

STATE OF MINNESOTA
COUNTY OF RAMSEY

DISTRICT COURT
SECOND JUDICIAL DISTRICT
CASE TYPE: HARASSMENT

In the Matter of:

Court File No. 62-HR-CV-24-963

Madeline Sally Machla Lee,

Petitioner,

vs.

Kellye Strickland,

Respondent.

**DECLARATION OF KYLE T.
MANDERFELD IN SUPPORT OF
PETITIONER'S MOTION FOR
CONTEMPT**

I, Kyle T. Manderfeld, hereby state and declare the following:

1. I am an attorney with the law firm of Barna, Guzy & Steffen, Ltd., counsel for Petitioner Madeline Lee.
2. A Harassment Restraining Order was issued in 62-HR-CV-24-963 on December 12, 2024. The Order explicitly prohibits Respondent Strickland from harassing Petitioner Lee. The Order remains active until December 12, 2026. See Exhibit 1.
3. Respondent Strickland created a webpage containing material harassing in nature towards Petitioner Lee found at <https://onionmadder.com/legal/lee/history>.
 - a. Harassing webpage reproduced a private and intimate drawing of Petitioner that was previously only accessible on Petitioner's private Telegram page. See Exhibit 2.
 - b. Harassing webpage frames Petitioner as a pedophile and reproduces private images found on Petitioner's private Telegram page. See Exhibits 3 and 4.
4. Petitioner had plans to deliver a guest lecture at a University in India. Although Petitioner did not promote this guest lecture, Respondent Strickland somehow learned of the event. Respondent sent Petitioner's University host professor an email implying the guest lecture invitation was "fabricated or altered." See Exhibit 5.
5. Petitioner has reported the webpage violation to law enforcement. Charges were not pursued. Moving for a finding of contempt is now the least restrictive remedy available to have Petitioner's rights and privacy enforced under the active Harassment Restraining Order.

6. The Minnesota Court of Appeals has previously upheld a District Court's finding of harassment and contempt when a Respondent to a HRO created a website containing personal, offensive, and exaggerated material about a Petitioner. *Miller v. Fredin*, A18-1154, 2019 WL 3293766 (Minn. Ct. App. 2019). This case is unpublished and cited as persuasive, not precedential authority. See Exhibit 6.
7. The Petitioner's exhibits for the Court's reference and submitted in conjunction with her Motion for Sanctions are true and correct copies of the following documentation:

Exhibit 1: Order Granting Harassment Restraining Order after Hearing

Exhibit 2: Screenshot of webpage found at onionmadder.com/legal/lee/history

Exhibit 3: Screenshot of webpage found at onionmadder.com/legal/lee/history

Exhibit 4: Screenshot of webpage found at onionmadder.com/legal/lee/history

Exhibit 5: Email sent from Respondent to Petitioner's University host

Exhibit 6: Copy of *Miller v. Fredin*

I declare under penalty of perjury that everything I have stated in this document is true and correct.

Dated: November 7, 2025
Signed in Anoka County, Minnesota

By: /s/ Kyle T. Manderfeld
Kyle T. Manderfeld #0505482
Attorney for Petitioner
200 Coon Rapids Blvd. NW, Suite 400
Coon Rapids, MN 55433-5894
Phone: (763) 780-8500

Filed in District Court
State of Minnesota

STATE OF MINNESOTA
Ramsey County

DISTRICT COURT
Second Judicial District
Case Type: Harassment
Court File Number: 62-HR-CV-24-963

Madeline Sally Machla Lee Vs Kellye Strickland

**Order Granting Harassment Restraining Order
After Hearing**
(Minn. Stat. §609.748)

This matter was heard by Clysdale, Elizabeth, Judge/Referee of District Court, on December 12, 2024.

Appearances:

Kellye Strickland, Respondent, not present Pro Se
Madeline Lee, Petitioner, present Pro Se

Also appearing was:

Based upon the evidence and all the files, records and proceedings in this matter, the court finds:

