

*This opinion is nonprecedential except as provided by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
A23-1843**

David Roger Williams,
Appellant,

vs.

Ronald Edmund Moran,
Respondent.

**Filed July 29, 2024
Reversed and remanded
Larson, Judge**

Crow Wing County District Court
File No. 18-CV-23-3470

David Roger Williams, Merrifield, Minnesota (self-represented appellant)

Ronald Edmund Moran, Merrifield, Minnesota (self-represented respondent)

Considered and decided by Larkin, Presiding Judge; Frisch, Judge; and Larson,
Judge.

NONPRECEDENTIAL OPINION

LARSON, Judge

Appellant David Roger Williams contests a district court order denying his request
for a harassment restraining order (HRO) against respondent Ronald Edmund Moran

pursuant to Minn. Stat. § 609.748 (2022).¹ Because we conclude the district court misapplied section 609.748, we reverse and remand.

FACTS

Williams and Moran are neighbors residing at lakeside cabins on adjacent properties in Crow Wing County. Moran’s girlfriend, D.G., owns the property that adjoins Williams’s property.

In September 2023, Williams filed a petition for an HRO against Moran. In the petition, Williams alleged that: within the past four years, Moran “stared ominously” at Williams, “placed junk in full view of [Williams’s] front door,” cut the branches on Williams’s “trees to the property line for purely antagonizing purposes,” blew “leaves onto [Williams’s] property,” placed bricks “over the property line,” mowed the grass over the property line, and peeled the numbers off Williams’s mailbox; in July 2021, Moran had a mutual acquaintance contact Williams “to say there would be unspecified consequences if [Williams] proceeded with a request to have [the county] enforce a junk removal” on D.G.’s property; and in fall 2021, Moran “drove his truck toward” Williams while he was walking on a road. Williams stated that “Moran’s ongoing harassment . . . affected all aspects of [his] lakehome ownership [and] there [was] a sense of anger and exasperation over what next harassment [he would] find.”

In documents that Williams attached to his petition he also alleged, among other things, that within the past four years, someone: removed four “nuts and washers” from

¹ Moran did not file a brief in this appeal. Pursuant to Minn. R. Civ. App. P. 142.03, we will determine the case on its merits.

his dock, risking a collapse of the structure; placed broken glass in shallow water on his beach; placed a dangerous metal bar on his lawn; and placed a dead goose, fish, and duck on his property. Williams alleged that while he disposed of the dead goose, Moran parked his car on Williams's driveway and smirked at him. In addition, Williams claimed that Moran placed Zebra mussels on his beach, and that Moran and D.G. drove a vehicle on his lawn, leaving tire tracks.

After Williams filed his petition, the district court initially issued an ex parte HRO. In October 2023, a referee held a hearing on Williams's petition. At the outset of the hearing, the referee stated to Williams: "I understand that you have submitted a number of exhibits in this matter, but I want you to understand that as they may relate to prior litigation or another person, I will not consider them *and I will only consider those acts that you allege to have been committed recently by . . . Moran.*" (Emphasis added.)

Accordingly, when the referee asked Williams about conduct that had "occurred . . . recently," Williams testified that, in the week before the hearing, Moran placed "utility items . . . along [his] property line." Williams also said that "there was some brush that was thrown in [his] yard." In addition, Williams testified that Moran had suspended two tarps vertically on a line—"like a large shower curtain"—that blocked Williams's view of D.G.'s property. The referee then asked Williams about conduct that "happened in the past few months." In response, Williams alleged that Moran mowed portions of Williams's lawn, specifically a grass strip that runs perpendicular to a private road.² Williams also

² It appears that the parties dispute who owns the grass strip that runs perpendicular to the private road.

mentioned the “depositing of dead animals or brush on [his] property” and his allegation that Moran and D.G. left tire tracks in his yard. Finally, Williams testified about Moran placing various items on D.G.’s property in an antagonizing manner and “ruining the lettering” on his mailbox. The district court accepted into evidence a series of photo and video exhibits from Williams that purported to show: Moran mowing portions of Williams’s property; a tarp placed across the property line; a boat and trailer stored along the property line; and miscellaneous items stored along D.G.’s cabin.

