

*This opinion is nonprecedential except as provided by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
A21-0906**

Megan Marie Johnson,
Respondent,

vs.

Richard Preston Blackwell,
Appellant.

**Filed March 21, 2022
Affirmed
Reilly, Judge**

Ramsey County District Court
File No. 62-HR-CV-20-148

Maria E. Maier, Robin L. Dietz-Mayfield, St. Paul & Ramsey County Domestic Abuse
Intervention Project, St. Paul, Minnesota (for respondent)

Richard P. Blackwell, Stillwater, Minnesota (pro se appellant)

Considered and decided by Connolly, Presiding Judge; Reilly, Judge; and Smith,
Tracy M., Judge.

NONPRECEDENTIAL OPINION

REILLY, Judge

Appellant challenges the district court's order granting respondent's petition for a
harassment restraining order (HRO), arguing that the district court improperly excluded
evidence and violated his due-process rights. We affirm.

FACTS

Appellant Richard Preston Blackwell and respondent Megan Marie Johnson were in a romantic relationship from August to November 2019. Blackwell continued to visit Johnson's apartment building almost daily after the relationship ended. On February 12, 2020, Blackwell unexpectedly approached Johnson outside, walked her to her apartment, and "put his foot in [her] door and wouldn't let the outside door shut." Johnson called the police and they escorted her safely inside her apartment building. In February 2020, Johnson petitioned for an HRO for a period of two years, asserting that Blackwell "followed, cornered, and harassed [her] on a daily basis," "pushed his way into [her] apartment complex," and "harassed [her] friends."

Blackwell's behavior continued to escalate. On March 19, Johnson's apartment manager found Blackwell sitting on the floor outside Johnson's apartment unit and called the police. On March 23, Blackwell approached Johnson in her apartment building and refused to leave. Blackwell pinned Johnson against the wall, grabbed her arm, and twisted her arm to take her phone out of her hand. Blackwell again appeared at Johnson's apartment building on March 26, April 8, and April 18. Blackwell also followed Johnson "many times" in his car. He followed her to work, waited for her after work and followed her "wherever [she] was going," followed her to the gym, and followed her to a friend's house. Johnson estimated that Blackwell followed her a "[m]inimum of three" times a week.

The district court held an HRO hearing on six dates between September 2020 and April 2021. The district court heard testimony from Johnson and Blackwell. Following

the hearing, the district court granted Johnson’s HRO petition from the bench. The district court found Johnson’s testimony credible and did not find Blackwell’s testimony credible. The district court issued an order formally granting a two-year HRO on behalf of Johnson and against Blackwell. The district court determined there were reasonable grounds to believe Blackwell harassed Johnson by following, monitoring, or pursuing her. The district court also credited Johnson’s statements that Blackwell’s conduct had a “substantial adverse effect on her mental health, safety, security, and privacy.”

Blackwell then requested a new trial. The district court denied the request. Blackwell now appeals the district court’s order granting the HRO.¹

DECISION

We review a district court’s decision whether to issue an HRO for an abuse of discretion. *Peterson v. Johnson*, 755 N.W.2d 758, 761 (Minn. App. 2008). A district court abuses its discretion “if it makes findings of fact that are not supported by the record, misapplies the law, or resolves the matter in a manner that is contrary to logic and the facts on record.” *Madden v. Madden*, 923 N.W.2d 688, 696 (Minn. App. 2019). We also give “due regard” 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), *rev. denied* (Minn. Sept. 29, 2004). We review questions of law de novo. *Peterson*, 755 N.W.2d at 761.

¹ Blackwell sought review of the order denying his request for a new trial. We construed the appeal as taken from the April 25, 2021 order granting Johnson’s HRO petition.

I. The district court did not abuse its discretion in its evidentiary rulings.

Blackwell challenges the district court's evidentiary rulings. In general, relevant evidence is admissible in a court proceeding. Minn. R. Evid. 402. Evidence is relevant if it offers "any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Minn. R. Evid. 401. A district court may exclude evidence based on materiality, lack of foundation, remoteness, relevancy, or evidence which is cumulative. *Johnson v. Washington County*, 518 N.W.2d 594, 601 (Minn. 1994); *see also* Minn. R. Evid. 403 (authorizing district court to exclude relevant evidence for "undue delay, waste of time, or needless presentation of cumulative evidence"); 801(c) (defining hearsay); 901(b)(1) (discussing foundation). We review a district court's evidentiary rulings for an abuse of discretion. *Goldman v. Greenwood*, 748 N.W.2d 279, 281-82 (Minn. 2008).

