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**STATE OF MINNESOTA
IN COURT OF APPEALS
A16-1040**

Gemma Watson, petitioner,
Respondent,

vs.

Jeremiah Johnson,
Appellant.

**Filed March 20, 2017
Affirmed
Peterson, Judge**

Carlton County District Court
File No. 09-CV-15-1551

Peter L. Radosevich, Esko, Minnesota (for respondent)

Jeremiah Johnson, Moose Lake, Minnesota (pro se appellant)

Considered and decided by Peterson, Presiding Judge; Johnson, Judge; and
Bjorkman, Judge.

UNPUBLISHED OPINION

PETERSON, Judge

In this appeal from a harassment restraining order (HRO), pro se appellant argues that (1) the record does not support the grant of the HRO, (2) the district court should have granted appellant's request for production of documents, and (3) the HRO does not include

findings of fact that establish the statutory criteria for harassment and does not state the district court's legal conclusion or opinion. We affirm.

FACTS

Respondent Gemma Watson was an employee of the Minnesota Sex Offender Program (MSOP), and appellant Jeremiah Johnson was civilly committed to MSOP. Watson filed a petition for an HRO, alleging that Johnson had followed her at her workplace, waited for her outside her office, and made statements that he was going to watch her. Watson alleged that Johnson threatened that he would pursue her until she lost or quit her job and threatened that he would seek to have her deported. She also alleged that, after she quit her job to get away from Johnson, he sent mail to her home. Watson stated that the harassment had been ongoing since 2013 despite intervention and sanctions by MSOP.

Johnson submitted an affidavit opposing Watson's petition. Johnson stated that he told Watson that he was watching her because he knew that she was engaging in impermissible workplace conduct. Johnson denied threatening to pursue Watson until she lost or quit her job, denied threatening to have her deported, and denied following her around the MSOP facility. Johnson claimed that Watson did not quit her job because of him and, instead, lost her job because she engaged in impermissible workplace conduct. In the argument section of his appellate brief, Johnson asserts that Watson's conduct violated criminal statutes.

The district court conducted an evidentiary hearing on Watson's petition. At the hearing, Watson testified about Johnson's harassing behavior, including standing over her

in a threatening manner when she was trying to talk to one of her clients and telling her that she did not do her job right. Also, on multiple occasions, Johnson waited outside her office and told her that he was watching her and was going to “get [her].” Johnson told her that he was “a dangerous sex offender” and that he would not stop until he got what he wanted.

Watson also testified that she is a permanent legal resident in the United States and she was contacted by immigration services after Johnson sent a letter to immigration services claiming that she was an illegal immigrant. Watson testified that a few months after she quit her job at MSOP in March 2015, Johnson sent a postcard to her home address that said “something along [the] lines of ha-ha, look who’s laughing now, and then some other things about a client at MSOP, or something along those lines.” After receiving the postcard, Watson petitioned for an HRO.

Johnson called a former MSOP employee to testify about his allegations of impermissible workplace conduct by Watson. The former employee testified that she was familiar with Watson, but she was not aware of any allegations that Watson engaged in misconduct. Johnson also called a current MSOP employee who worked in the legal department. The employee stated that she knew Watson when Watson worked at MSOP, but she did not have access to any human-resources records and she was not familiar with any information about Watson.

The district court granted Watson’s petition for an HRO. This appeal followed. Watson did not file a brief on appeal, and this court directed the appeal to proceed under Minn. R. Civ. App. P. 142.03.

DECISION

We review the district court's decision to issue an HRO for an abuse of discretion and "will reverse the issuance of a restraining order if it is not supported by sufficient evidence." *Kush v. Mathison*, 683 N.W.2d 841, 843-44 (Minn. App. 2004), *review denied* (Minn. Sept. 29, 2004). The district court must base its findings to support a restraining order on testimony and properly admitted documents. *Anderson v. Lake*, 536 N.W.2d 909, 911-12 (Minn. App. 1995). The district court's factual findings will not be set aside unless clearly erroneous, and we defer to the district court's credibility determinations. *Kush*, 683 N.W.2d at 843-44. Whether the facts found by the district court satisfy the statutory criteria for harassment is a question of law, which we review de novo. *See Peterson v. Johnson*, 755 N.W.2d 758, 761 (Minn. App. 2008) (stating that the district court's authority to grant an HRO is statutory and that statutory interpretation is a question of law, which is reviewed de novo).

