

STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1279



Bridgette Jeanette Bergman
and on behalf of Minor Children,

Respondent,

vs.

Benjamin Bergman,

Appellant.

ORDER OPINION

Becker County District Court
File No. 03-CV-24-1159

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

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

1. Respondent Bridgette Jeanette Bergman petitioned the district court for a harassment restraining order (HRO) against appellant Benjamin Bergman on behalf of herself and the parties' minor children, and the district court granted the HRO. Benjamin¹ appeals, arguing that the district court abused its discretion by issuing the HRO.

2. On July 9, 2024, Bridgette petitioned for an HRO against Benjamin, her ex-husband, on behalf of herself and the parties' two minor children, E.H.B. and A.M.B. In the sworn petition, Bridgette attested that, from 2016 to 2018, Benjamin had "hit [her]

¹ Because appellant and respondent share the same last name, this opinion will use the parties' first names.

in the face while under the influence” and threatened her during June and July 2024 by leaving “harassing texts and phone calls,” “yell[ing] profanities,” and threatening to hurt her dog “if [she] did not listen to him.” Bridgette also attested that, during the same timeframe, Benjamin yelled at her and “walk[ed] towards [her] like he would hit [her]”; Benjamin is six feet, four inches tall and weighs 300 pounds, while Bridgette is five feet, three inches tall and weighs 125 pounds. In support of her request for an HRO for the children, Bridgette averred that Benjamin had been “under the influence of meth in the presence” of the children and “has made sexual looks” at their 12-year-old daughter. Finally, Bridgette averred that Benjamin “used social media to contact a minor and had sex with her”; he is “in jail now” and “will come after” Bridgette and the children. The district court granted an ex parte HRO.

3. On July 23, 2024, the district court held a hearing on the HRO. Benjamin was represented by counsel, and Bridgette was self-represented.

4. Bridgette testified that Benjamin made “a lot of threatening statements to [her] throughout [their] divorce.” When asked what she meant by “threatening,” Bridgette stated, “I know when to back off, so it hasn’t gotten physical or anything like that ’cause I know he has a very bad temper.” On one occasion, Bridgette “was at the house to pick up [her] things” and Benjamin became “very angry and start[ed] walking towards [her]” in a way that “makes [her] very nervous.” Bridgette “didn’t allow anything more than that to happen” because she “removed [herself]” and her “safety awareness” is good. Benjamin has “a very big temper and it’s very scary.” As for Benjamin’s treatment of the dog, Bridgette testified that he “didn’t like the dog,” “was abusive towards the dog,” “kicked

the dog,” and “yelled at the dog.” Bridgette added that Benjamin “took [her] dog, because [she] wouldn’t do as he said, and he dropped [the dog] off on the side of the road and left.”

5. Bridgette also testified that E.H.B., who was 13 years old at the time of the hearing, “has seen multiple, multiple things on Ben’s phone of him communicating with different women and the things that he was saying and showing on there . . . and she’s very concerned.” She also testified that the victim in Benjamin’s criminal case is in E.H.B.’s “friend circle” and that “[i]t scares [E.H.B.] that someone her age is experiencing that with her own dad.” Bridgette testified that A.M.B., who was ten years old at the time of the hearing, is “very scared” and “frightened of her dad.”

6. Bridgette testified that Benjamin used methamphetamine and alcohol. She added that Benjamin has used alcohol in front of the children “many times.” Bridgette testified that Benjamin “got very drunk in excess in his garage” and that the children “called [her] scared because” Benjamin was “doing funny things and frightening them.”

7. Benjamin did not present any evidence at the hearing. During closing arguments, Benjamin’s attorney argued that, though Bridgette and Benjamin “certainly have disagreements,” there was “no evidence of any kind that harassment has been taking place.” He urged that no HRO should issue on behalf of the children because a “release order” in Benjamin’s criminal case provided for supervised visitation between Benjamin and the children.

8. The district court granted the HRO on behalf of Bridgette and the minor children. The district court concluded that there were “reasonable grounds to believe that [Benjamin] has engaged in harassment which has or is intended to have a substantial

adverse effect on safety, security, or privacy of [Bridgette] or the minor children.” Benjamin appeals.

9. We review a district court’s decision to issue an HRO for an abuse of discretion. *Borth v. Borth*, 970 N.W.2d 699, 701 (Minn. App. 2022). “A district court abuses its discretion if it makes findings of fact that are not supported by the record, misapplies the law, or resolves the matter in a manner that is contrary to logic and the facts on record.” *Id.* (quotation omitted). “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 v. Mathison*, 683 N.W.2d 841, 843-44 (Minn. App. 2004), *rev. denied* (Minn. Sept. 29, 2004). We will reverse an HRO if it is not supported by sufficient evidence. *Id.* at 844.

