

*This opinion is nonprecedential except as provided by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
A24-2001**

Troy Olds,
Appellant,

vs.

City of Moorhead,
Respondent.

**Filed August 4, 2025
Affirmed
Smith, Tracy M., Judge**

Clay County District Court
File No. 14-CV-22-2656

Celeste E. Culberth, Leslie L. Lienemann, Culberth & Lienemann, LLP, St. Paul,
Minnesota (for appellant)

Jessica E. Schwie, Jana O’Leary Sullivan, Kennedy & Graven, Chartered, Minneapolis,
Minnesota (for respondent)

Brian T. Rochel, Frances E. Baillon, Phillip M. Kitzer, Kitzer Rochel, PLLP, Minneapolis,
Minnesota; and

Samuel Kramer, MacDonald Hoague & Bayless, Minneapolis, Minnesota; and

Claire Bruner-Wiltse, Schaefer Halleen, LLC, Minneapolis, Minnesota (for amicus curiae
National Employment Lawyers Association-Minnesota Chapter)

Justin D. Cummins, Cummins & Cummins, LLP, Minneapolis, Minnesota (for amicus
curiae Minnesota Association for Justice)

Considered and decided by Johnson, Presiding Judge; Worke, Judge; and Smith,

Tracy M., Judge.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

Appellant Troy Olds challenges the summary-judgment dismissal of his claim against respondent City of Moorhead, his former employer, for an alleged violation of the Minnesota whistleblower act (MWA), Minn. Stat. § 181.932 (2024).¹ In its summary-judgment order, the district court applied the *McDonnell Douglas* framework² and determined that dismissal was appropriate because Olds had not produced evidence showing that the city's proffered reason for terminating him was a pretext for retaliation. Olds argues that the district court erred by applying the *McDonnell Douglas* framework to an MWA claim. Olds also argues, in the alternative, that summary judgment was inappropriate under *McDonnell Douglas* because the evidence was sufficient to create a genuine issue of material fact that the city's proffered reason for his termination was pretextual and the discharge was actually motivated by retaliatory animus. We conclude that *McDonnell Douglas* applies to Olds's MWA claim and that, under that framework, the record does not present a genuine issue of material fact for trial. We therefore affirm.

¹ Section 181.932 was amended after Olds brought his MWA claim in 2022. *See* 2023 Minn. Laws ch. 53, art. 11, § 26, at 1290-91. The 2023 amendment expanded the types of actions that an employer is prohibited from taking, but it did so in a manner that does not affect Olds's claim. *Id.* Accordingly, we cite to the most recently published version of the statute.

² As explained below, the *McDonnell Douglas* framework is a burden-shifting framework for evaluating discrimination claims. *See McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973).

FACTS³

In September 2012, Olds began working for the city as an engineering technician in the city's engineering department. As an engineering technician, Olds was responsible for drafting construction plans and surveying and inspecting construction sites. He was also expected to "communicate effectively" and "maintain effective working relationships" with supervisors and vendors.

In 2015, Olds began experiencing issues with the city's management. Olds asserts that, between 2015 and 2019, he identified and made multiple reports to the city about conduct that did not comply with construction contracts or plans and that he experienced various forms of retaliation because of those reports, including the city removing him from a project, reprimanding him, treating him with hostility, "papering" his personnel file, and denying him a promotion.

The February 20, 2020 Incident

Olds asserts that he made his final report in February 2020 when he reported that the computer-aided-design (CAD) lead of the engineering department, C.L., was trying to eliminate a map that showed that a contractor was in breach of a contract with the city.

On February 18, 2020, C.L. sent an email to several employees in the engineering department, including Olds, with instructions about CAD-related changes that he wanted implemented. Two days later, on February 20, 2020, C.L. passed Olds at work and asked

³ In outlining the facts, because we are reviewing summary judgment, we view the evidence in the light most favorable to Olds. *See STAR Ctrs., Inc. v. Faegre & Benson, L.L.P.*, 644 N.W.2d 72, 76-77 (Minn. 2002).

him how he was doing. Olds told C.L. that he was not doing very well and told C.L. that he was upset that C.L. had sent the February 18 email about CAD-related changes. C.L. asked Olds to come to C.L.'s office to finish the conversation there.

