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Minn. Stat. § 480A.08, subd. 3 (2012).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A13-0769**

Minnesota Voters Alliance, et al.,
Relators,

vs.

Anoka Hennepin School District,
Respondent,

State of Minnesota Office of Administrative Hearings,
Respondent.

**Filed December 23, 2013
Affirmed in part, reversed in part, and remanded
Halbrooks, Judge**

Office of Administrative Hearings
File No. 8-0325-030140

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Considered and decided by Halbrooks, Presiding Judge; Larkin, Judge; and
Huspeni, Judge.*

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

UNPUBLISHED OPINION

HALBROOKS, Judge

Relators challenge a decision of an administrative-law judge (ALJ) dismissing as untimely their complaint against respondent school district that alleged violations of the Minnesota Campaign Financial Reports Act, Minn. Stat. §§ 211A.01-.14 (2012), and the Minnesota Fair Campaign Practices Act, Minn. Stat. §§ 211B.01-.37 (2012). Because relators' financial-reporting claim under Minn. Stat. § 211A.02 was timely, we reverse and remand for further proceedings with respect to that claim. We affirm the ALJ's dismissal of the false-statement claim under Minn. Stat. § 211B.06.

FACTS

Respondent Anoka Hennepin School District (the school district) is funded in part by levies approved by voters in the district. In 2010, in recognition of the likelihood of flat or declining state funding, shifting legislative priorities, decreased revenue, and the impending expiration of an existing levy, the school district created a committee of residents and educators to recommend options to the school board. The committee delivered its final report in June 2011.

Following its review of the committee's report, the school board unanimously passed a resolution to present three levy-funding questions to voters in the election on November 8, 2011. The ballot questions asked voters whether to (1) renew an existing levy providing \$1,044 per student per year for the next ten years; (2) approve a levy of \$3 million each year for ten years for technology; and (3) approve a levy of \$12 million per

year for ten years as a stop-gap measure if the legislature fails to approve inflationary funding.

In September 2011, the school district held two public meetings to address the ballot questions. The school district also created a brochure to inform voters about the ballot questions and the effects of approving or rejecting each levy. The school district hired a company to print and mail the brochures to all addresses in the district.

The printing company completed work on the brochures on October 27, 2011. The school district posted an electronic version of the brochure on its website the same day. On October 31, 2011, the printing company mailed brochures to the 81,235 addresses in the district. In total, the school district spent \$15,935.13 associated with printing and mailing the brochure.

On November 2, 2012, relators Minnesota Voters Alliance and Donald Huizenga filed a complaint with respondent Office of Administrative Hearings (OAH), asserting that the school district violated Minn. Stat. § 211A.02 by failing to report the expenditures associated with printing and mailing the brochure and Minn. Stat. § 211B.06 by making false statements in the brochure.

The school district moved for summary disposition, arguing that (1) the school district's brochure expenditures were not subject to the finance-reporting requirements of section 211A.02 because the brochure did not "promote" passage or defeat of any ballot question and (2) the one-year limitations period on relators' false-statement claim under section 211B.06 had run. On cross-motion for summary disposition, relators briefly

argued that their complaint was timely and focused their argument on the merits of both claims.

The ALJ issued a decision that it lacked jurisdiction to consider the complaint in its entirety and declined to address the merits of either claim. The ALJ determined that the one-year limitations period for relators' false-statement claim and financial-reporting claim began running on October 27, 2011, the day the school district first disseminated the ballot-question brochure by posting it on its website. Based on this determination, the ALJ deemed the complaint, dated November 2, 2012, untimely. The ALJ granted the school district's motion for summary disposition and dismissed the complaint. This appeal follows.

