

*This opinion is nonprecedential except as provided by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
A20-0957
A20-0958**

Matthew James Beland,
Appellant,

vs.

Heidi Hamre-Rylander,
Respondent (A20-0957),

Kurtis Rylander,
Respondent (A20-0958).

**Filed February 8, 2021
Reversed and remanded; motion granted
Bryan, Judge**

Polk County District Court
File Nos. 60-CV-20-894, 60-CV-20-895

Matthew Beland, East Grand Forks, Minnesota (pro se appellant)

Denise A. Sollund, Brink Lawyers, P.A., Hallock, Minnesota (for respondents)

Considered and decided by Florey, Presiding Judge; Bryan, Judge; and Klaphake,
Judge.*

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

BRYAN, Judge

In these two consolidated appeals, appellant challenges the district court's decisions to dismiss his two petitions for harassment restraining orders (HRO) without a hearing. We conclude that because the mere existence of overlapping issues in a related family-law case does not negate the merits of appellant's HRO petitions, the district court abused its discretion when it dismissed appellant's petitions without a hearing. We reverse the district court's decision, remand for further proceedings, and grant appellant's motion to strike portions of respondents' brief and addendum.

FACTS

Appellant Matthew Beland and respondent Heidi Hamre-Rylander were divorced in 2015 and share joint legal and joint physical custody of two minor children. On May 19, 2020, on behalf of himself and the two minor children, Beland filed two separate petitions for HROs. Beland filed one petition against Hamre-Rylander (File No. 60-CV-20-894) and a second petition against her husband, respondent Kurtis Rylander (File No. 60-CV-20-895). Beland filed the same affidavit in support of each petition.

According to Beland's first petition and accompanying affidavit, Hamre-Rylander harassed Beland in the following ways: she made "unwanted and inappropriate sexual advances" towards Beland; she "refuse[d] to abide by the court order requiring her to stay 15ft away from" Beland; she took pictures of Beland and the children without their knowledge; she hacked into their child's phone to monitor private conversations; she sent Beland messages pretending to be the children; she cracked one child's phone screen; she

stole items from Beland; she repeatedly told the children to “say good bye to [Beland] as if they will never see [him] again”; she purchased a gun and told the children that if Beland “ever come[s] to her home or even drive[s] into her driveway, she will be prepared”; and she directed her friends to follow Beland, eavesdrop on his conversations, and take photos of him.

According to Beland’s second petition and accompanying affidavit, Kurtis Rylander harassed Beland and the minor children in the following ways: he “physically assaulted the minor children by spanking them to the point of having bruises and broken blood vessels”; he “spank[ed] [one child] so hard she has had marks on her butt and that it hurts to sit for days”; he hurt one of the minor children, leaving a large gash on the child’s head; he threatened Beland with a firearm on multiple occasions; he approached Beland “in an aggressive manner on several occasions in front of the children” while making threatening remarks, including that he is not afraid to “take [Beland] out”; and he took pictures of Beland’s residence, “intentionally intrude[d] upon [Beland’s] property,” and “peer[ed] into [Beland’s] home knowing [Beland and his children] would feel threatened by this.”

In both petitions, Beland requested a hearing if the court denied his request for an ex parte HRO. The district court found that the affidavit and both petitions lacked merit, and in separate, but identical orders, the district court dismissed both petitions without a hearing. The district court offered the same reason for both of its decisions: the parties’ ongoing family court disputes. In its order, the district court stated:

The affidavit and petition lack merit, the matter should be **dismissed, and no hearing will be held.** The issues presented by [Beland] relate to ongoing disputes before the Court in [the

postdissolution matter]. There are a number of pending motions before the Court in [the postdissolution matter] that will be set for hearing in the immediate future. The issues not involved in the family court matter are insufficient for an Ex Parte Harassment Restraining Order.

Beland appeals each of the dismissals and this court consolidated those appeals.

DECISION

I. Beland's Motion to Strike

As a threshold matter, Beland moved to strike portions of respondents' brief and addendum to the extent that they include facts not contained in the record. The appellate record is limited to "documents filed in the trial court, the exhibits, and the transcript of the proceedings, if any." Minn. R. Civ. App. P. 110.01. We will not consider matters not received in evidence below. *Thiele v. Stich*, 425 N.W.2d 580, 583 (Minn. 1988). Given the applicable rules regarding the appellate record, and the fact that the district court did not take judicial notice of any facts or provisions of previous orders, we grant Beland's motion to strike and do not consider any portions of respondents' brief or addendum that are outside the appellate record.

II. The District Court's Dismissal of the Petitions Without a Hearing

Beland argues that the district court erred by dismissing his petitions without a hearing. Because the existence of ongoing postdissolution matters, without more, does not render moot or otherwise negate the merits of Beland's petitions, we conclude that the district court abused its discretion when it dismissed Beland's HRO petitions without a hearing.

Minnesota Statutes section 609.748 (2018) governs the procedures for issuing an HRO. An HRO proceeding is not a typical civil matter, but a special proceeding that “confers a right, and authorizes a special application to a court to enforce it.” *Fiduciary Found., LLC ex rel. Rothfus v. Brown*, 834 N.W.2d 756, 761 (Minn. App. 2013) (quotation omitted), *review denied* (Minn. Sept. 17, 2013). The rules of civil procedure apply to HRO proceedings. Minn. R. Civ. P. 1 (stating that the rules of civil procedure generally apply in “all suits of a civil nature”), *review denied* (Minn. Mar. 28, 2006); *see also, e.g., Dunham v. Roer*, 708 N.W.2d 552, 568 (Minn. App. 2006) (recognizing that HRO proceedings are civil in nature); *Kush v. Mathison*, 683 N.W.2d 841, 843-44 (Minn. App. 2004) (applying the Minnesota Rules of Civil Procedure to an HRO proceeding), *review denied* (Minn. Sept. 29, 2004).