When Olds came to C.L.'s office, he took a seat in a chair across from C.L. and explained why he was upset. Olds asserts that, during the conversation, he informed C.L. that he did not want him to eliminate the city map and accused C.L. of lying about where C.L. had obtained a list of bid items from. According to C.L., Olds was in his office for over an hour, during which Olds raised various issues and concerns but was not receptive to C.L. trying to problem solve those issues. C.L. recalled that, during the conversation, Olds's "voice was shaking" and "very loud," his "face was red," and he was "leaning forward off the edge of [his] seat." Olds does not dispute that he was upset when meeting with C.L., that his voice was raised during the conversation, and that they met for over an hour. C.L. believed that he ended the conversation by stating that they needed to take a break or stop the discussion.

Immediately after that conversation, C.L. talked to the assistant city engineer about his exchanges with Olds and the assistant city engineer encouraged C.L. to talk to human resources (HR), which C.L. did. C.L. also typed up a summary of his interaction with Olds and sent it to a manager, who forwarded the summary to the director of HR, the head of the engineering department, and the assistant city engineer the next day. In the summary, C.L. noted that Olds "seem[ed] incredibly stressed and anxious" and that "[h]is level of anger and voiced frustration" was concerning to C.L.

Termination of Olds's Employment

On February 21, 2020—the same day that the email with C.L.'s summary was sent to HR—the head of engineering communicated C.L.'s concerns to the city manager, C.V., and the city placed Olds on paid administrative leave while it conducted an investigation. The city hired a third-party investigator to perform the investigation. The investigator immediately began conducting interviews and receiving records.

In May 2020, the investigator submitted a report to the city with the results of the investigation. The report stated that, on February 20, Olds was in C.L.'s office for over an hour having a “raised voice discussion.” The report summarized interviews with two other city employees who heard Olds being loud and sounding angry in C.L.'s office. The report also summarized previous concerns with Olds's behavior from 2015 through the 2020 incident. Among other things, it referenced a documented oral reprimand that Olds received in 2015 for “threatening and offensive behavior” toward a contractor's employee, a 2018 performance review indicating that Olds needed improvement in exercising judgment because he could become “confrontational and argumentative” with parties concerning projects, a 2019 performance review stating that Olds had shown “anger” to coworkers in emails and texts, and a 2019 referral of Olds to employee assistance for trainings due to his behavior. The report ultimately determined that “[t]he record establishes that Olds's continuing angry and volatile behavior adversely impacts the work environment.”

Based on the report, the head of engineering's summary of C.L.'s report, and HR's recommendation, C.V. decided to terminate Olds's employment. C.V. was the sole decision-maker.

On May 15, 2020, C.V. sent Olds a notice of intent to discharge him based on the February 20 incident and the findings in the third-party investigator's report. The 13-page notice letter found that, on February 20, 2020, Olds had "engaged in two angry and raised voice rants" toward C.L.—the first at Olds's cubicle when C.L. asked how Olds was doing, and the second when Olds spent over an hour in C.L.'s office and spoke angrily and in a raised voice. The notice letter found that Olds's conduct violated a city policy requiring a respectful workplace. The notice letter also reviewed past behavioral concerns involving Olds. It found that Olds's conduct had resulted in or was reasonably expected to result in adverse impacts on other employees, on the reputation of the city and the engineering department, and on the work of the city's engineering operations. The notice letter provided Olds the opportunity to respond. Over the next two weeks, C.V. sent Olds two supplements to the notice to discharge, which reiterated that Olds had an opportunity to respond if he desired.

On June 1, 2020, Olds sent an email to his union representative, which was forwarded to C.V. and considered by the city as Olds's response to the notice letter. In the email, Olds asserted that he had previously reported incidents of mistreatment to HR and asked HR for help but that the city had "done absolutely nothing to protect [him] from abuse and [he would] not subject [himself] to any face to face contact by any means." Olds stated: "If the City didn't hear me before there's no reason they need to hear me now."

On June 4, 2020, C.V. sent Olds a letter terminating Olds's employment, effective June 6, 2020.

Olds's MWA Claim

In February 2022, Olds filed a summons and complaint with the district court, alleging that the city violated the MWA when it terminated his employment for reporting a violation, suspected violation, or planned violation of regulations, statutes, or common law.

