

*This opinion is nonprecedential except as provided by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
A24-0614**

In the Matter of:

Beth Ostergaard Stillwell on Behalf of Minor Child, petitioner,
Respondent,

vs.

Harry Alan Stillwell,
Appellant.

**Filed March 24, 2025
Affirmed
Smith, Tracy M., Judge**

Hennepin County District Court
File No. 27-DA-FA-22-7050

Jill A. Brisbois, The JAB Firm, Minneapolis, Minnesota (for respondent)

Shantal M. Pai, Fredrikson & Byron, P.A., Minneapolis, Minnesota (for appellant)

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

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

Appellant Harry Alan Stillwell challenges one of the restrictions in the district court's order for protection (OFP) in favor of respondent Beth Ostergaard Stillwell on behalf of their minor child. Appellant argues that the district court abused its discretion by imposing a restriction that prevents him from traveling within a quarter mile of certain

sections of two county roads in the child's community. Because the district court may grant a geographical restriction when necessary to protect a family member and because the record supports implicit findings that the geographical restriction is necessary to protect the child, we affirm.

FACTS

In December 2022, respondent filed a petition on behalf of the parties' minor child, seeking an ex parte OFP against appellant pursuant to the Minnesota Domestic Abuse Act. *See* Minn. Stat. § 518B.01 (2024). At that time, the parties were divorced and the child was 15 years old. Respondent alleged in the petition that the child had reported in April 2021 that, when she was 10 or 11 years old, appellant had showered with and inappropriately touched her multiple times. The petition states that, following a forensic interview of the child, appellant was criminally charged and a domestic-abuse no-contact order (DANCO) was issued. The petition also states that, in December 2022, the criminal case was dismissed because the child was not mentally or emotionally ready to testify and, as a result, the DANCO was vacated. In the petition, respondent alleged that, earlier that December, appellant had begun intentionally stalking the child and that seeing appellant in public was "having a significant impact on [the child's] mental and emotional health and causing her to fear immediate bodily harm from [appellant]." As part of the petition, respondent requested that appellant be restricted from a one-mile radius surrounding the child's home.

The district court denied respondent's request for ex parte relief, determining that appellant was entitled to a hearing on the allegations made against him and whether his

recent actions inflicted a “fear of imminent physical harm” that would constitute “domestic abuse.” *See* Minn. Stat. § 518B.01, subd. 2(a) (defining “domestic abuse”). Prior to the evidentiary hearing, based on the child’s continued sightings of appellant, respondent again moved for ex parte relief, alleging that seeing appellant made the child feel unsafe and negatively affected her mental health. The district court denied respondent’s request for ex parte relief, determining that respondent had not established that an emergency situation existed.

Respondent then moved to amend her pleadings, requesting, in relevant part, that appellant be restricted from a four-mile radius surrounding the child’s home. Both parties were living in the same community,¹ and it is undisputed that, because of the proximity between the child’s and appellant’s residences, a four-mile restriction would require appellant to move from his home. The district court did not rule on respondent’s motion.

An evidentiary hearing was held over two days between September and November 2023. The day after the first day of the hearing, the district court filed an emergency ex parte OFP based on respondent’s testimony that the child’s attitude would change dramatically after seeing appellant in public and based on a video of the child’s forensic interview, which was entered into evidence at the hearing, demonstrating that the child “is afraid that [appellant] will physically and emotionally abuse her.” The order restricted appellant from traveling within the greater of two city blocks or a one-quarter-mile radius of the child’s residence. The district court made the order effective pending the remainder

¹ In their filings in this court, neither party has indicated that this situation has changed.

of the evidentiary hearing. As a result of the restriction surrounding the child's residence, appellant was unable to travel on a small section of the county road nearest to the child's home.

During the second day of the hearing, appellant testified on direct examination. After a lunch recess, appellant's counsel informed the district court that,

while [appellant] disagrees with the allegations made in the petition, he is agreeable to allowing entry of an Order for Protection without findings being made of domestic abuse. He simply requests that with regard to the quarter-mile restriction, he be permitted to travel on [the county road nearest to the child's residence] as to go about his personal and business affairs.

Respondent objected to appellant's request, stating that she wanted the restriction to cover a four-mile radius around the child's home or, if the court was unwilling to grant that restriction, that appellant be restricted from entering certain areas where the child needs to travel for her daily activities, including sections of two county roads in the parties' community.

