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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A25-0060**

Presbyterian Family Foundation,
On Behalf of Solveig C. Berg,
Respondent,

vs.

Robert Neil Norby,
Appellant.

**Filed August 25, 2025
Affirmed
Bjorkman, Judge**

Clay County District Court
File No. 14-CV-24-1989

Alexander J. Hertogs, Sieben & Cotter, PLLC, South St. Paul, Minnesota (for respondent)

Dan D. Plambeck, Stefanson Plambeck & Foss, PLLP, Moorhead, Minnesota (for appellant)

Considered and decided by Harris, Presiding Judge; Bjorkman, Judge; and Bratvold, Judge.

NONPRECEDENTIAL OPINION

BJORKMAN, Judge

Appellant challenges a harassment restraining order (HRO), arguing that the district court abused its discretion by (1) issuing the HRO against him based on unsupported findings of fact and legal error, and (2) denying his request for medical records. We affirm.

FACTS

Solveig C. Berg is an 89-year-old woman subject to emergency guardianship.¹ Berg resides at an assisted living and memory-care facility (facility) in Moorhead. She moved to the facility in 2021 with her late husband, who passed away in summer 2023. Berg is diagnosed with Alzheimer’s disease, depression, and high blood pressure; experiences pain throughout her body; and takes medication four times daily to manage these conditions. Berg resides in an apartment, but facility staff ensure that she receives her required medications and help her with her daily cares, including showering and dressing.

Shortly after her husband’s death, Berg began receiving visits from appellant Robert Neil Norby, who introduced himself to staff members as Berg’s “cousin.” After Norby entered Berg’s life, staff noticed that she became “more withdrawn” and “confused,” and did not leave her apartment. Berg began refusing to take her medication at Norby’s direction. Norby then discontinued the services of Berg’s regular pharmacy provider; canceled Berg’s appointments with her long-time medical providers; and discontinued Berg’s receipt of hygiene, cleaning, and meal services from facility staff. Norby took Berg to a new medical provider and began administering Berg’s medications and assisting with her daily cares.

Over time, staff noticed that Berg’s appearance became “rundown,” and her health significantly deteriorated. Her cognition declined to the point that she could no longer

¹ In 2022, Berg was subject to general guardianship following a finding of incapacity. In September 2023, Berg petitioned for and was granted a temporary substitute guardian. The temporary guardian’s appointment expired in December 2023.

speak; she was unable to stand, walk, or feed herself; she lost continence; and open sores appeared on her legs. Eventually facility staff became so concerned that they sent Berg to the hospital because her blood pressure was dangerously high.

In addition to taking over Berg’s health and personal-care routines, Norby expressed great interest in her finances. Norby repeatedly asked facility staff and Berg’s attorney-in-fact (attorney) how Berg paid her expenses, the location and status of her real estate interests, and information about her other assets. Eventually, facility staff became aware that Norby was “hid[ing]” Berg’s bills, which were going unpaid.

In May 2024, Norby took Berg to a meeting with her financial advisor and attempted to transfer \$415,000 of Berg’s funds to an account with a different bank. The financial advisor refused to do so out of concern for Berg and reported the incident to police. In the report, the financial advisor indicated that Norby—who introduced himself as Berg’s “new husband”—effectively “dragg[ed]” Berg into the bank by “pull[ing] [her] backwards” on her walker. And they noted that Berg did not appear to be “fully present mentally,” at one point asking who the “client” was that they were discussing and reacting with a “shocked expression” upon finding out it was her. The subsequent police investigation revealed that, unbeknownst to attorney or facility staff, Norby had married Berg on April 19, 2024.

On June 5, based on communications with facility staff and county social services, attorney petitioned for the appointment of respondent Presbyterian Family Foundation (guardian) as emergency guardian and conservator over Berg. The next day, attorney petitioned for an HRO against Norby on Berg’s behalf, alleging that Norby was harassing Berg, a vulnerable adult, by financially exploiting her and denying her medical care. The

district court granted an ex parte HRO. Norby opposed the HRO and requested an evidentiary hearing. Following guardian's appointment, an amended HRO petition was filed naming it as petitioner.

The evidentiary hearing took place on August 8, August 29, and September 5. Attorney, guardian, and two facility staff members—a registered nurse and the executive director—testified consistent with the facts described above. They also testified that, following the issuance of the ex parte HRO, Berg was returned to the medication regimen and care services she had received before Norby's intervention, yielding dramatic improvements. At the time of the hearing, Berg no longer refused her medications; had regained the ability to independently stand, walk, feed herself, and use the bathroom; and was able to identify individuals and engage in conversation. In short, Berg had returned to what the executive director described as her "baseline."

Berg testified that she wants to see Norby and that he is "[her] husband." She acknowledged that she had stopped taking some medications but could not "recall" canceling her pharmacy services. Berg testified that her health was "fine" while she was off her prescribed medications and that she was only hospitalized for "dehydration."

Norby testified that he had known Berg "most of [his] life." He explained that they had an on-and-off relationship for many years and that she had called him after her husband's death. He admitted marrying Berg but denied preventing her access to medical care, explaining that the changes he made were to save her money and better address her pain. He acknowledged setting up the appointment with Berg's financial advisor but contended that he did so at Berg's request.

Norby was the final witness called on the last day of the evidentiary hearing. During his testimony, his attorney orally moved the district court to compel the production of Berg’s medical records. Counsel asserted that the records were necessary to assess whether Norby interfered in Berg’s care. Guardian objected to the request as untimely. The district court agreed and denied the discovery request as “extremely late.” At the conclusion of the hearing, the district court granted the HRO against Norby, concluding that “[t]he preponderance of the evidence supports a finding of intrusive . . . acts and words that have had a substantial adverse effect on Ms. Berg.” The court reasoned that Berg was “being harmed by [Norby’s] interference with her medical care, and there were people who were having to look over her finances as a result of . . . Norby’s actions.”