A district court may grant an HRO if it finds that there are reasonable grounds to believe that the respondent has engaged in harassment. Minn. Stat. § 609.748, subd. 5(b)(3) (2014). "Harassment" is defined in relevant part as "repeated incidents of intrusive or unwanted acts, words, or gestures that have a substantial adverse effect or are intended to have a substantial adverse effect on the safety, security, or privacy of another." *Id.*, subd. 1(a)(1) (2014). To obtain an HRO, the petitioner must prove: (1) "objectively unreasonable conduct or intent on the part of the harasser;" and (2) "an objectively reasonable belief on the part of the person subject to harassing conduct" that the conduct

had a substantial adverse effect on the person's safety, security, or privacy. *Dunham v. Roer*, 708 N.W.2d 552, 567 (Minn. App. 2006), *review denied* (Minn. Mar. 28, 2006).

I.

Johnson argues that the record as a whole does not support the grant of the HRO. He contends that he submitted an affidavit to the district court disputing all of Watson's claims and that Watson did not dispute his allegations that she committed criminal offenses. But we defer to the district court's credibility determinations. *Kush*, 683 N.W.2d at 843-44. The parties presented conflicting evidence about Johnson's conduct, and the district court implicitly found Watson's evidence credible. Watson's testimony supports the district court's findings that Johnson followed Watson at her place of employment, waited outside her office, and sent mail to her at her home, and that Johnson's conduct had or was intended to have a substantial adverse effect on Watson's safety, security, or privacy.

Johnson argues that Watson engaged in criminal activity, and an HRO is not intended to provide protection for criminal activity. Our thorough review of the record, however, has not revealed any indication that the district court found Johnson's allegations of criminal activity to be credible. Furthermore, Watson did not need to refute Johnson's allegations of criminal activity to meet her burden of proving that Johnson's conduct or intent was objectively unreasonable and that she had an objectively reasonable belief that the conduct had a substantial adverse effect on her safety, security, or privacy. Also, an HRO does not protect the petitioner from prosecution for criminal acts.

II.

Johnson argues that the district court erred as a matter of law regarding his request for production of documents under Minn. R. Civ. P. 34. He contends that because he did not have access to Watson, he could not properly serve his request for production of documents.

Under the rules of civil procedure,

[a]ny party may serve on any other party a request . . . to produce and permit the party making the request . . . to inspect and copy . . . any designated documents . . . that constitute or contain matters within the scope of Rule 26.02 and that are in the possession, custody or control of the party upon whom the request is served

Minn. R. Civ. P. 34.01. The rules of civil procedure also provide that “[w]hen service is required or permitted to be made upon a party represented by an attorney, the service shall be made upon the attorney unless service upon the party is ordered by the court.” Minn. R. Civ. P. 5.02(a).

Nothing in the record indicates that Johnson attempted to serve his request for production of documents upon either Watson or her attorney. Instead, the record indicates that Johnson filed his request for production with the district court administrator. The district court did not err by not ruling on Johnson’s request for production of documents.

III.

Johnson objects to the district court using a standard computer form for its order, rather than making specific findings to support the issuance of the HRO. See Minn. R. Civ. P. 52.01 (stating that “court shall find the facts specially and state separately its conclusions

of law thereon”). Johnson argues that the district court clicked a phrase on the form that states, “The harassment has or is intended to have a substantial adverse effect on Petitioner’s safety, security, or privacy,” but Watson’s claim that she received one post card in the mail does not prove a “substantial adverse effect.” Receiving the post card, however, was not the only basis for finding that harassing conduct had a substantial adverse effect. The district court also found that Johnson “followed, pursued or stalked” Watson by following her at her place of employment and waiting outside her office.

More specific findings would have been helpful on appeal, but a lack of findings does not require reversal when the record adequately supports the district court’s decision. *See Minn. Best Maid Cookie Co. v. Flour Pot Cookie Co.*, 412 N.W.2d 380, 384-85 (Minn. App. 1987) (declining to vacate order denying motion to extend temporary injunction, although order was not supported by findings of fact and conclusions of law, when record adequately supported decision to deny motion). The record adequately supports the district court’s findings that Johnson engaged in harassment of Watson and that the harassment had or was intended to have a substantial adverse effect on Watson’s safety, security, or privacy. The district court did not abuse its discretion by issuing the HRO.

Affirmed.