1. The Respondent denies the allegations of the Petition but has no objection to the issuance of a Restraining Order. The court makes no findings of harassment.
2. There are reasonable grounds to believe that Respondent has engaged in harassment which has or is intended to have a substantial adverse effect on safety, security, or privacy of Petitioner or the minor children or ward(s) of Petitioner by committing the following acts:
 - Physically or sexually assaulted the Petitioner as follows: _____
 - Followed, monitored, or pursued the Petitioner as follows: _____
 - Made uninvited visits to the Petitioner as follows: _____
 - Made harassing phone calls or sent harassing text messages to the Petitioner as follows: _____
 - Made threats to the Petitioner as follows: _____
 - Frightened Petitioner with threatening behavior as follows: _____
 - Called the Petitioner abusive names as follows: _____
 - Damaged Petitioner's property as follows: _____
 - Broke into and entered Petitioner's residence as follows: _____
 - Stole property from Petitioner as follows: _____
 - Took pictures of the Petitioner without permission of the Petitioner as follows: _____
 - Disseminated private sexual images of the Petitioner without permission of the Petitioner as follows: _____
 - Used personal information, without consent, to invite, encourage, or solicit a third party to engage in a sexual act with the Petitioner as followings: _____
 - Did acts repeatedly that meet the legal definition of "targeted residential picketing" as follows: _____

- Attended public events after being notified that Respondent's presence at the events is harassing to Petitioner as follows: _____
 - Used social media to harass Petitioner as following: _____
 - Other: The Respondent failed to appear after service by U.S. Mail. This Order is being issued by default. The contents of the Petition are incorporated herein as findings of fact. The Petitioner's testimony was credible.
3. The harassment has or is intended to have a substantial adverse effect on the Petitioner's safety, security or privacy.
4. The relief granted by this order may be for a period of up to 50 years based on the finding that:
- The petitioner has had two or more previous restraining order in effect against the same respondent; or
 - The respondent has violated a prior or existing restraining order on two or more occasions.

IT IS ORDERED:

1. Respondent shall not harass Petitioner Petitioner's minor children or ward(s)
List minor children or ward(s) included in the Petition: _____
- a. Respondent shall have no direct or indirect contact with Petitioner Petitioner's minor children or ward(s), including any visits to or phone calls to the protected person(s), contact via electronic means such as email or social networking sites, threats or assaultive behavior to the protected person(s), damaging or stealing property belonging to the protected person(s), breaking into and entering the protected person(s) residence, and/or taking pictures of a protected person without permission of the Petitioner.
 - b. The relief granted does not extend to the Petitioner's minor children or ward(s). The relief requested for the Petitioner's minor children or ward(s) is denied because the harassment is not directed against the Petitioner's minor children or ward(s).
 - c. Respondent is prohibited from being within _____ of Petitioner's home at _____.
Except as follows: _____
 - d. Petitioner's address is confidential. If Respondent knows or learns of Petitioner's address, Respondent is prohibited from being at Petitioner's home.
 - e. Respondent is prohibited from being within _____ of Petitioner's job site at _____.
Except as follows: _____
 - f. Other: _____
2. Any requested relief that is not specifically listed above is denied.

3. This Order shall remain in effect until DECEMBER 12, 2026, unless changed by a later court order. (Date not to exceed two years unless findings made to support longer order.)
4. The Court Administrator shall send a copy of this Order to the following law enforcement agency(s): Ramsey County Sheriff's Department and Confidential Police Department. **Every police department and sheriff's office in the United States, including those affiliated with tribal and territorial lands, is responsible for enforcing this Order under 18 U.S.C. § 2265 Full Faith and Credit of Protective Orders.**
5. If Respondent is an organization, this order shall / shall not apply to all members of the organization.
6. Other: _____
7. The sheriff of any county in Minnesota, or a peace officer, shall perform the duties relating to serving this Order without charge to Petitioner.
8. Respondent is restrained from harassing, stalking, or threatening the protected person(s), or engaging in other conduct that would place the protected person(s) in reasonable fear of bodily injury to that person; and is prohibited from the use; attempted use, or threatened use of physical force against the protected person(s) that would reasonably be expected to cause bodily injury. 18 U.S.C. § 922(g)(8)(B) and (C).

NOTICE

Any conduct by the Respondent in violation of the specific provisions provided in the "It Is Ordered" section above constitutes a violation of this Harassment Restraining Order. A police officer shall arrest the Respondent without warrant and take the Respondent to jail if the police officer believes the Respondent has violated this Order, and shall hold the Respondent in jail for at least 36 hours, excluding the day of arrest, Sundays, and legal holidays, unless the Respondent is released by a judge or judicial officer.

Violation of this Harassment Restraining Order may be treated as a misdemeanor, gross misdemeanor, or felony. A misdemeanor violation may result in a sentence of up to 90 days in jail and/or a fine of \$1000.00. Some repeat violations are gross misdemeanors that may result in a sentence of up to one year in jail and/or a \$3,000.00 fine. Other violations are felonies that may result in a sentence of imprisonment for up to five years and/or a fine of \$10,000.00.

Federal law may prohibit shipping, transporting, possessing or receiving firearms or ammunition while this order is in effect. 18 U.S.C. § 922(g)(8).

