

*This opinion is nonprecedential except as provided by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
A23-0336**

Kathleen S. Mosdal and OBO Minor children,
Respondent,

vs.

Jarred Isaac Mosdal,
Appellant.

**Filed October 16, 2023
Affirmed
Reyes, Judge**

Fillmore County District Court
File No. 23-CV-22-350

Kathleen S. Mosdal (confidential address) Minnesota (self-represented respondent)

Jarred Isaac Mosdal, Lanesboro, Minnesota (self-represented appellant)

Considered and decided by Tracy M. Smith, Presiding Judge; Reyes, Judge; and
Bratvold, Judge.

NONPRECEDENTIAL OPINION

REYES, Judge

Appellant-father argues that the district court made clearly erroneous findings and abused its discretion by granting the harassment restraining order (HRO) against him. We affirm.

FACTS

Appellant Jarred Issac Mosdal (father) and respondent Kathleen Susan Mosdal (mother) have six children. Mother retained full legal and full physical custody of the children at the dissolution of their marriage in 2020. On July 13, 2022, mother filed an HRO petition on behalf of herself and their six children against father.

The district court issued a temporary HRO on July 14, 2022, and granted the HRO in a December 30, 2022, order after holding hearings under Minn. Stat. § 609.748 (2022). The district court found “reasonable grounds to believe that [father] has engaged in harassment which has or is intended to have a substantial adverse effect on safety, security, or privacy of [mother] or the . . . children.” Specifically, it found that father (1) “followed, monitored, or pursued” mother, (2) “made uninvited visits” to mother, (3) “made harassing phone calls or sent harassing text messages” to mother; (4) “made threats” to mother, and (5) “frightened” mother “with threatening behavior.” The HRO prohibited father from (1) having direct or indirect contact with mother;¹ (2) being within two blocks of mother’s home or within 50 feet of mother at mother’s job site; (3) attending child S.R.M.’s “sport practices and competitions;” (4) requesting any welfare checks on the children; and (5) taking the children out of state without mother’s written consent. The HRO allowed father to attend school events for the children but required him to stay 50 feet away from mother and S.R.M. The HRO also directed father to remain in his car at all parenting

¹ The December 30, 2022 HRO did not prohibit father from having contact with the children.

exchanges and to communicate with mother “only on Our Family Wizard² and only for the purposes of scheduling parenting time and other of the children’s needs.”

In January 2023, father moved to modify the HRO, requesting that the district court (1) remove all restraints involving S.R.M.; (2) “reduce the 50-foot perimeter around [mother] to permit both parents to attend school events” that may occur in smaller spaces; (3) remove the requirement for him to remain in his car at all parenting exchanges; and (4) allow him to take pictures, at least in public spaces, of mother.

The district court amended the HRO in a February 1, 2023 order, which rephrased the distancing requirement to prohibit father from being within (1) 200 feet of mother’s home or (2) 50 feet of mother at mother’s job site. The district court found that father’s harassment was not directed against their minor children and denied mother’s request to extend the restraints against father for these minor children. It also removed father’s restraints relating to S.R.M.³ The district court continued to prohibit father from taking pictures of mother or their minor children without mother’s consent and denied father’s request to be allowed outside of his car during parenting exchanges. All other requirements in the December 30, 2022 HRO remained in place. The amended HRO is effective until September 9, 2024, unless changed by a later court order. This appeal follows.

² Our Family Wizard is a court-approved communication tool for families that have difficulty with communication.

³ S.R.M. was 17 years old at the time of the amended HRO.

DECISION

I. Standard of review

A district court may issue an HRO if it finds “that there are reasonable grounds to believe that the respondent has engaged in harassment.” Minn. Stat. § 609.748, subd. 5(b)(3). 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); *see also Dunham v. Roer*, 708 N.W.2d 552, 567 (Minn. App. 2006), *rev. denied* (Minn. Mar. 28, 2006) (“[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.”).

This court reviews a district court’s decision whether to issue an HRO for an abuse of discretion. *Kush v. Mathison*, 683 N.W.2d 841, 843 (Minn. App. 2004), *rev. denied* (Minn. Sept. 29, 2004). In doing so, we review the district court’s findings of fact for clear error and defer to the district court’s credibility determinations. *Id.* at 843-44; *see also In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221-23 (Minn. 2021) (explaining that, when reviewing findings for clear error, appellate courts do not engage in factfinding, reweigh the evidence, or disturb the factfinder’s credibility determinations). We review the district court’s interpretation of the HRO statute de novo, *Peterson v. Johnson*, 755 N.W.2d 758, 761 (Minn. App. 2008), and will reverse the district court’s issuance of an HRO if it is not supported by sufficient evidence. *Kush*, 683 N.W.2d at 843-44.