During discovery, Olds moved for spoliation sanctions, alleging that the city failed to preserve evidence despite receiving a preservation letter from Olds in June 2020. The district court granted Olds's motion, determining that the city had a duty to preserve evidence related to this litigation when it received the preservation letter, that the city breached its duty "by erasing [Olds's] work computers, discarding work materials from [Olds's] office and not preserving work diaries," and that Olds showed that he would be prejudiced by the loss of such evidence. Although the district court noted that it believed that the city acted negligently and did not have "a purposeful intention to delete evidence," it still determined that Olds would "be afforded an adverse jury instruction regarding the destruction of evidence" explaining that the jury "*may* infer that the evidence, if produced, would have been favorable to [Olds] and unfavorable to the City." The district court noted that the final instruction would be crafted when the case was being prepared for trial.

The city thereafter moved for summary judgment, asserting that Olds could not show that "he engaged in protected activity or that any protected activity caused his termination" and that, "[e]ven assuming [Olds] [could] establish a prima facie case, he

[could not] show the City’s reason for termination—the compelling reason of addressing workplace violence concerns following his angry and threatening tirade—is a pretext for retaliation.” Olds opposed summary judgment, arguing that the *McDonnell Douglas* framework for evaluating evidence in discrimination claims should not apply to his claim under the MWA and that genuine disputes of fact precluded summary judgment.

Following a hearing, the district court filed its order and judgment granting the city’s motion for summary judgment. In doing so, the district court determined that Olds had not produced direct evidence of retaliation and, as a result, the *McDonnell Douglas* framework applied. Applying *McDonnell Douglas*, the district court first concluded that Olds had met his burden to establish a prima facie case under the MWA. It then concluded that the city had offered a legitimate reason for Olds’s termination—namely, that his termination “was the result of [Olds’s] angry tirade with [C.L.] on February 20, 2020”—and that Olds therefore needed to present evidence that could show that the city’s proffered reason was pretextual. The district court lastly concluded that “Olds ha[d] not provided any evidence that his reporting of the suspected contract and/or specification violations in any way motivated the City’s decision to terminate him or that the City’s stated reasons were pretextual.” The district court therefore granted summary judgment for the city.

Olds appeals.

DECISION

Olds makes two principal arguments. First, he argues that the district court erred by applying the *McDonnell Douglas* framework to his MWA claim. Second, he argues that, even if *McDonnell Douglas* applies, the district court erred by granting the city’s motion

for summary judgment because the record presents genuine issues of material fact. We address each argument in turn.

I. The *McDonnell Douglas* framework applies to Olds’s MWA claim.

The *McDonnell Douglas* framework is often employed by Minnesota courts when employment-discrimination claims are challenged on motions for summary judgment. *Hanson v. Dep’t of Nat. Res.*, 972 N.W.2d 362, 372 (Minn. 2022). It is a three-step, burden-shifting framework that was articulated by the United States Supreme Court in the Title VII employment-discrimination case of *McDonnell Douglas Corp. v. Green* to be used when there is no direct evidence of the alleged violation of law. *Id.* at 372-73; *see McDonnell Douglas*, 411 U.S. at 800-04.

At the first step under *McDonnell Douglas*, an employee challenging an employer’s action must establish a prima facie case of the alleged violation of law, the elements of which will vary depending on the case. *Hanson*, 972 N.W.2d at 373. If the employee does so, there is a rebuttable presumption that the employer discriminated. *Id.* At the second step, if the employee has met their initial burden, the burden of production shifts to the employer to provide a legitimate, nonretaliatory reason for the challenged action. *Id.* “If the employer does so, the presumption of discrimination no longer applies.” *Id.* At the third step, if the employer has met its burden of production, the burden shifts back to the employee to show that the employer’s proffered reason is pretextual because the employer’s proffered reason is untrue or the challenged action was motivated by an unlawful reason. *Id.* “The employee retains the ultimate burden of persuasion.” *Id.*

Olds makes three arguments why *McDonnell Douglas* does not apply to his claim. First, he contends that it is error to apply *McDonnell Douglas* to claims under the MWA. Second, he contends that applying *McDonnell Douglas* to MWA claims violates the Minnesota Constitution. Last, he contends that, even if *McDonnell Douglas* does apply to MWA claims and such application is constitutional, *McDonnell Douglas* was improperly applied in this case because he presented direct evidence to support his MWA claim.

