

*This opinion is nonprecedential except as provided by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
A20-1284**

Charity Amber Billings,
Respondent,

vs.

Aaron Louis Olson,
Appellant.

**Filed May 17, 2021
Affirmed
Bjorkman, Judge**

Dakota County District Court
File No. 19AV-CV-19-38

Christopher T. Kalla, Hanbery & Turner, P.A., Minneapolis, Minnesota (for respondent)

Aaron Olson, Minneapolis, Minnesota (pro se appellant)

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

NONPRECEDENTIAL OPINION

BJORKMAN, Judge

Appellant challenges a harassment restraining order (HRO), arguing that the district court (1) abused its discretion by denying his request to move the hearing location to accommodate his disability, (2) erred by admitting evidence of “settlement offers” he emailed to respondent’s attorney, and (3) abused its discretion by making the HRO effective for longer than two years. We affirm.

FACTS

In 2017, when respondent Charity Billings was 17 years old, a friend introduced her to appellant Aaron Olson at a skating rink. The following January, she began receiving Facebook messages from “Evan Jacobson.” From the substance of the messages, she discerned Olson was the true author. She also learned that he is in his 40s. Billings became uncomfortable when Olson told her that he wanted to marry her and have children, and she asked him to leave her alone. He did not.

In March 2018, Billings petitioned for an HRO. The district court granted a temporary ex parte HRO. But after a hearing, it denied an HRO, reasoning that the Facebook messages were “unpleasant” but not harassment, and that emails Olson sent to Billings’s attorney while the ex parte HRO was in effect were “mere settlement efforts,” that did not constitute harassment. The court added: “In the future if [Olson’s] words or actions amount to harassment . . . , this Court suggests [Billings] bring forth another petition.”

Before long, Olson began contacting Billings again. First, he sent her several messages via Snapchat as “Dotty McNelson.” Then he sent her Snapchat messages under the name “Mary Springer.” Each time, Billings recognized Olson from the content of the messages, including repeated references to his interest in having a relationship with her.

On January 4, 2019, Billings initiated this HRO proceeding, recounting Olson’s pattern of unwanted social-media contacts. The district court determined that Billings’s petition presented reasonable grounds to believe Olson harassed her, noting that “[a]cts of harassment have occurred since the last court’s order.” The court granted a temporary

ex parte HRO prohibiting Olson from having any “direct or indirect contact” with Billings until January 4, 2021, and advised Olson that he could request a hearing to “change or vacate” the order. For some reason not apparent in the record, Olson was not served with the order until February 7, 2020. He then requested a hearing.

After a delay related to the COVID-19 pandemic, the district court conducted a virtual hearing on July 1 and 20. Billings testified and presented screenshots of Olson’s messages to her, and Olson cross-examined her at length. But technical difficulties disrupted both hearing dates. The district court attributed the difficulties to Olson’s unauthorized attempt to record the proceedings and, at the end of the July 20 hearing, ordered Olson to appear in person for the third hearing date.¹ Olson did not object but requested that the hearing be in Apple Valley as a “reasonable accommodation, given that I simply don’t have mobility, transportation, to get to Hastings.” The court stated the hearing would be in Hastings because “[t]hat’s where we’re having hearings.” The court set the hearing for August 14 and advised Olson that if he failed to appear, it “may result in default.”

The morning of the hearing, Olson filed a motion requesting that it be moved to Apple Valley to accommodate his unspecified “disability.” The district court rejected the motion as “untimely and unsupported” and permitted Billings to finish presenting her case in Olson’s absence. To demonstrate that Olson violated the ex parte HRO, Billings presented emails that he sent to her attorney, in which Olson offered to drop a federal action

¹ The district court permitted Billings to continue attending virtually.

he was pursuing against the skating rink where he met Billings in exchange for Billings working as his personal-care attendant and then marrying him. He also offered to buy her a diamond ring that her attorney would “hold . . . until the six-month trial period without sex is completed.”

The district court granted the HRO, finding that Olson sent Billings harassing messages under “three separate fake accounts,” despite knowing that she did not want to communicate with him. Based on its finding that Olson “has violated a prior or existing restraining order on two or more occasions,” the district court made the HRO effective until August 14, 2025. Olson appeals.

DECISION

I. The district court did not abuse its discretion by denying Olson’s untimely request for an accommodation.

Federal and state law prohibit excluding any person from public services based on a disability. 42 U.S.C. § 12132 (2018); Minn. Stat. § 363A.12, subd. 1 (2020). But a party asking a district court to alter its proceeding to accommodate his disability must bring a motion 21 days before the hearing. See Minn. R. Gen. Prac. 115.04(a) (setting 21-day deadline for nondispositive motions). This notice affords the opposing party time to respond, *id.* (b), and the court time to analyze and rule on the motion, Minn. R. Gen. Prac. 115.01(b). We review a district court’s decision regarding the timeliness of a motion for an abuse of discretion. See *Rhee v. Golden Home Builders, Inc.*, 617 N.W.2d 618, 621 (Minn. App. 2000).

