

*This opinion is nonprecedential except as provided by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
A24-0073**

Brooke Lea Simpson and OBO Minor Child,
Appellant,

vs.

Arturo Andrade,
Respondent.

**Filed December 16, 2024
Affirmed
Bjorkman, Judge**

Ramsey County District Court
File No. 62-HR-CV-23-1047

Brooke Simpson, New Brighton, Minnesota (pro se appellant)

Arturo Andrade, New Brighton, Minnesota (pro se respondent)

Considered and decided by Larson, Presiding Judge; Worke, Judge; and Bjorkman,
Judge.

NONPRECEDENTIAL OPINION

BJORKMAN, Judge

Appellant Brooke Lea Simpson challenges the district court’s dismissal of her petition for a harassment restraining order (HRO) against respondent Arturo Andrade.¹ Because the district court did not abuse its discretion in dismissing the petition, we affirm.

¹ The challenged order is captioned as an “Order Denying Harassment Restraining Order,” but concludes by stating, “IT IS HEREBY ORDERED that this matter is dismissed.”

FACTS

Simpson and Andrade live next to each other in a mobile home park. On September 19, 2023, Simpson petitioned for an HRO against Andrade, alleging that he harassed her by following her to a public event, “ram[ming]” her lattice fence and weed-whipping her plants, placing a motion-activated camera in his yard that records her movements on her own property, recording her with his phone, leaving his house to monitor her, and making noises that startle her dog whenever Simpson goes outside. The district court denied an ex parte HRO, and Simpson requested an evidentiary hearing.

Prior to the hearing, Simpson filed a motion to remove the assigned referee. On October 10, the motion was granted and the case was rescheduled for an evidentiary hearing before a district court judge. The continuance order directed the parties to file and exchange exhibits three business days before the hearing commenced and indicated that if a party failed to do so “your exhibits may not be admitted.”

During the two-day evidentiary hearing,² Simpson testified that the residents of eight homes, including Andrade’s, “tortur[e]” her whenever she leaves her home, causing her to constantly be in fear. She explained that Andrade stares at her from his property and sometimes flashes lights at her, uses a high-pressure sprayer to kill her plants and flood her garden, regularly throws tools around in his shed to scare her dog, and uses his daughter as

Simpson neither argues nor cites authority for the proposition that the erroneous miscaption is prejudicial. Accordingly, we ignore the incorrect caption. *See* Minn. R. Civ. P. 61 (requiring harmless error to be ignored).

² The evidentiary hearing took place on November 22 and December 13, 2023.

a “pawn in his sick, mental head game.” Simpson described an incident where Andrade yelled at her to “shut the f--k up” after her dog barked three times late at night. And she testified that Andrade and his family followed her to a public corgi³ meet-up event at a local sunflower field, which she advertised on Facebook and where she displayed artwork.

Andrade testified that Simpson is “obsessed with [his] family” and that it prevents him from enjoying his property. He testified that he tries to avoid her by not taking his children outside to play in their yard and watering his garden at dusk. Andrade explained that any noises coming from his tool shed were caused by him sorting out the tools he used to work on his house. He admitted to yelling at Simpson about her barking dog because she took her dog out between 10:00 p.m. and midnight and woke his baby. Finally, Andrade acknowledged he was at the sunflower field at the time of the corgi event but testified that he did not know that she would be there and that he saw her for the first time only as he was leaving the event.

On the first hearing day, Simpson offered 33 exhibits, consisting largely of security-camera videos recorded around her home, which the district court admitted and independently reviewed outside of the courtroom. On the second hearing day, Simpson offered exhibits 34 through 39, which the district court excluded because they were not timely filed. The district court also denied Simpson’s request to offer rebuttal testimony.

Following the hearing, the district court issued an order dismissing the HRO, reasoning that Simpson did not prove that Andrade harassed her.

³ The “minor child” referenced in the case caption is Simpson’s dog, a corgi identified as “Bill Simpson.”

Simpson appeals.

