

*This opinion is nonprecedential except as provided by  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  
A25-1792**

Christina Alexis Newland,  
Respondent,

vs.

Tory Michael Schaaf,  
Appellant.

**Filed June 29, 2026  
Affirmed  
Johnson, Judge**

Dakota County District Court  
File No. 19AV-CV-25-2473

Christina Alexis Newland, Rosemount, Minnesota (*pro se* respondent)

Maxwell Shek, Shek Law, L.L.C., Minneapolis, Minnesota (for appellant)

Considered and decided by Johnson, Presiding Judge; Bond, Judge; and Rasmusson,  
Judge.

**NONPRECEDENTIAL OPINION**

**JOHNSON, Judge**

Christina Alexis Newland petitioned the district court for a harassment restraining order (HRO) against Tory Michael Schaaf. The district court scheduled an evidentiary hearing, but Schaaf failed to appear. The district court granted Newland's petition and issued an HRO without receiving any testimony or exhibits into evidence during the evidentiary hearing. We conclude that the district court did not err because its findings of

fact are supported by allegations in Newland's verified petition, which may be treated as evidence. Therefore, we affirm.

## FACTS

In August 2025, Newland petitioned the district court for an HRO against Schaaf. According to the petition, the parties previously were married and have joint children. Newland alleged that, based on a prior court order, Schaaf is required to contact her only through Our Family Wizard, a web-based platform and mobile application designed to facilitate co-parenting. Nonetheless, Newland alleged, Schaaf sent her 80 e-mail messages and 109 text messages during a period of approximately six weeks. Newland also alleged that, in Schaaf's messages, he made disparaging comments about her and threatened to "take the children from" her. Newland attached to her petition ten pages of documents showing text messages and her e-mail in-box. Newland checked a box on the petition form to indicate that she would request a hearing if the district court did not issue a temporary HRO.

The district court declined to issue a temporary HRO on an *ex parte* basis on the ground that the petition did not allege an immediate and present danger of harassment. The district court scheduled an evidentiary hearing for a date two weeks in the future. Newland appeared for the evidentiary hearing. Schaaf did not appear. The district court called the case and stated that Schaaf "has failed to appear, and the court will issue an order on" Newland's petition. The transcript of the hearing is only half a page in length.

On the same day, the district court issued a five-page order in which it granted Newland's petition. Using a pre-printed form, the district court found that "there are

reasonable grounds to believe that Respondent has engaged in harassment” by sending harassing e-mail and text messages and by making threats to take the children away. The district court issued an HRO that prohibits Schaaf from contacting Newland (other than through Our Family Wizard) and from being near her residence and workplace for a period of two years.

The next day, Schaff filed a motion to modify the HRO. He stated that he was unable to attend the evidentiary hearing because he had a “surprise court appearance” in another case and that he contacted the court to request a continuance in this case after the hearing in this case had concluded. The district court scheduled a hearing on Schaaf’s motion for one month in the future. The hearing was rescheduled several times for various reasons. Schaaf filed a notice of appeal before the hearing occurred. In December 2025, the district court dismissed Schaaf’s motion because his appeal had divested the court of jurisdiction.

## **DECISION**

Schaaf argues that the district court erred by making findings of fact that are not supported by any evidence. Newland has not filed a responsive brief. Nonetheless, even in the absence of a responsive brief, it is this court’s duty to determine the case “on the merits.” Minn. R. Civ. App. P. 142.03.

### **A.**

A district court may issue an HRO to require a person “to cease or avoid the harassment of another person” or “to have no contact with another person” if the court finds “that there are reasonable grounds to believe that the respondent has engaged in

harassment.” Minn. Stat. § 609.748, subd. 5(a), (b)(3) (2024). For purposes of an HRO, the term “harassment” is defined by statute, in relevant part, to mean “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).

A harassment case is commenced by a petition, which “must allege facts sufficient to show . . . (1) the name of the alleged harassment victim; (2) the name of the respondent; and (3) that the respondent has engaged in harassment.” *Id.*, subd. 3(a). “The petition shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.” *Id.* “The court shall provide simplified forms . . . to help with the writing and filing of a petition . . . .” *Id.*

Upon the filing of a harassment petition, a district court must schedule a hearing if there is a timely request for a hearing. *Id.*, subd. 3. A district court “may issue a restraining order” if “the court finds at the hearing that there are reasonable grounds to believe that the respondent has engaged in harassment.” *Id.*, subd. 5(a), (b)(3).