If the court grants this Harassment Restraining Order for a period of up to 50 years under Minn. Stat. §609.748 subd. 5, the Respondent must wait 5 years to seek modification of the Harassment Restraining Order.

Dated: _____



Clysdale, Elizabeth
(Referee)
Dec 12, 2024 12:42 PM

Referee of District Court

Dated: _____



Gilligan, Thomas (Judge)
Dec 12, 2024 4:33 PM


Judge of District Court


BUT WHO IS POJO KUTTY?

Although she goes by Pojo Kutty HaZonah/Thozar now, it was the name Leelee Cocodrie that Madeline Sally Lee was using when she found me as a monetized content creator for [Meta](#), and decided that I was her ticket to social media fame.


WARNING: GRAPHIC CONTENT

Pojo Kutty HaZonah


Pojo Kutty HaZonah. 1021 likes · 726 talking about this. Materialist History and Politics of Human Sexuality 18+ 

 <https://www.reddit.com>

Pojo Kutty (u/PojoKutty)

u/PojoKutty: Materialist History and Politics of Human Sexuality  Erotic Art, Devotional Poetry, Anti-Zionist Judaismism.

A long history of openly proud Marxism and a publicly sexual persona.



Sekhavu Pojo Kutty (sakhavupojo) Posts & Stats February 2025 ... [Visit >](#)

Nude self portraits posted to the internet by Madeline Sally Lee.

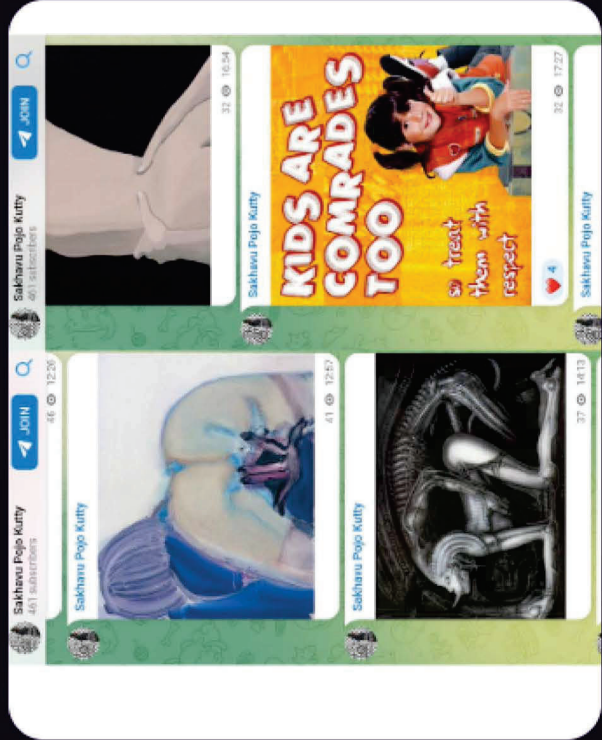
When pretending to be a victim got her more clicks than being a "sexy Marxist mommy", she began circulating my name across YouTube, WhatsApp, Bluesky, Facebook, and Telegram to increase her engagement

Madeline has a long history of proudly presenting herself as a highly sexualized Marxist "educator".

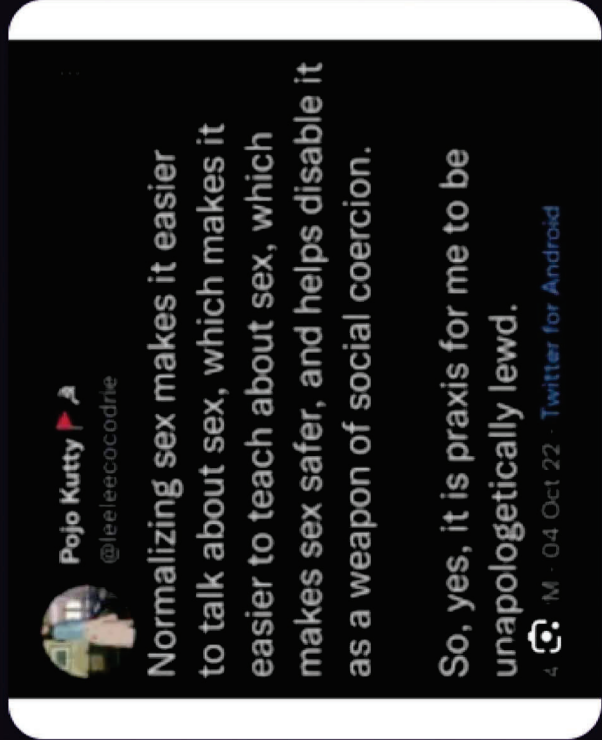
Under the guise of sex-forward, nudity empowered Marxism, Madeline and her associates have long encouraged the open display of sexuality and lewdness.