DECISION

Simpson argues that the district court abused its discretion (1) in its evidentiary rulings and (2) in dismissing her petition because the dismissal is based on clearly erroneous factual findings. We address each argument in turn.

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

A district court has “broad discretion” over evidentiary rulings. *Kroning v. State Farm Auto Ins. Co.*, 567 N.W.2d 42, 45-46 (Minn. 1997) (quotation omitted). We will not reverse an evidentiary ruling unless it is “based on an erroneous view of the law or is an abuse of that discretion.” *Aljubailah v. James*, 903 N.W.2d 638, 644 (Minn. App. 2017). The complaining party has the burden of demonstrating both abuse of discretion and resulting prejudice. *Kroning*, 567 N.W.2d at 46.

Simpson advances four arguments regarding her presentation of evidence and the district court’s evidentiary rulings. None of them persuade us to reverse.

First, Simpson asserts that, based on her experience in a prior HRO proceeding, she believed that she would only have 30 minutes to present her evidence; she did not “know until the hearing[] that [she] had [a] new judge[];” and she omitted evidence that she would have otherwise presented if she knew she had more time. The record defeats these assertions. At the initial hearing, the referee asked Simpson how much time she would need to present her evidence; Simpson responded that she would need “a half day.” Simpson’s attendance at the evidentiary hearing—the date and format (from remote to in-

person) of which changed after the case was reassigned—further demonstrates that she had adequate notice of the hearing and sufficient time to prepare for it.

Second, Simpson argues that the district court abused its discretion by excluding exhibits 34 through 39.⁴ This argument is unavailing. Simpson did not file these exhibits three days before the evidentiary hearing commenced, as required by the court order, and offers no explanation for failing to do so. Moreover, she has not demonstrated that exclusion of these exhibits prejudiced her. *Kroning*, 567 N.W.2d at 46. The excluded exhibits include three videos that depict an incident during which the parties and Andrade’s wife had a disagreement over watering plants on their respective properties. Simpson argues that the videos show that Andrade lied during his testimony. To the contrary, the videos are consistent with Andrade’s testimony, which the district court found credible. Accordingly, we discern no abuse of discretion or prejudice.

Third, Simpson contends that the district court’s decision to view the video exhibits outside of the courtroom resulted in “clear errors of fact” because she was unable to add context through her direct testimony. A district court has discretion to “exercise reasonable control over the mode and order of . . . presenting evidence” to avoid the “needless consumption of time.” Minn. R. Evid. 611(a). Here, the district court explained, “My

⁴ Simpson also identifies that the record is unclear as to whether exhibits 34 through 39 were considered by the district court. We agree with Simpson that there appears to have been an error in the preparation of the transcript of the first day of the evidentiary hearing. Notations added to that transcript reflect that exhibits 1 through 39 were “offered and received.” But review of the transcript of the second day of the evidentiary hearing and the order denying the HRO indicate that exhibits 34 through 39, although admitted as court exhibits, were not offered as evidence until the second day of the hearing and were not received by the district court.

concern is that I don't want to take up time watching all of the videos here in court because I want to make sure that I have time to hear from Mr. Andrade." The court then admitted the videos and gave Simpson the opportunity to describe them. This record convinces us that the district court acted well within its discretion when viewing the videos outside of the courtroom.

Simpson's final evidentiary challenge—that the district court abused its discretion by not allowing her to present rebuttal evidence—is no more convincing. The determination of what is "proper rebuttal evidence rests almost wholly in the discretion of the court." *Farmers Union Grain Terminal Ass'n v. Indus. Elec. Co.*, 365 N.W.2d 275, 277 (Minn. App. 1985), *rev. denied* (Minn. June 14, 1985). And the exclusion of cumulative evidence is "not so prejudicial to warrant reversal." *Molkenbur v. Hart*, 411 N.W.2d 249, 252 (Minn. App. 1987), *rev. denied* (Minn. Oct. 30, 1987). At the conclusion of the parties' testimony and submission of other evidence, the district court stated that it had an "appreciation of the allegations, the evidence, and the respective positions of the parties," did not think that "rebuttal would be helpful," and that it was "hearing things for the second and third time." Our careful review of the record reveals no abuse of discretion or prejudice occasioned by the exclusion of Simpson's rebuttal evidence.

