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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A23-0789**

Carissa Ann Marsh,
Respondent,

vs.

Sean Gregory Samec,
Appellant.

**Filed February 12, 2024
Affirmed
Schmidt, Judge**

Kandiyohi County District Court
File No. 34-CV-23-158

Sarah Lynn Klaassen, Anderson, Larson, Saunders, Klaassen, Dahlager & Leitch PLLP,
Willmar, Minnesota (for respondent)

John E. Mack, New London Law, P.A., New London, Minnesota (for appellant)

Considered and decided by Schmidt, Presiding Judge; Ross, Judge; and
Gaïtas, Judge.

NONPRECEDENTIAL OPINION

SCHMIDT, Judge

In this appeal from the district court's grant of a harassment restraining order (HRO), appellant Sean Gregory Samec argues that his actions did not meet the legal definition of harassment and that the HRO is overly broad. We affirm.

FACTS

In 2019, a family court order prohibited Samec from contacting respondent Carissa Ann Marsh, except to communicate regarding their two children via the computer program Our Family Wizard (OFW). Despite the order, Samec texted and left Marsh voicemails over a period of months.

In March 2023, Samec received a notification that a scheduled visitation with the parties' two children was canceled because he was late arriving for the scheduled pickup and had not called to notify the visitation center.¹ After receiving the notification, Samec drove to Marsh's home where he knocked on the door twice and rang the doorbell twice. Marsh did not answer the door but was on the phone with the visitation center and told the staff member to call the police. Marsh felt "scared and nervous." She recalled "shaking" and her "heart beating fast."

Samec left Marsh's home and drove to Marsh's mother's apartment building thinking that Marsh might be there. Samec also called Marsh, but she did not answer. Police later arrived at the apartment building and spoke with Samec.

In April 2023, Marsh filed a petition for an HRO. In the petition, Marsh stated that Samec showing up at her home made her feel unsafe, scared, and that his attempts to call and text her outside of OFW triggered "frightening memories." Marsh expressed her belief that Samec's behavior would continue because he has failed to abide by the court order requiring communication to be solely through OFW.

¹ In accordance with a previous court order, Marsh and Samec exchange their children at a third-party visitation center and are to have no direct contact with each other.

On May 9, 2023, the district court held a hearing on the HRO petition and later granted Marsh’s petition. In the order, the district court noted that during the hearing Samec “demonstrated controlling, aggressive, agitated, and hostile behavior.” The district court found Marsh’s testimony to be reasonable and credible regarding the reasons she set boundaries with Samec. The district court again ordered Samec not to contact Marsh except through OFW or counsel. The order further required Samec to remain 500 feet away from Marsh’s home. Following a separate incident in July 2023, the district court amended the HRO to prohibit Samec from being present at parenting-time exchanges unless he was following the directions of a staff member at the visitation center.

Samec appeals.

DECISION

I. The HRO is supported by sufficient evidence of harassment.

We review a district court’s issuance of an HRO for an abuse of discretion. *Peterson v. Johnson*, 755 N.W.2d 758, 761 (Minn. App. 2008). The district court’s findings of fact will not be set aside unless clearly erroneous, and we give due regard to the court’s opportunity to weigh the credibility of witnesses. *Id.*

A district court may issue an HRO if the court finds “there are reasonable grounds to believe that the respondent has engaged in harassment.” Minn. Stat. § 609.748, subd. 5(b)(3) (2022). 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) (2022). A

single incident of words is insufficient to be considered harassment under this part of the definition of harassment. *See* Minn. Stat. § 609.748, subd. 1(a)(1) (requiring “repeated incidents”); *Kush v. Mathison*, 683 N.W.2d 841, 844 (Minn. App. 2004) (“inappropriate or argumentative statements alone cannot be considered harassment”). The statute requires both objectively unreasonable conduct or intent on the part of the harasser and an objectively reasonable belief on the part of the person subject to the harassing conduct. *Dunham v. Roer*, 708 N.W.2d 552, 567 (Minn. App. 2006).

Samec argues the record reveals only one instance of intrusive conduct, which cannot satisfy the statutory requirement of repeated incidents. Samec also contends knocking on a door cannot, objectively, be intrusive conduct. We disagree.

In the order granting Marsh’s petition, the district court found that Samec was aware a prior order required him to communicate with Marsh only via OFW. Despite knowing that limitation, Samec went to Marsh’s home and then to Marsh’s mother’s home. The court further found Samec texted Marsh over a period of several months. On appeal, Samec does not assert that these findings are clearly erroneous. As such, we accept the district court’s findings. *Peterson*, 755 N.W.2d at 761.

Samec argues that his actions do not constitute harassment because he did not intend to engage in intrusive or unwanted behavior. However, Samec’s actions, with his full knowledge of the court order restricting his communication with Marsh to OFW and knowing that Marsh did not want contact outside of OFW, represents conduct that is objectively intrusive and unwanted.

Samec further argues that his actions had no adverse effect on Marsh's safety and security. But the district court found that Marsh felt unsafe and scared due to Samec showing up at her home, contacting her outside of OFW, and his other hostile behavior. The court also found Marsh's testimony to be reasonable and credible. We defer to the district court's credibility determinations. *Kush*, 683 N.W.2d at 843-44.

The district court's factual findings support its conclusion that Samec's actions constituted harassment as they were objectively intrusive and unwanted and had a substantial adverse effect on Marsh. Additionally, the findings of fact support the court's conclusion that there were repeated incidents of harassing conduct. Accordingly, the district court acted well within its discretion when issuing the HRO.

II. The HRO is not overbroad.

Samec argues that the HRO is overbroad because it requires him "to remain 500 feet away from [Marsh]." Samec contends the distance restriction will impinge upon his parenting time and rights. This argument is based on a misreading of the HRO. The HRO prohibits Samec from being within 500 feet of Marsh's home, not within 500 feet of Marsh herself. In addition, Samec and Marsh exchange their children at a visitation center in order to prevent contact between the parents. As the district court properly noted, the HRO "does not impact [Samec's] parenting time or parental rights[.]"

Affirmed.