Particularly around children, allegedly as a means to make them "comfortable with sexuality" and to keep them safe from "potential abusers".

WARNING: GRAPHIC CONTENT



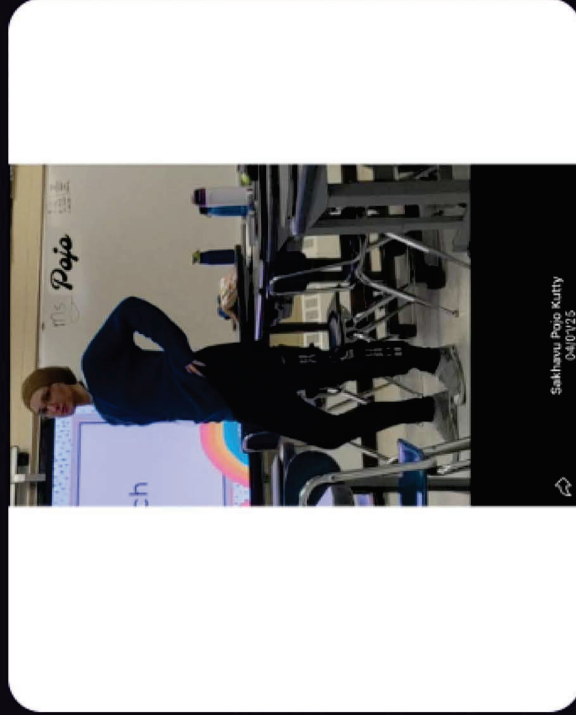
Images taken from Madeline's public X rated Telegram channel, screenshots captured on 9.24.2025



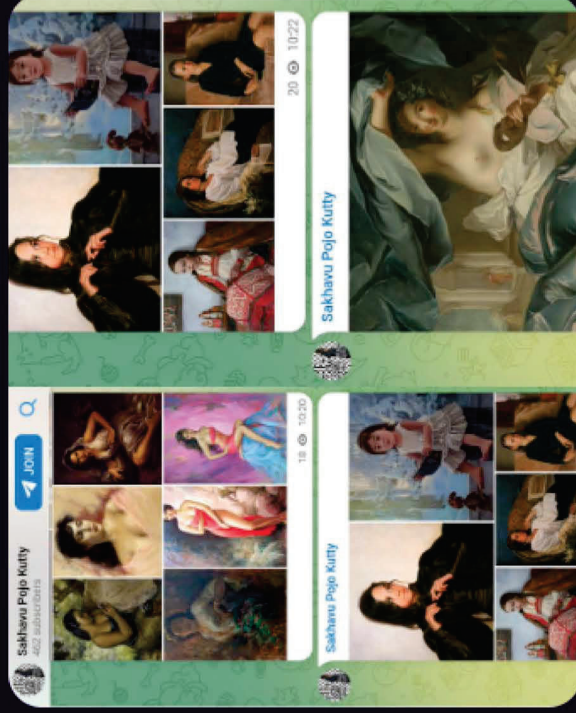
Her "viral" post encouraging open lewdness and branding it as "praxis".

Madeline Sally Lee has a background of working within [Minnesota school systems](#), and a history of posting photos of the classrooms she works in, as well as descriptions of the children she spends time with.

It is inappropriate to repost most of those images here.



"Miss Pojo" at work, posted to her X rated Telegram channel under the name "Pojo Kutty Thozar", screenshots captured on 9.24.2025



Images of children alongside nude women, also posted to the Telegram channel "Pojo Kutty Thozar", screenshots captured on 9.24.2025

Despite her extensively documented public history supporting openness about sexuality, any criticism of her behavior triggers immediate accusations of abuse to police, courts, social media, and now domain registrars.

Her behavior cannot survive open criticism. There is no situation in which this sexualization of children's spaces can be tolerated, and she knows this.

By her own admission, she has been reported to children's protective services for her behavior on at least three separately documented occasions.

----- Forwarded message -----

From: **Kellye Sundar** <kellye.sundar@gmail.com>

Date: Tue, 28 Oct 2025, 21:49

Subject: Possible Misuse of Your Name and Email Address in a Forwarded Invitation

To: sipoy.sarveswar@visva-bharati.ac.in
<sipoy.sarveswar@visva-bharati.ac.in>

Dear Dr. Sarveswar,

I hope this message finds you well. I am writing to let you know that I recently received a forwarded email chain that appears to include your name, title, and university email address. The message purports to be an invitation from you to a person named Madeline S. M. Lee (Fleigle) to deliver a guest lecture in the Department of Anthropology at Visva-Bharati University.