A. Caselaw supports application of *McDonnell Douglas* to MWA claims.

The MWA prohibits employers from discharging an employee because the employee “in good faith, report[ed] a violation, suspected violation, or planned violation of any federal or state law or common law or rule adopted pursuant to law to an employer or to any governmental body or law enforcement official.” Minn. Stat. § 181.932, subd. 1. Olds argues that it is error to apply *McDonnell Douglas* to an MWA claim and that, instead, to survive summary judgment an employee need only submit sufficient evidence to establish the elements of an MWA violation as outlined in the model jury instructions. *See 4 Minnesota Practice*, CIVJIG 55.65 (2021). He asserts that whether *McDonnell Douglas* applies to an MWA claim is an “open question,” which we should answer in the negative.⁴ He cites for support the concurring opinion in the supreme court’s *Hanson* case. 972 N.W.2d at 378-81 (Chutich, J., concurring).

In *Hanson*, the employee likewise argued that *McDonnell Douglas* should not be applied to claims under the MWA. *Id.* at 377. The concurrence in *Hanson* stated that,

⁴ Olds’s argument is supported by an amicus brief jointly filed by the National Employment Lawyers Association-Minnesota Chapter and the Minnesota Association for Justice.

although the supreme court had applied *McDonnell Douglas* to whistleblower claims in previous decisions, it had never been asked to address whether that practice is correct and urged the court to conclude that *McDonnell Douglas* does not apply to MWA claims. *Id.* at 378-80 (Chutich, J., concurring). The *Hanson* court acknowledged that “there is debate about the continuing viability of the *McDonnell Douglas* framework.” *Id.* at 377. But it also stated that the supreme court has “recognized *McDonnell Douglas* as the appropriate framework to use in whistleblower cases since the MWA was enacted,” *id.* at 372 n.16, and it expressly declined to reach the issue whether the court “should abandon the *McDonnell Douglas* framework in whistleblower cases,” *id.* at 378. We, too, have applied *McDonnell Douglas* to MWA claims. *E.g.*, *Moore v. City of New Brighton*, 932 N.W.2d 317, 323-24 (Minn. App. 2019), *rev. denied* (Minn. Oct. 15, 2019). We therefore conclude that *McDonnell Douglas* applies to MWA claims.

B. Applying *McDonnell Douglas* to MWA claims is not unconstitutional.

Next, Olds argues that applying *McDonnell Douglas* to an MWA claim violates the right to a jury trial under the Minnesota Constitution because it (1) transfers the jury’s fact-finding role to the district court by imposing the burden of persuasion on the plaintiff at summary judgment and (2) requires the plaintiff to meet a higher burden of proof at summary judgment than they would have to meet at trial.

Appellate courts review the interpretation and application of the Minnesota Constitution de novo. *Leiendecker v. Asian Women United of Minn.*, 895 N.W.2d 623, 633-34 (Minn. 2017). The Minnesota Constitution establishes a categorical right to a jury trial for actions at law, stating that the “right of trial by jury shall remain inviolate[] and shall

extend to all cases at law without regard to the amount in controversy.” Minn. Const. art. I, § 4; *Leiendecker*, 895 N.W.2d at 634. A law violates this right “if it renders the jury-trial right so burdened with conditions that it is not a jury trial” as guaranteed by the constitution. *Leiendecker*, 895 N.W.2d at 634 (quotation omitted).

In arguing that the application of *McDonnell Douglas* violates his right to a jury trial, Olds compares his case to *Leiendecker*. In that case, the supreme court determined that an anti-SLAPP⁵ statute violated the right to a jury trial under the Minnesota Constitution because the statute instructed district courts to make pretrial factual findings, usurping the role of the jury. *Id.* at 635. Specifically, the statute instructed that “the responding party has the burden of proof, of going forward with the evidence, and of persuasion on the motion” and that “the court shall grant the motion and dismiss the judicial claim unless the court finds that the responding party has produced clear and convincing evidence that the acts of the moving party are not immunized from liability under [another statutory section].” *Id.* (quotation omitted). The supreme court found that this language violated the responding party’s right to a jury trial because (1) it “transfer[red] the jury’s fact-finding role to the district court” and (2) it “require[d] the responding party to meet a higher burden of proof before trial (clear and convincing evidence) than it would have to meet at trial (preponderance of the evidence).” *Id.* at 636.

Olds argues that the *McDonnell Douglas* framework unconstitutionally burdens his right to a jury trial because it requires the district court to act as the fact-finder. We disagree.

⁵ “SLAPP” stands for “Strategic Lawsuit Against Public Participation.” *Id.* at 628.