At appellant's request, the district court accepted further testimony about the scope of the restriction. Appellant testified that the road restriction desired by respondent posed "[e]normous issues" because it would impede his ability to conduct business in his community and engage in his regular personal activities, such as visiting his usual banks, grocery store, haircutter, church, and locations where he spends time with his partner and her family. Respondent also testified regarding the restriction, reiterating that seeing appellant has a dramatic effect on the child and explaining that she was requesting a greater

geographical restriction so that the child could leave her home and go about her daily activities without fear.

At the end of the hearing, the district court stated that, based on appellant's agreement, it would issue an OFP but it would not rule on the appropriate restriction at that time.

In February 2024, the district court granted respondent's petition for an OFP. In its order, the district court noted that appellant agreed to the issuance of an OFP without findings and, as a result, "the Order [would] be enforced as if there was an admission or finding of domestic abuse." Then, in relevant part, the order restricted appellant from being within the greater of two city blocks or one-quarter mile from the child's residence and from traveling on or within two city blocks or one-quarter mile from certain stretches of two county roads in the area.

This appeal follows.

DECISION

Appellant argues that the district court abused its discretion by imposing the restriction around two stretches of county roads in the parties' community. He contends that the restriction exceeds the scope of relief permitted by Minnesota Statutes section 518B.01, subdivision 6(a)(3), which limits a restriction to "a reasonable area surrounding the dwelling or residence." Appellant also argues that the restriction is not justified under section 518B.01, subdivision 6(a)(13), which permits "other relief as [the district court] deems necessary for the protection of [the family member]," because the district court did not find that the relief was necessary and the record does not support such

a finding. Respondent counters that the restriction was a proper exercise of discretion under either paragraph (3) or paragraph (13) of subdivision 6(a). Because it is dispositive, we focus our analysis on whether the district court properly imposed the restriction as necessary to protect the child under paragraph (13).

Appellate courts “review the decision to grant an OFP for an abuse of discretion. A district court abuses its discretion when its decision is based on an erroneous view of the law or is against logic and the facts in the record.” *Thompson v. Schrimsher*, 906 N.W.2d 495, 500 (Minn. 2018) (quotation and citation omitted).

Appellant first argues that the restriction cannot be affirmed under paragraph (13) because, in its order, the district court did not reference paragraph (13) and did not make a finding that the restriction was “necessary” under that paragraph. The district court imposed multiple restrictions in its order. In doing so, it did not include citation to any of the numbered paragraphs in subdivision 6(a). Some of the restrictions that the district court imposed are specifically authorized by paragraphs other than paragraph (13). Other restrictions—including the county-roads restriction challenged here and a restriction around a high school and a park and its associated baseball fields—are not specifically authorized by paragraphs other than paragraph (13). The fact that the district court did not cite the specific paragraph authorizing the imposed restrictions does not mean that the district court did not find the restrictions to be warranted. As the district court informed the parties during the evidentiary hearing, it is familiar with the statute. We conclude that, in imposing the roads restriction, the district court implicitly ruled that the restriction was “other relief” that is “necessary for the protection of” the child under paragraph (13).

Appellant argues next that, even if the district court made such a finding, the record does not support it. He argues that the record establishes no connection between the alleged sexual abuse of the child and appellant's travel on the roads; that, regarding the child's sightings of him in the area, the record "does not show that [he] took any action that poses a danger to [the child]"; that the restriction unduly burdens his ability to work and live in his community; and that the restriction is more restrictive than necessary.

As an initial matter, we note that, while appellant stated that he disagreed with the allegations made against him, he agreed to the entry of an OFP and did not challenge the basis on which the OFP was sought. That basis included allegations of "sexual and emotional abuse" as well as recent incidents of stalking that inflicted fear of imminent physical harm. To the extent that appellant's arguments are founded on his disagreement with the basis for the OFP, his arguments are undermined by his tacit consent to the OFP's underlying basis.

As for whether the record is adequate to support the challenged restriction, we conclude that it is. Respondent testified to the child's exhibiting severe emotional distress and fear upon seeing appellant. Respondent asserted, and appellant did not dispute, that the child's day-to-day life requires her to travel along the restricted routes. Given that, as a minor, the child cannot independently move her life away from the area, the district court's decision to restrict appellant from using stretches of two county roads that the child must frequent to live her life is not contrary to "logic and the facts in the record." *Id.* Accordingly, the district court did not abuse its discretion in finding that a restriction

around these roads is necessary to prevent the child from seeing appellant and, in turn, to protect her from experiencing fear of imminent physical harm. *See id.*

Because the record supports that the child frequents the restricted roads, that she has repeatedly seen appellant in that area, and that seeing appellant causes her fear of imminent physical harm, the district court did not abuse its discretion by imposing a restriction prohibiting appellant's presence along two stretches of county roads in the child's community.

Affirmed.