I cannot confirm whether this message was genuinely sent from your office, and I have no association with the individuals named in the thread. Because it appears your professional identity and university address may be circulating outside their intended context, I wanted to make you aware of the situation in case this correspondence was fabricated or altered.

Please note that I am not seeking any confidential information—only ensuring that you are informed of a possible misuse of your name or institutional credentials.

Thank you for your time and understanding.

With respect,
Kellye Strickland
Tempe, Arizona, USA

All content

Miller v. Fredin

Minnesota

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Miller v. Fredin

Court of Appeals of Minnesota • July 22, 2019 • Not Reported in N.W. Rptr. • 2019 WL 3293766 • (Approx. 8 pages)

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Unpublished Opinion

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2019 WL 3293766

Only the Westlaw citation is currently available.

NOTICE: THIS OPINION IS DESIGNATED AS UNPUBLISHED AND MAY NOT BE CITED EXCEPT AS PROVIDED BY MINN. ST. SEC. 480A.08(3).

This opinion will be unpublished and may not be cited except as provided by Minn. Stat. § 480A.08, subd. 3 (2018).

Court of Appeals of Minnesota.

Grace Elizabeth MILLER, Respondent,
v.
Brock FREDIN, Appellant

A18-1154

A18-1155

Filed July 22, 2019

Review Denied October 15, 2019

Ramsey County District Court, File No. 62-HR-CV-16-46

Attorneys and Law Firms

Karmen M. McQuitty, Minneapolis, Minnesota (for respondent)

Brock Fredin, Hudson, Wisconsin (pro se appellant)

Considered and decided by Schellhas, Presiding Judge; Hooten, Judge; and Tracy M. Smith, Judge.

UNPUBLISHED OPINION

SCHELLHAS, Judge

¹ In these consolidated appeals from a district court's orders finding appellant in contempt of court for violating a harassment restraining order (HRO) and granting respondent's petition for a 50-year HRO, appellant argues that (1) the record does not support the grant of a 50-year HRO; (2) the 50-year HRO, as applied to him, violates the prohibition against ex post facto punishment; (3) the district court did not have "jurisdiction" to require him to remove content from the internet; and (4) the HRO statute is unconstitutionally vague and violates the First Amendment. We affirm.

FACTS

In September 2015, appellant Brock Fredin and respondent Grace Miller began dating after meeting through a dating website. About a month later, Miller "broke things off" and told Fredin that they "could still be friends" and go on an "occasional date," but that she "didn't feel comfortable with a committed relationship at that point." According to Miller, she then continued to periodically see and communicate with Fredin, mostly electronically, until early December 2015, when she attempted "to cut off contact [with him] all together." Miller claimed that Fredin continued to send her electronic messages, despite her communication to Fredin that if he continued to contact her, she would call the police.

After Fredin e-mailed Miller twice on January 24, 2016, and sent her an unsolicited \$50 via PayPal with a message stating, "Thank you for everything," Miller petitioned for a HRO against Fredin. The district court granted the HRO on March 21, 2016, finding that there were reasonable grounds to

believe that Fredin had engaged in harassment of Miller by making "repeated, unwanted contact with [Miller] by continuing to communicate with [Miller] despite being asked to stop all contact, having the Facebook account blocked and two separate telephone numbers blocked." The HRO, which was effective through March 21, 2018, restricted Fredin from "direct or indirect contact" with Miller, "including any visits to or phone calls" to Miller, and "contact via electronic means such as email or social networking sites." Fredin appealed from the HRO, and this court affirmed. *Miller v. Fredin*, No. A16-0613 (Minn. App. Jan. 23, 2017).

In the meantime, in September 2016, Miller moved for civil contempt against Fredin after finding posts about her on Facebook and DatingPsychos.com and sought an order prohibiting Fredin from posting about her on any form of social media. Although Miller withdrew her motion before the hearing because all posts regarding her had been removed, she filed another motion in early December 2017, seeking to modify the HRO. Specifically, Miller sought an order requiring Fredin to remove the www.majorgracemiller.com website. The district court granted Miller's request for temporary relief and scheduled a hearing. Before the hearing, Miller again moved for civil contempt, requesting that the court make findings regarding Fredin's acts and again sought an order for removal of content about her from the internet. Miller also requested that the court modify the prohibitory language of the 2016 HRO to more specifically preclude certain postings by Fredin about her. Later, Miller filed a new petition for a 50-year HRO, based on the same conduct underlying her contempt motion.

