

*This opinion is nonprecedential except as provided by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
A24-1364**

Lisa Marie Parkos,
Respondent,

vs.

David Andrew Sandbeck,
Appellant.

**Filed April 21, 2025
Affirmed
Connolly, Judge**

Ramsey County District Court
File No. 62-HR-CV-24-540

Samuel J. Edmunds, Sieben Edmunds Miller PLLC, Eagan, Minnesota (for respondent)

Joseph G. Vaccaro, The Law Office of Joseph G. Vaccaro, PLLC, St. Paul, Minnesota (for appellant)

Considered and decided by Wheelock, Presiding Judge; Frisch, Chief Judge; and Connolly, Judge.

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

On appeal from the district court's grant of a harassment restraining order (HRO), appellant argues that his conduct, as found by the district court, does not constitute harassment and that the HRO is based on protected speech. We affirm.

FACTS

In May 2024, respondent Lisa Marie Parkos filed a petition for an HRO against her sister's son, appellant David Andrew Sandbeck. Following a trial at which both appellant and respondent testified, the district court found:

1. [Appellant] used Facebook to publicly criticize [respondent's] morality, property, and involvement in her mother's estate finances as power of attorney.
2. [Respondent] was not tagged in the Facebook posts because [respondent] blocked [appellant] on Facebook.
3. [Appellant] tagged other family members, her business and her small town to the Facebook posts in question.
4. [Appellant] agrees that he post[ed] pictures on Facebook of [respondent] with her face covered with demonic faces.
5. At times [appellant] admits to referring to [respondent] publicly on Facebook by using terms such as "POA" or "people with financial powers."
6. Additionally, [appellant] publicly posted songs on Facebook that were pointed to [respondent]. [Appellant] admits to posting these songs with [respondent] in the "back of his mind."
7. [Appellant] posted publicly on Facebook identifiable information about [respondent's] real estate to criticize her finances.
8. [Appellant] admits to posting publicly on Facebook about the June 13, 2024 hearing with the Court as being a "malicious prosecution."
9. The Court finds that the intention of the repeated posts over a month was to intimidate, embarrass, or harm the reputation of [respondent].

The district court also determined that the "harassment has or is intended to have a substantial adverse effect on [respondent's] safety, security, or privacy." Thus, the district court granted respondent's request for an HRO. This appeal follows.

DECISION

I.

Appellant challenges the district court's order granting an HRO in favor of respondent. This court reviews a district court's grant of an HRO under an abuse-of-discretion standard. *Kush v. Mathison*, 683 N.W.2d 841, 843 (Minn. App. 2004), *rev. denied* (Minn. Sept. 29, 2004). "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." *Wilson v. Wilson*, 11 N.W.3d 331, 339 (Minn. App. 2024) (quotation omitted), *rev. denied* (Minn. Dec. 17, 2024). "A district court's findings of fact will not be set aside unless clearly erroneous, and due regard is given to the district court's opportunity to judge the credibility of witnesses." *Kush*, 683 N.W.2d at 843-44. But the district court's application of the law is reviewed de novo. *Harris ex rel. Banks v. Gellerman*, 954 N.W.2d 604, 607 (Minn. App. 2021).

A district court may order an HRO if "the court finds at the hearing that there are reasonable grounds to believe that the respondent has engaged in harassment." Minn. Stat. § 609.748, subd. 5(b)(3) (2024). Harassment includes "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) (2024). A determination of harassment under section 609.748 "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 the harassing conduct." *Dunham v. Roer*, 708 N.W.2d 552, 567 (Minn. App. 2006), *rev. denied* (Minn. Mar. 28, 2006).

Objectively unreasonable conduct includes conduct that “goes beyond an acceptable expression of outrage and civilized conduct and instead causes a substantial adverse effect on another’s safety, security, or privacy.” *Kush*, 683 N.W.2d at 846.

Appellant argues that his conduct, as found by the district court, is “not legally harassment.” To support his position, appellant cites *Witchell v. Witchell*, in which the ex-wife alleged that statements her ex-husband made in the parties’ visitation notebook constituted harassment. 606 N.W.2d 730, 731 (Minn. App. 2000). This court disagreed, stating that, “[w]hen [ex]-husband’s statements from the visitation notebook are read in context, it is apparent that [ex]-husband was either responding to written comments that wife had previously made in the visitation notebook or was addressing his concerns regarding visitation and the upbringing of the children.” *Id.* at 732. This court concluded that, “[a]lthough [ex]-husband’s statements are inappropriate and argumentative, we cannot say that they were intrusive or that they were intended to adversely affect the safety, security, or privacy of [ex]-wife.” *Id.*