Rule 52 of the rules of civil procedure, which is entitled “Findings by the Court,” provides, “Findings of fact, whether based on oral or documentary evidence, shall not be set aside unless clearly erroneous . . . .” Minn. R. Civ. P. 52.01. The supreme court has elaborated on rule 52.01 by stating that “findings are clearly erroneous when they are manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole.” *In re Civil Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021) (quotation omitted). The clear-error standard of review “applies across many

contexts,” *id.*, including harassment cases, *see, e.g., Wilson v. Wilson*, 11 N.W.3d 331, 337 (Minn. App. 2024) (citing *Kenney*, 963 N.W.2d at 221-23); *Kush v. Mathison*, 683 N.W.2d 841, 843-44 (Minn. App. 2004) (citing Minn. R. Civ. P. 52.01), *rev. denied* (Minn. Sept. 29, 2004), *cited in Peterson v. Johnson*, 755 N.W.2d 758, 761 (Minn. App. 2008).

## **B.**

Schaaf contends that the district court’s findings of fact “are not supported by evidence that was admitted at the hearing.” He asserts that “no exhibits were admitted into evidence at the hearing” and that “no testimony was taken at the hearing.” Schaaf acknowledges that Newland’s petition made factual allegations that correspond to the district court’s findings, but he contends that those allegations “were not . . . submitted into evidence, whether by testimony or otherwise.”

Schaaf’s contention ignores the fact that Newland filed a verified petition. Newland used a court-provided form that included the following language immediately above the signature line: “I declare under penalty of perjury that everything that I have stated in this document is true and correct. Minn. Stat. § 358.116.” A pleading with a signature “immediately below” such language may be deemed a verified pleading, “without administration of an oath under section 358.07.” Minn. Stat. § 358.116 (2024); *see also* Minn. Stat. § 358.07(10) (2024) (prescribing oath for affiants). A pleading is properly verified if the party signing it states that he or she “knows the contents of the pleading, that the averments thereof are true of [party’s] own knowledge, save as to such as are therein stated on information and belief, and that as to those the [party] believes them to be true.” Minn. Stat. § 544.15(1) (2024).

“Verified pleadings may be considered as affidavits tending to prove or disprove the claims of the respective parties.” *Independent Sch. Dist. No. 35 v. Engelstad*, 144 N.W.2d 245, 248 (Minn. 1966); *see also Behrens v. City of Minneapolis*, 271 N.W. 814, 816 (Minn. 1937); *Metropolitan Transp. Network, Inc. v. Collaborative Student Transp., LLC*, 6 N.W.3d 771, 780-81 (Minn. App. 2024), *rev. denied* (Minn. July 23, 2024). In a recent nonprecedential opinion, this court reasoned that a verified petition with language complying with section 544.15 “had the evidentiary force of an affidavit.” *Stephens v. Goodwin*, No. A22-1347, 2023 WL 5185872, at \*7 (Minn. App. Aug. 14, 2023) (citing *Engelstad*, 144 N.W.2d at 248), *rev. denied* (Minn. Nov. 28, 2023); *see also* Minn. R. Civ. App. P. 136.01, subd. 1(c) (providing that nonprecedential opinions are “not binding authority” but “may be cited as persuasive authority”). A district court has discretion to treat an affidavit as admissible evidence in an evidentiary hearing in a harassment case. *See Ness v. Wolfe*, No. A20-0100, 2020 WL 6391144, at \*3 (Minn. App. Nov. 2, 2020) (reasoning that “district court may treat an affidavit and petition for an [order for protection] as evidence at a hearing”) (citing *Andrasko v. Andrasko*, 443 N.W.2d 228, 230 (Minn. App. 1989), and *Hall v. Hall*, 408 N.W.2d 626, 628 (Minn. App. 1987), *rev. denied* (Minn. Aug. 19, 1987)).<sup>1</sup>

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<sup>1</sup>We acknowledge that offering an affidavit into evidence during an evidentiary hearing may give rise to a hearsay objection. *See Olson ex rel. A.C.O. v. Olson*, 892 N.W.2d 837, 840, 842 (Minn. App. 2017) (concluding that district court erred by admitting and relying on hearsay evidence in OFP case). But Schaaf does not argue that the district court erred by admitting hearsay evidence, nor could he because he did not make such an objection at the evidentiary hearing because he was not present. Schaaf argues only that the district court erred by making findings of fact after an evidentiary hearing at which “no evidence was admitted.”

Newland filed a verified petition, which included allegations that conform to the district court's findings of fact. Thus, the district court did not err by issuing the HRO because its findings of fact are "reasonably supported by the evidence." *See Kenney*, 963 N.W.2d at 221.

**Affirmed.**