² The district court temporarily granted Miller's request for a 50-year HRO, and set an evidentiary hearing for a permanent HRO for April 9, 2018. In an order on July 9, 2018, the court found that Fredin violated the 2016 HRO at least three times by creating and placing content about Miller on the internet, found Fredin "in contempt of court for violating the 2016 HRO," and directed that a copy of the order be "delivered to the St. Paul City Attorney's Office for appropriate review." The court also granted Miller's request for a 50-year HRO.

This appeal follows. ¹

DECISION

I.

This court reviews a district court's issuance of an HRO for an abuse of discretion. *Kush v. Mathison*, 683 N.W.2d 841, 843 (Minn. App. 2004), review denied (Minn. Sept. 29, 2004). "A district court's findings of fact will not be set aside unless clearly erroneous, and due regard is given to the district court's opportunity to judge the credibility of witnesses." *Id.* at 843-44. But we will reverse the issuance of a restraining order if it is not supported by sufficient evidence. *Id.* at 844.

A district court may grant an HRO if it "finds at the hearing that there are reasonable grounds to believe that the respondent has engaged in harassment." Minn. Stat. § 609.748, subd. 5(b)(3) (2018). Harassment includes "repeated incidents of intrusive or unwanted acts, words, or gestures that have a substantial adverse effect or are intended to have a substantial adverse effect on the safety, security, or privacy of another." *Id.*, subd. 1(a)(1) (2018). Normally, an HRO is granted "for a fixed period of not more than two years." *Id.*, subd. 5(b) (2018). But if "the petitioner has had two or more previous restraining orders in effect against the same respondent or the respondent has violated a prior or existing restraining order on two or more occasions, relief granted by the restraining order may be for a period of up to 50 years." *Id.*

Fredin argues that the record lacks sufficient evidentiary support for the issuance of the 50-year HRO. We disagree. The record contains evidence of three specific incidents of harassment by Fredin that occurred while the March 2016 HRO was in effect. First, Miller testified that in December 2017, she found a website about herself that she believed Fredin had created. According to Miller, the website contained "details of [her] personal life" that she "never told anybody else" and were "grossly exaggerated." And in addition to Miller's testimony, the district court received copies of the content of the website.

Second, Miller testified that in the fall of 2017, she discovered memes about her on the internet. Miller described the memes, and the district court received copies of the memes. The memes contained Miller's name and military unit, as well as statements that she "ENDORSES REVENGE PORN AND HARASSMENT OF MEN. MAKES DEATH THREATS." And another meme stated that Miller "DESTROYS MEN. STALKS MEN. CONSPIRES TO DESTROY MEN WITH OTHER WOMEN. DATING THIS

WOMAN WILL END IN DISASTER. HIRING THIS WOMAN WILL CORRUPT YOUR ORGANIZATION." Miller stated that she believed Fredin created the memes because "he is the only person who has ever lashed out at me like this."

³ Third, Miller testified about a "datingspsychos" online post that she discovered in June 2016, and a printed copy of the website was admitted into evidence. The website references Miller as a "Certified piece of sh-t," and contains statements indicating that Miller is a "Total bully, stalker, harassment, threatened to kill me, and complete narcissist. Has mild PTSD from military deployments and constantly overacts, intimidates." Miller testified that she believed Fredin created the website as "[r]etaliation" and because "he used the first person in the website, said harassed me, versus saying this person is responsible for harassing Brock Fredin, and one of the iterations on the website also included a Dropbox link about - - he put messages between the two of us."

The incidents of harassment support the district court's imposition of the 50-year HRO. See Minn. Stat. § 609.748, subd. 5(b) (allowing district court to grant HRO for "up to 50 years" if "the respondent has violated a prior or existing restraining order on two or more occasions"). Although Fredin claims that Miller "openly lied" at trial, and challenges the credibility of the exhibits, determining the weight to give the evidence and assessing witness credibility is in the exclusive province of the factfinder. See *Hasnudeen v. Onan Corp.*, 552 N.W.2d 555, 557 (Minn. 1996) (stating that a reviewing court "traditionally accord[s] great deference to a [district] court's findings of fact because it has the advantage of hearing the testimony, assessing relative credibility of witnesses and acquiring a thorough understanding of the circumstances unique to the matter before it"). The court weighed Miller's evidence in her favor and credited her testimony, and we defer to the court's assessment of the evidentiary weight and credibility of the witness testimony. See *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988) (stating appellate courts defer to district court's credibility determinations). We conclude that the evidence is sufficient to support the court's imposition of a 50-year HRO.

II.

