

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF STUTSMAN

SOUTHEAST JUDICIAL DISTRICT

STATE OF NORTH DAKOTA EX REL.
DREW H. WRIGLEY,
ATTORNEY GENERAL,

Civil No. 47-2022-CV-00355

Plaintiff,

-vs-

DAVID ALEX HANSEN, doing business as
HANSEN ELEVATOR SERVICE,

ORDER OF CONTEMPT

Defendant.

¶1 On November 8, 2022 at 9:00 a.m., an evidentiary Show Cause hearing was held.

Appearing were:

- a. Brian M. Card and Parrell D. Grossman for the State;
- b. Scott R. Sandness, attorney for Defendant; and
- c. David Alex Hansen.

¶2 On November 16, 2021, in Case No. 09-2021-CV-2807, the Cass County District Court entered Judgment against Mr. Hansen doing business as Hansen Elevator Service. The Cass County District Court determined Mr. Hansen violated the consumer fraud law, N.D.C.C. § 51-15-02, by soliciting payment from three condominiums and a farmer elevator and then failing to complete the work. The Cass County District Court ordered that Mr. Hansen was enjoined from contracting and performing elevator servicing and repair in North Dakota. According to the terms of the injunction Mr. Hansen may not engage in contracting and perform elevator servicing and repair for a period of five years and until he has paid restitution of approximately \$102,000 and any amounts owed to the State.

[¶3] The State and Mr. Sandness elicited testimony from Mr. Hansen. Mr. Hansen testified that he did not dispute the allegations of the State’s Complaint and agreed that he had solicited approximately \$14,000 from the Streeter Farmer Co-op in March of 2022 while subject to the injunction ordered in Case No. 09-2021-CV-2807. Mr. Hansen testified he had received documents from the State concerning Case No. 09-2021-CV-2807 and that, based on his review of those documents, he learned he required a contractor’s license. Mr. Hansen testified that drug addiction and other health problems contributed to his failure to complete work he had contracted to perform. Mr. Hansen testified he had used the advance payments he solicited from North Dakota consumers to purchase drugs and to pay household expenses. Mr. Hansen also testified that despite his health problems another contractor or elevator repairman could have completed the work he had contracted to perform for the Streeter Farmer Co-Op. Mr. Hansen testified he was apologetic about his conduct and that he wanted to make restitution to those he had wronged. Mr. Hansen testified that he was employed, wished to maintain his employment, and that he expected to receive a promotion that would increase his income.

[¶4] The standard for contempt sanctions is well-established:

A party seeking a contempt sanction under N.D.C.C. ch. 27–10 must clearly and satisfactorily prove the alleged contempt was committed. *Berg v. Berg*, 2000 ND 37, ¶ 10, 606 N.W.2d 903; *Flattum–Riemers v. Flattum–Riemers*, 1999 ND 146, ¶ 5, 598 N.W.2d 499. “Under N.D.C.C. § 27–10–01.1(1)(c), ‘[c]ontempt of court’ includes ‘[i]ntentional disobedience, resistance, or obstruction of the authority, process, or order of a court or other officer.’ ” *Harger v. Harger*, 2002 ND 76, ¶ 14, 644 N.W.2d 182. “To warrant a remedial sanction for contempt, there must be a willful and inexcusable intent to violate a court order.” *Harger*, at ¶ 14; see also *Berg*, at ¶ 10; N.D.C.C. § 27–10–01.1(4)....

Rath v. Rath, 2014 ND 171, ¶ 6, 852 N.W.2d 377 (citing and quoting *Sall v. Sall*, 2011 ND 202, ¶ 7, 804 N.W.2d 378).

[¶5] “Intentional disobedience of a court order constitutes contempt, and absent a showing that an order is transparently invalid or frivolous, the order must be obeyed until stayed or reversed by orderly review.” State v. Sevigny, 2006 ND 211, ¶ 37, 722 N.W.2d 515 (citing State v. Zahn, 1997 ND 65, ¶¶ 12–14, 562 N.W.2d 737). Mr. Hansen acknowledges he disobeyed the November 16, 2021 Judgment of the Cass County District Court by contracting with the Streeter Farmer Co-op in March of 2022 to perform elevator servicing and repair.

[¶6] After a party is shown to have committed a contemptuous act, he has the burden of showing that his act was legally justified or purge himself of the contempt. Thorlakson v. Wells, 207 N.W.2d 326, 329 (N.D. 1973). Mr. Hansen testified that he disobeyed the Cass County District Court’s November 16, 2021 Judgment but offered no legal justification. Therefore, he does not satisfy his burden to show that his act was legally justified.

[¶7] After Mr. Hansen concluded his testimony, the State requested the imposition of a 30-day suspended sentence pending no additional violations of the injunction ordered by the Cass County District Court. The Court finds this is an appropriate sanction for Mr. Hansen’s conduct. The State also requested that the Court order Mr. Hansen to make restitution payments and Mr. Hansen agreed. The Court finds this is appropriate.

[¶8] THEREFORE IT IS ORDERED that:

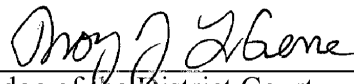
- a. Mr. Hansen intentionally disobeyed the November 16, 2021 Judgment of the Cass County District by contracting with the Streeter Farmer Co-op in March of 2022 to perform elevator servicing and repair.
- b. For Mr. Hansen’s contemptuous conduct, a punitive sanction of thirty (30) days imprisonment is appropriate under N.D.C.C. § 27-10-01.4(2)(a). The 30-

day sentence is suspended pending no additional violations of the Cass County District Court's November 16, 2021 Judgment.

- c. Should Mr. Hansen violate the Cass County District Court's November 16, 2021 Judgment following entry of this order, the Court, pursuant to N.D.C.C. § 27-10-01.4(1)(c), will order a forfeiture of Two Thousand and No/100 Dollars (\$2,000) per day for each day Mr. Hansen's contempt continues.
- d. Beginning January of 2023, Mr. Hansen shall make payments of One Thousand and No/100 Dollars (\$1,000) per month until he has fully satisfied the restitution ordered by the Cass County District Court in Case No. 09-2021-CV-2807. The Court may hold Mr. Hansen in contempt and order additional sanctions if a pattern of nonpayment develops. In the event that Mr. Hansen is unable to meet this obligation, he shall immediately advise the Court and the State of any change in circumstances so that the Court may review the required monthly payment.

BY THE COURT:

Signed: 11/9/2022 11:25:14 AM



Judge of the District Court
Southeast Judicial District