

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF WASHINGTON

TENTH JUDICIAL DISTRICT

Sandra Grazzini-Rucki,

Court File No. 82-CV-16-3996

Petitioner,

v.

ORDER

Michael Brodkorb,

Respondent.

The above-entitled matter came for hearing before the Honorable John R. McBride, Judge of District Court, on September 22, 2016, at the Washington County Courthouse, Stillwater, Minnesota. Appearances were noted on the record.

Based upon all of the files, records, and proceedings, the Court issues the following:

FINDINGS OF FACT

1. On September 12, 2016, Petitioner submitted a petition for an ex parte harassment restraining order against Respondent. On the same day, the Court granted the petition.
2. On September 14, 2016, Respondent requested a hearing.
3. On September 16, 2016, Respondent moved the Court for an order vacating the ex parte restraining order and dismissing this action on the ground that venue is improper.

4. The Court held a hearing on Respondent's motion on September 22, 2016.
5. The address provided by Petitioner in her petition is also the address of her lawyer's office: 6351 St. Croix Trail, Stillwater, Minnesota.
6. Petitioner's lawyer, Ms. MacDonald, informed the Court that her client is "homeless." (Ms. MacDonald used the word homeless.) Ms. MacDonald further indicated that her client had been homeless since the year 2012. Ms. MacDonald stated that she had permitted Petitioner to stay in her office, and that her client was staying there at the time of filing the instant petition. Ms. MacDonald did not indicate how long her client had been staying in her office. Ms. MacDonald also informed the court that she has allowed other clients to stay at this location when they are without a home.
7. The Petitioner is currently unavailable to participate in this proceeding, inasmuch as she is presently incarcerated in Dakota County, Minnesota and may soon be committed into the custody of the Commissioner of Corrections.

CONCLUSIONS OF LAW

1. Under Minn. Stat. § 609.748, subd. 2, a petition for an HRO "may be filed in the county of residence of either party or in the county in which the alleged harassment occurred. There are no residency requirements that apply to a petition for a harassment restraining order."
2. Petitioner contends that this matter is properly before this Court, in this County, based solely upon the location of her residence. It is undisputed

that Respondent does not reside in Washington County. Nor has Petitioner alleged that any harassment occurred in Washington County. Therefore, for venue of this case to be proper, Petitioner's residence must be located in Washington County.

3. Minn. Stat. § 609.748 does not supply a definition of the term *residence*. Elsewhere in the law, however, residence is defined as "the place where a party has established a permanent home from which the party has no present intention of moving." Minn. Stat. § 518.003, subd. 9. It is doubtful that Petitioner ever established a "permanent home" in her lawyer's office.
4. Furthermore, the Court accepts Ms. MacDonald's representation that Petitioner is homeless. A person who is homeless, by definition, has no residence. It follows that Petitioner does not have a residence in Washington County.

ORDER

1. The Court's ex parte harassment restraining order issued in this matter on September 12 is hereby **VACATED**.
2. This matter is **DISMISSED**.
3. When Petitioner is released from incarceration, she may file another petition for relief under Minn. Stat. § 609.748. If she does so, however, she must comply with subdivision 2 of that statute.
4. The Washington County Court Administrator shall transmit notice of filing of this Order and a copy of this Order by the designated e-filing and e-service system, e-mail, or mail to every party affected thereby or upon such party's attorney of record, whether or not such party has appeared in the action,

at the party or attorney's last known mail or e-mail address. Such transmittal shall constitute due and proper notice of the Order for all purposes.

BY THE COURT:

John R. McBride Dated
Judge of District Court