This case is distinguishable from *Witchell* because, unlike ex-husband in that case, appellant did more than criticize respondent’s behavior. Rather, appellant’s conduct, as found by the district court, consisted of posting pictures on social media of respondent with “her face covered with demonic faces.” Appellant also referred to respondent on social media by terms such as “POA” and “people with financial powers,” and criticized her morality and involvement in her mother’s estate and finances as power of attorney. And appellant posted to social media identifiable information about respondent and her real estate in an effort to criticize her finances. As found by the district court, appellant’s

conduct caused a substantial adverse effect on respondent's privacy because, as the district court found, appellant attacked respondent's "morality, property, and involvement in her mother's estate and finances as power of attorney."

Moreover, unlike in *Witchell*, where only ex-wife saw ex-husband's communications, appellant posted his comments on social media where many of respondent's family and friends viewed the material. Thus, under the circumstances, the district court's finding that appellant's conduct is objectively unreasonable because it "goes beyond an acceptable expression of outrage and civilized conduct" is not clearly erroneous. *See Kush*, 683 N.W.2d at 846.

Appellant also contends that his conduct does not constitute harassment because the "content of the posts" show that he "lacked the intent to adversely affect the safety, security, or privacy of [r]espondent." But section 609.748 requires "objectively unreasonable conduct *or* intent on the part of the harasser." *Dunham*, 708 N.W.2d at 567 (emphasis added); *see also Peterson v. Johnson*, 755 N.W.2d 758, 764 (Minn. App. 2008) (stating that to sustain an HRO petition, the petitioner must prove either "objectively unreasonable conduct *or* intent on the part of the harasser" (emphasis added)). The conjunction "or" signifies alternative paths for an actor to engage in harassment. *See Goldman v. Greenwood*, 748 N.W.2d 279, 283 (Minn. 2008) (stating that courts "normally interpret the conjunction 'or' as disjunctive rather than conjunctive"). As noted above, the district court's finding that appellant's conduct consisted of objectively unreasonable conduct is not clearly erroneous. As such, appellant's intent is irrelevant.

Moreover, appellant's argument that the record does not support the district court's finding that he lacked the intent to harass respondent fails on the merits. "[I]ntent is a state of mind" that "is generally determined by inferences drawn from the person's words or actions in light of all the surrounding circumstances." *State v. Bock*, 490 N.W.2d 116, 120 (Minn. App. 1992), *rev. denied* (Minn. Aug. 27, 1992). And "[i]ntent is a credibility question on which [this court] defer[s] to the [district] court." *Vangsness v. Vangsness*, 607 N.W.2d 468, 473 (Minn. App. 2000).

Here, the district court found that appellant used social media to "criticize [respondent's] morality, property, and involvement in her mother's estate and finances as power of attorney." The district court also found that appellant copied "other family members, her business, and her small town" in the social media posts. The district court then determined that the "intention of [these] repeated posts over months was to intimidate, embarrass, or harm the reputation of [respondent]." Although appellant disputes this determination and testified at trial that his "intention" was "to draw attention to" his "perceived abuse" by respondent of her role as power of attorney in relation to his grandmother, the district court did not find appellant's testimony to be credible. Because we defer to the district court's credibility determination, the record supports the district court's determination that appellant intended to harass respondent.

Appellant further argues that it is "impossible" for respondent to have an objectively reasonable belief that she was being harassed because she had "blocked" appellant on her social media accounts. But again, the district court found that appellant copied his social-media posts to "other family members, [respondent's] business, and her small town." And

respondent testified that, based on appellant's conduct, she "get[s] all kinds of communication from people saying [appellant] is doing all this and it's referencing me." Respondent's testimony indicates that, despite blocking appellant on her social-media accounts, she was still aware of appellant's conduct. Under these circumstances, the district court did not clearly err in finding that it was objectively reasonable for respondent to feel harassed. Accordingly, the district court did not abuse its discretion in granting the HRO in favor of respondent.

II.

Appellant also contends that the "district court improperly issued an HRO based on protected speech." Because this argument was not raised below, it is not properly before us, and we decline to address it. *See In re Welfare of Child. of Coats*, 633 N.W.2d 505, 512 (Minn. 2001) (stating that appellate courts "consider only those issues that were presented and considered by the [district] court"); *see also In re Welfare of C.L.L.*, 310 N.W.2d 555, 557 (Minn. 1981) (declining to address constitutional issues raised for the first time on appeal).

Affirmed.