II. The district court did not make clearly erroneous findings, and any alleged error was harmless.

Father claims that the district court clearly erred by finding that he (1) “followed, monitored, or pursued” mother; (2) “made uninvited visits” to mother; (3) “made harassing phone calls or sent harassing text messages” to mother; (4) threatened to take the children out of state without mother’s permission; and (5) “frightened [mother] with threatening behavior.” We are not persuaded.

First, mother testified that father placed a GPS tracking device in her car during a parenting-time exchange. Although father denied placing the GPS tracking device, we defer to the district court’s assessment of witness credibility and conclude that the district court did not clearly err by finding that father “followed, monitored, or pursued” mother.

Second, father admitted to showing up at the front door of mother’s house uninvited on March 28, 2022, to drop off medicine. Mother testified that she did not ask father to provide medication. However, the record shows only one uninvited visit by father on March 28, 2022. Even if we assume without determining that the district court’s finding of father’s “unwanted visits” was clearly erroneous, the error was harmless because substantial evidence supports all the other findings that are sufficient to support the HRO. *See Hanka v. Pogatchnik*, 276 N.W.2d 633, 636 (Minn. 1979) (explaining that clearly erroneous finding does not require new trial when other independent findings of fact, which are decisive of the case, are supported by the record); *see also State ex rel. Ford v. Schnell*, 933 N.W.2d 393, 407 (Minn. 2019) (concluding that an erroneous finding was harmless); Minn. R. Civ. P. 61 (requiring courts to ignore harmless error); *cf. Borth v. Borth*, 970

N.W.2d 699, 706 (Minn. App. 2022) (reversing grant of an HRO, and remanding when the district court's error "was not harmless").

Third, mother testified that father wrote "inappropriate and aggressive messages" that were directed at mother on L.M.M.'s kindergarten communication notebook, causing the teachers to stop using the notebook. Mother further testified that father had "barraged" her with "30 messages in a day about random things," left "60 random circuitous messages over the course of a week," and made repeated child-welfare calls to the police. Mother's HRO petition listed seven specific dates on which father called for child-welfare checks. Father did not deny these allegations. The district court's finding that father "made harassing phone calls or sent harassing text messages" is therefore not clearly erroneous.

Fourth, the district court asked father about his alleged threat to take the children out of state to Montana without mother's consent. Father did not deny making the alleged statements but responded, "I would not call it a threat." The record supports the district court's finding.

Fifth, mother testified that father repeatedly sat less than ten feet away from her at school events, despite mother's several requests that father keep a distance from her. Mother's petition stated father's "close physical proximity" made her "very anxious and nervous." Mother also testified that father had threatened to "put [her] in jail" and sent her threatening messages on Our Family Wizard, using languages such as, "If you don't sign this form, then I won't discuss parenting time issues." Moreover, mother stated that she found the GPS device that father placed on her car "very threatening." In sum, the record supports the district court's finding that father frightened mother with threatening behavior.

The district court held four hearings and received testimony from both parties under oath. With deference to the district court's credibility determinations, we conclude that the district court's factual findings are supported by the record and not clearly erroneous, and any alleged error in the challenged findings was harmless.

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

Father contends that the district court abused its discretion by granting the HRO without substantial evidence. We disagree.

Substantial evidence in the record shows that father engaged in "repeated incidents of intrusive or unwanted acts" and words against mother, causing "a substantial adverse effect" on mother's security and privacy. *See* Minn. Stat. § 609.748, subd. 1(a)(1). Mother stated in her petition that she believed that father's harassment will continue because

[father] has a long, on-going pattern of harassment. The phone calls to the police for welfare checks have be[en] going on for a year. The incidents of repeatedly standing in close physical proximity at school events continues on in spite of [mother] asking him in writing to maintain his distance. His messages attacking [mother] or threatening [mother] to get what he wants for parenting time have been going on for years. This is a long-standing pattern of harassment that goes back to [their] marriage and has continued during the years since [their] divorce.

Mother's sworn testimony during the evidentiary hearings supports her petition. The district court therefore did not abuse its discretion by granting the HRO.⁴

Affirmed.

⁴ Father also argues that the district court erred by admitting hearsay from mother's testimony. Father's argument fails because mother did not introduce any of father's out-of-court statements to prove the truth of the matter asserted. Minn. R. Evid. 801(c). The definition of hearsay is not met.