Blackwell represented himself in the hearings.² Blackwell cross-examined Johnson over several days between January and April 2021.³ Blackwell tried to question Johnson with "80-some exhibits," including copies of emails and screenshots from his phone. In many instances, Blackwell asked Johnson about these materials but did not seek to admit them into evidence. The district court advised Blackwell that he was "not allowed to ask questions about exhibits that are not admitted."

² Courts generally accommodate self-represented litigants. *Fitzgerald v. Fitzgerald*, 629 N.W.2d 115, 119 (Minn. App. 2001). Still, such litigants are "generally held to the same standards as attorneys and must comply with court rules." *Id.*

³ The district court granted Blackwell several continuances, over Johnson's objections, to compile and organize his exhibits.

The district court also excluded many of Blackwell's exhibits because they lacked foundation or constituted hearsay. For example, Blackwell sought to introduce an email into evidence. Johnson's counsel objected on hearsay and foundation grounds. The district court sustained the objection and explained that Blackwell needed the sender or the recipient to authenticate the email.

Additionally, much of the excluded evidence was cumulative. Many exhibits were meant to show that Blackwell and Johnson were in a romantic relationship. But Johnson readily acknowledged that she was previously in a romantic relationship with Blackwell. The district court noted that much of Blackwell's testimony was "cumulative" because it was already "established that [he] had a relationship with [Johnson]." Yet the district court did permit Blackwell to introduce several photographs of the parties into evidence. The district court also advised Blackwell that he could discuss his exhibits during his own testimony when he could lay foundation for them. During his own opportunity to present his case, however, Blackwell did not offer any exhibits into the record.

Blackwell does not identify which exhibits the district court excluded, or why the evidentiary rulings were improper. "Parties before this court have an obligation under the rules of civil appellate procedure to cite to the specific part of the record that supports each factual assertion." *Regner v. Nw. Airlines, Inc.*, 652 N.W.2d 557, 563 (Minn. App. 2002). Failure to do so may lead to forfeiture of a party's arguments. *Brett v. Watts*, 601 N.W.2d 199, 202 (Minn. App. 1999), *rev. denied* (Minn. Nov. 17, 1999). Blackwell does not identify which of the approximately 80 exhibits were wrongly excluded. Moreover, Blackwell cannot claim the district court erred by excluding exhibits that he, himself, did

not offer. We discern no abuse of discretion in the district court's decision to exclude evidence because the exhibits lacked foundation, contained hearsay statements, or were cumulative.

Finally, any error committed by the district court in excluding Blackwell's exhibits was harmless because the excluded exhibits were cumulative of other testimonial evidence. Relief on appeal "rests upon the complaining party's ability to demonstrate prejudicial error." *Kroning v. State Farm Auto. Ins. Co.*, 567 N.W.2d 42, 46 (Minn. 1997) (quotation omitted). The district court did not abuse its discretion here. The district court advised Blackwell that he could not admit an exhibit without laying the proper foundation for it and excluded cumulative evidence related to the parties' romantic relationship. These rulings comply with the Minnesota Rules of Evidence. Blackwell has not been prejudiced by the exclusion of this evidence. Thus, we conclude the district court did not abuse its discretion by excluding some of Blackwell's exhibits.

II. The district court did not violate Blackwell's due-process rights.

Blackwell claims the district court violated his due-process rights by limiting his testimony and denying him an opportunity to fully present his case. The fundamental due-process requirements are notice and an opportunity to be heard. *Sawh v. City of Lino Lakes*, 823 N.W.2d 627, 635 (Minn. 2012). Whether these rights have been violated is a question of law we review de novo. *Plocher v. Comm'r of Pub. Safety*, 681 N.W.2d 698, 702 (Minn. App. 2004).

The HRO hearing occurred over six hearing dates. Johnson and Blackwell presented testimony at the hearing. The direct examination of Johnson spanned 12

transcript pages. Johnson testified about her previous romantic relationship with Blackwell, his conduct toward her following the end of their relationship, and the steps she took to file the HRO petition. The district court then permitted Blackwell to cross-examine Johnson. Blackwell cross-examined Johnson for four days and the record of this cross-examination spans over 200 transcript pages. The district court then gave Blackwell a chance to testify. Blackwell's testimony covers nearly 70 transcript pages.