At the end of the hearing, the referee determined that Williams had not shown by a preponderance of the evidence that Moran’s behavior was “so objectively unreasonable that any reasonable person under the circumstances would feel that their safety, security, and privacy [was] impacted.” The referee reasoned that: storing lake items on one’s own property during the fall is reasonable behavior; placing the tarp across the boundary line was not improper, given the relationship between the parties; and Williams “was fairly nonspecific on dates” and included “a lot of pretty old things that are not necessarily attributable to . . . Moran.” Ultimately, the referee found that Williams had “a general annoyance with [his] neighbors” that was insufficient to support issuing an HRO.

The district court adopted the referee’s recommendation that Williams “did not prove by a preponderance of the evidence that [Moran] had engaged in acts of harassment The testimony of [Williams] did not show any alleged action by [Moran] which would fall within the statute.” Accordingly, the district court dismissed Williams’s petition for an HRO. Williams appeals.

DECISION

Williams challenges the district court's decision to adopt the referee's recommendation to deny his petition for an HRO. "The recommended findings and orders of a referee become the findings and orders of the [district] court when confirmed by a judge," and "[t]he order of the [district] court [is] proof of such confirmation." Minn. Stat. § 484.70, subd. 7(c) (2022).

We review "a district court's decision whether to issue an HRO for an abuse of discretion." *Borth v. Borth*, 970 N.W.2d 699, 701 (Minn. App. 2022). "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." *Id.* (quotation omitted). Statutory interpretation remains subject to de novo review. *Peterson v. Johnson*, 755 N.W.2d 758, 761 (Minn. App. 2008).

A district court may grant an HRO if it finds "reasonable grounds to believe that the respondent has engaged in harassment." Minn. Stat. § 609.748, subd. 5(a)(3) (2022). The statute defines "harassment" to include various behaviors. *See* Minn. Stat. § 609.748, subd. 1(a) (2022). As relevant here, the "harassment" definition 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." Minn. Stat. § 609.748, subd. 1(a)(1) (emphasis added).

Williams contends the referee erred when she narrowed the scope of the hearing to “acts that [Williams] allege[d] to have been committed recently by . . . Moran.”³ Williams asserts that, because the referee refused to consider evidence regarding Moran’s older conduct, the referee “did not consider the full weight and scope of harassment that had occurred over [four] years.”

We agree with Williams that nothing in section 609.748 supports the referee’s decision to limit the scope of the hearing to acts that Williams alleged Moran had “committed recently.” Instead, the word “repeated” necessarily contemplates that conduct can occur over an extended timeframe. *See id.* Moreover, we have previously affirmed HROs where the petitioner alleged conduct that occurred over many months or even years. *See, e.g., Kush v. Mathison*, 683 N.W.2d 841, 843, 846 (Minn. App. 2004) (affirming HRO where petitioner alleged harassment in 2001 and 2003), *rev. denied* (Minn. Sept. 29, 2004); *Lopez v. Simpson*, No. A23-0424, 2023 WL 8536491, at *1-2 (Minn. App. Dec. 11, 2023) (affirming HRO where petitioner alleged ten months of harassment); *Olsen v. Greger*, No. A17-0245, 2017 WL 4341806, at *1 (Minn. App. Oct. 2, 2017) (affirming HRO where petitioners alleged harassment over course of three years); *Krebs v. Faus*, No. A09-1799, 2010 WL 3119420, at *1 (Minn. App. Aug. 10, 2010) (affirming HRO where petitioner alleged harassment over the course of 12 months).⁴

³ Williams also challenges the district court’s decision that Moran’s behavior was not harassment. Because we reverse and remand on the basis that the referee improperly narrowed the scope of the hearing, we do not reach this issue.

⁴ These cases are nonprecedential and, therefore, not binding. We cite them as persuasive authority. *See* Minn. R. Civ. App. P. 136.01, subd. 1(c).

Here, Williams alleged in his petition that Moran participated in numerous incidents over a four-year period. Nevertheless, prior to Williams's testimony, the referee stated that only Williams's allegations about recent conduct would factor into whether an HRO would be granted. We conclude the referee legally erred when she imposed this extra statutory time limit. *See* Minn. Stat. § 609.748, subd. 1(a)(1) ("repeated incidents"). Therefore, because the referee misapplied the law at the hearing, and because the district court functionally adopted the referee's misapplication of the law when it denied Williams's petition for an HRO, the district court abused its discretion.

For these reasons, we reverse and remand this case to the district court. On remand, the district court shall conduct a new evidentiary hearing without regard to a time limitation, after which the district court shall re-address whether to grant Williams's petition for an HRO. Nothing in this opinion shall be construed as an expression of how the district court should decide this case on remand.

Reversed and remanded.