

*This opinion is nonprecedential except as provided by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
A21-0365**

In the Matter of:
Katrina Lynn Deantoni,
Respondent,

vs.

Donnetto Antonio Deantoni,
Appellant.

**Filed November 1, 2021
Affirmed; motion granted
Worke, Judge**

Wright County District Court
File No. 86-FA-20-5480

Tifanne E. E. Wolter, Henningson & Snoxell, Ltd., Maple Grove, Minnesota (for respondent)

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Considered and decided by Slieter, Presiding Judge; Worke, Judge; and Cochran, Judge.

NONPRECEDENTIAL OPINION

WORKE, Judge

Appellant-husband challenges the district court's issuance of an order for protection (OFP), arguing that the district court erroneously excluded evidence, erroneously found that husband committed acts of domestic abuse, and abused its discretion by imposing a

four-mile restriction around respondent-wife's home. Husband also moves us to strike portions of wife's brief and addendum. We affirm, and we grant husband's motion to strike.

FACTS

Appellant-husband Donnetto Antonio Deantoni and respondent-wife Katrina Lynn Deantoni married in 2013 and, as of the filing of this matter, were proceeding with a dissolution. Wife petitioned for an OFP in November 2020. The district court issued an ex parte OFP and set the matter for a hearing.

At the hearing, wife testified to the following events. At some point before wife petitioned for an OFP, husband threw his keys across the room in anger, breaking a plant next to her. Another time, husband was slicing an apple and was upset. He put the knife to his throat and threatened to harm himself. Wife felt "immense, enormous" fear and urinated, thinking that husband might commit a murder-suicide. She had recently come to understand, through therapy, that husband had been "gaslighting" her, or telling her that she is mentally ill.

After the ex parte OFP was served on husband, wife, while driving in St. Michael, Minnesota, saw husband pass her quickly in his vehicle. She sped up to confirm that it was indeed him. She continued to her destination, a sandwich shop, at which point husband drove through the parking lot and parked seven spaces from her. On another day, wife again went to the sandwich shop. Husband again pulled into the parking lot and sat in his car.

Husband disputed wife's version of these events. He testified that he threw the keys underhand toward the counter and that wife was not in the room at the time. He stated that wife sent him a text message the next day asking why the plant was broken. He asserted that the knife incident arose out of a "more lighthearted" situation in which he joked, "You make me want to cut my head off," and claimed that he did not believe that he was holding a knife at the time. He also testified about travel documents that provided an alibi for the date on which wife alleged the knife incident occurred.

The district court found wife's testimony credible and found that wife proved by a preponderance of the evidence that husband committed acts of domestic abuse. The district court issued a two-year OFP that required husband to stay four miles away from wife's home in St. Michael. This appeal followed.

DECISION

Exclusion of evidence

Husband first argues that the district court erred by prohibiting him from introducing (1) a text message purportedly from wife asking what happened to the plant and (2) travel documents showing that husband was out of town on the date that wife alleged that the knife incident took place. We disagree.

To prevail on this issue, husband must demonstrate that an evidentiary error prejudiced him. *See Olson ex rel. A.C.O. v. Olson*, 892 N.W.2d 837, 842 (Minn. App. 2017). "An evidentiary error is prejudicial if it might reasonably have influenced the fact-finder and changed the result of the proceeding." *Id.*

Here, the district court was aware of the contents of husband's exhibits and husband's purposes in offering them. And although the district court excluded the exhibits, it allowed husband to testify and cross-examine wife about them. The district court, however, found husband's testimony regarding the exhibits to be neither credible nor persuasive. It is not reasonably likely that admission of the exhibits would have influenced the district court, the fact-finder here, and changed the result of the proceeding. *See id.* The district court's exclusion of husband's evidence is therefore not reversible error.

OFP

Husband next argues that the district court's findings that he committed acts of domestic abuse are not supported by the record. We disagree.

We review a district court's decision to grant an OFP for an abuse of discretion. *Chosa ex rel. Chosa v. Tagliente*, 693 N.W.2d 487, 489 (Minn. App. 2005). In doing so, we give great deference to the district court's credibility determinations. *Gada v. Dedefo*, 684 N.W.2d 512, 514 (Minn. App. 2004) (citing *Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988)). And we review the district court's findings of fact for clear error. *Id.* Noting that the clear-error standard applies across many contexts, the Minnesota Supreme Court recently clarified: "In applying the clear-error standard, [appellate courts] view the evidence in a light favorable to the findings. [Appellate courts] will not conclude that a factfinder clearly erred unless, on the entire evidence, we are left with a definite and firm conviction that a mistake has been committed." *In re Civil Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021) (quotations and citations omitted). Further, we may not reweigh the evidence, engage in fact-finding, or reconcile conflicting evidence. *Id.* at

221-22 (quotation omitted). Accordingly, we need not go into an extended discussion of the evidence to prove or demonstrate the correctness” of the district court’s findings. *Id.* Instead, we must consider all the evidence and determine whether it reasonably tends to support the district court’s findings. *Id.* at 223. And when the record reasonably supports the district court’s findings, “it is immaterial that the record might also provide a reasonable basis for inferences and findings to the contrary.” *Id.* (quotation omitted).

A person commits domestic abuse by, among other things, inflicting “fear of imminent physical harm, bodily injury, or assault” against a family or household member. Minn. Stat. § 518B.01, subd. 2(a)(2) (2020). The abuser’s present intent to inflict such fear may be inferred from the totality of the circumstances, including past abusive behavior. *Pechovnik v. Pechovnik*, 765 N.W.2d 94, 99 (Minn. App. 2009). A single act of domestic abuse can sustain an OFP. *See, e.g., Aljubailah ex rel. A.M.J. v. James*, 903 N.W.2d 638, 644 (Minn. App. 2017) (upholding OFP based on single incident).

