

*This opinion is nonprecedential except as provided by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
A24-0285**

Corey Gregory Crowe and OBO Minor Children,
Respondent,

vs.

Lila Crowe,
Appellant.

**Filed November 12, 2024
Reversed
Connolly, Judge**

Nobles County District Court
File No. 53-CV-23-975

Corey G. Crowe, Adrian, Minnesota (pro se respondent)

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

Considered and decided by Frisch, Presiding Judge; Connolly, Judge; and Cochran,
Judge.

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

On appeal from the district court's grant of a harassment restraining order (HRO), appellant argues that the district court should not have granted the HRO because the record does not support a determination that her conduct was harassing. We agree and reverse.

FACTS

On October 10, 2023, respondent Corey Gregory Crowe filed a petition for an HRO on behalf of himself and his three minor children against his mother, appellant Lila Crowe.¹ Respondent alleged that, beginning in 2015, appellant engaged in harassing conduct by “show[ing] up to places we have moved without us even telling [her] where we have lived/moved.” Respondent also alleged that appellant made an uninvited visit to their house, claiming that he “received a notification on our security system and camera that [appellant] had shown up at our house and left a note.” Finally, respondent alleged that appellant has used social media to contact wife’s brother “to try and get a hold of us.”

The district court granted an ex parte HRO against appellant and in favor of respondent and his minor children. A hearing was then held on December 18, 2023, at which respondent and his wife testified to the alleged instances of harassment. Specifically, wife testified that there has “been 13 years of . . . drama” with appellant and her husband. According to wife, she warned appellant in 2021, that appellant “need[ed] to respect our wishes and understand that there are boundaries and we will be forced to take legal actions.”

Wife also testified about circumstances in October 2022, when appellant became “upset” after being told by wife that appellant could not visit her grandchildren because one of the children had fallen ill. Wife claimed that she told appellant “not to come because I didn’t want to see her” because “[a]ll I was going to be is get degraded and treated like I don’t know how to care for my kid.” Wife further testified that in September 2023, appellant

¹ Respondent’s wife (wife) also filed petitions for HROs against appellant and appellant’s husband. Those HROs are not relevant to this appeal.

contacted wife's brother on social media in an attempt to pass along a message to respondent that his grandfather was in hospice care. According to wife, appellant later went to their house on October 7, 2023, and "left a note on our door after she had already admitted to my brother knowing that she was not to be in contact with us." And wife claimed that, at the end of the school year in 2022, appellant "called the school . . . trying to get information" on the children. Finally, when asked by the district court if respondent had "anything in addition" to add to his wife's testimony, respondent replied, "That's it."

On cross-examination, wife acknowledged that she and respondent had not previously sought an HRO. And wife clarified that she and respondent share one phone, and that she was texting appellant "back and forth" when appellant became upset that she could not visit her grandchildren in October 2022, due to one of the children's illness.

Appellant testified that the last time she had any contact with respondent, or his wife, was October 2022, when she was told she could not visit her grandchildren. Appellant also testified that she knew where respondent and his wife lived because, on one occasion, she drove wife home at respondent's request. And appellant acknowledged that she texted wife's brother, and later left a note on respondent's door, regarding respondent's grandfather being in hospice care. According to appellant, the only reason she was trying to reach respondent was to "make sure [her] son . . . knew about his dying grandpa." Appellant claimed that she was contacted by law enforcement on October 9, 2023, after she left the note on respondent's door, and that she has had no contact with respondent or his wife since then.

On December 21, 2023, the district court granted respondent's HRO petition. In a standard HRO form with checked boxes, the district court found that appellant engaged in

harassment by making an uninvited visit to respondent's (1) "home after request of no contact was made," and (2) "children's school requesting information on the children after request of no contact." The district court also found that appellant:

Made harassing phone calls or sent harassing text messages to [respondent] as follows: [Respondent] reported to Law Enforcement the desire for no contact and that [appellant's] contact is harassing by demeaning [respondent's] parenting conduct. Use a third party to contact [respondent] after request of no contract was made.

The district court made no findings on the record.

Appellant now appeals the district court's grant of the HRO.²

DECISION

This court reviews a district court's decision 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). "A district court's findings of fact will not be set aside unless clearly erroneous, and due regard is given 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); *see also In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221-22 (Minn. 2021) (describing clear-error review of factual findings).

² Respondent did not file a brief and we ordered that the case shall be determined on the merits as provided in Minn. R. Civ. App. P. 142.03.

A district court may grant an HRO if it “finds at the hearing that there are reasonable grounds to believe that the respondent has engaged in harassment.” Minn. Stat. § 609.748, subd. 5(b)(3) (2022). “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.” *Id.*, subd. 1(a)(1) (2022). A determination of harassment under section 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 the harassing conduct.” *Dunham v. Roer*, 708 N.W.2d 552, 567 (Minn. App. 2006), *rev. denied* (Minn. Mar. 28, 2006). A single incident of words is insufficient to be considered harassment under the definition of harassment. See Minn. Stat. § 609.748, subd. 1(a)(1) (requiring “repeated incidents”).