Unlike the anti-SLAPP statute at issue in *Leiendecker*, applying *McDonnell Douglas* to summary-judgment challenges to an MWA claim does not require district courts to make factual findings. At summary judgment, courts do not find facts; they instead determine whether genuine disputes of fact exist. *Montemayor v. Sebright Prods., Inc.*, 898 N.W.2d 623, 628 (Minn. 2017). We have specifically cautioned that, when courts analyze pretext under *McDonnell Douglas*, “fact issues requiring credibility determinations” should not be resolved on summary judgment and should go before the fact-finder. *See Moore*, 932 N.W.2d at 329.

Olds also argues that the pretext analysis under *McDonnell Douglas* creates a higher burden for a plaintiff asserting an MWA claim. Again, we disagree. The pretext analysis goes directly to determining whether the evidence presented could satisfy the element of an MWA violation that the adverse action was *because* of the employee’s report. *See* Minn. Stat. § 181.932, subd. 1(1); *cf. Tex. Dep’t of Cmty. Affs. v. Burdine*, 450 U.S. 248, 256 (1981) (explaining that, when applying *McDonnell Douglas* to employment-discrimination claim, employee’s burden to show pretext “merges with the ultimate burden of persuading the court that she has been the victim of intentional discrimination”).

Accordingly, we conclude that the *McDonnell Douglas* framework does not require a higher burden at summary judgment than that placed on a plaintiff asserting an MWA claim before a fact-finder and thus does not violate the Minnesota Constitution.

C. Application of *McDonnell Douglas* is appropriate because Olds did not provide direct evidence that the city acted with retaliatory animus.

Last, Olds contends that the *McDonnell Douglas* framework does not apply to his MWA claim because he provided direct evidence of retaliation.

As explained by the supreme court in *Hanson*, “[w]ithout direct evidence of retaliation,” analysis of whether summary judgment is appropriate on an MWA claim “proceeds according to the three-step framework of *McDonnell Douglas*.” *Hanson*, 972 N.W.2d at 374; *cf. Hansen v. Robert Half Int’l, Inc.*, 813 N.W.2d 906, 918 (Minn. 2012) (stating that discrimination claims “not involving direct evidence of discriminatory animus” are subject to the *McDonnell Douglas* framework).⁶ The *Hanson* court explained, “Direct evidence establishes that the employer’s discrimination was purposeful, intentional or overt, such as where an employer announces he will not consider females for positions.” 972 N.W.2d at 373 (quotations and citations omitted).

⁶ Olds also argues that he, as the employee, has the choice to present his evidence for evaluation under the “direct method” rather than under the *McDonnell Douglas* burden-shifting framework. He cites this court’s decision in *Friend v. Gopher Co.*, in which we determined that the district court, acting as fact-finder, could evaluate a claim of disparate treatment using either of two evidentiary frameworks: (1) the “direct method,” which evaluates the strength of the affirmative evidence of discriminatory motive—whether or not the evidence is direct or circumstantial; or (2) the *McDonnell Douglas* burden-shifting framework. 771 N.W.2d 33, 38-40 (Minn. App. 2009). We are not persuaded by Olds’s argument that *Friend* dictates that it is his choice whether *McDonnell Douglas* applies here. *Friend* involved review of a district court’s determination of employment discrimination following a trial. *Id.* at 35. This case, on the other hand, is before us on review of the district court’s summary-judgment dismissal of Olds’s MWA claim. The procedural posture is identical to that in *Hanson*, and we therefore follow *Hanson*. *See Hanson*, 972 N.W.2d at 370-71.

With that explanation in mind, we turn to the record here. Olds presented no evidence of retaliatory statements by C.V., the city manager who terminated his employment, to show purposeful, intentional, or overt discrimination. Instead, he argues that the following constituted direct evidence of retaliation: the city’s knowledge of his reports, the adverse inference against the city for spoliating evidence, and the temporal proximity between the reports and Olds’s discharge.

We disagree that this evidence constitutes direct evidence of retaliation. The fact that the city knew of the reports is not direct evidence that the decision-maker terminated Olds’s employment *because* of the reports—an inference would have to be drawn to find that causation. Similarly, an adverse inference against the city for spoliating evidence does not constitute direct evidence that the city intentionally retaliated against Olds, especially because the district court determined that the city’s spoliation of evidence was the result of negligence “and not a purposeful intention to delete evidence.” Finally, temporal proximity is not direct evidence of discrimination. The supreme court in *Hanson* determined that temporal proximity was present, yet it rejected Hanson’s argument that she had presented direct evidence of retaliation. *Id.* at 373-74.

