

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0312**

Peter Richard Rickmyer,
Appellant,

vs.

Mimmie Woodall,
Respondent.

**Filed February 1, 2021
Affirmed
Slieter, Judge**

Hennepin County District Court
File No. 27-CV-19-17062

Peter Richard Rickmyer, Minneapolis, Minnesota (*pro se* appellant)

Mimmie Woodall, Minneapolis, Minnesota (*pro se* respondent)

Considered and decided by Cochran, Presiding Judge; Jesson, Judge; and Slieter,
Judge.

NONPRECEDENTIAL OPINION

SLIETER, Judge

On appeal from dismissal of his petition for a harassment restraining order (HRO),
appellant Peter Richard Rickmyer argues the district court erred by concluding that the
conduct described in the petition did not constitute harassment. Because appellant did not

allege repeated incidents of harassment, the district court did not abuse its discretion in denying the HRO. Therefore, we affirm.

FACTS

Rickmyer petitioned for an HRO against respondent Mimmie Woodall. His petition and testimony to the referee at a hearing on his petition asserted the following facts. In September 2019, Rickmyer called 911 to report a vehicle, that he presumed was stolen, parked on the street outside of his home. His neighbor, Woodall, took pictures and video of him with her cell phone. After the 911 call, Woodall told Rickmyer “you better watch your house” and “I’m going to swat your house.”¹ A Minneapolis police officer arrived at Rickmyer’s home approximately 30 minutes later. Rickmyer also believes Woodall falsely told the responding officer that he had been “stealing mulch” from her apartment building.

Rickmyer stated in his petition that he is fearful of “[Woodall’s] threats of violence” and afraid of his house being “vandalized,” “damaged,” or “swatted.” He stated Woodall’s actions were intrusive and unwanted, and that her “false allegations of theft” made him feel “harassed and threatened.”

At the conclusion of the hearing, the referee recommended dismissal of the HRO petition, explaining that “even if true, what [Rickmyer] has written and supplemented by his testimony are an insufficient basis for a harassment restraining order.” The referee noted that “even if [everything is] proven, it would not justify the issuance [of an HRO].

¹ Rickmyer testified that “swatting” means making a false police report against someone to dispatch law enforcement to their residence.

It's a single incident. It's not repeated incidents." The district court accepted the referee's recommendation and issued a standard form order dismissing the petition.²

Following Rickmyer's request for further review, the district court issued a written order affirming the dismissal of the HRO petition. Rickmyer appeals.

DECISION

A district court's authority to issue an HRO is established by Minn. Stat. § 609.748, subd. 5 (2018), and "[s]tatutory interpretation is a question of law, which we review de novo," *Peterson v. Johnson*, 755 N.W.2d 758, 761 (Minn. App. 2008). "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." *Kush v. Mathison*, 683 N.W.2d 841, 843-44 (Minn. App. 2004), *review denied* (Minn. Sept. 29, 2004). Ultimately, the issuance of an HRO is reviewed for an abuse of discretion. *Id.* at 843; *Witchell v. Witchell*, 606 N.W.2d 730, 731-32 (Minn. App. 2000).

Minnesota law provides that the district court "may issue [an HRO]" if "the court finds . . . that there are reasonable grounds to believe that the respondent has engaged in harassment." Minn. Stat. § 609.748, subd. 5(b)(3) (2018). Subject to exceptions not applicable here, a single incident of harassing conduct is not enough to justify the grant of

² Paragraph 6 of the order included this language: "6. FAILURE TO STATE A CLAIM. Taking all facts alleged in the Petition in the light most favorable to [Rickmyer], the Court holds that the Petition fails to set forth sufficient facts to support a finding that [Woodall] has harassed [Rickmyer]. [Rickmyer] was questioned at the hearing. His answers revealed only a single incident, on September 14, 2019. It did not include a physical assault. There must be 'repeated incidents' of acts of harassment to justify the issuance of a restraining order. Even if true, the allegations as to September 14, 2019 are an insufficient basis upon which to issue a harassment restraining order."

an HRO. Instead, the relevant part of the harassment statute requires “repeated incidents of intrusive or unwanted acts, words, or gestures that have a substantial adverse effect” on the victim. *Id.*, subd. 1(a)(1) (2018); *see also Peterson*, 755 N.W.2d at 766 (“One incident of an intrusive or unwanted act is insufficient to prove harassment if there is no infliction of bodily harm or attempt to inflict bodily harm.”). Two or more instances of harassing conduct, however, constitute “repeated incidents.” *Kush*, 683 N.W.2d at 844.

Rickmyer argues the district court erred in concluding that Woodall’s alleged conduct did not constitute “repeated incidents.” The HRO statute does not define “repeated incidents.” If a word or phrase of a statute is undefined, appellate courts “generally turn to the plain, ordinary meaning of a statutory phrase.” *See State v. Leathers*, 799 N.W.2d 606, 609 (Minn. 2011). We may also consider dictionary definitions to determine the meaning. *Getz v. Peace*, 934 N.W.2d 347, 354 (Minn. 2019).

The dictionary defines “repeated” as “[s]aid, done, or occurring again and again.” *The American Heritage Dictionary of the English Language* 1489 (5d ed. 2011). “Incident” is defined as “[a] particular occurrence.” *Id.* at 888. Here, Rickmyer told the reviewing judge that all of Woodall’s alleged conduct occurred over a single 30-minute period. Further, Rickmyer made no allegations that Woodall harassed him at any other time. On this record, Rickmyer has not shown that the district court erred or otherwise abused its discretion by treating the alleged sequence of events as a single incident. Because all of Woodall’s alleged conduct was part of a single occurrence, that conduct

does not constitute the “repeated” acts necessary for the issuance of an HRO.³ Therefore, we affirm the district court’s dismissal of Rickmyer’s petition.

Affirmed.

³ Rickmyer also argues he was denied the right to have an evidentiary hearing. However, the record indicates Rickmyer was allowed to present testimony and evidence to the referee as well as the district court during the subsequent review hearing.