. City of Minneapolis*, 456 N.W.2d 460, 464 (Minn. App. 1990) (citing *Ward v. Rock Against Racism*, 491 U.S. 781, 790, 109 S. Ct. 2746, 2753, 105 L. Ed.2d 661 (1991)).

Freedom of Speech- First Amendment

21. "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for redress of grievances." U.S. Const. Amd. I.
22. Not all speech is protected speech by the First Amendment. *Pickering v. Board of Ed. Of Tp. High School Dist. 205, Will. County Illinois*, 392 U.S. 563, 568 88 S. Ct. 1731, 20 L. ed. 811 (1968).
23. In order to be protected, speech must relate to a matter of public concern. *Id.*
24. The Supreme Court has explained that speech involving public concern "falls within the core of the First Amendment protection." *Engquist v. Or. Dep't of Agric.*, 553 U.S. 591, 600, 128 S. Ct. 2146, 170 L. Ed. 975 (2008).
25. The purpose of the principle is to assure the "unfettered exchange of ideas for bringing about political and social changes desired by the people." *Dun & Bradstreet, Inc. v. Greenmoss Builders, Inc.*, 472 N.W.2d 759, 760-61, 105 S. Ct. 2939, 86 L. Ed. 593 (1985).
26. A court must first determine whether the speech is a matter of public concern and, in order to discern whether the speech implicates a matter of public concern, the court considers the "content, form, and context" of the speech when viewing the entirety of the record. *Id.* at 761, 105 S. Ct. 2939.
27. Thus, speech deals with a matter of public concern when it is considered to relate to any matter of social, political, or other concerns for a community. *Snyder v. Phelps*, 562 U.S. 443, 452, 131 S. Ct. 1207, 179 L. Ed. 172 (2011).
28. In *Snyder*, there was a protest by members of the Westboro Baptist Church at a funeral of a soldier who was killed in the line of duty. The protestors picketed on public land, carried signs

that had messages that said: “Thank God for Dead Soldiers” “Fag Troops” “God Hates the USA/Thank God for 9/11” “Priests Rape Boys.” The father of the soldier brought claims against Westboro. The Court concluded that the content of the speech was of political and moral conduct directed towards the United States and the citizens speaking to a broader issue rather than to the soldier or his family at the funeral. *Id.* at 448, 131 S. Ct. 1207.

29. This Court finds Respondent’s views impact matters of public concern; specifically, issues of racial discrimination in her communities and recruitment efforts by AFA, an organization that just moved to the area, who is actively employed in their communities in recruitment efforts through Petitioner.
30. First, Petitioner has failed to establish that Respondent targeted or harassed him herself. There is a lack of evidence to support she engaged in harassment with the intent to cause safety, security or privacy issues. She contacted two organizations: Anytime Fitness and Willmar Chamber of Commerce and suggested they reach out to speak with her after she informed them of Petitioner’s associations. This is not harassment but free speech- notifying those in the organizations publicly (social media) about matters of public concern. There is no proof of her engaging in any conduct in any other forum.
31. The theory that she is the head of the group so she is responsible for the conduct of the individual members is without merit and was without sufficient evidentiary support. In fact, the evidence supported that she, in fact, dissuaded others from engaging in direct contact with Petitioner and promoting anti-harassment efforts with the members of MAAAH.
32. Second, as noted above, the concerns she did express to the few she expressed them were public matters and she has a right to express those concerns under the law. She was limited in her expressions and timely, efficient, and appropriate in the issues she responded to of public concern. She did not engage Petitioner individually nor did she engage in any other conduct that is seen as harassing.
33. Third, Respondent is not targeting the individual (Petitioner); rather, the views of Petitioner and his organization are the target and the focus of Respondent and MAAAH. The goals are for public education through social media and community education about how AFA and Petitioner really do promote ethnic identity association, Aryan people, northern European

descent, white, and a white children promulgated belief systems, which she testified are racist and discriminatory beliefs and practices against people of color.

34. Last, because public concern is triggered here by Respondent's speech, there is the entitlement of special protections for the speech. Therefore, speech on social media and the Human Rights Commission, to which all of these communications fall against Petitioner alleged by Respondent as an individual, do not reach the level of harassment as required under Minn. Stat. § 609.748.
35. Here, there is insufficient evidence in the record that Respondent's conduct or speech constituted harassment as defined.
36. There are no reasonable grounds to believe that Respondent has engaged in harassment of Petitioner because the law allows her to exercise her right to freedom of speech about a matter public concern.
37. Petitioner was unable to meet the burden of proof required to establish Respondent engaged in harassing conduct or that her speech rises to the level of harassment.
38. Here, this Court finds there was no harassment because Respondent is engaged in education and outreach directed at the actions and speech of Petitioner and his group and not focused on him as a person as the focal point.
39. However, this Court seeks for the communities to be warned that if others choose to increase conduct to cross boundaries or if there is an infringement into any individuals' rights to be free to speak and/or be free of harassment for his/her beliefs, a harassment restraining order may be issued under different circumstances or in different facts. All citizens need take heed that freedom of speech is not without limits and the law must be followed even when engaged in protest and outreach. *See, Welsh v. Johnson*, 508 N.W.2d 212 (Minn. App. 1993).

ORDER

1. The Petition for a Harassment Restraining Order is hereby **DENIED**.

Dated: April 29, 2021

Stephanie L. Beckman
Judge of District Court

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