

STATE OF MINNESOTA
IN COURT OF APPEALS

A24-0908



In the Matter of:

Juneau Pearletha Thomas, petitioner,

Respondent,

vs.

Andre Lamont Johnson,

Appellant.

ORDER OPINION

Ramsey County District Court
File No. 62-DA-FA-24-293

Considered and decided by Johnson, Presiding Judge; Bjorkman, Judge; and Wheelock, Judge.

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

1. In March 2024, respondent Juneau Pearletha Thomas petitioned for an order for protection (OFP) against appellant Andre Lamont Johnson, with whom she has a minor child. Thomas alleged that Johnson had physically and sexually abused her, harassed her over social media, and threatened her. The district court granted an ex parte OFP and scheduled a virtual hearing.

2. Despite receiving notice of the hearing, Johnson did not attend; the district court conducted the hearing in his absence. Thomas testified to several instances of Johnson physically and sexually abusing her in 2016 and 2017, when they were in a relationship. She also testified that he threatened her repeatedly in the fall of 2023 by

sending her multiple voicemails with verbal threats to kill her, one with the sound of a gun being cocked, and another that alluded to prior instances of abuse. He also sent her a text message with an image of a gun. She explained that the fact Johnson lives in Chicago does not lessen her fear that he will harm her because he often visits Minnesota.

3. The district court credited Thomas's testimony, found that Johnson committed multiple acts of domestic abuse against Thomas, including several acts of physical and sexual abuse and several types of threats, and issued an OFP prohibiting Johnson from having any contact with her or coming near her home or work for two years. Johnson twice moved to modify the OFP, arguing that Thomas is "not trustworthy" and he is "not guilty" of the instances of domestic abuse listed in the OFP. The district court denied the motions. Johnson appeals.

4. "A district court may issue an OFP upon a finding of domestic abuse." *Butler v. Jakes*, 977 N.W.2d 867, 871 (Minn. App. 2022); see Minn. Stat. § 518B.01, subds. 4, 6 (2022). Domestic abuse includes physical harm, the infliction of fear of imminent physical harm, or criminal sexual conduct committed between people who have a child in common. Minn. Stat. § 518B.01, subd. 2(a), (b)(5) (2022). We review the decision whether to grant an OFP for abuse of discretion. *Thompson ex rel. Minor Child v. Schrimsher*, 906 N.W.2d 495, 500 (Minn. 2018). In doing so, we view the evidence "in the light most favorable to the district court's findings" and defer to the district court's credibility determinations. *Butler*, 977 N.W.2d at 871.

5. Johnson challenges the OFP, essentially arguing that Thomas's testimony was not credible. We are not persuaded to reverse for several reasons. First, we do not

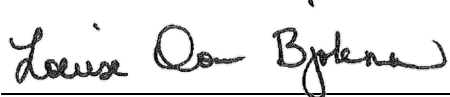
second-guess a district court’s credibility determinations. *Id.* Second, Johnson’s credibility challenge relies on a decade-old record of Thomas’s arrest for allegedly providing false information to police, which was not part of the evidence presented to the district court at the OFP hearing and, therefore, is not properly before us. *See Thiele v. Stich*, 425 N.W.2d 580, 582-83 (Minn. 1988) (“An appellate court may not base its decision on matters outside the record on appeal, and may not consider matters not produced and received in evidence below.”). Finally, even if the document had been admitted as evidence, it would not have precluded the district court from crediting Thomas’s detailed testimony about Johnson committing numerous acts of domestic abuse against her between 2016 and the fall of 2023. In light of that ample evidence of domestic abuse and the undisputed fact that Thomas and Johnson share a minor child, we discern no abuse of discretion in the district court’s decision to grant the OFP.

IT IS HEREBY ORDERED:

1. The district court’s order is affirmed.
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: 11/12/24

BY THE COURT



Judge Louise Dovre Bjorkman