The district court found that husband committed the following acts of domestic abuse: he threw keys at wife, damaging a plant near her; he held a knife to his neck and threatened to hurt himself, causing wife to fear that he might harm her next; and he twice parked his vehicle near wife’s vehicle at a sandwich shop, causing wife to feel intimidated and fear for her safety. We address each incident in turn.

Plant and knife incidents

As an initial matter, husband does not challenge whether the plant and knife incidents constitute domestic abuse. Because we do not presume error on appeal and husband failed to carry his burden to show that the plant and knife incidents do not

constitute domestic abuse, husband forfeited any additional arguments that these incidents do not support the OFP. *See Loth v. Loth*, 35 N.W.2d 542, 546 (Minn. 1949). We nevertheless address the merits in the interest of completeness. *See In re Welfare of Children of M.L.S.*, ___ N.W.2d. ___, ___, 2021 WL 2640559, at *9 (Minn. App. June 28, 2021) (addressing question in interests of completeness); *see generally* Minn. R. Civ. App. P. 103.04 (allowing appellate court to address questions in interest of justice).

As to the plant incident, husband admitted throwing his keys forcefully enough to break a plant and provided no viable reason for doing so. The district court's order shows that it believed wife's testimony that wife was next to the plant when this occurred, and disbelieved husband's testimony that she was not in the room. We defer to this implicit credibility determination. *See Pechovnik*, 765 N.W.2d at 99 (deferring to district court's implicit credibility determination). Wife urinated because of this incident, showing that she feared imminent physical harm. The record therefore supports the district court's determination that this incident constitutes domestic abuse.

As to the knife incident, each party testified to their version of what allegedly happened. The district court found wife's testimony credible and found husband's testimony not credible. Again, we defer to these credibility determinations. Wife again urinated and testified that she feared that husband would commit a murder-suicide. The record therefore supports the district court's determination that the knife incident constitutes domestic abuse.

Sandwich shop incidents

Both sandwich shop incidents occurred after husband was served with the ex parte OFP. It is undisputed that husband does not live in St. Michael. He did not assert a viable reason for being at the sandwich shop that the district court believed. Wife testified that she felt “shocked,” “scared,” and “fearful” by his presence at the shop, and she later testified generally that she believed that she was “in danger of physical violence to the point of murder.” Thus, the record also supports the district court’s determination that the sandwich shop incidents constitute domestic abuse.

Husband asserts that the district court found that the sandwich shop incidents occurred on December 1, 2020, and that this finding is not supported by the record. Husband misreads the OFP, which states that wife served the ex parte OFP on husband on December 1, 2020, and that the sandwich shop incidents occurred sometime after that date.

Husband also asserts that the district court found that husband intended the sandwich shop incidents to cause wife to fear for her safety and to intimidate her, which he argues does not constitute domestic abuse because there is no implication of physical harm. Even if we agree that finding that husband caused wife to fear for her safety and feel intimidated does not rise to the level of domestic abuse, husband again misreads the OFP. There, the district court stated that the “above-noted incidents,” including the sandwich shop incidents, “involve [husband] inflicting in [wife] the fear of imminent physical harm.” That finding fulfills the statutory requirement that the abuser inflict fear of imminent

physical harm. Because the district court’s findings regarding these incidents of domestic abuse are supported by the record, it did not abuse its discretion by issuing the OFP.¹

Geographic restriction

Husband argues that the four-mile geographic restriction is unreasonable. On this record, we disagree.

The district court may exclude an abuser from “a reasonable area surrounding the [petitioner’s] dwelling or residence.” Minn. Stat. § 518B.01, subd. 6(a)(3) (2020). The statute imposes no further requirements regarding the district court’s decision to impose a geographical restriction. *See id.*

Here, the record indicates that husband lives and works around Minneapolis. His nonjoint child attends school in Elk River. Although husband has “lifelong friends” in St. Michael, husband points to no evidence that the four-mile restriction impedes his daily activities. Additionally, husband encountered wife within the city of St. Michael after being served with the OFP and knowing that he was to have no contact with wife, whereupon wife felt threatened. The four-mile restriction provides protection to wife so that she can go about her daily activities in the city where she lives without fear of encountering husband. The district court therefore did not abuse its discretion by imposing a four-mile restriction around wife’s home.

¹ Because only one act of domestic abuse is necessary to sustain an OFP, we need not consider husband’s argument that the district court erred by finding that he committed domestic abuse by interfering with a 911 call. *See Aljubailah*, 903 N.W.2d at 644 (Minn. App. 2017).

Motion to strike

Finally, husband moves us to strike copies of emails between husband's former counsel and the district court's clerk found in wife's addendum and reference to these emails in her brief.

The record on appeal is the papers filed in district court, the exhibits, and any transcripts of the proceedings. Minn. R. Civ. App. P. 110.01. Generally, we do not consider matters outside the record on appeal and will strike any reference to such matters. *Stageberg v. Stageberg*, 695 N.W.2d 609, 613 (Minn. App. 2005), *rev. denied* (Minn. July 19, 2005); *see Plowman v. Copeland, Buhl & Co.*, 261 N.W.2d 581, 583, 584 (Minn. 1977) (stating that “[i]t is well settled that an appellate court may not base its decision on matters outside the record on appeal, and that matters not produced and received in evidence below may not be considered”). Here, the emails are not part of the district court record. We therefore grant husband's motion to strike.

Affirmed; motion granted.