A person who is a victim of harassment may seek a restraining order from the district court by filing a petition for relief that alleges facts sufficient to show the name of the alleged harassment victim, the name of the respondent, and that the respondent has engaged in harassment. Minn. Stat. § 609.748, subds. 2-3(a). The legislature defined “harassment” to include a single incident of physical assault or “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 statute also mandates district courts to hold a hearing on the merits of the petition, if requested: “[u]pon receipt of the petition and a request for a hearing by the petitioner, the court shall order a hearing.” *Id.*, subd. 3(a); *see also id.*, subd. 4(d) (“The court shall hold the hearing on the issuance of a restraining order if the petitioner requests

a hearing.”). The statute, however, also permits dismissal of petitions that lack merit: “Nothing in this section shall be construed as requiring a hearing on a matter that has no merit.” *Id.*, subd. 3(a). We review a district court’s application of the HRO statute for an abuse of discretion. *Witchell v. Witchell*, 606 N.W.2d 730, 731 (Minn. App. 2000).

In this case, the district court dismissed the two petitions without holding a hearing to determine the merits of the petitions. The district court provided only one basis for these decisions: the issues presented in the petitions related to ongoing disputes and pending family court motions. Beland argues that we should reverse these decisions. We agree for two reasons. First, although the district court concluded that the petitions “lack merit,” it made no factual findings and included no reasoning regarding the merits of the allegations in the petitions.¹ Instead of discussing the merits of the allegations, the district court simply made reference to unspecified postdissolution disputes. Because the district court did not explain what ongoing disputes or motions overlap with Beland’s allegations, we cannot

¹ Although the statute does not define the phrase “a matter that has no merit,” a district court cannot dismiss a civil petition without a hearing on the merits unless “it appears to a certainty that no facts, which could be introduced consistent with the pleading, exist which would support granting the relief demanded.” *Walsh v. U.S. Bank, N.A.*, 851 N.W.2d 598, 602 (Minn. 2014) (quoting *N. States Power Co. v. Franklin*, 122 N.W.2d 26, 29 (Minn. 1963)). Beland’s petitions allege facts that, if true, establish the requisite elements for relief, including that each respondent has engaged in harassment. See Minn. Stat. § 609.748, subds. 3(a), 4(b), 5(b). The district court did not expressly discuss Beland’s factual allegations or the likelihood that evidence exists which could support the petitions. There is no reference to factual findings in previous orders regarding the allegations in the petitions, no discussion of issue or claim preclusion, and no mention of any previous order declaring Beland a frivolous litigant. Accordingly, we address the only reason provided for the district court’s decision: the mere existence of pending postdissolution motions. We also do not intend to preclude the district court from considering alternative grounds that may exist for dismissal after remand.

conclude that their mere existence relates to the merits of the HRO petitions in any way. Moreover, because Kurtis Rylander is not a party to the pending postdissolution motions, we question how the pending motions could address the allegations and the relief requested in the HRO petition against Kurtis Rylander.

Second, the differences between the relief available under the HRO statute and the relief available to parties in postdissolution proceedings preclude the district court's determination that the ongoing postdissolution matters render the HRO petitions meritless. We recognize the likelihood that, depending on the nature of the unidentified parallel postdissolution proceedings, the evidence regarding the allegations in Beland's petitions might also be presented in a hearing regarding these pending postdissolution motions. In addition, family court proceedings frequently involve conditions regarding contact between parents and contact between a parent and a child. The HRO statute, however, provides for relief independent from the strictures of custody and parenting time modification motions, many of which require application of specific statutory presumptions and proof of specific elements, such as endangerment or integration. See *Goldman v. Greenwood*, 748 N.W.2d 279, 282-83 (Minn. 2008) (holding that modifying custody requires proof that "the child[ren]'s present environment endangers the child[ren]'s physical or emotional health or impairs the child[ren]'s emotional development" and balancing "the harm likely to be caused by a change of environment" against "the advantage of a change to the child[ren]" (quoting Minn. Stat. § 518.18(d)(iv) (2006))); *Dahl v. Dahl*, 765 N.W.2d 118, 123 (Minn. App. 2009) (holding that restricting parenting time requires proof that "parenting time is likely to endanger the child's physical

or emotional health or impair the child’s emotional development” or proof that “the parent has chronically and unreasonably failed to comply with court-ordered parenting time” (quoting Minn. Stat. § 518.175, subd. 5 (2008))).

The HRO statute also establishes collateral criminal consequences for violating an HRO, affording additional protections for HRO petitioners that are not available in family court proceedings. *See* Minn. Stat. § 609.748, subd. 6 (establishing criminal penalties). Because the legislature sought to provide unique protections to HRO petitioners, the mere existence of pending postdissolution motions does not permit dismissal of an HRO petition without addressing the possible merits of the petition. The same evidence regarding a parenting time dispute or regarding an incident between a parent and a child might be presented in a number of different evidentiary hearings and trials, such as the following: a hearing regarding the merits of an HRO petition; a criminal trial regarding abuse, a violation of a no contact order, or deprivation of parental rights; and an evidentiary hearing regarding the facts in a petition for juvenile protection or termination of parental rights. Each setting could feature the same evidence, but different parties, procedures, and relief. These differences precluded the district court from dismissing Beland’s HRO petitions on the basis of similar factual disputes in another type of case.

The district court abused its discretion when it dismissed Beland’s petitions without a hearing. We reverse the district court decisions and remand for further proceedings.

Reversed and remanded; motion granted.