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Minn. Stat. § 480A.08, subd. 3 (2016).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-1489**

Angela Mary Frame, petitioner,
Respondent,

vs.

Joseph Battles,
Appellant.

**Filed July 23, 2018
Affirmed
Larkin, Judge**

Anoka County District Court
File No. 02-CV-17-3000

Angela Mary Frame, Coon Rapids, Minnesota (pro se respondent)

Joseph Battles, South St. Paul, Minnesota (pro se appellant)

Considered and decided by Reilly, Presiding Judge; Larkin, Judge; and Bjorkman,
Judge.

UNPUBLISHED OPINION

LARKIN, Judge

On appeal from the district court's grant of a harassment restraining order (HRO),
appellant argues that the HRO was not supported by sufficient evidence. We affirm.

FACTS

On June 15, 2017, the district court granted respondent Angela Mary Frame an ex parte temporary HRO against appellant Joseph Battles. On June 27, 2017, Battles contested Frame's petition for an HRO at a three-day evidentiary hearing. The district court heard testimony from Frame, Battles, Nicholas Battles (Battles's son), and Deborah Frame (Frame's mother).

Frame testified that after she ended a relationship with Battles in May of 2017, Battles contacted her up to ten times per day by text, Facebook, and phone. Frame testified that she blocked Battles's phone messages on May 30, and Battles went to her mother's apartment that night. Frame testified she was on the phone with her mother and could hear Battles banging on her mother's door and screaming profanity. Frame testified that the police were called to her mother's apartment to deal with Battles and that Battles contacted her that evening.

Frame also testified that she met with Battles in early June to return some of his possessions. She testified that he returned the items to her house later that night and would not accept that she wanted to end their relationship. Frame testified that Battles continued to call her excessively from the end of May through June 15, when she petitioned for an HRO.

Battles testified that his contact with Frame was mutual. He testified that he went to Deborah Frame's apartment on May 30 and that she invited him and his daughters inside. Battles further testified that Deborah Frame never asked him to leave, but that after he left, his son returned to ask for a cigarette, so he followed his son back to the apartment door.

Battles testified that his son knocked multiple times because there was music playing inside. Battles testified that his son returned to the car, but he waited another minute to see if Deborah Frame would answer the door, only to be confronted by the police, who told him he was not welcome there.

Nicholas Battles testified that Deborah Frame invited him into her apartment along with his father and two of his sisters. He also testified that after they left, Battles returned to ask whether his house keys were in the apartment. Nicholas Battles testified that there was no yelling or aggressive behavior and that the police questioned them without incident.

Deborah Frame testified that Battles arrived at her apartment between 7:30 and 8:00 p.m. on May 30 and asked where Frame was and how to get in touch with her. She testified that Battles's daughter needed to use the bathroom, so she let Battles stand just inside the door while his daughter used the bathroom. She further testified that she tried to give Battles the key to his truck and a bag of his clothes, but that he would not take them unless Frame was present. Deborah Frame testified that she asked Battles to leave multiple times over the course of 45 minutes and that Battles refused to do so. Lastly, she testified that after Battles finally left, he returned and knocked on her door for 15 minutes, at which point she called the police.

The district court found that there were reasonable grounds to believe that Battles harassed Frame by making uninvited visits to Deborah Frame's apartment twice on May 30, by refusing to leave when first requested, and by questioning Deborah Frame regarding Frame's whereabouts. The district court further found that Battles harassed Frame when he refused to take his possessions from Deborah Frame in order to have a

reason to contact Frame. The district court found that the harassment “has or is intended to have a substantial adverse effect on [Frame’s] safety, security, or privacy” and granted Frame an HRO against Battles. Battles appeals.¹

D E C I S I O N

Battles contends that he “was unjustly found guilty of harassment with no evidence to support the judgment.”² An appellate court reviews a district court’s grant of an HRO for an abuse of discretion. *Kush v. Mathison*, 683 N.W.2d 841, 843 (Minn. App. 2004), review denied (Minn. Sept. 29, 2004). A district court’s findings of fact will not be set aside unless clearly erroneous, and due regard is given to the district court’s opportunity to judge the credibility of witnesses. *Id.* at 843-44. “The determination of what constitutes an adequate factual basis for a harassment order is left to the discretion of the district courts.” *Id.* at 846. But this court will reverse the issuance of an HRO if it is not supported by sufficient evidence. *Id.* at 844.

Harassment includes “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, regardless of the relationship between the actor and the intended target.” Minn. Stat. § 609.748, subd. 1(a)(1) (2016). A court may grant an HRO when “the court finds at the hearing that there are reasonable grounds

¹ Because Frame did not file a brief, this court ordered the appeal to proceed under Minn. R. Civ. App. P. 142.03 (providing that if a respondent fails to file a brief, the case shall be determined on the merits).

² We note that the finding of harassment was not a criminal finding.

to believe that the respondent has engaged in harassment.” Minn. Stat. § 609.748, subd. 5(b)(3) (Supp. 2017).

Battles argues that the district court’s decision was not supported by sufficient evidence. We disagree. Deborah Frame’s testimony supports the HRO, as the district court reasoned:

[U]p until the rebuttal testimony of [Deborah Frame,] I was prepared to not issue a harassment restraining order because it was my belief based upon all the testimony that this was a relationship gone bad, that both parties for whatever reasons were having difficulty ending it. . . . But when [Deborah] Frame testified regarding the incident at her home and the offer of returning clothing to Mr. Battles and keys, an issue that he has been persistent about being his main and sole focus in trying to have contact since the first day I started hearing this case on June 27, I’m concluding that Mr. Battles’ testimony is not real credible.

Battles challenges the district court’s finding that his presence at Deborah Frame’s apartment was uninvited, arguing that Frame and her mother told him to go there to get his house key. Even if Battles initially believed he was invited to the apartment, the record indicates that he was asked to leave, refused to do so, and returned, uninvited, after departing. Deborah Frame’s testimony adequately supports the district court’s finding that Battles’s presence at her apartment was uninvited.

Battles argues that Frame and her mother lied during their testimony and that the district court erred by crediting their testimony and not his. This argument is unavailing. An appellate court generally defers to a fact-finder’s assessment of witness credibility. *See* Minn. R. Civ. P. 52.01 (“[D]ue regard shall be given to the opportunity of the [district] court to judge the credibility of the witnesses.”). When reviewing an order for protection

(OFP), “we review the record in the light most favorable to the district court’s findings, and we will reverse those findings only if we are left with the definite and firm conviction that a mistake has been made.” *Pechovnik v. Pechovnik*, 765 N.W.2d 94, 99 (Minn. App. 2009) (quotation omitted). “And we neither reconcile conflicting evidence nor decide issues of witness credibility, which are exclusively the province of the factfinder.” *Id.* (quotation omitted). These principles of appellate review are no less applicable when reviewing an HRO. We therefore defer to the district court’s express determination that Battles’s testimony was not credible.

In conclusion, we note that the district court’s comments in support of its decision to issue an HRO could suggest that the decision was a close call. But in such circumstances, it is appropriate to adhere to the deferential standard that applies when reviewing a district court’s discretionary decision whether to issue an HRO, especially when the district court has had the opportunity to hear and observe the parties’ testimony regarding the need for an HRO at a contested evidentiary hearing. *See id.* at 99-100 (applying deferential abuse-of-discretion standard of review to affirm district court’s decision to issue an OFP, which was a “close call” given conflicting testimony and evidence of witness bias). Under that standard, we cannot conclude that the district court abused its discretion by issuing an HRO. We therefore affirm.

Affirmed.