

*This opinion is nonprecedential except as provided by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
A22-1067**

In the Matter of: Jessica Marie Blom, petitioner,
Respondent,

vs.

Robert Lyle Blom,
Appellant.

**Filed May 1, 2023
Affirmed
Florey, Judge***

Watonwan County District Court
File No. 83-FA-22-329

Jessica Marie Blom, Butterfield, Minnesota (pro se respondent)

Jacob M. Birkholz, Michelle K. Olsen, Birkholz & Associates, LLC, Mankato, Minnesota
(for appellant)

Considered and decided by Slieter, Presiding Judge; Connolly, Judge; and Florey,
Judge.

NONPRECEDENTIAL OPINION

FLOREY, Judge

In this appeal, appellant-husband challenges the district court's grant of an order for protection (OFP) for respondent-wife. We affirm.

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

FACTS

Respondent Jessica Marie Blom petitioned for an OFP against her estranged husband, appellant Robert Lyle Blom. She alleged that in June 2022, Robert came into her home “thinking he was going to catch [her] in bed with someone” and left a note in her home saying he saw her sleeping alone. She claimed that Robert returned the next day to her home. She asked him to leave, but he knocked on her locked doors, looked in her windows, and kept “trying” the door handles. She alleged that he was “carrying a hoe over his shoulder.”

In her petition, Jessica listed several prior domestic incidents. Among them, she asserted that in 2012 Robert was arrested after “attacking” her in their home when she was seven months pregnant. She claimed that she “ended up in the hospital days later” and “lost [her] baby.”

The district court issued an ex parte OFP. Robert requested a hearing, and on June 30, 2022, the district court held an evidentiary hearing on the matter.

Jessica testified that she and Robert separated in March 2022 and that Robert lives with his parents. She testified that on June 19 or 20, she woke up and found a note from Robert in her home. Robert’s note said that he suspected she was sleeping with someone, he saw that she was sleeping alone, and he was sad that he was not sleeping next to her. Jessica testified that she texted Robert and told him to stop spying on her while she slept. She reported the note to law enforcement, and an officer responded and talked to Robert at his residence. Robert later texted Jessica and said that he was “going to come over and rip up the garden and the trees.”

The next morning, Jessica saw Robert walking towards the garden with a hoe, so she called law enforcement. According to her, Robert “tried to get back in the house by testing the door lock.” Jessica testified that when she refused to let him into the home, he swung the hoe “around in the air.” She testified that he “installed fear” and that she did not “know what his intentions were.”

On cross-examination, Jessica admitted that Robert is on the deed for her home and had a right to be on the property “[i]n a legal sense.” She also acknowledged that Robert had a right to “do whatever he wants with the garden and the lawn.” She admitted that Robert never expressly threatened her. However, she testified that Robert was arrested in 2012 for “attacking” her by “[s]lamming [her] over and over again up against the wall.”

Robert testified about the 2012 incident and admitted that he was arrested and charged with disorderly conduct, but he asserted that both parties were engaged in aggressive behavior. He denied slamming Jessica against a wall. Regarding the June 2022 incident, he denied swinging the garden hoe and claimed that he merely went to till the garden.

The district court issued an OFP against Robert and used a standard template or form to construct the order. The court determined that “[a]cts of domestic abuse ha[d] occurred,” including the following: (1) Robert “became aggressive” with Jessica during an altercation in 2012 and was arrested, resulting in a disorderly conduct charge; (2) Robert and Jessica are separated, and Robert came to Jessica’s home “unannounced and left a note for her inside the home frightening her”; and (3) Robert “was swinging a garden hoe around

the outside of [Jessica's] home trying to get in, frightening [Jessica] threatening to tear up the garden.”

Robert appeals.¹

DECISION

Robert challenges the district court's grant of an OFP, arguing that the district court erred as a matter of law in determining that his acts constituted domestic abuse. We review a district court's decision to grant an OFP for an abuse of discretion. *Thompson v. Schrimsher*, 906 N.W.2d 495, 500 (Minn. 2018). “A district court abuses its discretion when its decision is based on an erroneous view of the law or is against logic and the facts in the record.” *Id.* (quotation omitted).

