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**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1150**

Caleb Samuel Pesola,
Respondent,

vs.

Joel Patrick Jahraus,
Appellant.

**Filed April 13, 2020
Affirmed
Smith, Tracy M., Judge**

Chisago County District Court
File No. 13-CV-19-477

Caleb Pesola, Shafer, Minnesota (pro se respondent)

Dan Rasmus, Hovland & Rasmus, PLLC, Edina, Minnesota (for appellant)

Considered and decided by Rodenberg, Presiding Judge; Jesson, Judge; and Smith,
Tracy M., Judge.

UNPUBLISHED OPINION

SMITH, TRACY M., Judge

Appellant Joel Patrick Jahraus challenges the district court's issuance of a
harassment restraining order (HRO) that prevents him from contacting respondent Caleb

Samuel Pesola.¹ Jahraus argues that the evidence does not support the district court's factual findings and issuance of an HRO. We affirm.

FACTS

Jahraus is Pesola's former father-in-law. The relationship between the two men deteriorated following the demise of Pesola's marriage to Jahraus's daughter. The events at issue in this case involve communications between Jahraus and Pesola and between Jahraus and other persons in summer 2018 and spring 2019. These communications were generally by email and text message because Jahraus lives in Florida and Pesola lives in Minnesota.

In June 2018, Jahraus emailed a college friend of Pesola's, expressing his anger with Pesola and his frustration with the friend for supporting Pesola. Jahraus claims that he wrote the email because he had heard that the friend was nervous that Jahraus might interfere in his plan to adopt a child if he (Jahraus) learned that the friend was letting Pesola stay with him. In the email, Jahraus denied any intent to jeopardize the friend's adoption, but he also made sex-related allegations about Pesola. Jahraus forwarded this same email to Pesola's brother, stating that it was "[f]or [his] eyes only."

Some of the allegations Jahraus made stemmed from a 2017 discussion that Jahraus and Pesola had about a health condition Pesola had at the time. Although Jahraus is a

¹ Pesola, who represented himself at the district court, did not file a brief in this appeal. A respondent's failure to file a brief does not necessarily preclude this court from addressing the merits of the appeal. Minn. R. Civ. App. P. 142.03.

physician and had prescribed Pesola medications for other issues, he did not diagnose or provide medical advice related to this particular condition.

A month after the email to Pesola's friend, Jahraus sent Pesola's brothers an email attaching a draft email he had written, but not sent, to Pesola's girlfriend. The draft email contained pages of insults and vulgar accusations directed at her and Pesola, as well as sex- and health-related allegations about Pesola.

Although not directed to Pesola, Pesola eventually learned of all of these communications. Pesola did not explain exactly when he first came to learn of the messages, but the record shows that his brothers forwarded the messages to him in March 2019.

The next written communications in the record are from April 2019.² Pesola began the communications by texting Jahraus about a restaurant they knew, and the two exchanged friendly messages over the next few days. Then Jahraus's messages to Pesola again became accusatory and hostile. Pesola offered to meet with Jahraus to clarify matters, and the two arranged a meeting. Jahraus, however, canceled the meeting, and the two began exchanging emails. Jahraus accused Pesola of having a mental-health condition. Both of them sent insulting messages. In some of the messages, Jahraus told Pesola to stop contacting him, but both parties continued messaging one another. In one message to Pesola, Jahraus wrote that Pesola had "done [himself] in" and that "[his girlfriend]³ is next

² The parties also had telephone contact during the period between the written communications in the record.

³ Pejorative term omitted.

in line.” Pesola interpreted this message as a threat of physical harm and told Jahraus never to contact him again. Jahraus responded that he was coming to Minnesota “to see the boys although I have plenty of other business up there” and that “[w]hat goes around comes around,” but he also suggested that he was discussing “internet exposure,” not physical harm. Pesola responded that he would seek a restraining order if Jahraus contacted him again. Jahraus responded with two more emails, but Pesola did not respond again, so the email communications ended.

About a month later, in May 2019, Jahraus wrote Pesola another email. In this final email, Jahraus again accused Pesola of various acts of misconduct and deceit. He also repeated his claim that Pesola has a mental-health condition.

A day after receiving this email, Pesola petitioned the district court for an HRO. The district court ordered an ex parte HRO. At Jahraus’s request, the district court held an evidentiary hearing. The district court then granted the HRO.

Jahraus appeals.

D E C I S I O N

We review the issuance 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). We review factual findings for clear error, giving due regard to the district court’s credibility determinations. *Id.* at 843-44. We will reverse the issuance of an HRO if it is not supported by sufficient evidence. *Id.*

A district court may issue a restraining order if it has “reasonable grounds to believe that the respondent has engaged in harassment.” Minn. Stat. § 609.748, subd. 5(b)(3)

(2018). 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.” Minn. Stat. § 609.748, subd. 1(a) (2018). “[S]ection 609.748 requires both objectively unreasonable conduct or intent on the part of the harasser and an objectively reasonable belief on the part of the person subject to harassing conduct.” *Dunham v. Roer*, 708 N.W.2d 552, 567 (Minn. App. 2006), *review denied* (Minn. Mar. 28, 2006).

Jahraus argues that the district court made clearly erroneous factual findings and that the HRO is not supported by sufficient evidence.

Factual Findings

Jahraus argues that the district court clearly erred when it found that Jahraus had “repeatedly sent unwanted messages including [T]witter messages and emails.” He argues that the evidence is insufficient to show that he used Twitter or that his messages were unwanted.