II. The district court did not abuse its discretion by dismissing Simpson's HRO petition.

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) (2022). The statute defines "harassment" to include "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) (2022). This definition 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 review a district court’s decision whether to grant a petition for an HRO for abuse of discretion. *Kush v. Mathison*, 683 N.W.2d 841, 843 (Minn. App. 2004), *rev. denied* (Minn. Sept. 29, 2004). “A district court abuses its discretion by making findings of fact that are unsupported by the evidence, misapplying the law, or delivering a decision that is against logic and the facts on record.” *Wilson v. Wilson*, 11 N.W.3d 331, 339 (Minn. App. 2024) (quotation omitted), *petition for rev. filed* (Minn. Sept. 11, 2024). The district court’s factual findings pertaining to an HRO will be set aside only if they are clearly erroneous after giving due regard to the district court’s credibility determinations. *Kush*, 683 N.W.2d at 843-44.

Simpson argues that the district court erred by finding that (1) Andrade’s testimony was credible, (2) her testimony was not credible, and (3) the videos show Andrade “engaging in normal homeowner behavior.” And she contends that Andrade’s actions

constitute harassment.⁵ We are not persuaded that the district court erred in its factual determinations or legal analysis.

“Credibility determinations are the province of the trier of fact.” *Peterson v. Johnson*, 755 N.W.2d 758, 763 (Minn. App. 2008). The district court found Simpson was not credible, expressly stating that “[h]er observations of [Andrade’s] behavior and the conclusions that she draws from those observations are unreasonable and irrational.” In contrast, the court found that “the gist” of Andrade’s testimony was credible. Because the district court—having seen the live testimony—is in the best position to assess witness credibility, we will not disturb these findings. *Wilson*, 11 N.W.3d at 337.

Accepting the district court’s credibility findings, we turn to Simpson’s remaining arguments, which essentially challenge the district court’s determination that Andrade’s conduct does not meet the statutory definition of harassment. The district court considered the numerous acts Simpson pointed to as harassment, stating:

Simply because [Andrade] has his porch light on, or waters his lawn at night or on water ban days, or is in his yard at the same time as [Simpson] is in hers, or that he stopped his car in the street, or was upset that [Simpson’s] dog’s barking woke up his baby, or crossed over disputed property, or bumped into her garden lattice with his lawnmower, or is at a community event at the same time as [Simpson], does not constitute harassment.

⁵ Simpson also assigns error to: (1) the finding that she uses “motion-detecting security cameras” in her yard, and (2) the district court’s description of when Andrade first saw her at the corgi event at the sunflower field. A party seeking relief from a district court’s ruling must show both that the ruling is defective and that the ruling prejudiced them. *See* Minn. R. Civ. P. 61 (instructing courts to disregard harmless error); *Kallio v. Ford Motor Co.*, 407 N.W.2d 92, 98 (Minn. 1987) (stating “[a]lthough error may exist, unless the error is prejudicial, no grounds exist for reversal”). Because Simpson has failed to show that either finding prejudiced her, she is not entitled to relief.

Simpson cites no supporting caselaw and does not otherwise persuade us that what the district court appropriately characterized as “normal homeowner behavior,” are, instead, acts that are so intrusive and unwanted as to “have a substantial adverse effect . . . on the safety, security, or privacy of another.” Minn. Stat. § 609.748, subd. 1(a). In short, the record does not reflect that the district court abused its discretion by determining that there was no objectively unreasonable conduct by Andrade or an objectively reasonable belief by Simpson that she has been harassed. *See Dunham*, 708 N.W.2d at 567.

In sum, we discern no abuse of discretion in the district court’s evidentiary rulings or in its dismissal of Simpson’s petition for an HRO.

Affirmed.