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**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0069
A20-0072**

Judith Ann Rossel,
Respondent,

vs.

Shane Olson,
Appellant (A20-0069),

Rhonda Spreeman,
Appellant (A20-0072).

**Filed December 7, 2020
Affirmed in part and reversed in part
Bryan, Judge**

Stearns County District Court
File Nos. 73-CV-19-10001 and 73-CV-19-10733

Judith Rossel, St. Cloud, Minnesota (pro se respondent)

Shane Olson, Sauk Rapids, Minnesota (pro se appellant)

Ronda Spreeman, Montrose, Minnesota (pro se appellant)

Considered and decided by Bryan, Presiding Judge; Ross, Judge; and Bjorkman,
Judge.

UNPUBLISHED OPINION

BRYAN, Judge

In this appeal from the district court's order granting a harassment restraining order (HRO) against appellants Shane Olson and Ronda Spreeman,¹ appellants make the following two arguments: (1) this court should reverse the district court's decision to issue the HRO against Spreeman due to procedural deficiencies; and (2) this court should reverse the district court's decision to issue the HRO against Shane Olson because the record does not support the district court's factual findings. We agree with Spreeman's first argument and conclude that the district court improperly issued the HRO against her because she was never personally served. We do not agree with appellants' second argument, however, and we affirm the district court's decision to issue the HRO against Shane Olson because the district court did not clearly err in making its factual findings.

FACTS

In November 2019, respondent Judith Rossel petitioned for an HRO against Shane Olson and Spreeman. The petition named as respondents, "Shane Olson, Alicia Jean Olson aka Ronda Spreeman." Rossel's accompanying documents indicated that Shane Olson was a bail-bond insurer and suggested that his and Spreeman's actions were taken while they were attempting to collect a debt that Rossel supposedly owed on an indemnitor contract.

¹ The caption of this opinion spells Ronda Spreeman's first name with an "h," as do some of the documents in the record. The caption on appeal must match the caption in the district court's order. See Minn. R. Civ. App. P. 143.01. However, the original petition and Spreeman's signature in appellants' brief and in her December 18, 2019, affidavit spell her first name as "Ronda," so we use that spelling here. In addition, we distinguish between the Olsons, referring to them as Shane Olson and Alicia Jean Olson.

The petition alleged generally that Shane Olson and Spreeman harassed Rossel by making uninvited visits to her residence, making repeated phone calls at “all hours of the day and night,” and threatening to take her property if she did not pay them. The district court granted a temporary ex parte HRO. Shane Olson requested a hearing to contest the petition.

The district court held a hearing on December 12, 2019, and all parties appeared. At the outset of the hearing, the district court discovered that Alicia Jean Olson and Spreeman were not the same person. The district court acknowledged the error and replaced the “aka” in the case caption with “and,” so that the caption then listed three separate individuals: “Shane Olson, Alicia Jean Olson, and Rhonda Spreeman.” The district court heard testimony from the parties.

In her testimony, Rossel admitted that she owed Shane Olson money but said that she did not want direct contact with him. She also explained that she first encountered appellants when Spreeman came to her residence in May 2019 and told her she needed to pay \$14,500 that day. Rossel stated that, during that month, at “different times he’d come to the door,” referring to Shane Olson. Rossel also spoke with Shane Olson on the phone in May 2019. According to Rossel, Shane Olson told her, “I can come to your house any time. I can take your house and your car and everything.” Shane Olson then began “threatening and screaming.” Rossel said that she “just couldn’t get anywhere with him” and characterized Shane Olson’s demeanor during that phone conversation as “very volatile.” Rossel testified that Shane Olson also called her once at 11:00 p.m. and that he threatened to take her property if she did not pay him. In addition, she testified that Shane Olson made other unwanted telephone contact with her.

According to Rossel's testimony, the most recent alleged incident of harassment occurred on November 7, 2019, when Shane Olson came to her house and dropped off a letter. Rossel was not home at the time but said that her security system included devices that recorded video and audio of the encounter. Rossel said that, based on the security footage, "it looked like him," referring to Shane Olson. On cross-examination, Rossel was asked whether she could clearly identify the person, to which she responded, "I thought it was Shane because that's the only one who's been dropping letters at my door." When pressed as to whether she merely assumed it was Shane Olson, she said, "Looked like it to me that it was him." Rossel further testified that, when Shane Olson came to her residence that day, her security system recorded him saying, "We're going to F up those people." Rossel then commented about his use of that language, saying, "[T]hat's a threat to me."

Shane Olson also testified and disputed Rossel's allegations, insisting that neither he nor the others had called her, texted her, or driven by her house. He indicated that he had not communicated with Rossel for several months until November 2019 when he received a call from her, so he texted her and called her a few times afterwards.

The district court granted the HRO against Shane Olson and Spreeman but denied the requested HRO against Alicia Jean Olson. It found that both Shane Olson and Spreeman had engaged in three types of acts that constituted harassment. First, the district court found that Shane Olson and Spreeman "[m]ade uninvited visits" to Rossel, "[a]ppeared at [Rossel's] home on 11/7/19," and that the "security system picked up oral

threats,” including the statement, “We’re gonna f-ck these people up.”² Second, it found that Shane Olson and Spreeman “[m]ade harassing phone calls or sent harassing text messages” to Rossel. Third, the district court found that Shane Olson and Spreeman “[f]rightened [Rossel] with threatening behavior,” which included “vulgar language,” “[l]oud screaming,” and “boisterous tone.” The district court ordered Shane Olson and Spreeman not to have contact with Rossel and prohibited them from coming within 500 feet of Rossel’s residence. The HRO was to be in effect for one year.

Shane Olson and Spreeman filed separate appeals, which this court consolidated.

