

*This opinion is nonprecedential except as provided by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
A26-0393**

Jawara M Defreitas,
Respondent,

vs.

Theresa Mabel Mallak,
Appellant.

**Filed October 5, 2026
Affirmed
Schmidt, Judge**

Anoka County District Court
File No. 02-CV-25-8252

Jawara M. Defreitas, Ramsey, Minnesota (pro se respondent)

Alexander H. De Marco, St. Paul, Minnesota (for appellant)

Considered and decided by Ede, Presiding Judge; Bratvold, Judge; and Schmidt,
Judge.

NONPRECEDENTIAL OPINION

SCHMIDT, Judge

Appellant challenges the district court's grant of a harassment restraining order (HRO). Because the district court's decision was supported by sufficient evidence, the district court did not misapply the harassment statute, and the district court's decision was not based on clearly erroneous findings of fact, we affirm.

FACTS

Respondent Jawara M Defreitas petitioned the district court for an HRO against his neighbor, appellant Theresa Mabel Mallak. The district court issued an ex parte HRO and scheduled an evidentiary hearing. At the hearing, the district court received nine exhibits into evidence, and several witnesses testified, including Defreitas, Defreitas's wife, Mallak, Mallak's wife, Mallak's 15-year-old son, and a neighbor.

Defreitas testified about numerous incidents with Mallak playing loud music and singing karaoke after Defreitas had requested that she stop doing so after 10:00 p.m., the effect of the loud music on Defreitas, his wife, and their infant son, and his multiple contacts with law enforcement. Defreitas testified that he tried speaking with Mallak and the conversation did not go well. After the conversation, Mallak got on her karaoke machine and shouted, "I hate everything about you." On another occasion, Mallak had a gathering and played music so loudly that Defreitas could feel the bass inside his house. Defreitas testified that Mallak screamed at him, "[a]re you going to call the police again? Oh, we're being too loud[.]" On a different night, Defreitas testified that Mallak shouted "f-ck you" from across the street. Finally, Defreitas testified about an incident, after the issuance of the ex parte HRO, in which Mallak shouted at Defreitas while he shoveled his driveway after a snowstorm.

Mallak testified and disputed some of the incidents and did not address other incidents. Mallak testified that Defreitas never approached her personally about the music, but that she was aware of the request to turn down the volume at night. Mallak testified that a police officer asked her to turn down the music and that she did so.

After the hearing, the district court issued the HRO. The district court found that Mallak engaged in repeated incidents of harassment that were intended to have a substantial adverse effect on Defreitas's safety, security, or privacy. The district court also found that Mallak violated the ex parte HRO by screaming at Defreitas.

Mallak appeals.

DECISION

Mallak challenges the district court's issuance of an HRO, which we review for an abuse of discretion. *Wilson v. Wilson*, 11 N.W.3d 331, 338 (Minn. App. 2024), *rev. denied* (Minn. Dec. 17, 2024). "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." *Id.* at 339 (quotations omitted). We review a district court's findings of fact for clear error and review legal questions de novo. *Rasmussen v. Two Harbors Fish Co.*, 832 N.W.2d 790, 797 (Minn. 2013).

A district court may grant an HRO if, in part, the court finds "that there are reasonable grounds to believe that the respondent has engaged in harassment." Minn. Stat. § 609.748, subd. 5(b)(3) (2024). 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)(1) (2024). Harassment is conduct that "goes beyond an acceptable expression of outrage and civilized conduct." *Kush v. Mathison*, 683 N.W.2d 841, 846 (Minn. App. 2004), *rev. denied* (Minn. Sep. 29, 2004). A party seeking an HRO must show

(1) “objectively unreasonable conduct or intent on the part of the harasser” and (2) an objectively reasonable belief by the object of the harassing conduct that he or she was being “subject[ed] to harassing conduct.” *Dunham v. Roer*, 708 N.W.2d 552, 567 (Minn. App. 2006), *rev. denied* (Minn. Mar. 28, 2006).

Mallak raises three issues to contend the district court abused its discretion by granting the HRO: (1) the evidence was insufficient to support a finding that Mallak’s conduct had a substantial adverse effect on Defreitas’s safety, security, or privacy; (2) Defreitas’s allegations, even if true, do not constitute harassment; and (3) the court based its decision on clearly erroneous findings of fact. We address each argument in turn.

I. The evidence supports the district court’s finding that Mallak’s conduct had a substantial adverse effect on Defreitas’s safety, security, or privacy.

Mallak asserts that there is no evidence that her actions had a substantial adverse effect on Defreitas’s safety, security, or privacy. We disagree.

