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**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0872**

Elsayed M. Elsaid Mahmoud,
Respondent,

vs.

Abdi Salad Roble,
Appellant.

**Filed March 9, 2020
Affirmed
Reilly, Judge**

Olmsted County District Court
File No. 55-CV-19-1221

Ken D. Schueler, Dustin C. Jones, Dunlap & Seeger, P.A., Rochester, Minnesota (for respondent)

James A. Godwin, Jay S. Adkins, Godwin Dold, Rochester, Minnesota (for appellant)

Considered and decided by Connolly, Presiding Judge; Reilly, Judge; and Kalitowski, Judge.*

UNPUBLISHED OPINION

REILLY, Judge

On appeal from the district court's grant of a harassment restraining order (HRO), appellant argues that (1) the district court's findings do not show that appellant engaged in

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

the harassment necessary to support an HRO; (2) the district court's findings are too vague to support the issuance of an HRO; and (3) the record does not support the district court's findings of fact. Because the district court's findings show that appellant engaged in harassment, are adequately specific to support the issuance of the HRO, and are supported by the record, we affirm.

FACTS

Masjed Abubakr Al-Seddiq is a mosque (the mosque) located in Rochester. Appellant Abdi Roble is a member of the mosque. Respondent Elsayed Mahmoud is the prayer leader or Imam of the mosque. There have been disputes at the mosque amongst its board of directors for years regarding various issues. On February 10, 2019, an arbitration hearing was scheduled at the mosque to resolve disputes concerning a construction project and issues with the governance of the mosque. When Mahmoud arrived at the mosque for the arbitration hearing, he was met by a group of people at the entrance, including Roble. When Mahmoud went to the door to unlock and open it, he was prevented from opening the door by someone in the group. Mahmoud sustained bruising on his chest and arm as a result of this incident. Mahmoud was not able to identify who in the group actually caused the injuries to his chest and arm. However, Mahmoud knew that Roble had struck him.

Following the incident at the mosque, Mahmoud filed a petition for an HRO with the district court, alleging in part that Roble and three other individuals physically assaulted him and frightened him with threatening behavior. The petition alleged that the four individuals, including Roble, blocked Mahmoud's entry into the mosque and physically assaulted him, causing bruising to his right arm and chest. In February 2019, an order on

the petition was filed and Roble subsequently filed a request for a hearing. The three-day hearing was held in March 2019.

On the second day of the hearing, Mahmoud was recalled after having completed his testimony the day before. He testified that during the lunch break that day, he went to the restroom on his way back to the courtroom. Mahmoud explained that as he was leaving the restroom, Roble was entering it. Mahmoud testified that Roble called him a liar, insulted him, made gestures toward him with his body and hand, and swore at him. Mahmoud testified that Roble told him, “I’m going to show you what I’m going to do to you when we’re done here.”

Following the hearing, the district court issued an HRO against Roble. The district court found that there were reasonable grounds to believe that Roble engaged in harassment of Mahmoud when he committed an “assault of [Mahmoud] by making him reasonably fear bodily harm by blocking the entrance of the [mosque] . . . and threatening [Mahmoud] as he tried to enter the [mosque], while using his body to prevent [Mahmoud] from entering the [mosque].” The district court also found that Roble engaged in harassment by “approaching and threatening [Mahmoud] during the hearing on the HRO after the lunch break.” This appeal follows.

D E C I S I O N

Roble argues that the district court erred when it granted an HRO against him. A district court may issue an HRO if it finds that there are “reasonable grounds to believe that the [person] has engaged in harassment.” Minn. Stat. § 609.748, subd. 5(b)(3) (2018). The

statute provides a two-prong definition of harassment. *Id.*, subd. 1(a)(1) (2018).

Harassment is defined as:

[1] a single incident of physical or sexual assault . . . or
[2] 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. “Because the statutory definition has two prongs, harassment may be proven in either of two ways.” *Peterson v. Johnson*, 755 N.W.2d 758, 762 (Minn. App. 2008). An appellate court will not set aside a district court’s findings of fact unless clearly erroneous, but this court will “reverse the issuance of a restraining order if it is not supported by sufficient evidence.” *Kush v. Mathison*, 683 N.W.2d 841, 843-44 (Minn. App. 2004), *review denied* (Minn. Sept. 29, 2004). “Ultimately, the issuance of an HRO is reviewed for abuse of discretion.” *Peterson*, 755 N.W.2d at 761.