D E C I S I O N

I. Lack of Personal Service on Spreeman

Spreeman argues that the HRO must be reversed with respect to her because a petition for an HRO was never filed against her, she was never properly served, and she has never been provided any documents regarding the HRO despite multiple requests. Because Spreeman was never personally served with the HRO petition, we vacate the HRO against her.

The procedures for issuing an HRO are governed by Minnesota Statutes, section 609.748 (2018). When a petitioner files an HRO petition and the district court grants a temporary harassment restraining order, “[a] copy of the restraining order must be served on the respondent along with the order for hearing and petition,” and “[p]ersonal service must be made upon the respondent not less than five days before the hearing.”

² The district court’s findings do not exactly match the phrase used in the trial testimony: “We’re going to F up those people.”

Minn. Stat. § 609.748, subds. 3(a), 4(c). The district court may issue an HRO only if, among other things, “a peace officer has served respondent with a copy of the temporary restraining order . . . and with notice of the right to request a hearing.” *Id.*, subd. 5(b)(2).

Here, the record shows that Spreeman was never personally served with a copy of the HRO petition or temporary restraining order before the hearing. Only Shane Olson and Alicia Jean Olson were served. The error apparently occurred because the petition mistakenly listed “Ronda Spreeman” as an alias for “Alicia Jean Olson” and so Spreeman was not believed to be a separate person who needed to be served. Because Spreeman was never properly served as required by the HRO statute, the district court lacked authority to issue the HRO against her. Accordingly, we vacate the HRO against Spreeman.

II. Factual Findings Regarding Shane Olson

Shane Olson appeals the HRO against him, arguing that the HRO is not supported by the testimony at the hearing.³ Specifically, Shane Olson challenges the district court’s finding that he came to Rossel’s residence on November 7, 2019, and stated that he was

³ Shane Olson also argues that the HRO was improperly filed against multiple individuals because it also named Alicia Jean Olson and Spreeman. Shane Olson does not cite any legal authority for this argument. We need not address such inadequately briefed arguments. *State, Dep’t of Labor & Indus. v. Wintz Parcel Drivers, Inc.*, 558 N.W.2d 480, 480 (Minn. 1997) (declining to address issue not adequately briefed); *Melina v. Chaplin*, 327 N.W.2d 19, 20 (Minn. 1982) (declining to address issue not adequately briefed); *Waters v. Fiebelkorn*, 13 N.W.2d 461, 464-65 (Minn. 1944) (“[O]n appeal error is never presumed. It must be made to appear affirmatively before there can be reversal [T]he burden of showing error rests upon the one who relies upon it.”). Moreover, because the district court did not grant an HRO against Alicia Jean Olson and because we are reversing the HRO with respect to Spreeman, this argument is moot.

“gonna f-ck these people up.” Because the district court’s findings are not clearly erroneous, we affirm the decision to grant the HRO against Shane Olson.⁴

The district court may grant an HRO only if, among other things, it “finds at the hearing that there are reasonable grounds to believe that the respondent has engaged in harassment.” Minn. Stat. § 609.748, subd. 5(b)(3). 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.” *Id.*, subd. 1(a)(1). The district court must base its decision on testimony and documents that were properly introduced into evidence. *Anderson v. Lake*, 536 N.W.2d 909, 911-12 (Minn. App. 1995). We will set aside a district court’s factual findings only if those findings are clearly erroneous. *Kush v. Mathison*, 683 N.W.2d 841, 843 (Minn. App. 2004), *review denied* (Minn. Sept. 29, 2004). A finding is clearly erroneous if it is “manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole.” *Tonka Tours, Inc. v. Chadima*, 372 N.W.2d 723, 726 (Minn. 1985). We give due regard “to the district court’s opportunity to judge the credibility of witnesses.” *Kush*, 683 N.W.2d at 843-44. We will reverse the grant of an HRO if it is not supported by sufficient evidence. *Id.* at 844.

In this case, the district court found that Shane Olson and Spreeman “[m]ade uninvited visits” to Rossel, that they “[a]ppeared at [Rossel’s] home on [November 7, 2019],” and that the “security system picked up oral threats,” including the statement that

⁴ Shane Olson challenges only the district court’s factual findings but does not argue that the district court abused its discretion in applying the law to its factual findings.

“We’re gonna f-ck these people up.” Shane Olson argues that the district court’s findings are clearly erroneous because Rossel “could not identify who was there” on November 7, 2019.

We disagree with Shane Olson for three reasons. First, this argument mischaracterizes Rossel’s testimony. While Rossel first testified that she “thought it was Shane because that’s the only one who’s been dropping letters at [her] door,” she later definitively identified him in her testimony as the person on the recordings. In response to a question about how she knew who it was on the recording, Rossel explained that she recognized Shane Olson, stating that when she saw the person on the recording, it “[l]ooked like it to [her] that it was him.” Second, the challenged factual finding rests on a credibility determination made by the district court. On appellate review, we defer to the district court’s determinations of credibility and do not second guess the weight that the district court afforded to conflicting testimony. *See Kush*, 683 N.W.2d at 843-44. Third, the district court’s decision to grant the petition for an HRO rested on multiple incidents, not just what happened on November 7, 2019. The district court found that Shane Olson and Spreeman made other unwanted visits to Rossel’s residence, made harassing phone calls, and frightened her with their behavior. The trial record contains sufficient evidence regarding Shane Olson’s conduct for us to conclude that the district court did not clearly err when it made these factual findings. For example, Rossel testified that Shane Olson made uninvited visits during May 2019, and initiated unwanted telephone contact. During these unwanted communications, Rossel testified that Shane Olson was “very volatile” and “screaming.”

For these reasons, we conclude that the district court did not clearly err in its factual findings and affirm the district court's decision to issue the HRO against Shane Olson.

Affirmed in part and reversed in part.