Fredin contends that the district court abused its discretion by granting Miller a 50-year HRO because the "extended fifty-year HRO as applied to this case is an excessive and criminal penalty." But Fredin failed to notify the attorney general of his challenge to the constitutionality of the HRO statute as required by Minn. R. Civ. App. P. 144. While lack of notice to the attorney general is not an absolute bar to this court's consideration of constitutional issues, we will only consider the constitutionality of statutes as applied, and only if the issues have been adequately raised and considered at the district court and the appellate record is sufficient for review. See *Elwell v. County of Hennepin*, 221 N.W.2d 538, 545 (Minn. 1974) (holding that lack of notice to attorney general does not absolutely bar reviewing court from considering constitutional issue); *Welsh v. Johnson*, 508 N.W.2d 212, 215 n.1 (Minn. App. 1993) (stating that failure to notify attorney general limits constitutional challenge to "as applied challenge").

Here, the record reflects that Fredin's argument was neither raised before, nor decided by, the district court. Moreover, Fredin's argument is ambiguous; although he appears to be challenging the HRO on constitutional grounds, he fails to identify whether the HRO violates the United States or Minnesota Constitution. Fredin also fails to identify a constitutional provision or fundamental right that he asserts was violated. Because Fredin's argument was neither adequately briefed, nor raised below, it is not properly before us. See *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) ("A reviewing court must generally consider only those issues that the record shows were presented and considered by the [district] court." (quotation omitted)); see also *State Dep't of Labor & Indus. v. Wintz Parcel Drivers, Inc.*, 558 N.W.2d 480, 480 (Minn. 1997) (stating that appellate courts generally decline to reach issues in absence of adequate briefing). We therefore need not address Fredin's argument that the 50-year HRO is an excessive criminal penalty.

⁴ Finally, even if we were to address Fredin's argument on the merits, we would conclude that his argument fails. The United States and Minnesota Constitutions both prohibit the imposition of ex post facto laws. U.S. Const., art. I, § 10; Minn. Const. art. I, § 11. The prohibition is meant to "assure that legislative Acts give fair warning of their effect and permit individuals to rely on their meaning until explicitly changed" and to "restrict[] governmental power by restraining arbitrary and potentially vindictive legislation." *Carmell v. Texas*, 529 U.S. 513, 566, 120 S. Ct. 1620, 1650 (2000) (quotations and footnote omitted). "To qualify as an ex post facto law, a statute must be a criminal or penal law, it must not be merely procedural, it must apply to events occurring before its

enactment, and it must disadvantage the offender affected by it.” *Rew v. Bergstrom*, 845 N.W.2d 764, 790 (Minn. 2014) (quotations omitted).

Fredin appears to argue that the imposition of the 50-year HRO violates the provision against ex post facto punishment. But the record before us does not indicate that when the district court granted the 50-year HRO to Miller, it relied on facts that predated the effective date of Minn. Stat. § 609.748, subd. 5(b). The statute allowing a court to grant a 50-year HRO was in effect at the time Miller was granted the first HRO against Fredin in March 2016, and none of the facts relied upon by the court in granting the 50-year HRO predated the effective date of Minn. Stat. § 609.748, subd. 5(b). Minn. Stat. § 609.748, subd. 5(b), therefore does not qualify as an ex post facto law because its application to Fredin did not apply to events occurring before its enactment. See *Rew*, 845 N.W.2d at 790 (discussing requirements for law to qualify as ex post facto law).

Moreover, in *Rew*, the supreme court considered the legality of a district court’s extension for up to 50 years of an order for protection (OFP) in favor of a victim of domestic abuse and her minor children. *Id.* at 771. Specifically, *Bergstrom* challenged the constitutionality of the extended OFP on several grounds, including ex post facto grounds. *Id.* at 774. The supreme court concluded that because “an extended OFP is a civil remedy,” there was no violation in that case of either the United States or Minnesota Constitutions’ prohibition on ex post facto laws. *Id.* at 794–95.

Although not identical, the 50-year provision in the OFP statute is similar to the 50-year provision in the HRO statute at issue in this case. And because the supreme court in *Rew* held that “an extended OFP is a civil remedy,” we conclude that the extended HRO would also constitute a civil remedy. See *Id.* at 774. We conclude that, by analogy to *Rew*, the 50-year provision in the HRO statute does not violate either the United States or Minnesota Constitutions’ prohibition on ex post facto laws.

III.

