

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0503**

Larry Koch,
Appellant,

vs.

Riley Purgatory Bluff Creek Watershed District, et al.,
Respondents.

**Filed September 30, 2024
Affirmed
Reilly, Judge***

Hennepin County District Court
File No. 27-CV-23-18762

John Hayden, Quantum Lex PA, Edina, Minnesota (for appellant)

Paul Donald Reuvers, Andrew A. Wolf, Iverson Reuvers, Bloomington, Minnesota (for respondents)

Considered and decided by Worke, Presiding Judge; Ede, Judge; and Reilly, Judge.

NONPRECEDENTIAL OPINION

REILLY, Judge

Appellant Larry Koch challenges a district court order denying his motion for a temporary restraining order (TRO). Koch also challenges a subsequent order in which the

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

district court denied his motion to reconsider its earlier order. Because the district court did not abuse its discretion by denying the TRO and the motion to reconsider, we affirm.

FACTS

Koch is a taxpayer and the appointed manager of respondent Riley Purgatory Bluff Creek Watershed District (the watershed district). Respondent Terry Jeffery is the watershed district's administrator. In August 2021, the watershed district "issued conditional approval of a permit" for a developer to build housing on three parcels of land in Eden Prairie (the property). The property is next to Frederick Miller Spring, and additional "properties to the south and to the west are . . . passive recreation parkland/preserve." Community activists grew concerned about the environmental ramifications of the development, and a nonprofit organization sued the watershed district to challenge the permit.

The watershed district then began to explore acquiring the property itself. In October 2023, after receiving an appraisal, the watershed district's board of managers approved and executed an agreement to purchase the property for \$5,775,000. Under the agreement, the watershed district would have until December 2023 "to complete a feasibility period in which to obtain project financing" and to "complete the statutory processes" to amend its water resources management plan. The watershed district discussed the acquisition with Hennepin County and expected the county to issue bonds to finance the purchase, which the watershed district would then repay. In November 2023, the watershed district learned that Hennepin County would only be able to provide long-term financing on the project beginning in 2024. As a result, the watershed district began to explore issuing its own bonds

“as a bridge to the Hennepin County long-term financing.” When a purchaser offered to buy \$5,804,000 in watershed-district bonds, the board of managers accepted the offer in December 2023.

That same month, Koch sued respondents, alleging they violated numerous state statutes while acquiring the property.¹ Koch’s allegations primarily concerned the adequacy of the procedures by which respondents sought to acquire the property.

Simultaneously, Koch moved for a TRO to enjoin the land acquisition by arguing that respondents threatened him with irreparable injury and by invoking the five factors under *Dahlberg Bros., Inc. v. Ford Motor Co.*, 137 N.W.2d 314 (Minn. 1965). *See Miller v. Foley*, 317 N.W.2d 710, 712 (Minn. 1982) (stating that a temporary injunction requires a clear showing of irreparable injury in consideration of the *Dahlberg* factors); *see also M.G.M. Liquor Warehouse Int’l, Inc. v. Forsland*, 371 N.W.2d 75, 76 (Minn. App. 1985) (stating that *Dahlberg* applies to TROs). Relevant to this appeal, the second *Dahlberg* factor requires a district court to consider “[t]he harm to be suffered by plaintiff if the temporary restraint is denied as compared to that inflicted on defendant if the injunction issues pending trial.” *Dahlberg*, 137 N.W.2d at 321. Meanwhile, the third *Dahlberg* factor requires a district court to consider the likelihood a party “will prevail on the merits.” *Id.*

¹ Koch asserts taxpayer standing. Minnesota law permits “taxpayer standing only when the central dispute involves alleged unlawful disbursements of public funds.” *Minn. Voters All. v. Hunt*, 10 N.W.3d 163, 169 (Minn. 2024).

In his motion, Koch argued that injunctive relief was necessary to prevent irreparable harm because, “as [he] claimed in [his] verified complaint,” the watershed district’s “acquisition of real property was illegal, and the process by which [it] authorized the acquisition was also illegal.” And when arguing that the comparative harms between the parties weighed in his favor, Koch asserted that “[t]he irreparable harm to taxpayers when the government illegally expends public funds is well established” and not only will he face “an increased tax levy,” but the watershed district will also deny him “the lawful review process that could have otherwise ensured the expenditure was prudent and within [the watershed district’s] authority.”