It is true that the record does not include any evidence of Jahraus sending messages via Twitter.⁴ Twitter appears in the record only in Jahraus’s characterization of his draft email to Pesola’s girlfriend as a response to *her* Twitter post. The district court was therefore mistaken in referring to messages from Jahraus via Twitter. But the district court did not clearly err when it found that Jahraus repeatedly sent unwanted messages. Though

⁴ Jahraus also contends that the district court erroneously found that there were repeated unwanted phone calls. But, while the district court references phone calls when discussing Pesola’s allegations, it made no such finding.

Pesola may have initiated the parties' renewed communications in April 2019, his friendly message was soon followed by hostile and offensive messages from Jahraus. Pesola explicitly told Jahraus to stop sending messages and that he was contemplating seeking a restraining order. The same day that Pesola told him that, Jahraus sent Pesola two more emails, and he sent another unprompted screed a month later. This evidence supports the determination that the communications were unwanted. While the district court's reference to Twitter was erroneous, the overall factual finding challenged by Jahraus is not clearly erroneous. *See* Minn. R. Civ. P. 61 (requiring harmless error to be ignored).

Sufficient Evidence to Support HRO

Jahraus contends that there was no evidence that his conduct substantially and adversely affected Pesola's safety, security, or privacy. But the district court concluded its memorandum by stating that Jahraus *intended* his emails to have a substantial effect on Pesola's safety, security, or privacy, which also constitutes harassment under Minn. Stat. § 609.748 (2018). The record evidence is sufficient to support the district court's determination and its issuance of the HRO.

Jahraus admitted that he was angry with Pesola and that he "wanted [Pesola] to feel the pain of reliving all of it in an email." It is reasonable to infer from the contents of Jahraus's messages that he intended to undermine Pesola's security in his relationships and his privacy. One of the emails asks Pesola, "What's the matter? Threatened by a little internet exposure about the harm you've done and continue to do? Or perhaps your

[girlfriend]⁵? Thought you could handle the Internet.” Jahraus suggested in another email that he would “out . . . big time” what he alleged to be Pesola’s mental-health issue. Jahraus also made allegations about Pesola’s health in emails to Pesola’s friend and brothers and revealed other intimate details about Pesola. It was not an abuse of discretion for the district court to conclude that these messages show an objectively unreasonable intent on the part of Jahraus to have a substantial adverse effect on Pesola’s security and privacy.

Pesola’s responses make it clear that he interpreted Jahraus’s messages as threats. He, in fact, described them as physical threats of harm, which may not be an objectively reasonable interpretation of Jahraus’s comments. But Jahraus’s comments can be reasonably read as threats to reveal private information about Pesola, especially in light of Jahraus’s communications to Pesola’s family and friend that made allegations about Pesola’s health and discussed intimate aspects of Pesola’s life. Given these threats, in addition to the disparaging way in which Jahraus described intimate aspects of Pesola’s life, it was not an abuse of discretion for the district court to conclude that Pesola reasonably believed that Jahraus’s conduct was harassment.

Jahraus also argues that the HRO lacks support because the district court described his communications as “inappropriate” and, as we stated in *Kush*, “inappropriate or argumentative statements alone cannot be considered harassment.” 683 N.W.2d at 844. But statements that meet the statutory standard are harassment, even if they are also inappropriate. *See id.* at 845-46 (affirming HRO). And here, the district court, while

⁵ Pejorative term omitted.

charitably describing Jahraus's statements as "inappropriate," also concluded that they met the statutory standard. This determination was supported by the record. Jahraus's statements included multiple-page emails of insults related to Pesola's character and personal life. Jahraus also sent these intrusive messages to Pesola's family and at least one friend and suggested that he might disclose more information to others in the future. It is certainly accurate to refer to Jahraus's statements as "inappropriate," but they were also harassment.

Jahraus next contends that the district court should not have considered his allegations about Pesola's health in its harassment determination because (1) he informed Pesola's brothers about Pesola's alleged health condition out of concern for Pesola, and (2) he did not have doctor-patient relationship with Pesola. The record supports the determination that Jahraus's messages were intended to harass.⁶ Jahraus's communications to Pesola's friend and brothers alleging that Pesola had a health condition, especially given their pejorative context, are reasonably read as intrusive of Pesola's privacy. As for the absence of a doctor-patient relationship, Jahraus cites no authority suggesting that conduct must violate a legal right to privacy for that conduct to constitute harassment under section 609.748. It was not an abuse of discretion for the district court to determine that Jahraus's disclosure was unreasonable, even if Jahraus was not bound by confidentiality.

⁶ Jahraus claims that the district court determined that he disclosed the alleged health information out of concern for Pesola. But the district court only stated that, *even if* that were the case, Jahraus's conduct was still unreasonable.

Jahraus also argues that he never intended for the draft email addressed to Pesola's girlfriend to reach Pesola or his girlfriend and that the district court should not hold him responsible for Pesola's brothers' actions. But the document did reach Pesola and, based on its contents, Jahraus intended for the document to embarrass Pesola in front of his family and friends. This conduct can constitute harassment. *Cf. State v. Egge*, 611 N.W.2d 573, 575 (Minn. App. 2000) (affirming jury determination that defendant violated an HRO requiring him not to contact or harass the victim by contacting her through a third party), *review denied* (Minn. Aug. 15, 2000). The document contains various intimate details and stories about Pesola. That Jahraus did not send the document to the "intended" recipient and claims that he sent it "in confidence" does not change the fact that he was making disclosures about Pesola to his family and that those disclosures foreseeably reached Pesola himself. Those disclosures also showed that Jahraus was willing to follow through on his threats in later messages to expose information about Pesola to others. The district court did not abuse its discretion by considering the draft email in its decision to grant an HRO.

In sum, the evidence is sufficient to support the district court's issuance of the HRO.

Affirmed.