10. A district court may grant an HRO if it finds “there are reasonable grounds to believe that the respondent has engaged in harassment.” Minn. Stat. § 609.748, subd. 5(b)(3) (2024). Harassment is defined as “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). This definition of harassment requires both (1) “objectively unreasonable conduct or intent on the part of the harasser” and (2) “an objectively reasonable belief on the part of the person subject to harassing conduct.” *Dunham v. Roer*, 708 N.W.2d 552, 567 (Minn. App. 2006), *rev. denied* (Minn. Mar. 28, 2006). A single verbal incident is insufficient to be considered

harassment under this definition. *Kush*, 683 N.W.2d at 844; *see* Minn. Stat. § 609.748, subd. 1(a)(1) (requiring “repeated incidents”).

11. Benjamin’s brief to this court urges that the district court’s factual findings are clearly erroneous and that the evidence was insufficient to support the findings of harassment. Bridgette did not timely file a brief with this court. We nonetheless determine the appeal on the merits. Minn. R. Civ. App. P. 142.03.

12. A district court must make sufficient findings of fact to permit meaningful appellate review. *See State v. Kvam*, 336 N.W.2d 525, 528 (Minn. 1983) (“In some cases we have concluded that a remand for findings is necessary before we will decide the validity of the lower court’s order.”); *In re Civ. Commitment of Spicer*, 853 N.W.2d 803, 810, 813 (Minn. App. 2014) (reversing grant of petition for civil commitment because district court failed to make “findings of fact that are sufficiently particular to permit meaningful appellate review”). We consider Benjamin’s arguments in two parts.

13. First, as to the HRO on behalf of Bridgette, the district court determined that Benjamin harassed Bridgette by threatening her verbally and with behavior that frightened her. The district court found that Benjamin made threats while “angry with Bridgette” and “walk[ed] towards her in a threatening manner” and that his “bad temper” forced Bridgette “to retreat.” The district court also found that Benjamin frightened Bridgette when he was “abusive to the dog” by yelling at it and kicking it.

14. We conclude that the district court’s findings as to Bridgette are inadequate for appellate review. To be clear, the district court found that Benjamin repeatedly harassed Bridgette by abusing the dog and combining that abuse with threats towards Bridgette as

well as otherwise verbally threatening and physically approaching Bridgette. The district court, however, did not find what made Benjamin's words or approach "threatening." Bridgette's testimony and sworn petition provide additional details that may satisfy the statutory standard, such as her sworn statements that Benjamin walked towards her "like he wanted to hit [her]," that he has a "very bad temper," and that he has hit her in the past, as well as her description of Benjamin as significantly larger than her.

15. Second, as to the HRO on behalf of the minor children, the district court determined that Benjamin harassed and frightened the minor children with threatening behavior after becoming "drunk when parenting the girls," causing the children to be "scared and [to] call[] Bridgette to come get them." The district court also found that "[s]ince the criminal allegations have been made, the girls have become nervous and scared to be around their dad." The district court found that the children "have heard their friends talk about the criminal allegations" and that the children's friends are scared of Benjamin, "which makes both the girls uncomfortable to be around Ben at this time." The district court noted that the children have also "seen texts on Ben's phone (to other people) that make them nervous and uncomfortable."

16. We conclude that the district court's findings as to the minor children are inadequate for appellate review. To be clear, the district court found at least two instances of harassment involving the children—Benjamin became drunk and scared the children so that they asked Bridgette to remove them; and Benjamin is in custody on criminal charges related to sexual conduct with a minor victim. The district court did not find what made Benjamin's drunken conduct frightening. *Dunham*, 708 N.W.2d at 567 (explaining that a

finding of harassment requires an “objectively reasonable belief on the part of the person subject to harassing conduct”). Bridgette’s testimony and sworn petition may support additional findings. For example, Bridgette attested that Benjamin “has made sexual looks” at E.H.B. and used social media to contact a minor for sex, E.H.B. has seen texts on Benjamin’s phone that were “very worrisome” to her, and the victim in Benjamin’s criminal case is in E.H.B.’s “friend circle,” which “scares” E.H.B.

17. Because the district court’s order lacks sufficient findings for meaningful appellate review, we remand for additional findings. *See In re Expulsion of A.D.*, 883 N.W.2d 251, 258 (Minn. 2016) (“Remand is appropriate to permit further evidence to be taken or additional findings to be made in accordance with the applicable law.” (quotations omitted)). The district court may, in its discretion, reopen the record on remand.

IT IS HEREBY ORDERED:

1. The district court’s harassment restraining order is remanded for additional findings consistent with this opinion.
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: April 30, 2025

BY THE COURT



Judge Diane B. Bratvold