The district court denied Koch’s motion. In applying the five *Dahlberg* factors, the district court concluded that the first factor weighed against a TRO while the remaining factors were neutral. The district court analyzed the second factor as follows:

[Koch] has not sufficiently demonstrated why the due process in the Board of Managers approving this Project and expenditure was insufficient or unlawful. [Koch] has not sufficiently demonstrated why [the watershed district’s] purchase of this land is inconsistent with [its] Plan and harmful to the public.

....

Because the harm alleged by both parties is speculative, [the second factor] weighs neither in favor of or against the injunction.

In March 2024, Koch requested permission to file a motion for the district court to reconsider its order denying the TRO. Koch argued that in its earlier analysis the district court erroneously conflated the second *Dahlberg* factor (comparing harms between the parties) with the third *Dahlberg* factor (likelihood of success on the merits). Therefore,

Koch argued, the district court’s earlier justification for denying the TRO was “palpably wrong.” The district court denied Koch’s request, reasoning that the very harm Koch alleged *was* “the governmental body’s unlawful expenditure of public funds.”

Koch appeals.

DECISION

On appeal, Koch argues that the district court abused its discretion in denying his TRO motion and his request for reconsideration because it erroneously conflated the second *Dahlberg* factor (comparing harms between the parties) with the third *Dahlberg* factor (likelihood of success on the merits). He also argues that the district court insufficiently analyzed the second *Dahlberg* factor.

Under Minn. R. Civ. P. 65, a district court may grant injunctive relief in the form of a TRO or a temporary injunction. The purpose of such relief is “to maintain the status quo until the case can be decided on the *merits*.” *Pickerign v. Pasco Mktg., Inc.*, 228 N.W.2d 562, 564 (Minn. 1975) (emphasis added). Because temporary injunctive relief “is an extraordinary equitable remedy” that enjoins conduct “prior to a complete trial on the merits,” a party is entitled to the remedy only when their rights would be subject to irreparable injury before trial. *Miller*, 317 N.W.2d at 712. “The party seeking the injunction must demonstrate that there is an inadequate legal remedy and that the injunction is necessary to prevent great and irreparable injury.” *U.S. Bank Nat’l Ass’n v. Angeion Corp.*, 615 N.W.2d 425, 434 (Minn. App. 2000), *rev. denied* (Minn. Oct. 25, 2000). A district court must consider the five *Dahlberg* factors to determine whether a party would suffer

irreparable injury before trial without injunctive relief. *See DSCC v. Simon*, 950 N.W.2d 280, 286-87 (Minn. 2020).

The “propriety of injunctive relief is a decision that ‘rests within the sound discretion of the [district] court, and its action will not be disturbed on appeal unless, based upon the whole record, it appears that there has been an abuse of such discretion,’” which the party challenging the decision “bears the burden to show.” *First & First, LLC v. Chadco of Duluth, LLC*, 999 N.W.2d 553, 557 (Minn. App. 2023) (alteration in original) (quoting *Cherne Indus., Inc. v. Grounds & Assocs., Inc.*, 278 N.W.2d 81, 91 (Minn. 1979)), *rev. denied* (Minn. Feb. 20, 2024). “A district court abuses its discretion by making findings of fact that are unsupported by the evidence, misapplying the law, or delivering a decision that is against logic and the facts on record.” *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022) (quotation omitted).

Moreover, a district court may grant leave for a motion to reconsider “upon a showing of compelling circumstances.” Minn. R. Gen. Prac. 115.11. District courts “will ‘rarely’ exercise their power to reconsider decisions and are likely to do so only where intervening legal developments have occurred . . . or where the earlier decision is palpably wrong in some respect.” *Stern 1011 First St. S., LLC v. Gere*, 979 N.W.2d 216, 220 (Minn. 2022) (alteration in original) (quoting Minn. R. Gen. Prac. 115.11, 1997 advisory comm. cmt.). We also review a district court’s decision to deny leave to file a motion for reconsideration for an abuse of discretion. *Goerke Fam. P’ship v. Lac qui Parle-Yellow Bank Watershed Dist.*, 857 N.W.2d 50, 52-53 (Minn. App. 2014).

Under the second *Dahlberg* factor, a district court must evaluate “[t]he harm to be suffered by plaintiff if the temporary restraint is denied as compared to that inflicted on [the] defendant if the injunction issues pending trial.” *Dahlberg*, 137 N.W.2d at 321. Although the focus of the second factor is on comparing the relative harms between the parties, an important underlying consideration remains that injunctive relief must be necessary to protect the moving party from irreparable injury. *See Miller*, 317 N.W.2d at 712-13 (analyzing under the second factor whether the moving party would experience irreparable injury without injunctive relief); *see also Metro. Sports Facilities Comm’n v. Minn. Twins P’ship*, 638 N.W.2d 214, 221-26 (Minn. App. 2002) (same), *rev. denied* (Minn. Feb. 4, 2002).