Fredin also argues that the district court erred by granting Miller a 50-year HRO because the HRO statute “does not explicitly grant jurisdiction over internet content.” Although Fredin does not specify the type of jurisdiction he is challenging, he extensively cites *Zippo Mfg. Co. v. Zippo Dot Com, Inc.*, 952 F. Supp. 1119 (W.D.Pa. 1997), and argues that the district court lacked “jurisdiction” under the test set forth in that case. The *Zippo* test involves personal jurisdiction, not subject-matter jurisdiction. See *Id.* at 1124 (concluding that “likelihood that personal jurisdiction can be constitutionally exercised is directly proportionate to the nature and quality of commercial activity that an entity conducts over the Internet”). Because Fredin extensively relies on the *Zippo* test to support his “jurisdictional” argument, we construe his argument to be a challenge to the court’s personal jurisdiction. But Fredin did not challenge the court’s personal jurisdiction over him in district court. Unlike subject-matter jurisdiction, parties may waive a challenge to personal jurisdiction. *McCullough & Sons, Inc. v. City of Vadnais Heights*, 883 N.W.2d 580, 590 (Minn. 2016) (noting that unlike a defect in a court’s subject-matter jurisdiction, parties can waive defects in personal jurisdiction); see Minn. R. Civ. P. 12.02 (noting that lack of personal jurisdiction is an affirmative defense); Minn. R. Civ. P. 12.08 (noting that certain defenses, including lack of personal jurisdiction, are waived if not raised by motion or pleading). Because Fredin’s challenge to the district court’s personal jurisdiction was not made below, Fredin has waived that challenge.

IV.

⁵ Fredin argues that Minn. Stat. § 609.748, subd. 1(a)(1), is unconstitutional under the First Amendment. The First Amendment to the United States Constitution states that “Congress shall make no law ... abridging the freedom of speech.” U.S. Const. amend. I. “It applies to the states through the Fourteenth Amendment.” *In re Welfare of A.J.B.*, --- N.W.2d ----, ----, 2019 WL 2518412, at *2 (Minn. June 19, 2019).

As we observed above, Fredin failed to notify the attorney general of his challenge to the constitutionality of the HRO statute as required by Minn. R. Civ. App. P. 144. Although the lack of notice to the attorney general is not an absolute bar to this court’s consideration of constitutional issues, our supreme court has stated that “because of the obvious salutary reasons” for this rule, it “intend[s] to require strict compliance with [it] and will ordinarily refuse to consider constitutional questions on appeal if there is a failure to give notice pursuant to the rules unless significant reasons appear for doing otherwise.” *Elwell*, 221 N.W.2d at 545. In *Elwell*, the supreme court considered a constitutional question despite the lack of notice to the attorney general as required by the rules, but only because the issue was “one of considerable public importance,” that “should

be promptly resolved,” and because it had “been thoroughly and adequately briefed by both parties in the [district] court and this court.” *Id.* (footnote omitted). In doing so, the supreme court noted that “if we are inclined in any case to hold a statute unconstitutional, it is extremely doubtful, absent the most exigent circumstances, that we would so rule if the attorney general has not been properly notified.” *Id.* at 545 n.6.

Here, Fredin occasionally uses the term “as applied” in his brief. But a thorough review of his brief, which is hand-written, except for a portion that appears to have been cut-and-pasted from another document, focuses on a facial challenge to the statute. That challenge is not properly before us because Fredin failed to provide the proper notice to the attorney general as required by Minn. R. Civ. App. P. 144. *See Theorin v. Ditec Corp.*, 377 N.W.2d 437, 440 n.1 (Minn. 1985) (noting that “because employee failed to inform the attorney general of her constitutional claim, as required by Minn. R. Civ. App. P. 144, th[e] issue is not properly before this court”); *see also Welsh*, 508 N.W.2d at 215 n.1 (stating that failure to notify attorney general limits constitutional challenge to “as applied” challenge). Moreover, not only does Fredin make no argument that his argument fits the exception described in *Elwell*, our review of his argument and this record shows that his argument does not, in fact, fit that exception. We therefore decline to consider the issue. *See Rutz v. Rutz*, 644 N.W.2d 489, 494 (Minn. App. 2002) (declining to address constitutional challenge to statute because appellant did not notify attorney general or raise issue in district court), *review denied* (Minn. July 16, 2002).

Affirmed.

All Citations

Not Reported in N.W. Rptr., 2019 WL 3293766

Footnotes

1 The district court’s July 9, 2018 order resolved Miller’s contempt motion in district court file number 62-HR-CV-16-46, as well as and resolved her petition for a 50-year HRO in district court file number 62-HR-CV-18-202. The order was filed in both cases, and Fredin filed a notice of appeal in each case, seeking review of the July 9, 2018 order. On July 30, we consolidated both appeals brought by Fredin.

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