Olson did not bring his motion until approximately two hours before the hearing. He contends he waited so long because he was attempting to “exhaust all possible avenues” for complying with the court’s order. But he had nearly a month after the court set the hearing date to find a way to appear as directed. By waiting until the morning of the hearing to seek an accommodation, Olson truncated Billings’s opportunity to respond and prevented the district court from fully examining the merits of his request. Indeed, if he had made a timely motion, he may have been able to address the court’s expressed concerns about the merits of his request. On this record, we conclude the district court did not abuse its discretion by denying Olson’s accommodation request as untimely.

II. The district court did not err by admitting evidence of “settlement offers” that Olson emailed to Billings’s attorney.

Under Minn. R. Evid. 408, evidence that a party offered to settle “a claim which was disputed as to either validity or amount, is not admissible to prove liability for or invalidity of the claim or its amount.” We generally review evidentiary rulings for an abuse of discretion. *Dolo v. State*, 942 N.W.2d 357, 362 (Minn. 2020). But rule 408 is “a rule of exclusion, and the district court has no discretion to admit evidence that falls within the ambit of the rule.” *In re Buckmaster*, 755 N.W.2d 570, 575 (Minn. App. 2008).

Olson argues that the district court should not have admitted the emails he sent to Billings’s attorney because they were settlement offers. This argument is unavailing. Rule 408 bars admission of settlement offers only when used to prove or disprove liability or damages. By its terms, the rule “does not require exclusion when the evidence is offered for another purpose.” Minn. R. Evid. 408; see *C.J. Duffey Paper Co. v. Reger*, 588 N.W.2d

519, 525 (Minn. App. 1999) (stating that communications are not barred by rule 408 when they are offered “neither as evidence of liability or damages”), *review denied* (Minn. Apr. 28, 1999). To the extent Olson’s offers of marriage and employment as his personal-care attendant could be deemed “settlement offers,” they are not related to this case. The claim that Olson offered to settle in the challenged emails was his claim against the skating rink. Billings did not offer the emails to prove anything about that claim; she offered them to prove that Olson continued to contact and harass her—through her attorney—in violation of the ex parte HRO. As such, rule 408 does not require their exclusion.

III. The district court did not abuse its discretion by making the HRO effective for approximately five years.

We review a district court’s 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). “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.

If a district court finds “reasonable grounds to believe that the respondent has engaged in harassment,”² it may grant an HRO “for a fixed period of not more than two years.” Minn. Stat. § 609.748, subd. 5(b) (2020). Upon a further finding that “the

² Olson’s principal brief does not dispute the district court’s finding that he harassed Billings by sending her numerous unwanted messages via social media. In his reply brief, he disputes the finding that he sent the Snapchat messages. He forfeited this challenge by not asserting it in his principal brief. See *Lund ex rel. Revocable Tr. of Kim A. Lund v. Lund*, 924 N.W.2d 274, 284 (Minn. App. 2019) (deeming forfeited issues argued for the first time in a reply brief), *review denied* (Minn. Mar. 27, 2019). And his argument fails on its merits because numerous statements in those messages reveal Olson as the author.

respondent has violated a prior or existing restraining order on two or more occasions,” the court may grant relief “for a period of up to 50 years.” *Id.*

Olson challenges the district court’s finding that he “violated a prior or existing restraining order on two or more occasions,” arguing that he could not have violated the ex parte HRO before it was served on him in February 2020. But the record contains evidence of numerous violations after that time. Olson emailed Billings’s attorney more than a dozen times in March and June 2020, including at least six emails in which he expressly discussed Billings. While Olson directed those emails to the attorney, they were plainly intended for Billings—he requested that she act as his personal-care attendant and then marry him, proposed to relay a picture of himself to Billings through her attorney, and suggested where Billings should and should not shop. And Billings’s attorney informed her of them. In short, Olson used the emails to indirectly contact Billings in violation of the ex parte HRO. *See State v. Egge*, 611 N.W.2d 573, 575 (Minn. App. 2000) (affirming finding of indirect contact in violation of HRO where the defendant directed his insurance agent to call the victim), *review denied* (Minn. Aug. 15, 2000).

Olson also argues that the district court erred in finding the emails violated the ex parte HRO because the district court in the 2018 HRO proceeding determined that emails to Billings’s attorney were merely settlement offers, not harassment. We are not persuaded. Even if Olson’s 2018 emails to Billings’s attorney were not harassment, his numerous emails in 2020 were—he used them as a means to continue pursuing a relationship with Billings despite her express refusals and requests that he leave her alone. *See* Minn. Stat. § 609.748, subd. 1(a)(1) (2020) (defining harassment as “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”). More importantly, the emails did not have to meet the statutory definition of harassment to violate the ex parte HRO. Rather, the ex parte HRO prohibited Olson from having direct or *indirect* contact with Billings. As discussed above, Olson’s emails to counsel were indirect contacts with Billings and not legitimate offers to settle this case.

In sum, Olson was served with the ex parte HRO prohibiting him from having direct or indirect contact with Billings. He subsequently sent Billings’s attorney numerous emails relaying personal messages and requests to Billings. On this record, the district court did not clearly err by finding that Olson violated an HRO on two or more occasions. Based on that finding, the court could have made the HRO effective “for a period of up to 50 years.” Minn. Stat. § 609.748, subd. 5(b). It opted for approximately five years. We are satisfied that given Olson’s persistent multi-year pursuit of Billings, the district court was well within its discretion in making the HRO effective for five years.

Affirmed.