Appellant argues that, because her conduct “was ‘civilized’ and not objectively unreasonable,” it does not constitute harassment under the statute and, therefore, the district court abused its discretion by granting the HRO. We agree. Objectively unreasonable conduct includes conduct that “goes beyond an acceptable expression of outrage and civilized conduct, and instead causes a substantial adverse effect on another’s safety, security, or privacy.” *Kush*, 683 N.W.2d at 846. “[I]nappropriate or argumentative statements alone cannot be considered harassment.” *Id.* at 844; *see also Witchell v. Witchell*, 606 N.W.2d 730, 732 (Minn. App. 2000) (stating that an ex-husband’s criticism of his ex-wife’s parenting decisions was not harassment).

Here, the alleged harassing conduct consists of (1) a phone call to the children’s school requesting information about appellant’s grandchildren; (2) using a third party to

request that respondent contact appellant; and (3) an uninvited visit to respondent's house to leave a note on the door informing respondent that his grandfather was in hospice care. Although this conduct occurred after a request for no contact was made, it does not go "beyond an acceptable expression of outrage and civilized conduct." See *Kush*, 683 N.W.2d at 846. Appellant never attempted to have face-to-face contact with respondent or his children. Rather, she was trying to obtain information about her grandchildren³ and pass along a message to her son that his grandfather was in hospice care.

Moreover, there is no indication that appellant's conduct was hostile, demeaning, threatening, confrontational, or even argumentative. See *Witchell*, 606 N.W.2d at 732 (reversing the grant of an HRO and concluding that "[a]lthough husband's statements are inappropriate and argumentative, we cannot say that they were intrusive or that they were intended to adversely affect the safety, security, or privacy of wife"). And to the extent that respondent claims that appellant harassed wife in text messages related to a date in October 2022, when appellant was scheduled to visit her grandchildren, the record reflects that wife texted appellant first, and the messages that followed constituted a conversation related to a child's illness as the reason appellant was informed that she could not visit her grandchildren. Therefore, because appellant's conduct was not "objectively unreasonable," it does not constitute harassment under section 609.748. See *Dunham*, 708 N.W.2d at 567.

³ We note that the district court found that appellant "[m]ade [a] visit to the children's school requesting information on the children." This finding is erroneous because the record reflects that appellant did not visit the school, but instead called the school on the telephone.

Further, as appellant points out, her actions do not constitute harassment because she “had no intent to harass [r]espondent.” Indeed, section 609.748 requires “objectively unreasonable conduct *or* intent on the part of the harasser.” *Dunham*, 708 N.W.2d at 567 (emphasis added); *see also Peterson v. Johnson*, 755 N.W.2d 758, 764 (Minn. App. 2008) (stating that to sustain an HRO petition, the petitioner must prove either “objectively unreasonable conduct *or* intent on the part of the harasser” (emphasis added)). The conjunction “or” signifies alternative paths for an actor to engage in harassment. *See Goldman v. Greenwood*, 748 N.W.2d 279, 283 (Minn. 2008) (stating that courts “normally interpret the conjunction ‘or’ as disjunctive rather than conjunctive”). As such, harassment may be found if the actor intended for his or her actions to have “a substantial adverse effect on the safety, security, or privacy of another,” or if the actions had that effect regardless of the actor’s intent. *See Minn. Stat. § 609.748, subd. 1(a)(1)*.

Intent to harass may be considered from a subjective standard “to the extent the court may determine the harasser’s intent.” *Kush*, 683 N.W.2d at 845. “Because intent is a state of mind, it is generally determined by inferences drawn from the person’s words or actions in light of all the surrounding circumstances.” *State v. Bock*, 490 N.W.2d 116, 120 (Minn. App. 1992), *rev. denied* (Minn. Aug. 27, 1992).

Here, the district court never specifically found that appellant intended to harass respondent. Rather, it merely checked the box on the form stating: “There are reasonable grounds to believe that [appellant] has engaged in harassment which has or is intended to have a substantial adverse effect on safety, security, or privacy of [respondent] or the minor children . . . of [respondent].” Moreover, there is no evidence in the record from which to

draw an inference that appellant intended to harass respondent. Instead, the record reflects that appellant contacted respondent's children's school "to get information" about the children. When told by a school employee that no information could be provided, appellant said that she "understood," and ended the conversation. And the other instances of alleged harassing conduct involve appellant attempting to contact her son to inform him that his grandfather was in hospice. Under these circumstances, there is no indication that appellant intended to engage in harassing behavior. Accordingly, we conclude that the district court abused its discretion by granting the HRO.

Reversed.