A district court may issue an OFP if the petitioner shows that “domestic abuse” has occurred. Minn. Stat. § 518B.01, subd. 4(b) (2022); *Thompson*, 906 N.W.2d at 498-99. The term “domestic abuse” is defined, in relevant part, as any of the following committed against a family or household member: “(1) physical harm, bodily injury, or assault; (2) the infliction of fear of imminent physical harm, bodily injury, or assault; or (3) terroristic threats.” Minn. Stat. § 518B.01, subd. 2(a) (2022). There is no temporal component to the “physical harm, bodily injury, or assault” discussed in subdivision 2(a)(1) of the OFP statute, and therefore a district court may issue an OFP if such abuse “has occurred at some point.” *Thompson*, 906 N.W.2d at 499.

¹ Jessica did not file a brief, and we ordered that the appeal proceed under Minn. R. Civ. App. P. 142.03, which requires us to determine the case “on the merits.”

Here, the district court did not err in determining that Robert’s acts constituted “domestic abuse.” “[I]n our review of an OFP, we review the record in the light most favorable to the district court’s findings, and we will reverse those findings only if we are left with the definite and firm conviction that a mistake has been made.” *Pechovnik v. Pechovnik*, 765 N.W.2d 94, 99 (Minn. App. 2009) (quotation omitted).

Jessica alleged in her petition that Robert “attack[ed]” her and indicated that she “ended up in the hospital” and “lost [her] baby at 7 [months] pregnant” because of the attack. At the hearing, Jessica testified on cross-examination that Robert “[s]lamm[ed] [her] over and over again up against the wall while [she] was holding [her] one year old, pregnant with [her] second.”

Jessica’s testimony that Robert repeatedly slammed her against a wall supports the district court’s determination that acts of “domestic abuse” occurred. *See* Minn. Stat. § 518B.01, subd. 2(a). Again, there is no temporal component to the “physical harm, bodily injury, or assault” discussed in subdivision 2(a)(1), and therefore a district court may issue an OFP if such abuse has occurred in the past. *Thompson*, 906 N.W.2d at 499. And Robert does not dispute that Jessica is a “family or household member.” *See* 518B.01, subd. 2(b)(1) (2022) (defining the term “[f]amily and household members” to include “spouses and former spouses”).

Robert asks us to consider only the district court’s finding of “aggressive behavior” and asserts that “any other actions were not considered credible.” Robert argues that mere “aggressive” behavior does not qualify as “domestic abuse.” *See* Minn. Stat. § 518B.01, subd. 2(a).

We are tasked with reviewing the record in a light most favorable to the district court's findings. *Pechovnik*, 765 N.W.2d at 99. When we consider the district court's finding that Robert "became aggressive" in conjunction with the district court's determination that his aggressive behavior constituted an act of domestic abuse, we are satisfied that the district court accepted Jessica's testimony that Robert repeatedly slammed her against a wall during the 2012 attack. *See id.* ("The district court's findings implicitly indicate that the district court found respondent's testimony credible.").

The district court also determined that an act of domestic abuse occurred based on Robert's act of swinging a garden hoe around the outside of Jessica's home and trying to get inside. The district court did not abuse its discretion in concluding that those actions qualified as "domestic abuse." Again, domestic abuse is defined to include the infliction of fear of imminent physical harm or assault. Minn. Stat. § 518B.01, subd. 2(a). A present intention to inflict fear of imminent physical harm or assault may be inferred from the totality of the circumstances. *Boniek v. Boniek*, 443 N.W.2d 196, 198 (Minn. App. 1989).

Jessica's testimony revealed that Robert had engaged in abusive conduct in the past. The night prior to showing up at Jessica's house with the garden hoe, Robert snuck into her home, watched her sleep while she was unaware, and left a note in her home. While Robert argues that he had a right to be on the property, Jessica's testimony indicated that the parties were separated, and that Robert resided at a different residence. Jessica was therefore "unsettled" by Robert's actions.

Robert then showed up at Jessica's house the following morning. When Jessica refused to let Robert into her home, he started swinging the garden hoe he was carrying

“around in the air.” Jessica testified that she was unsure “if he was swinging it at [her] or not” and was unsure what Robert’s “intentions were.” She further testified that Robert “installed fear.” On this record, we cannot say that the district court abused its discretion in determining that Robert’s act of swinging the hoe constituted “domestic abuse.”

Affirmed.