D E C I S I O N

We may affirm or remand an administrative decision or may reverse or modify the decision if the substantial rights of the petitioners may have been prejudiced because the determination violates the constitution, exceeds the agency's statutory authority or jurisdiction, is affected by legal error, is not supported by substantial evidence, or is arbitrary or capricious. Minn. Stat. § 14.69 (2012); *see also* Minn. Stat. § 211B.36, subd. 5 (2012) (providing for judicial review under Minn. Stat. §§ 14.63-.69). An agency's summary disposition is the administrative equivalent of summary judgment. *Pietsch v. Minn. Bd. of Chiropractic Exam'rs*, 683 N.W.2d 303, 306 (Minn. 2004). We review a decision on summary judgment *de novo*. *Riverview Muir Doran, LLC v. JADT Dev. Grp., LLC*, 790 N.W.2d 167, 170 (Minn. 2010). On review, "we determine whether the [ALJ] properly applied the law and whether there are genuine issues of material fact that

preclude summary judgment.” *Id.* We view the evidence in the light most favorable to relator. *See In re Rate Appeal of Benedictine Health Ctr.*, 728 N.W.2d 497, 503 (Minn. 2007).

Minn. Stat. § 211A.02 imposes campaign-expenditure-reporting requirements on “[a] committee or a candidate who receives contributions or makes disbursements of more than \$750 in a calendar year.” Minn. Stat. § 211A.02, subd. 1. A “committee” is a “corporation or association or persons acting together to influence the nomination, election, or defeat of a candidate or to promote or defeat a ballot question.” Minn. Stat. § 211A.01, subd 4. “Disbursement” broadly means anything of value “conveyed, given, promised, paid, expended, pledged, contributed, or lent.” *Id.*, subd. 6. But the term “does not include payment by a . . . school district . . . for election-related expenditures required or authorized by law.” *Id.*

Minn. Stat. § 211B.06, subd. 1, makes it a gross misdemeanor for a person to

intentionally participate[] in the preparation, dissemination, or broadcast of paid political advertising or campaign material with respect to the . . . effect of a ballot question, that is designed or tends to . . . promote or defeat a ballot question, that is false, and that the person knows is false or communicates to others with reckless disregard of whether it is false.

A complaint alleging a violation of chapter 211A or 211B must be filed “within one year after the occurrence of the act or failure to act that is the subject of the complaint.” Minn. Stat. § 211B.32, subs. 1-2. The ALJ’s decision turned on the application of the limitations period governing both of relators’ claims. Because the claims do not necessarily accrue at the same time, we address each claim separately.

A. Financial-reporting claim

Relators seek reversal of the summary-disposition dismissal of their financial-reporting claim under Minn. Stat. § 211A.02. They assert, and the school district concedes, that that claim was timely. We agree.

The ALJ's decision was based on the determination that relators' financial-reporting claim accrued on October 27, 2011, when the school district disseminated allegedly false statements in the ballot-question brochure. But the "failure to act" that is the subject of relators' financial-reporting claim is not the dissemination of allegedly false statements but the failure to file expenditure reports outlined in section 211A.02. *See* Minn. Stat. § 211A.02, subd. 1 (requiring an initial report 14 days after campaign disbursements are made and several subsequent reports).

Assuming that the school district's brochure, in this case, is subject to section 211A.02—a question the ALJ did not reach—the limitations period on a claim that the school district failed to meet its reporting obligations would not run until reports were required to be filed. The record does not support the conclusion that those reports were due before November 2, 2011. We therefore conclude that the ALJ erred by determining that relators' financial-reporting claim was untimely and, accordingly, remand the matter for further proceedings to address the merits of that claim.

B. False-statement claim

Relators also ask us to reverse and remand the ALJ's summary-disposition dismissal of their false-statement claim under Minn. Stat. § 211B.06. But because relators have failed to provide any legal citation or analysis to aid our review, they have

waived appellate review as to that claim. *See State v. Wembley*, 712 N.W.2d 783, 795 (Minn. App. 2006) (“An assignment of error in a brief based on mere assertion and not supported by argument or authority is waived unless prejudicial error is obvious on mere inspection.” (quotation omitted)), *aff’d*, 728 N.W.2d 243 (Minn. 2007). We therefore affirm the ALJ’s summary-disposition dismissal of relators’ false-statement claim.

But because relators’ financial-reporting claim under Minn. Stat. § 211A.02 was timely, we reverse and remand the matter for further proceedings with respect to that claim.

Affirmed in part, reversed in part, and remanded.