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Minn. Stat. § 480A.08, subd. 3 (2006).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A08-172**

Julie L. Bruggeman, petitioner,
Respondent,

vs.

Sherry Walz,
Appellant.

**Filed December 9, 2008
Affirmed
Worke, Judge**

Mahnomen County District Court
File No. 44-CV-07-1094

Julie L. Bruggeman, 1061 State Highway 200, P.O. Box 458, Mahnomen, MN 56557
(attorney pro se)

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55801 (for appellant)

Considered and decided by Worke, Presiding Judge; Lansing, Judge; and Collins,
Judge.*

* Retired judge of the district court, serving as judge of the Minnesota Court of Appeals
by appointment pursuant to Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

WORKE, Judge

Appellant challenges the district court's grant of a harassment restraining order (HRO), arguing that the record does not support the district court's findings of fact or the grant of the HRO. We affirm.

DECISION

A district court may grant a HRO when “the court finds at the hearing that there are reasonable grounds to believe that [an individual] has engaged in harassment.” Minn. Stat. § 609.748, subd. 5(a)(3) (2006). 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.” *Id.*, subd. 1(a)(1) (2006).

An appellate court reviews a district court's grant of a [HRO] under an abuse-of-discretion standard. 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. But this court will reverse the issuance of a [HRO] if it is not supported by sufficient evidence.

Kush v. Mathison, 683 N.W.2d 841, 843-44 (Minn. App. 2004) (citations omitted), *review denied* (Minn. Sept. 29, 2004).

“The determination of whether certain conduct constitutes harassment may be judged from both an objective standard, when assessing the effect the conduct has on the typical victim, and a subjective standard, to the extent the court may determine the harasser's intent.” *Id.* at 845. Inappropriate or argumentative statements alone cannot be

considered harassment. *Beach v. Jeschke*, 649 N.W.2d 502, 503 (Minn. App. 2002). However, a party's actions need not be obscene or vulgar to constitute harassing conduct. *Welsh v. Johnson*, 508 N.W.2d 212, 216 (Minn. App. 1993). When there is conflicting evidence this court defers to the district court's credibility determinations. *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988); *see also State v. Miller*, 659 N.W.2d 275, 279 (Minn. App. 2003) (stating that "the weight and believability of witness testimony is an issue for the district court"), *review denied* (Minn. July 15, 2003).

The district court found that reasonable grounds existed to believe that appellant Sherry Walz had engaged in harassment of respondent Julie L. Bruggeman, the Mahanomen County Attorney, by making threats, frightening respondent with threatening behavior, and by calling respondent abusive names. The district court found three incidents of inappropriate, intrusive, or threatening behavior: (1) appellant told respondent that she better "watch her back"; (2) appellant screamed and swore at respondent at the sheriff's office; and (3) appellant made toasts to the "f***ing county attorney [respondent]" and stated that she wished she had won a gun in a raffle to use it to shoot respondent. The district court concluded that at least two of these statements were of a threatening nature. Appellant argues that the district court's findings do not support the issuance of the HRO because the court failed to articulate any real threats appellant made toward respondent. Appellant's argument fails because the record supports the district court's findings and issuance of the HRO.

In June 2007, appellant heard that respondent and a third party were telling people that she was having an affair, so she went to the sheriff's office to confront respondent.

Appellant was upset when she arrived and told the secretary to tell respondent that she did not appreciate people talking about her. Appellant used vulgar language and stated that she wanted respondent to shut her mouth. Appellant left and the secretary called respondent at her office and respondent went to talk to the secretary. While the two women discussed the situation in a deputy's room, appellant returned. Appellant screamed at both women and acted irrationally. The secretary left the room and appellant and respondent continued arguing. At one point, the dispatcher thought about calling a deputy in order to calm the situation down. Although the dispatcher did not believe that appellant was going to attack respondent, she did believe that her behavior was inappropriate for the sheriff's office. Respondent found appellant's behavior alarming, but believed that appellant had a lot going on in her life and that she needed to vent.

Following this incident, appellant and respondent were involved in a verbal confrontation in a parking lot. Appellant became aggressive and yelled at respondent, telling her that she "better watch [her] back." Respondent believed that this statement was a true threat. Then, in October 2007, appellant went to a sportsmen banquet where a gun was raffled. Later, appellant went to the American Legion, where she was overheard stating that she wanted to "toast to our f***ing county attorney." Appellant, who was intoxicated, then sat down at a customer's table and said that if she had won the gun she would have used it to shoot the county attorney. This individual thought about calling the police and reporting appellant's statement, but decided instead to call respondent. Although appellant did not make this statement directly to respondent, she believed that it was a credible threat. Giving deference to the district court's credibility determinations,

the record supports the district court's findings that on at least two separate occasions, appellant acted in a threatening nature toward respondent. Therefore, the district court did not abuse its discretion in issuing the HRO.

Affirmed.