Defreitas’s testimony constitutes evidence. *See Black’s Law Dictionary* 696 (12th ed. 2024) (defining evidence as including testimony). Defreitas testified about the substantial adverse effect that Mallak’s conduct had on his privacy and security. Defreitas’s testimony was also corroborated by his numerous calls to law enforcement. Moreover, the district court found Defreitas’s testimony to be credible and found Mallak’s testimony to be not credible. We will not disturb those credibility determinations on appeal. *Kush*, 683 N.W.2d at 843-44. Thus, we conclude that the evidence from Defreitas’s testimony supports the district court’s findings about the substantial adverse effect on Defreitas.

II. The district court did not err by determining Mallak’s conduct constituted harassment.

Mallak next argues that the district court abused its discretion in granting the HRO because it failed to determine that Mallak’s conduct was objectively unreasonable, which is essential before finding that harassment occurred. We are not persuaded.

Mallak is correct that the district court did not expressly find that her conduct was objectively unreasonable. But in certain circumstances, we can infer a missing finding when the district court’s conclusions support doing so. *See State v. Kvam*, 336 N.W.2d 525, 528 (Minn. 1983) (holding that a missing finding can be inferred on appeal from the district court’s conclusions).¹ The record, here, supports a conclusion that the district court implicitly determined that Mallak had engaged in objectively unreasonable conduct. Defreitas’s testimony detailed Mallak’s repeated conduct with the loud music and the adverse impact that the conduct had on Defreitas, his wife, and their child. Defreitas’s testimony was corroborated by the calls to law enforcement. The district court found Defreitas to be credible and that Mallak was not credible in her explanation of the events, a finding which we cannot disturb on appeal. *Kush*, 683 N.W.2d at 843-44.

¹ We have done so in previous nonprecedential opinions affirming the issuance of an HRO. *See, e.g., Rasmusson v. Gielen*, No. A25-1558, 2026 WL 1382126, at *3 (Minn. App. May 18, 2026) (“[W]hile the court did not explicitly state that the conduct was unreasonable, the context of the order obviously considered this conduct objectively unreasonable.”); *Carter-Wyman v. Wyman*, No. A04-1042, 2005 WL 894701, at *3 (Minn. App. Apr. 19, 2005) (“The district court could have specified the aspects of those e-mails, letters, and voicemails that it found to be ‘harassing conduct,’ but because the district court concluded that an HRO was appropriate, we can infer that it found respondent’s testimony to be credible and believed her version of the events.”). We cite these cases for their persuasive value. *See* Minn. R. Civ. App. P. 136.01, subd. 1(c).

Mallak’s argument on appeal focuses on individual incidents and essentially asks us to reweigh the evidence on appeal. This we will not do. *See In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221-22 (Minn. 2021) (stating that we cannot reweigh evidence on appeal). In addition, we do not review each incident in isolation. Instead, our review requires us to analyze the record as a whole and in the light most favorable to the district court’s findings. *See Kush*, 683 N.W.2d at 843-44. The district court properly considered the totality of Mallak’s conduct, rather than addressing each individual incident like Mallak does on appeal. We discern no abuse of discretion in the district court’s decision to issue an HRO in these circumstances.

III. The district court’s findings were not clearly erroneous.

Mallak challenges two findings as clearly erroneous.² A finding is clearly erroneous if it is “manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole.” *Kenney*, 963 N.W.2d at 221. In our clear-error review, we must view the evidence in the light most favorable to the findings and cannot reweigh the evidence or reconcile conflicting evidence. *Id.* at 221-22.

The first finding that Mallak challenges is that she “was served with a signed Ex Parte Harassment Restraining Order dated November 13, 2025, and proceeded to violate the order by playing music in a loud manner after 10:00 p.m. and until 4:00 a.m.” We agree with Mallak that this finding of fact was clearly erroneous because the ex parte HRO had no prohibition on Mallak playing music.

² Mallak frames this argument as identifying “low hanging fruit” that must be addressed on appeal. We construe this argument as challenging certain findings as clearly erroneous.

We conclude, however, that this error was harmless because other substantial evidence supports the district court's decision to issue the HRO. *See Hanka v. Pogatchnik*, 276 N.W.2d 633, 636 (Minn. 1979) (explaining that a clearly erroneous finding does not require relief on appeal when other independent findings of fact, which are decisive of the case, are supported by the record); *see also* Minn. R. Civ. P. 61 (requiring courts to ignore harmless error). As discussed, there is sufficient evidence in the record to support the district court's decision to issue the HRO in these circumstances.

Mallak also challenges the finding that she violated the ex parte HRO by screaming at Defreitas while he was shoveling, contending that the record is unclear as to whether the comment was directed at Defreitas or was merely about him. We are not convinced.

The district court found that the comment was directed at Defreitas. The district court also expressly found Defreitas to be credible and found Mallak to be not credible. To rule in Mallak's favor, we would need to disregard these credibility determinations and reweigh the evidence on appeal. But these are two things we cannot do. *Kush*, 683 N.W.2d at 843-44; *Kenney*, 963 N.W.2d at 221-22. Viewing the evidence in the light most favorable to the finding, we discern no clear error in the district court's finding of fact.

Affirmed.