In sum, the evidence presented by Olds is not direct evidence of retaliation, and the *McDonnell Douglas* framework therefore applies. *See id.* at 374.

II. Summary judgment was appropriate under the *McDonnell Douglas* framework.

Olds argues that, even if *McDonnell Douglas* applies, summary judgment was inappropriate because the district court concluded that he had established a prima facie case

under the MWA and because the evidence was sufficient to establish a genuine issue of material fact about pretext.

Summary judgment is appropriate when “the movant shows that there is no genuine issue as to any material fact and the movant is entitled to judgment as a matter of law.” Minn. R. Civ. P. 56.01. Appellate courts “review the grant of summary judgment de novo to determine whether there are genuine issues of material fact and whether the district court erred in its application of the law.” *Montemayor*, 898 N.W.2d at 628 (quotation omitted). In doing so, appellate courts “view the evidence in the light most favorable to the party against whom summary judgment was granted.” *STAR Ctrs., Inc.*, 644 N.W.2d at 76-77. To create a genuine issue of material fact, a nonmoving party must submit evidence that is “sufficiently probative with respect to an essential element of the nonmoving party’s case to permit reasonable persons to draw different conclusions.” *DLH, Inc. v. Russ*, 566 N.W.2d 60, 71 (Minn. 1997). “[G]eneral assertions . . . are not sufficient to create a genuine issue of material fact.” *Nicollet Restoration, Inc. v. City of St. Paul*, 533 N.W.2d 845, 848 (Minn. 1995). “In order to successfully oppose summary judgment, appellant must extract *specific*, admissible facts from the voluminous record and particularize them for the [district court].” *Kletschka v. Abbott-Northwestern Hosp., Inc.*, 417 N.W.2d 752, 754 (Minn. App. 1988), *rev. denied* (Minn. Mar. 30, 1988).

Olds argues first that, because the district court determined that he had established a *prima facie* case of retaliation under the MWA—a determination that the city does not challenge on appeal—there was sufficient evidence to submit the case to a jury trial. We disagree.

Under the *McDonnell Douglas* framework, an employee must first present sufficient evidence to establish a prima facie case. *Moore*, 932 N.W.2d at 323. An employee presents a prima facie case under the MWA if they submit evidence showing that (1) they engaged in statutorily protected conduct, (2) they suffered adverse action by their employer, and (3) a causal connection exists between the protected conduct and the adverse action. *Id.* But the fact that Olds established a prima facie case of retaliation under the first step of *McDonnell Douglas* was not enough for his claim to survive summary judgment because, at the second step, the city offered a legitimate reason for his termination—specifically, that Olds was discharged based on his angry behavior toward C.L. on February 20, 2020. Therefore, to survive summary judgment, Olds needed to meet his burden at the third step to produce evidence sufficient to create a genuine dispute of fact that the city’s reason was pretextual and his termination was motivated by retaliatory animus. *See Hanson*, 972 N.W.2d at 373.

Here, as in *Hanson*, there was temporal proximity at least between Olds’s February 2020 report and his discharge. In *Hanson*, the supreme court explained that “a causal connection based on temporal proximity, while enough to satisfy [a] prima facie case, is not sufficient to satisfy [the employee’s] burden to provide evidence that [the employer’s] stated reasons are pretextual or that [the employee’s] reporting motivated the termination decision.” *Id.* at 376. To argue that he met his burden, Olds asserts that he presented the following “evidence of causation that went beyond temporal proximity.”

First, he asserts that, in the fall of 2019, one of his managers yelled at Olds that he (the manager) “hate[d] his f-cking job” because of Olds. But Olds did not report this

asserted conduct by his manager until February 14, 2020, and, by the time the city received Olds's report about that manager's conduct, the city had already opened its investigation into Olds's conduct toward C.L. Because the investigation into the February 20, 2020, incident was already initiated by the time the city learned about the 2019 incident, the 2019 incident does not create a genuine dispute of fact as to whether C.V. acted with retaliatory animus in discharging him following the 2020 investigation.

Second, Olds asserts that the same manager who yelled at him in 2019 planned to have Olds fired because the manager "paper[ed] [his] file" by keeping notes on his interactions with Olds and because the manager spoke to other employees to find out what C.L. and Olds had discussed on February 20, 2020. But Olds has presented no evidence that any of this alleged conduct by that manager affected HR's investigation into the February 20 incident or influenced C.V.'s decision to terminate Olds's employment following the investigation.