Norby appeals.

DECISION

Norby argues that the district court abused its discretion by (1) granting the HRO and (2) denying his request for Berg’s medical records. We address each argument in turn.

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

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) (2024). Harassment is defined, in relevant part, as “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) (2024). 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 the issuance of 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 when it makes findings of fact unsupported by the evidence, misapplies the law, or renders a decision that is against logic and the facts in the record. *Wilson v. Wilson*, 11 N.W.3d 331, 339 (Minn. App. 2024), *rev. denied* (Minn. Dec. 17, 2024). We give “due regard” to the district court’s credibility determinations and will not set aside its factual findings unless they are clearly erroneous. *Peterson v. Johnson*, 755 N.W.2d 758, 761 (Minn. App. 2008) (quotation omitted). A finding of fact is clearly erroneous when it is “manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole.” *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021) (quotation omitted).

Norby contends that the district court abused its discretion by making clearly erroneous findings of fact and misapplying the law. Neither argument persuades us to reverse.

Findings of Fact

Norby first argues that two of the district court’s 15 factual findings are unsupported by the record: (1) that Norby discontinued the bathing, meal, and house-keeping services Berg enlisted, causing her to become “unkempt, run-down, and unclean to the point of developing sores on her legs”; and (2) that the facility “discovered that Ms. Berg’s bills

were being hidden in her apartment and were not being paid.” But these findings mirror the testimony of the facility staff members. Both staff members testified that when Norby stopped allowing them to help Berg with her daily cares, Berg began “look[ing] rundown,” was unclean, and displayed open sores on her legs. And the executive director explained that they were unable to help Berg pay her overdue medical expenses because the bills were being “kept in [her] apartment hidden from [them].” This record amply supports the district court’s challenged findings.

Norby next appears to challenge the district court’s credibility determinations and assessment of the evidence presented at the harassment hearing by offering several alternative interpretations of the evidence favorable to his position. But the district court—having had the opportunity to observe the live testimony—is best positioned to weigh evidence and assess witness credibility. *Kenney*, 963 N.W.2d at 221-23. That the evidence might support contrary inferences or findings of fact does not make a district court’s findings clearly erroneous. *Id.* at 223.

Legal Conclusions

Norby also challenges the district court’s conclusion that his conduct meets the statutory definition of harassment. He does not dispute that interference with an individual’s medical care or financial security *can* constitute harassment. But he contends that (1) his actions were not “objectively unreasonable” because he was responding to Berg’s “request for help”; and (2) Berg desired his assistance and did not believe that his conduct adversely affected her. We are not convinced for two reasons.

First, Norby provides no authority for the proposition that an intent to help defeats a finding that a person’s actions constitute harassment. Indeed, such a proposition is contrary to the statutory language. *See* Minn. Stat. § 609.748, subd. 1(a)(1) (defining “harassment” as “repeated incidents of intrusive or unwanted acts . . . that have a substantial adverse effect *or* are intended to have a substantial adverse effect” (emphasis added)); *Back v. State*, 902 N.W.2d 23, 32 (Minn. 2017) (stating that use of the disjunctive “or” demonstrates the legislature intended to require only one of the multiple grounds listed); *see also Dunham*, 708 N.W.2d at 567 (explaining that harassment requires “objectively unreasonable conduct *or* intent on the part of the harasser” (emphasis added)). Regardless of his intent, Norby’s conduct prevented Berg from accessing stabilizing medical treatment and personal cares critical to managing her chronic conditions. We see no error by the district court in concluding that this conduct is objectively unreasonable.

Second, review of the record reveals that the district court considered Berg’s expressed desire to see Norby but assigned it limited weight due to her dementia diagnosis, guardianship status, “confus[ion]” over her medical care, and apparent lack of attention at the hearing. The court also noted that Berg’s marriage to Norby is immaterial under the harassment statute. Minn. Stat. § 609.748, subd 1(a)(1) (stating that harassment can occur “regardless of the relationship between the actor and the intended target”). Moreover, the HRO petition against Norby was brought *on Berg’s behalf* by guardian. *See id.*, subd. 2(a) (2024) (“A person who is the victim of harassment *or the victim’s guardian* . . . may seek a restraining order from the district court . . .” (emphasis added)). Given the timing of

Berg's marked physical and cognitive decline, guardian had an objectively reasonable belief that Norby's conduct *had* a substantial adverse effect on Berg.

In sum, we discern no clear error in the district court's findings of fact or legal error in its conclusion that Norby engaged in objectively unreasonable conduct that had a substantial adverse effect on Berg's safety, security, or privacy. Accordingly, we conclude that the district court did not abuse its discretion by granting the HRO.

II. The district court did not abuse its discretion by denying Norby's late request for Berg's medical records.

On the last day of the evidentiary hearing, Norby orally moved the district court to compel disclosure of Berg's medical records. The district court denied the request as "extremely late." We will not disturb the denial of a motion to compel discovery absent an abuse of discretion, *Smith v. Kessen*, 996 N.W.2d 581, 590 (Minn. App. 2023), *rev. denied* (Minn. Jan. 31, 2024), which we do not discern here.

To persuade us otherwise, Norby argues that his motion was not "extremely late and no prejudice to the parties could result" from sharing Berg's records. But Norby could have requested the records during the month that lapsed between his request for an evidentiary hearing and when the hearing commenced. And he had another full month to do so while the hearing transpired between August 8 and September 5. On this record, we see no abuse of discretion by the district court in denying Norby's discovery request as untimely.

Affirmed.