The district court provided Blackwell latitude because of his status as a self-represented litigant. But the record shows that Blackwell did not keep his comments or testimony focused on the HRO petition. Instead, Blackwell argued with the district court judge and refused direct orders from the district court. Blackwell also repeated his testimony and discussed matters outside the HRO petition. The district court warned Blackwell many times not to argue with the court and attempted to redirect him back to the merits of the HRO petition. Despite repeated warnings, Blackwell continued to argue with the district court and provide cumulative or irrelevant evidence. The district court then engaged in the following exchange with Blackwell:

Court: All right. Mr. Blackwell, I'm warning you. This is gonna be one of your last warnings before I end this hearing, and we will conclude. Do you understand?

Blackwell: No, Your Honor, I should be allowed to speak clearly and concisely.

Court: You are refusing to follow the directives from this court. You continue to argue when you disagree with the Court's decisions. You have wasted much time by continuing to argue when you don't get your way.

Blackwell: That's clearly not true.

When Blackwell refused to comply with the district court's orders and remained argumentative and disruptive, the district court ended Blackwell's testimony and concluded the hearing.⁴

The HRO statute requires the district court to conduct a hearing before issuing an HRO. Minn. Stat. § 609.748, subds. 3, 5(b)(3) (2020). And the record shows that the district court gave Blackwell a full and fair opportunity to be heard. *See Haefele v. Haefele*, 621 N.W.2d 758, 764 (Minn. App. 2001) (stating that due process requires a hearing to be fair, practicable, and reasonable), *rev. denied* (Minn. Feb. 21, 2001). Here, the district court held a six-day hearing, heard testimony from both parties, admitted several exhibits into evidence, gave Blackwell a great deal of time to cross-examine Johnson, and permitted Blackwell to present his own testimony.

Even if the district court failed to vindicate Blackwell's due-process rights, there is no basis for reversal because the error—if any—was harmless. A party asserting a due-process violation must show prejudice to obtain relief on that ground. *In re Child of B.J.-M.*, 744 N.W.2d 669, 673 (Minn. 2008); *see also Midway Ctr. Assocs. v. Midway Ctr. Inc.*, 237 N.W.2d 76, 78 (Minn. 1975) (requiring appellant to establish both error and resultant prejudice); *see also* Minn. R. Civ. P. 61 (requiring reviewing court to disregard harmless error). Blackwell testified at length that he was previously in a romantic relationship with Johnson, something Johnson did not dispute. As a result, Blackwell's testimony on this point was cumulative. Blackwell was given ample opportunity to cross-examine Johnson

⁴ Our review of the transcript shows that the district court exhibited a great deal of patience in conducting the hearing.

and submit testimony and evidence. Thus, we conclude that the district court did not violate Blackwell's due-process rights by ending the hearing.

III. The district court did not abuse its discretion by issuing the HRO.

A district court may issue an HRO if it determines “that there are reasonable grounds to believe that the respondent has engaged in harassment.” Minn. Stat. § 609.748, subd. 5(b)(3) (2020). “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, regardless of the relationship between the actor and the intended target.” *Id.*, subd. 1(a)(1) (2020). “[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), *rev. denied* (Minn. Mar. 28, 2006).

We construe Blackwell's appeal as a challenge to the district court's HRO findings. Based on the testimony and evidence presented at the hearings, the district court determined that Blackwell engaged in harassing behavior by watching Johnson's apartment building, sitting outside her residence, and following her to her workplace and to her gym. Two or more instances of harassing conduct constitute “repeated incidents” under the HRO statute. *Kush*, 683 N.W.2d at 844. The district court determined that Blackwell's conduct negatively affected Johnson's mental health, safety, security, and privacy. Sufficient evidence in the record supports the district court's order.

And the district court explicitly stated that it found Johnson's testimony credible and did not find Blackwell credible. Generally, we defer to the district court's opportunity to judge the credibility of the witnesses. *Id.* at 843-44. The record amply supports the district court's determination that Blackwell engaged in objectively unreasonable conduct, and that Johnson had an objectively reasonable belief of a substantial adverse effect on her safety, security, or privacy. *Dunham*, 708 N.W.2d at 567.

Finally, we commend the district court for its patience and concern in dealing with this matter. Because sufficient evidence supports the district court's decision to grant an HRO in Johnson's favor, and because the district court properly applied the law, we affirm.

Affirmed.