Roble challenges the district court’s issuance of the HRO on both the first and second prongs. We first consider whether the district court properly issued the HRO under the second prong. Under this prong, the petitioner is required to prove that the respondent engaged in “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.” Minn. Stat. § 609.748, subd. 1(a)(1). While the district court did not explicitly state that it was considering the second prong under the harassment statute, we construe the district court’s order as relying on the two separate incidents that occurred on February 10, 2019, and March 12, 2019, as the bases for the finding of harassment under this prong.

Roble argues that we must reverse the district court's issuance of the HRO because the district court's findings that he threatened Mahmoud on two separate occasions are too vague. We are not persuaded. Here, the district court made findings of fact with respect to the threats Roble made toward Mahmoud. Regarding February 10, 2019, the district court found that Roble was "threatening [Mahmoud] as he tried to enter the [mosque]." Regarding March 12, 2019, the district court found that Roble "yelled at [Mahmoud] in a language [Mahmoud] could not understand, except [Mahmoud] recognized several swear words. [Roble] also told [Mahmoud] that he need[ed] to watch his back." The district court found that on this date, Roble engaged in harassment by "approaching and threatening [Mahmoud] during the hearing on the HRO after the lunch break." We conclude that the district court's findings that Roble threatened Mahmoud on two separate occasions are specific enough to allow meaningful review. *See* Minn. R. Civ. P. 52.01, 1985 advisory comm. note ("The purpose of requiring findings is to permit meaningful review upon appeal."). As such, we reject Roble's argument that the district court's issuance of the HRO must be reversed for lack of specific findings.

Roble next contends that even if this court were to conclude that the district court's findings were adequately specific, the district court failed to make findings regarding whether Roble's behaviors had or were "intended to have a substantial adverse effect on the safety, security, or privacy of [respondent]" as required under the second prong of the harassment definition. Minn. Stat. § 609.748, subd. 1(a)(1).

Roble is correct that the district court did not use the statute's language explicitly in its order. However, Roble does not cite to any legal authority to support his contention that

such an error requires reversal of the district court's order. *See State, Dep't of Labor & Indus. v. Wintz Parcel Drivers, Inc.*, 558 N.W.2d 480, 480 (Minn. 1997) (declining to address an inadequately briefed issue). We conclude that even if the district court's failure to use the specific statutory language in its order was an error, that error is harmless because the district court's factual findings support the conclusion that Roble's behaviors had or were "intended to have a substantial adverse effect on the safety, security, or privacy of [Mahmoud]." *See* Minn. R. Civ. P. 61 ("[N]o error or defect in any ruling or order or in anything done or omitted by the court . . . is ground for granting a new trial or for setting aside a verdict or for vacating, modifying, or otherwise disturbing judgment or order, unless refusal to take such action appears to the court inconsistent with substantial justice.").

Finally, Roble argues that even if this court concludes that the district court's findings can support the issuance of an HRO, the district court's findings as to the events of February 10, 2019, and March 12, 2019, are clearly erroneous. Roble first challenges the district court's finding that Mahmoud was in reasonable fear of bodily harm when his entrance to the mosque was blocked by Roble. We discern no error in the district court's findings. The record shows that Mahmoud testified that he believed Roble was standing in front of the door to the mosque on February 10, 2019, for two reasons: the first reason was "to scare [him]" and the second reason was "to prevent the people to get into the [mosque]." When asked if he was "immediately scared of Mr. Roble" when he arrived at the mosque on February 10, 2019, Mahmoud responded, "Yes, this is the truth." Additionally, when asked if he is concerned for his physical safety when near Roble,

Mahmoud answered, “Yes, of course.” The district court’s finding that Mahmoud was in reasonable fear of bodily harm due to his entrance being blocked by Roble is not clearly erroneous.

Second, Roble argues that the district court’s finding that Mahmoud was threatened by Roble on March 12, 2019, is clearly erroneous. We are not persuaded. Mahmoud testified that after the lunch break during the HRO hearing, he returned to the government center and went to the restroom. As he was leaving the restroom, Roble was entering it. Mahmoud testified that Roble “was giving [him] his finger,” making gestures with his body and cursing at him. Mahmoud also testified that Roble said to him, “I’m going to show you what I’m going to do to you when we’re done here.” While this statement is different from the one the district court included in its findings—“[Roble] also told [Mahmoud] that he need[ed] to watch his back”—we discern no error in the district court’s conclusion that Roble threatened Mahmoud during their encounter in the restroom. This finding is not clearly erroneous.

We conclude that the district court did not abuse its discretion in issuing an HRO based on the second prong of the statutory definition of harassment. Because harassment need only be proved in one way, we need not consider whether the district court abused its discretion in granting the HRO under the first prong of the statute.

Affirmed.