Third, Olds asserts that the head of the engineering department said that Olds "should be concerned about meeting with him." It appears that Olds is referring to a statement that was made in October 2018 after Olds sent an email to individuals in the engineering department expressing frustration that individuals were not replying to his emails. The other individuals on the email, including the head of the engineering department, started a separate email chain, in which they expressed how they believed that Olds's email was an "unprofessional communication." The head of engineering then emailed HR, stating that he was willing to meet with Olds about the email but wanted HR's input. The director of HR recommended that only two individuals meet with Olds, and not

all the individuals on the original email, because having so many people in the room might make Olds “feel defensive.” The head of engineering then replied to HR, “He probably should, but OK.” Considering that the department head’s statement was not related to any report made by Olds and that Olds does not connect that 2018 statement to C.V.’s decision to discharge him in 2020, it cannot demonstrate retaliatory animus for that decision.

Fourth, Olds asserts that HR did not treat him and the manager who yelled at him similarly—namely, HR did not investigate the manager after Olds reported that the manager had retaliated against him but instead sent Olds, and not the manager, to an anger-management program. But, as explained above, Olds did not immediately provide HR with a report of what the manager had said. And, although the manager was not sent to any trainings, Olds was sent to training for conduct that preceded the February 2020 report that he alleges led to his discharge. This evidence is not probative of a retaliatory animus by C.V. in discharging Olds in 2020.

Fifth, Olds contends that his reports highlighted other employees’ wrongdoing and that the city had a history of retaliating against him each time he made a report. But Olds’s generalized assertion of a history of retaliation (during which he was not terminated) is insufficient to show that C.V. was motivated by retaliatory animus when she terminated his employment following the February 20, 2020 incident. *See Kletschka*, 417 N.W.2d at 754 (explaining that, to avoid summary judgment when employer has offered legitimate reason for its action, employee must extract specific facts from record showing pretext).

Sixth, Olds argues that there are credibility issues in the record sufficient to create a dispute about retaliatory animus. Olds claims that the city’s concern that Olds might

engage in “workplace violence” was contradicted by the fact that the city did not call law enforcement or immediately remove him from the office on February 20, 2020. But, even if a jury could reasonably perceive such a contradiction under the circumstances of this case, the contradiction would not be sufficient to demonstrate that the reason for C.V.’s termination decision following investigation of the incident was pretextual. Olds also asserts that C.V. contradicted her statement that she had read the entire investigator’s report when, during her deposition, she could not recall previously reading Olds’s February 14 email that was included in the report. Even if C.V.’s statement during her deposition that she did not recall reading an email that was included as part of the report could be reasonably considered to contradict her statement that she read the report, it could not support a determination that her termination decision was motivated by retaliatory animus. Olds also points to alleged inconsistent statements regarding whether C.V. instructed the HR director to preserve documents, but Olds does not explain how the inconsistency creates a genuine dispute of fact as to pretext.

Seventh, Olds asserts that the city’s failure to keep his belongings safe after he was discharged demonstrates retaliatory animus. But Olds presents no evidence to counter the record evidence showing that, while unfortunate, the loss of personal items was the result of miscommunication in which a third-party cleaning company mistook the box containing Olds’s personal items as trash. Olds’s mere assertion does not create a genuine dispute of fact as to whether the city intentionally tried to destroy Olds’s items because of his reports.

Finally, Olds cites the adverse inference that the district court, in its spoliation order, intended to instruct the jury that it could draw. Even assuming that an adverse inference

applies at the summary-judgment stage, it is not sufficient to create a genuine dispute of fact regarding pretext. In its spoliation order, the district court found that the city acted negligently, not intentionally, when it failed to preserve certain documents. Accordingly, an asserted inference based on the spoliation order does not provide evidence that C.V. had a retaliatory animus against Olds.

In sum, Olds has not produced evidence that C.V., as the sole decision-maker for the city, had a retaliatory animus toward Olds. Because Olds has not provided evidence that could establish that the city's reason for discharging him was pretextual and that the decision was in fact motivated by retaliatory animus resulting from Olds's reports of alleged violations, there is no genuine issue of material fact precluding summary judgment and the district court properly dismissed Olds's MWA claim.

Affirmed.