

STATE OF MINNESOTA
IN COURT OF APPEALS
A23-1346



Hanna Ladin Voss,

Respondent,

vs.

Marsha June Voss,

Appellant.

ORDER OPINION

Goodhue County District Court
File No. 25-CV-23-1086

Considered and decided by Smith, Tracy M., Presiding Judge; Connolly, Judge; and Bratvold, Judge.

BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND BECAUSE:

1. On June 8, 2021, respondent Hanna Voss, born on June 6, 1995, obtained a harassment restraining order (HRO) against her mother, appellant Marsha Voss, born on July 25, 1959, having asserted that appellant's unsolicited monitoring, visits, phone calls, and text messages were harassment.
2. Appellant then made no contact with respondent until June 6, 2023, when she sent respondent a "[H]appy 28th Birthday" text message, which respondent did not receive.
3. When the HRO expired on June 8, 2023, respondent petitioned for another HRO against appellant, asserting that appellant's harassing behavior had "only stopped

with [the] previous HRO.” The district court issued an ex parte HRO, and appellant requested a hearing on the petition.

4. Testimony at the hearing supported the district court’s two oral findings: first, prior to the 2021 HRO, appellant had harassed respondent, and second, appellant had sent respondent a birthday text that arguably violated the first HRO.

5. In July 2023, after the hearing, the district court issued a second HRO with an order that has check marks indicating that appellant “followed, monitored, or pursued [respondent] as follows . . . see petition [for] prior [HRO]” and “made uninvited visits to [respondent] as follows . . . see petition [for] prior [HRO].” The order provided no information about incidents of harassment after the first HRO was issued.

6. Harassment includes “repeated incidents of intrusive or unwanted acts, words, or gestures that have a substantial adverse effect . . . on the safety, security, or privacy of another, regardless of the relationship between the actor and the intended target.” Minn. Stat. § 609.748, subd. 1(a)(1) (2022). A district court may issue a harassment restraining order if it finds “reasonable grounds to believe that the respondent has engaged in harassment.” Minn. Stat. § 609.748, subd. 5(b)(3) (2022).

7. The issuing of an HRO is reviewed for an abuse of discretion. *Roer v. Dunham*, 682 N.W.2d 179, 182 (Minn. App. 2004). A subsequent HRO must be based on “recent events, not on the events on which the initial order was based.” *Id.* “[T]o support a finding of harassment, ‘repeated incidents of intrusive or unwanted acts, words, or gestures’ are required. Minn. Stat. § 609.748, subd. 1(a)(1) (emphasis added).” *Id.* *Roer*

concluded that “[b]ecause the district court identified only one incident of harassment, the findings are insufficient to support the restraining order.” *Id.*

8. Here, the district court’s oral finding that appellant had harassed respondent prior to the 2021 HRO concerned only the events on which the first HRO was based, and the finding that appellant had sent a three-word happy-birthday text that respondent did not receive concerned only a single incident that could have been harassment. Under *Roer*, this was not a sufficient basis for issuing another HRO.

9. Moreover, Minn. Stat. § 609.748, subd. 5(b)(3) “requires a court to find that there are reasonable, rather than merely subjective, grounds to believe that the accused engaged in harassment.” *Dunham v. Roer*, 708 N.W.2d 552, 567 (Minn. App. 2006). A three-word happy-birthday text is not a reasonable ground to believe that the sender engaged in harassment.

10. The district court issued the second HRO without regard to the need for more than one incident of harassing activity as a basis for finding harassment. *See Roer*, 682 N.W.2d at 182. This was an erroneous view of the law.

11. An abuse of discretion occurs when the district court’s decision “is based on an erroneous view of the law” *State v. Hallmark*, 927 N.W.2d 281, 291 (Minn. 2019) (quotation omitted). The issuing of the July 2023 HRO was an abuse of discretion.


IT IS HEREBY ORDERED:

1. The district court’s order is reversed.

2. Pursuant to Minn. R. Civ. App. P. 136.01, subd. 1(c), this order opinion is nonprecedential, except as law of the case, res judicata, or collateral estoppel.

Dated: 4/4/24

BY THE COURT



Judge Francis J. Connolly