By comparison, under the third *Dahlberg* factor, a district court must consider “[t]he likelihood that one party or the other will prevail on the merits.” *Dahlberg*, 137 N.W.2d at 321. “The bar for establishing likelihood of success on the merits is low.” *First & First*, 999 N.W.2d at 560. When “a plaintiff makes even a doubtful showing as to the likelihood of prevailing on the merits, a district court may consider issuing a temporary injunction to preserve the status quo until trial on the merits.” *Metro. Sports*, 638 N.W.2d at 226.

Koch contends the district court abused its discretion because it conflated the second *Dahlberg* factor (comparing harms between the parties) with the third *Dahlberg* factor (likelihood of success on the merits). In weighing the second factor, the district court concluded that Koch’s harm was “speculative” because he never “sufficiently demonstrated why the due process in the Board of Managers approving [the] Project and expenditure was insufficient or unlawful,” nor why the watershed district’s “purchase of

[the] land [was] inconsistent with [its plan] and harmful to the public.” Koch argues the district court erroneously required him to “prove” the merits of his case under the second factor when the merits are only a consideration under the third factor. But in its analysis, the district court responded to the arguments that Koch himself presented in his motion: that “[t]he irreparable harm to taxpayers when the government illegally expends public funds is well established,”² and that not only would he face “an increased tax levy,” but the watershed district will also have denied him “the lawful review process that could have otherwise ensured the expenditure was prudent and within [the watershed district’s] authority.” Koch cannot both present arguments related to the second factor and then contend the district court erred when it addressed those arguments. We therefore do not conclude that the district court abused its discretion by conflating the *Dahlberg* factors.

Lastly, Koch contends that the district court insufficiently analyzed the second *Dahlberg* factor. He argues that the district court failed to analyze “why an illegal expenditure was not an irreparable [injury] to [him]” and why his “alleged irreparable

² For this proposition, Koch relies primarily on the nearly century-old case *Williams v. Klemmer*, 224 N.W. 261 (Minn. 1929). In *Williams*, a group of taxpayers sued members of a city council and other city leaders to enjoin a public expenditure that violated charter provisions. 224 N.W. at 262. After the district court granted injunctive relief to prohibit the expenditure, the supreme court affirmed, reasoning that an “injury is irreparable where threatened acts complained of would result in the unauthorized or unlawful expenditure of a substantial sum of money out of the funds of the city raised by taxation and no other prompt remedy is provided.” *Id.* at 262-63. Thus, the supreme court concluded, “[e]quity will enjoin unauthorized acts of city officials, where such acts will result in unauthorized or unlawful expenditure or diversion of public funds.” *Id.* at 263. That said, in *Williams*, the district court granted injunctive relief after the district court “fully tried” the case. *Id.* at 262. Therefore, it presents a scenario that is distinct from injunctive relief pending trial and based on a full analysis of the *Dahlberg* factors.

[injury] should not be balanced against the harms alleged by [r]espondents.” Instead, he argues, the district court “merely stated” that he “failed to show irreparable harm in [a] conclusory fashion.”

Koch is correct that when a district court applies the *Dahlberg* factors, it “has a responsibility to explain the analysis used in reaching its decision.” *Minneapolis Federation of Tchrs. v. Minneapolis Pub. Schs.*, 512 N.W.2d 107, 110 (Minn. App. 1994), *rev. denied* (Minn. Mar. 31, 1994). That said, contrary to Koch’s arguments, the district court never asserted that an illegal expenditure would not be an irreparable injury to Koch, nor did it “merely state[] that [Koch] failed to show irreparable [injury] in [a] conclusory fashion.” Rather, it concluded that the threat of irreparable injury that Koch alleged was “speculative” because he did not adequately demonstrate why the “expenditure was insufficient or unlawful.” And the district court did compare the harms that the parties alleged, concluding that the allegations on both sides were speculative, and therefore, finding the factor neutral. The district court did not improperly exercise its discretion based on its analysis of the second factor in the manner Koch argues.

We conclude that the district court did not abuse its discretion by denying Koch’s motion for a TRO nor did it abuse its discretion by denying his request to file a motion for reconsideration.

Affirmed.