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OCT 27 1981
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

LEONARD FRANTZ,	)	
Plaintiff-Appellant,	)	Filed on October 27, 1981
vs.	)	
POLK COUNTY DISTRICT COURT,	)	1-185 2-65104
Defendant-Appellee.	)	

Writ of certiorari to Polk District Court - James P. Denato, Judge.

Petitioner seeks review by writ of certiorari of the district court's order finding him in contempt for violation of the terms of an injunction asserting that the district court's contempt order is illegal because: 1) the underlying injunction was unconstitutional; 2) the injunction was erroneously issued; 3) district court erred in the contempt proceeding by not considering certain evidence the petitioner alleged was relevant and material; and 4) district court erred in finding petitioner had violated the injunction. WRIT ANNULLED.

Leonard Frantz, pro se, Des Moines, Iowa.

George Appleby, Assistant Polk County Attorney, Des Moines, Iowa, for defendant-appellee.

Submitted to Oxberger, C.J., Snell, Donielson, Carter and Johnson, JJ.

PER CURIAM

Petitioner seeks review by writ of certiorari of the district court's order finding him in contempt for violation of the terms of an injunction prohibiting him from maintaining or keeping rats in excess of two dozen. He asserts that the district court's contempt order is illegal because: 1) the underlying injunction was unconstitutional; 2) the injunction was erroneously issued; 3) district court erred in the contempt proceeding by not considering certain evidence the petitioner alleged was relevant and material; and 4) district court erred in finding petitioner had violated the injunction. We annul the writ.

Petitioner was held in contempt of court and sentenced to ten days in the Polk County Jail for violation of the court's earlier injunction prohibiting him from maintaining or keeping more than two dozen rats. At trial, the court refused to allow petitioner to introduce evidence of a partnership arrangement between himself and R. L. Lundgren to keep rats for breeding, on the ground that such evidence was irrelevant to the proceedings. Petitioner's petition for writ of certiorari was granted on May 30, 1980.

I. Scope of Review. The proper remedy for review of a lower tribunal's finding of contempt is by a petition for writ of certiorari. In re Marriage of Welsher, 274 N.W.2d 369, 371 (Iowa 1979). A certiorari proceeding is limited to review of questions of jurisdiction and illegality. Iowa R. Civ. P. 306. Ordinarily, review of the lower court's findings is merely to determine whether the findings are supported by competent and substantial evidence. State v. Cullison, 227 N.W.2d 121, 126 (Iowa 1975). However, when a certiorari action is brought to challenge a finding of contempt, we give weight to the lower court's findings, but we examine the evidence to determine whether the proof of contempt is clear and satisfactory. Id. If issues involving violations of basic constitutional protections are raised, we make an independent evaluation of the totality of the circumstances underlying the lower court's findings. Id.

II. Validity of the Injunction. When an order is issued by the district court with jurisdiction over the subject matter and person, and there is legal authority for the court to make the order, it must be obeyed by the parties, however erroneous or improvident, until it is reversed by orderly and proper procedures. Lutz v. Darbyshire, 297 N.W.2d 349 (Iowa 1980); United States v. United Mine Workers of America, 330 U.S. 258, 293-94, 67 S. Ct. 677, 696, 91 L. Ed. 884, 912-13 (1947). Generally, this is true without regard to the injunction's constitutional validity for the procedure to raise

questions of the constitutionality of the district court's injunction is by application to have the injunction modified or dissolved. Walker v. City of Birmingham, 388 U.S. 307, 317-21, 87 S. Ct. 1824, 1830-32, 18 L. Ed. 2d 1210 (1967). Exception to this rule applies where the injunction is transparently invalid or has only a frivolous pretense of validity. Id. at 315, 87 S. Ct. 1829, 18 L. Ed. 2d 1217.

In this case, where the district court had jurisdiction over both the subject matter and the person, had authority under its powers in equity to issue an injunction, and the injunction is not transparently invalid, we insist that the party to whom the injunction is directed obey its terms until modified or dissolved. We thus will not consider petitioner's attack on the injunction's validity.

III. Exclusion of Evidence. Determination as to the relevancy and materiality of evidence rests largely with trial court's discretion. State v. Mark, 286 N.W.2d 396, 412 (Iowa 1979). "The test of relevancy is whether the evidence offered would render the desired inference more probable than it would be without such evidence. Irrelevant evidence is that which has no logical tendency to establish any material proposition." Id. at 410, quoting State v. Ball, 262 N.W.2d 278, 279 (Iowa 1978); State v. Sheffey, 250 N.W.2d 51, 55 (Iowa 1977); State v. Sparks, 238 N.W.2d 777, 779 (Iowa 1976). Immateriality relates to evidence which is offered to prove a proposition not in issue. Mark, 286 N.W.2d at 412. In the proceedings below, evidence offered to prove that there existed a partnership between the petitioner and R. L. Lundgren did not relate to any proposition in issue. Although it may well have had some bearing on the validity of the injunction, we have already concluded that question is not properly in issue at a contempt proceeding. We therefore find no error in trial court's exclusion of the testimony.

IV. Finding of Contempt. We finally must determine whether this trial court acted illegally by finding petitioner in contempt. An inferior court acts illegally if there is no substantial support for the findings upon which it bases its conclusions of law. Lane v. Oxberger, 224 N.W.2d 245, 247 (Iowa 1974). From our review, we find uncontroverted evidence in the record that petitioner violated the terms of the injunction. Thus, there is clear and satisfactory evidence to support district court's ruling. We therefore annul the writ.

WRIT ANNULLED.